

CHAPTER 10

AGRICULTURE LAW

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"disease" means any disease caused by fungus, bacterium, virus, or any other organism injurious to agricultural or horticultural crops; "producer" includes any person engaged in the cultivation, collection or preparation of produce; "State" means Enugu State of Nigeria.

Appointment of
examiners

3. The Public Service Commission may appoint fit persons to be examiners for the purposes of this Law.

Board of
Agriculture

4. (1) There is hereby established for the State a Board of Agriculture.

(2) The Board shall consist of the following—

(a) seven official members; namely—

- (i) the Chief Inspector of Agriculture or his representative;
- (ii) the Chief Conservator of Forests or his representative;
- (iii) the Registrar of Cooperative Societies or his representative;
- (iv) the Chief Veterinary Officer or his representative;
- (v) the Economic Adviser to the State Government or his representative;
- (vi) the Secretary, Enugu State Agricultural Development Corporation or his representative;
- (vii) the Dean of the Faculty of Agriculture, University of Nigeria, Nsukka, or his representative, and

(b) twelve unofficial members to be appointed by the Commissioner to represent agricultural and livestock producers.

(3) The Commissioner shall appoint an official member to be the Chairman of the Board.

Duties of Board.

5. (1) The duties of the Board are to advise the Commissioner upon—

- (a) all matters concerning agriculture;
- (b) the framing of regulations to be made under this Law;
- (c) the carrying out of the provisions of this Law or of any regulations made thereunder;
- (d) any matter concerning the general purposes of this Law;
- (e) any matter referred to it by the Commissioner.

(2) The Commissioner shall consider any advice received from the Board but shall not be bound to accept it.

6. (1) A member of the Board other than an *ex officio* member (in this section referred to as an unofficial member) may, at any time, by a letter of resignation under his hand addressed to the Chairman, resign his membership, but, save as aforesaid and subject to the other provisions of this section, an unofficial member shall hold office for three years from the date of his appointment.

Tenure and
vacation of office
by unofficial
member.

(2) An unofficial member who has ceased to be a member shall be eligible for re-appointment.

(3) If the Commissioner is satisfied that an unofficial member—

- (a) has been absent from two consecutive meetings of the Board without the permission of the Board;
- (b) is incapacitated by physical or mental illness; or
- (c) is otherwise unable or unfit to discharge the functions of a member.

the Commissioner may declare his office as member of the Board vacant and shall notify the fact in such manner as he thinks fit, and thereupon the office shall become vacant.

(4) Where an unofficial member is temporarily incapacitated by illness or is temporarily absent from the State, the Commissioner may appoint any person (not being a public officer) to be temporarily a member of the Board during such incapacity or absence.

7. (1) Subject to the provisions of this section, the Board may make standing orders providing for the proper conduct of its business.

Meetings and
proceedings of
Board

(2) The meetings of the Board shall be convened by the Chairman with the approval of the Commissioner, but any six members may by notice in writing signed by them request the Chairman to convene a special meeting of the Board for the purpose specified in such notice, and, upon receipt of such notice, the Chairman shall at the earliest convenient date convene a special meeting for such purpose.

(3) Where upon any special occasion, the Board desires to obtain the advice of any person upon any particular matter, the Board may co-opt such person to be a member for such meeting or meetings as may be required; and any such person shall, while so co-opted, have all the rights and privileges of a member of the Board, save that he shall not be entitled to vote on any question.

(4) All questions proposed for decision shall be determined by the majority of the votes of the members present and voting

(5) The Chairman shall have an original vote and also, if upon any question the votes are equally divided, a casting vote.

(6) At any meeting of the Board six members and the Chairman shall form a quorum.

(7) The Board shall not be disqualified from the transaction of business by reason only of any vacancy amongst its members.

Commissioner
empowered to
make
regulations

8. (1) The Commissioner may make regulations—

- (a) for the control of diseases, pests or weeds, prohibiting temporarily the growing or cultivation of any plant or crop during specified periods of the year, prohibiting the sowing or planting of any kind of plant, specifying any particular kind of seed or plant as the only kind permitted to be used, or controlling the distribution of any kind of seed or planting materials;
- (b) for maintaining and improving the quality of agricultural or horticultural plants, fruit trees or crops, and for purposes incidental to such maintenance or improvement, including in the event of disease or pest infestation the destruction and the replacement of any plant or tree and the destruction of any crop or part thereof;
- (c) for prescribing the measures to be taken for conserving the soil and combating soil erosion;
- (d) for prohibiting, restricting, or controlling the distribution and use of artificial fertilizers and for the marketing, chemical composition or quality thereof;
- (e) for prescribing penalties for offences against any regulation made hereunder not exceeding two hundred naira or imprisonment for six months or both, as the Commissioners may think fit;

- (f) for specifying charges, expenses or fees to be paid in respect of any matter or act for which provision is made in any regulation;
- (g) generally for carrying into effect the provisions of this Law.

(2) Nothing in this Law shall be construed so as to make it obligatory for the Commissioner to obtain or act on the advice of the Board before making regulations under subsection(1).

9. (1) Where plants, seeds, soil, containers, straw, and other packing materials or any other similar goods or things are found, or suspected to be infected with any plant disease or pest, an officer of the Agriculture Division of the Ministry of Agriculture not below the rank of Agricultural Officer may order them to be destroyed unless they can be treated to his satisfaction for the removal of the plant disease or pest.

Plant diseases

(2) Where any plant or crop, whether growing or not, or any produce is found or suspected to be infected with any plant disease or pest, or where any noxious weed is found to be growing in any place—

- (a) an officer of the Agriculture Division of the Ministry of Agriculture may make such order as he may deem necessary for the treatment of such plant disease, pest or noxious weed; and
- (b) upon the failure of the owner of such plants or crops to comply with any such order, any officer who made the order or any person authorized by him in that behalf, may, if such officer deems it necessary in order to prevent the spread of the plant disease, pest or noxious weed, enter upon any land or premises and carry out such measures as may be necessary, at the owner's expense.

10. For the purpose of carrying out his duties under this Law or any regulations made hereunder, any examiner shall have power at all times which are reasonable having regard among other things to the religious beliefs and social customs prevailing in the areas in question, to enter any

Right of entry to
take samples

building or place in which he has reason to suspect that any fertilizers, plants, crops or parts thereof which are subject to regulations made under this Law are stored or grown and to take samples of such fertilizers or produce.

Furnishing of
information.

11. (1) Any officer of the Agriculture Division of the Ministry of Agriculture not below the rank of Assistant Agricultural Superintendent may call upon any person to furnish him with any information he may reasonably require for the purpose of investigating any offence against this Law or any regulation made hereunder.

(2) No person who obtains any information by virtue of this section shall, otherwise than in the execution of his duties under this Law, disclose that information except with the permission of the Governor.

Offences

12. (1) Any person who—

- (a) hinders or molests any Agricultural Officer, or any other person charged with any duties or powers under this Law or any regulations made hereunder, in the exercise of any of his duties or powers;
- (b) without lawful excuse, fails to comply with any order lawfully given under the provisions of this Law or of any regulations made hereunder;
- (c) without lawful excuse, fails to furnish any information lawfully demanded under the provisions of this Law or of any regulations made hereunder or furnishes information which he knows to be false in a material particular, or does not believe to be true,

is guilty of an offence and shall be liable on summary conviction to a fine of four hundred naira or to imprisonment for one year or to both such fine and imprisonment.

(2) In any prosecution for an offence against this section, the onus of proving existence of a lawful excuse shall lie on the person charged.

Prosecution

13. Notwithstanding the constitutional powers of the Attorney-General to institute and undertake criminal proceedings, no prosecution for an offence against this Law or any regulations made hereunder shall be commenced except with the consent of an officer not below the rank of Agricultural Superintendent: and for this purpose, a prosecution of an

Agriculture

offence against this Law or any regulations made hereunder may be brought in the name of the Commissioner for Agriculture and conducted by an officer of the Agricultural Division of the Ministry of Agriculture not below the rank of Agricultural Superintendent, and any prosecution so brought and instituted shall be deemed *prima facie* to have been commenced with due consent

14. Where any proceedings, whether civil or criminal, are brought against any public officer in respect of any act done in pursuance of any of the provisions of this Law or of any regulations made hereunder, it shall be a good defence to show that there was a reasonable and probable cause for the act in respect of which such proceedings are brought.

Defence in civil
and criminal
proceedings

15. Any expenses or fees due under the provisions of this Law or of any regulations made hereunder may be recovered by the Chief Inspector of Agriculture as a civil debt.

Power to sue for
fees.

SUBSIDIARY LEGISLATION

Agriculture Law

BUD-ROT REGULATIONS

(under section 8)

1. These regulations may be cited as the Bud-Rot Regulations.

2. In these regulations—

“owner” in relation to a palm owned by a local community means the head of the community.

3. The owner of an oil palm or coconut palm which is attacked by budrot shall forthwith cause the palm to be cut down and totally destroyed by fire, and shall notify the Local Government Secretary of the same.

Penalty: a fine of twenty naira.

4. In any area in which bud-rot is prevalent, no person shall tap any oil palm or coconut palm.

Penalty: a fine of twenty naira.

5. The tapping of oil palms by the process generally known as "cabbage tapping" is prohibited.

"Cabbage tapping" is the method by which wine (sap) is made to exude from the palm by cutting away the plant tissue immediately below the growing point or bud.

Penalty: a fine of twenty naira.

Agriculture Law

SWOLLEN SHOOT REGULATIONS

Short title.

1. These regulations may be cited as the Swollen Shoot Regulations.

Interpretation

2. In these regulations—

"Chief Inspector" means Chief Inspector of Agriculture;

"owner" includes any person entitled to reap the fruits of a cocoa tree;

"representative" means any person detailed by the Chief Inspector, or any person duly authorized by him, to carry out the survey of cocoa trees and control swollen shoot disease for the purposes of these regulations.

"swollen shoot disease" means the virus disease of cocoa commonly known as swollen shoot, with all its recognized forms and variants.

Power to enter
cocoa farms
inspect and mark
cocoa trees

3. The Chief Inspector or his representative may enter and inspect any cocoa farm and may mark any cocoa tree for the purpose of controlling swollen shoot disease.

Power to destroy
affected trees.

4. The Chief Inspector or his representative may destroy or otherwise treat any cocoa tree or any other tree or plant, which in his opinion is infested with swollen shoot disease.

5. The Chief Inspector or his representative shall, by public announcement in the neighbourhood not less than twenty-one days before the date of such marking and treating, give notice of his intention to mark or treat cocoa trees with such information as to the time and place of the proposed operations as is reasonable for the purpose of affording the owners of the trees an opportunity to be present when their trees are marked or treated.

Notice of
intention to
mark and treat
trees.

6. Where notice has been given under regulation 5 and the owner or his agent fails to attend, the Chief Inspector or his representative may exercise in his absence any of the powers conferred under these regulations.

Power may be
exercised in
absence of
owner.