

Approved for Reprint 17th March, 1971.

WESTERN AUSTRALIA.

BANANA INDUSTRY COMPENSATION TRUST FUND.

10° Elizabeth II., No. LXXVII.

No. 77 of 1961.¹

(Affected by Act No. 113 of 1965.)

[As amended by

No. 29 of 1964, assented to 4th November, 1964;

No. 16 of 1969, assented to 6th May, 1969;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to establish a Trust Fund for the payment of Compensation to growers of bananas in the event of loss; to provide for the administration of that Trust Fund and the application of the moneys from time to time therein; and for other and incidental purposes.

[Assented to 4th December, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Banana Industry Compensation Trust Fund Act, 1961-1969*.

Short title.
Amended by
No. 16 of
1969, s. 1.

2. This Act shall come into operation on a day to be fixed by proclamation.¹

Commence-
ment.

¹ Came into operation on 19th April, 1962; *Gazette* 19th April, 1962, p. 951.

*Banana Industry Compensation
Trust Fund.*

Arrangement.

3. The arrangement of this Act is as follows:—

PART I.—PRELIMINARY, ss. 4-6.

PART II.—THE BANANA INDUSTRY COMPENSATION COMMITTEE, ss. 7-16.

PART III.—BANANA INDUSTRY COMPENSATION TRUST FUND, ss. 17-23.

PART IV.—BANANA INDUSTRY COMPENSATION, ss. 24-29.

PART V.—MISCELLANEOUS, ss. 30-41.

PART I.—PRELIMINARY.

Construction.

4. This Act shall be read and construed so as not to exceed the legislative power of the State, the intention being that where any enactment in this Act would, but for this section, be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Interpretation.
Amended by
No. 16 of
1969, s. 2.

5. In this Act unless the context requires otherwise—

“bananas” includes banana plants while in course of growth;

“case” means a bushel container used for packing bananas;

“Committee” means the Banana Industry Compensation Committee constituted under this Act;

“Department” means the Government Department of the State known as the Department of Agriculture;

“Director” means the person for the time being holding the office of Director of Agriculture in the Department;

“Fund” means the Banana Industry Compensation Trust Fund established under this Act;

“grower” means a person who produces in the State bananas for sale;

“partial loss” means loss by reason of partial destruction of bananas being produced by a grower;

“sale” includes barter and exchange;

“total loss” means loss by reason of total destruction of bananas being produced by a grower;

“wholesaler” means any person who—

- (a) purchases bananas from a grower wholesale for resale; or
- (b) receives bananas from a grower for sale wholesale on behalf of that grower; or
- (c) being a grower, himself sells wholesale or sells retail in any one year not less than fifty cases of bananas produced by him; or
- (d) purchases bananas wholesale for resale after some method of treatment which renders them saleable in an altered form or condition.

6. Subject to the direction and control of the Minister, the Director shall administer this Act except Part III of this Act.

Adminis-
tration.

PART II.—THE BANANA INDUSTRY COMPENSATION
COMMITTEE.

7. (1) For the purposes of this Act a Committee having the functions prescribed by this Act is constituted under the name of “The Banana Industry Compensation Committee”.

The Banana
Industry
Compensa-
tion
Committee
constituted.
Amended by
No. 16 of
1969, s. 3.

*Banana Industry Compensation
Trust Fund.*

(2) The Committee shall consist of four members, who shall be appointed by the Governor, and of those three members—

- (a) one shall be an officer of the Department nominated by the Minister, which officer shall be the chairman of the Committee;
- (b) one shall be an officer of the State Treasury nominated by the Minister; and
- (c) subject to paragraph (b) of subsection (3) of this section, two shall be persons who are growers and are elected by the growers for appointment by the Governor as such members to be and act as the representatives of the growers.

(3) (a) The election of the elective members of the Committee shall be held and conducted in such manner, at such times and subject to such conditions as are prescribed by regulations, and the first such election shall be held and conducted not later than six months after the coming into operation of this Act.

(b) Until the first election of the elective members pursuant to paragraph (a) of this subsection and their appointment by the Governor as members of the Committee, the offices of those members shall be filled by persons who are growers and are nominated by the Minister, and those persons shall be appointed by the Governor to be and act as members of the Committee until the elective members are elected to those offices.

(c) The expenses incurred in connection with the election of the elective members of the Committee shall be a charge upon and be paid out of moneys from time to time in the hands of the Committee for the purposes of this Act.

(4) Any three members of the Committee form a quorum.

*Banana Industry Compensation
Trust Fund.*

8. (1) The Committee is a body corporate with perpetual succession and a common seal, and is capable of suing and being sued in its corporate name, and of doing or suffering all such acts and things as bodies corporate may by law do and suffer.

Committee
to be a body
corporate.

(2) All courts and judges and persons acting judicially shall take judicial notice of the common seal of the Committee affixed to a document and presume that it was duly affixed.

9. (1) The Minister shall cause notice of appointment to the respective offices of members of the Committee to be published in the *Gazette*.

Notification
of appoint-
ment of
members of
Committee,
and tenure
of office.

(2) The term of tenure of office of a person appointed to an office of member of the Committee expires by effluxion of time on the expiration of a period of three years commencing on the day specified in the notice of the appointment published in the *Gazette* as the commencing date of that term.

(3) A person is eligible for appointment to the office of member notwithstanding that he has previously occupied office as such.

(4) The term of tenure of office of a person appointed to the office of member terminates if during the term—

- (a) he becomes bankrupt, or as a debtor takes advantage of protection or relief under any law for the protection or relief of bankrupt debtors;
- (b) he absents himself from three consecutive meetings of the Committee, except with permission granted by the Minister who is hereby authorised to grant such permission from time to time;
- (c) he tenders in writing, signed by him and addressed to the Governor, his resignation from the office and the Governor accepts the resignation, as he is hereby authorised so to do; or

*Banana Industry Compensation
Trust Fund.*

- (d) he dies, or he is through mental or physical infirmity unable satisfactorily to carry out the duties and perform the functions of his office.

Vacancies
in office.

10. The Governor may fill a vacancy in the office of member that occurs otherwise than by the retirement of a member on the expiration of the term of his office, but the person appointed to fill the vacancy shall hold office only for the unexpired portion of the term of office of the member in whose place he is appointed.

Deputies.

11. (1) Deputies to act in the respective offices of members of the Committee in the absence of the occupants of those offices may be appointed by the Governor.

(2) During the absence of a member a deputy appointed under this section is authorised to exercise any power and carry out any duty which the member for whom he is the deputy, if present, could exercise or would be required to carry out under this Act.

Remunera-
tion and
expenses
of members
and deputies.

12. The remuneration and travelling and other expenses payable to members of the Committee and to their deputies in respect of their attendances at meetings and carrying out their functions under this Act are such as the Governor determines, and is hereby authorised to determine, from time to time.

Convening of
meetings.

13. (1) The chairman of the Committee shall convene the first meeting of the Committee to be held at a time and place to be appointed by him, and the Committee shall meet accordingly and shall hold subsequent meetings at times and places appointed by it.

*Banana Industry Compensation
Trust Fund.*

7

(2) The chairman shall preside at the meetings of the Committee.

(3) When the chairman is absent from any meeting, the members present at the meeting shall elect a member from among those present to preside at the meeting, and the person so elected shall, during the absence of the chairman, have all the powers of the chairman.

14. (1) A quorum may exercise any function of the Committee as effectively as if all members were present.

Determina-
tion of
questions at
meetings.

Amended by
No. 16 of
1969, s. 4.

(2) Where at a meeting of the Committee any question arises for determination by the Committee, each member or deputy present is entitled to and shall exercise one vote only.

(3) A question arising at a meeting shall be determined by a majority of the valid votes of the members or deputies present.

(4) [*Revoked by No. 16 of 1969, s. 4.*]

15. An act or determination of the Committee is not invalid or defective on the ground that when the act was done or the determination was made, a vacancy existed in the office of a member or deputy, or on the ground of a defect in the appointment of a member or deputy.

Acts of
Committee
not invalid-
dated by
vacancy.

16. The Committee shall conduct its proceedings, and cause to be kept minutes of all its proceedings, in such manner and form as may be prescribed, and until prescribed, as the Committee determines.

Proceedings
of
Committee.

PART III.—BANANA INDUSTRY COMPENSATION
TRUST FUND.

17. (1) (a) For the purposes of administering this Act and paying compensation in accordance with the provisions of this Act, there shall be established and kept in the Treasury an account to be called the "Banana Industry Compensation Trust Fund."

The Banana
Industry
Compensa-
tion Trust
Fund
established.

*Banana Industry Compensation
Trust Fund.*

(b) The Committee shall control the Fund and the Fund may be operated upon and administered for the purposes in such manner as from time to time the Treasurer approves and is hereby authorised to approve.

(c) The Committee shall cause to be kept records relating to operations on the Fund, in such manner and form as the Treasurer approves and is hereby authorised to approve.

(2) The Fund shall consist of—

- (a) all moneys received by or for the Committee for contributions in respect of bananas marketed which moneys the Committee shall pay to the Fund;
- (b) all moneys received from the Treasurer under the provisions of section twenty-three of this Act;
- (c) moneys advanced by the Treasurer under the authority of section eighteen of this Act;
- (d) the amount of all penalties recovered in respect of offences against this Act; and
- (e) any other moneys paid to the Committee under this Act for payment to the Fund.

(3) Subject to this Act, the Fund shall be applied for the purposes of administering this Act and to payment pursuant to this Act of claims for compensation.

Treasurer
may make
advances to
Fund to
meet
deficiency.

18. (1) Where at any time the moneys standing to the credit of the Fund are for the time being insufficient for the purposes of this Act, the Treasurer with the approval of the Governor, who is hereby authorised to grant the approval, may from time to time advance to the Fund from the Public Account moneys sufficient for the time being to make up the deficiency.

*Banana Industry Compensation
Trust Fund.*

(2) The amount of each such advance shall subsequently be repaid to the Treasurer from the Fund by the Committee as and when moneys are available to the Committee to make the repayment and each amount when so repaid shall be paid by the Treasurer into the Public Account.

(3) Moneys advanced by the Treasurer under this section are whilst they remain unpaid a charge on the Fund.

(4) Any moneys in the Fund until required for the purposes of this Act may with the approval of the Minister be temporarily invested at the request of the Committee by the Treasurer in any securities approved by the Treasurer and the Committee shall cause the interest derived from any investment to be paid to the credit of the Fund.

19. (1) Subject to this Act every grower shall in every year contribute to the Fund in relation to the bananas produced by him for sale and the amount of the contribution shall be assessed in relation to the amount of money payable to the grower by the wholesaler who has obtained or received bananas from that grower for sale or export.

Contributions to the Fund.
Amended by No. 16 of 1969, s. 5.

(2) The rate of the contribution to be made by growers under this section shall be the sum of fifteen cents in respect of every case of bananas sold or exported for sale by the wholesaler, or where bananas are in a container of greater or less capacity than a case, such sum in respect to that container greater or less than fifteen cents as shall be respectively proportionate to the quantity of bananas in that container which exceeds or, as the case may be, is less than the quantity contained in a case.

(3) All contributions under this section shall be paid to the Committee.

*Banana Industry Compensation
Trust Fund.*

Wholesaler
to deduct
contributions
from moneys
payable
to grower.

20. (1) Every wholesaler who obtains or receives bananas from a grower for sale or export and is liable to make to the grower any payment, or to account to the grower for any moneys in respect of bananas so obtained or received by him, shall deduct out of the moneys payable by him to the grower or held by him to the credit of the grower and pay to the Committee the amount of the contribution for which the grower is then liable under section nineteen of this Act.

(2) The wholesaler shall, within fourteen days after the end of each month, prepare a return in the prescribed form showing the quantities of bananas sold or exported by him during that month in respect of each grower and the amounts of contributions deducted by him pursuant to this section, and shall furnish that return and pay the amount so deducted to the Committee.

(3) The acknowledgment by the Committee of the payment made pursuant to subsection (2) of this section shall be a complete discharge to the wholesaler as against the grower in respect of the amount stated in that acknowledgment.

(4) The amount of all contributions deducted by a wholesaler in accordance with this section, until paid by him to the Committee, is a debt owing by that wholesaler to the Committee and recoverable at the suit of the Committee from the wholesaler in any court of competent jurisdiction.

Failure by
wholesaler
to deduct
contributions
an offence.
Amended by
No. 113 of
1965, s. 8.

21. (1) Any wholesaler who fails or neglects to deduct contributions from moneys payable by him to any grower or held by him to the credit of any grower in accordance with section twenty of this Act, and any wholesaler who having deducted contributions as required by that section fails or neglects or refuses without reasonable excuse to pay such contributions to the Committee at the time or in the manner prescribed, commits an offence against this Act.

Penalty: Two hundred dollars.

(2) Until such time as the amount of the contribution for which a grower is liable under this Act is received by the Committee from a wholesaler or from the grower himself, the amount of the contribution is a debt owing by the grower to the Committee and recoverable at the suit of the Committee from the grower in any court of competent jurisdiction.

22. If at any time the amount of any contribution received by the Committee in relation to the liability of a grower to contribute under this Act is found to exceed the amount of the contribution for which the grower is then liable, the amount of the excess may remain in the Fund to the credit of the grower against future contributions which may become payable by him, or shall be refunded to the grower by the Committee out of the moneys in the Fund, as the grower by notice in writing to the Committee may elect.

Excess contributions may remain in Fund to credit of grower.

23. The Treasurer out of moneys appropriated by Parliament for the purpose shall contribute to the Fund an amount equal to fifty per centum of the moneys received by or for the Committee in respect of contributions payable pursuant to the provisions of section nineteen of this Act.

Contribution to Fund by Treasurer.

PART IV.—BANANA INDUSTRY COMPENSATION.

24. (1) The moneys standing to the credit of the Fund shall in the first instance be charged with payment of—

Application of moneys in Fund.

- (a) the costs of the administration of this Act; and
- (b) the remuneration and travelling and other expenses payable to members of the Committee and their deputies pursuant to section twelve of this Act.

*Banana Industry Compensation
Trust Fund.*

(2) After payment of the costs, remuneration and expenses referred to in subsection (1) of this section, and subject in every case to the approval of the Minister, the moneys in the Fund may be used for the payment to growers of compensation in accordance with the provisions of this Act.

When
compensation
payable.

Amended by
No. 29 of
1964, s. 2;
No. 16 of
1969, s. 6.

25. (1) Subject to the provisions of this Act, compensation is payable under this Act to growers in respect of the whole or portion of losses suffered by them while engaged in producing bananas for sale as the result of cyclones, storms or floods, or of any natural cause, pest or disease which in the opinion of the Minister constitutes a serious threat to the existence of the banana growing industry.

(2) Compensation payable under this Act to a grower shall be in respect of either or both total loss and partial loss suffered by him, and shall be based on the acreage, calculated to the nearest one-tenth of an acre, of the land of that grower on which the destruction of bananas in the course of production by him occurs.

(3) The amount of compensation payable under this Act shall be assessed in relation to the number of cases of bananas ascertained and determined pursuant to the provisions of subsection (4) of this section to be the weighted average production of bananas per acre of the land of the grower whereon the destruction of bananas occurs, and shall be payable at the rate of one dollar fifty cents per case—

- (a) where total loss occurs, on the number of cases so ascertained and determined; and
- (b) where partial loss occurs, *pro rata* according to the extent of destruction assessed pursuant to section twenty-six of this Act.

(4) For the purposes of this section "weighted average production" means the quantity of bananas, expressed in cases, per acre of land of the grower ascertained by dividing the total number of cases of bananas produced on that land during the period of five years immediately preceding the date of the loss suffered by the aggregate of the number of acres of that land utilised to produce the total number of cases of bananas during that period.

Provided that the quantity so calculated shall not include the production of any year in respect of which compensation has been assessed and paid.

(5) In any case where a grower is entitled to compensation under this Act and there are no records or information available in respect to the production of bananas on the land of that grower, or if such records or information are available they are, in the opinion of the Committee, inadequate for the purpose of ascertaining and determining the weighted average production, the Committee may assess the amount of compensation payable to that grower in such manner and on such basis as may be prescribed by regulations, and until so prescribed, in such manner and on such basis, and whether in relation to available records and information or not, as the Committee in its absolute discretion thinks fit: Provided that such compensation shall not be assessed at rates greater than those specified in subsection (3) of this section.

26. (1) Where a grower claims to be entitled to compensation pursuant to section twenty-five of this Act, the extent of the destruction of the bananas being produced by him shall be assessed and determined by agreement between a person representing the growers nominated for the purpose by a majority of the growers, and an officer of the Department appointed for that purpose by the Director; and in default of agreement some competent and impartial person nominated and appointed for the purpose by the Minister shall assess and determine the extent of the destruction.

Extent of
loss to be
assessed.
Amended by
No. 29 of
1964, s. 3.

*Banana Industry Compensation
Trust Fund.*

(2) The determination of the person nominated and appointed by the Minister is final and conclusive.

Amounts of compensation payable.

Amended by
No. 29 of
1964, s. 4;
No. 113 of
1965, s. 8;
No. 16 of
1969, s. 7.

27. (1) For the purposes of payment of compensation under this Act—

- (a) a grower shall be deemed to have suffered total loss in respect of any portion of his land if the area of that portion is not less than one-quarter of an acre and the destruction is assessed and determined pursuant to the provisions of section twenty-six of this Act to be not less than seventy-five per centum of the bananas in course of production by him on that portion of land;
- (b) the extent of the destruction of bananas destroyed on the land of a grower who suffers partial loss shall be assessed and determined pursuant to the provisions of section twenty-six of this Act on an average basis in relation to the number of acres of the grower's land on which the destruction occurred, and if such area is less than one acre then the extent of the destruction shall be so assessed and determined proportionately in relation to one acre; but no compensation shall be payable under this Act to the grower if that area is less than one-quarter of an acre.

(2) A grower may suffer both total loss and partial loss and in such case may claim and be entitled to be paid compensation under this Act for both the total loss and the partial loss suffered by him.

(3) Subject to subsection (3a) of this section, a grower is entitled to be paid compensation under this Act only in respect of so much of the loss suffered by him as exceeds twenty per centum of

the value of the total quantity of bananas in course of production on his land at the time of the loss, and in any case shall himself bear the whole of that loss if it does not exceed twenty per centum of that value, or so much of the loss as is equal to twenty per centum of that value if the loss exceeds that percentage.

(3a) Where a grower has bananas in course of production on his land in plantings of different ages, whether the plantings are adjoining or not, he is entitled to be paid compensation in respect of the loss suffered by him on each such planting as if that planting contained the total quantity of bananas in course of production on his land at the time of the loss.

(4) When in any case a grower is entitled to compensation under this Act and the bananas in respect of which he has suffered loss were not at the time of the loss fully bunched or ready for commercial production, the amount of compensation payable to the grower shall be in accordance with and on the scale set forth in the Schedule to this Act, but the amount of compensation so payable shall not in any event exceed the rate of four hundred dollars per acre of the land on which the bananas destroyed were in course of growth.

28. (1) Compensation under this Act is not payable unless the grower who suffers loss by destruction of bananas makes application for compensation to the Committee in the manner and containing the particulars prescribed and verified as prescribed.

Application
for com-
pensation.

(2) Compensation under this Act is not payable unless the grower makes application within thirty days after the destruction of the bananas in respect of which the application is made, but where the application is made after the expiration of that period, the Minister may authorise the payment of

*Banana Industry Compensation
Trust Fund.*

the whole or portion of the compensation if he is satisfied that reasonable grounds exist for the delay in making the application.

(3) Compensation under this Act is not payable unless the Committee is satisfied that the grower who is claiming compensation has complied with the provisions of this Act, and the regulations made under this Act, with respect to applications and claims for compensation.

Provisions for
payment of
compensation.
Amended by
No. 16 of
1969, s. 8.

29. (1) When in any year during the period of fourteen years immediately following the coming into operation of this Act growers suffer loss by reason of destruction of bananas and compensation is payable under this Act in respect of that loss, the following provisions shall apply—

- (a) if all the claims for compensation are claims for partial loss only, they shall be paid out of the Fund to the extent to which the money in the Fund is sufficient therefor, and if that money is not sufficient to pay all those claims in full, then they shall be paid *pro rata* according to the amount of money in the Fund and the total amount of compensation payable;
- (b) if the claims for compensation comprise both claims for partial loss and claims for total loss—
 - (i) the claims for partial loss shall be paid out of such amount of money in the Fund as bears to the total amount of money in the Fund the same ratio as the aggregate acreage in respect of which the claims for partial loss are made bears to the total acreage in respect of which all the claims are made, and the balance of the money in the Fund shall be available for and applied towards payment of the claims for total loss;

- (ii) the money available pursuant to sub-paragraph (i) of this paragraph for payment of claims for partial loss shall be applied in payment of those claims to the extent to which that money is sufficient therefor, and if that money is not sufficient to pay all those claims in full, then they shall be paid *pro rata* according to the amount of the money so available and the total amount of the claims for partial loss;
- (iii) the balance (if any) of the money available for payment of claims for partial loss remaining after payment of all those claims in full, shall be available for and applied towards payment of the claims for total loss;
- (iv) the money available pursuant to sub-paragraphs (i) and (iii) of this paragraph for payment of claims for total loss shall be applied in payment of those claims to the extent to which that money is sufficient therefor, and if that money is not sufficient to pay all those claims in full, then the amount of the deficiency shall be paid by the Treasurer out of the Public Account;
- (c) if all the claims for compensation are claims for total loss only, they shall be paid out of the Fund to the extent to which the money in the Fund is sufficient therefor, and if that money is not sufficient to pay all those claims in full, then the amount of the deficiency shall be paid by the Treasurer out of the Public Account.

(2) Any moneys paid by the Treasurer out of the Public Account under this section shall not be or be deemed to be advances to the Fund pursuant to

*Banana Industry Compensation
Trust Fund.*

section eighteen of this Act and shall not in any way be a charge on the Fund or be repayable to the Treasurer from the Fund.

PART V.—MISCELLANEOUS.

Secretary,
inspectors
and other
officers may
be appointed

30. (1) The Director may appoint a secretary to the Committee and any inspectors and other officers who appear to him on the recommendation of the Committee necessary to enable the Committee to carry out its duties and functions.

(2) Any officer employed in the Department is eligible for appointment as secretary of the Committee.

Obstructing
or hindering
officers an
offence.
Amended by
No. 113 of
1965, s. 8.

31. A person shall not in any way obstruct, hinder or interfere with, or attempt to obstruct, hinder or interfere with any member of the Committee, any person appointed by the Director under section thirty of this Act, or any officer of the Department, in the exercise of any of his powers or functions or the performance of any of his duties under this Act.

Penalty: One hundred dollars.

Annual
return
by grower.
Amended by
No. 113 of
1965, s. 8.

32. Every grower shall furnish to the Committee on or before the first day of February in each year a return in the prescribed form stating the number of acres of land utilised by him for producing bananas during the immediately preceding year ended the thirty-first day of December, and the quantity of bananas produced by him during that year.

Penalty: Twenty dollars.

Committee
may require
returns to be
furnished.
Amended by
No. 113 of
1965, s. 8.

33. (1) The Committee may by notice in writing under the hand of the chairman require any grower or wholesaler to furnish in writing to the Committee such returns and particulars in relation to his

business as carried on by him under this Act as the Committee deems necessary for the purposes of this Act, and shall specify in the notice a time within which those returns and particulars shall be furnished.

(2) Any person who fails or refuses to comply with the requirements of any notice given to him pursuant to subsection (1) of this section within the time specified in that notice, or who furnishes any return or particulars which to his knowledge is false in any material particular commits an offence.

Penalty: Twenty dollars.

(3) Any return and particulars which the Committee may require to be furnished under this section shall be in addition to the return which the grower is required to furnish under section thirty-two of this Act and to any returns or particulars which growers and wholesalers may be required to furnish in accordance with the regulations.

34. (1) Any member of the Committee and the secretary of the Committee, and any inspector or officer appointed under this Act and authorised in writing in that behalf by the Committee, may inspect any books, accounts, registers, records, documents, papers or writings which are in the possession or control of any grower or wholesaler and which relate to the business carried on by him, and may make such copies thereof and take such notes or extracts therefrom as he thinks fit.

Entry and
inspection.

(2) For the purposes of this section any member, secretary, inspector or officer aforesaid may at any reasonable time enter any premises in which he believes any such books, accounts, registers, records, documents, papers or writings are or are kept.

*Banana Industry Compensation
Trust Fund.*

Accounts of
Committee.

35. (1) The Committee shall cause proper books to be provided and regularly kept, and true and regular accounts to be entered in those books—

- (a) of all moneys paid into and owing to the Fund pursuant to section seventeen of this Act;
- (b) of all moneys expended from the Fund by the Committee and the several purposes for which those moneys have been so expended; and
- (c) of the assets and liabilities of the Committee.

(2) All the books kept by the Committee pursuant to this section shall be open to inspection by the Auditor General and any person authorised by him to inspect the same.

(3) The Committee shall cause its accounts to be balanced annually on the thirty-first day of December.

Accounts
to be
audited.

36. (1) The Committee shall cause a full and true balance sheet of its assets and liabilities, together with an income and expenditure account for each year, and such other statements as may be necessary, to be completed from its books and submitted to the Auditor General for audit.

(2) The Auditor General shall have, in respect to the accounts of the Committee, all the powers conferred on him by the Audit Act, 1904.

(3) Once at least in every year the Committee shall furnish to the Minister a report of its transactions and a true copy of the accounts so audited.

General
penalty.
Amended by
No. 113 of
1965, s. 8.

37. (1) A person who—

- (a) does that which by or under this Act he is forbidden to do; or

*Banana Industry Compensation
Trust Fund.*

- (b) does not do that which by or under this Act he is required or directed to do; or
 - (c) otherwise contravenes or fails to comply with any provisions of this Act,
- commits an offence against this Act.

(2) A person who is guilty of an offence against this Act is liable on conviction to a penalty or punishment not exceeding that expressly mentioned as the penalty or punishment for the offence, or if a penalty or punishment is not so mentioned, to a penalty not exceeding one hundred dollars.

38. (1) In all questions arising under this Act a notice under the hand of an inspector or other officer appointed under this Act is *prima facie* evidence of the truth of the matter contained therein.

Prima facie
evidence of
certain
matters.

(2) Courts, judges and other persons acting judicially shall take judicial notice of the appointment and signature of the inspector or other officer.

39. Proceedings for offences against this Act or any regulations made under this Act shall be taken and disposed of summarily under the provisions of the Justices Act, 1902.

Proceedings
to be taken
summarily.

40. The Governor may make regulations not inconsistent with this Act prescribing fees and forms and all matters which by or under this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed, for facilitating the carrying out or giving effect to this Act, and without limiting the generality of the foregoing provisions of this section may make regulations—

Regulations.
Amended by
No. 113 of
1965, s. 8.

- (a) regulating the meetings and proceedings of the Committee;

*Banana Industry Compensation
Trust Fund.*

- (b) prescribing the form of common seal of the Committee, the manner in which the seal may be affixed to documents, in whose custody the seal shall be kept, and the manner in which documents issued by the Board may be authenticated;
- (c) prescribing the manner of making and dealing with and the verification of applications for compensation;
- (d) prescribing the manner in which and the basis on which compensation under this Act shall be assessed by the Committee where records and information are not available or are inadequate for the purposes of this Act;
- (e) safeguarding the Fund from claims for compensation which are fraudulent or dishonest;
- (f) prescribing the forms of returns required to be furnished under this Act, the particulars and information which those returns shall contain, and the times when, the periods in respect of which, and the persons to whom returns are to be furnished;
- (g) prescribing penalties not exceeding one hundred dollars in any case for any contravention of or failure to comply with the regulations;
- (h) prescribing all matters and things necessary or convenient to be prescribed with respect to the Fund and the administration thereof; and
- (i) relating to such other matters as may be necessary or convenient for the exercise by the Committee of its functions or for the performance of its duties under this Act.

41. This Act shall remain in force for a period of fourteen years after the coming into operation of this Act, and no longer.

*Banana Industry Compensation
Trust Fund.*

23

THE SCHEDULE.

Section 27
(4).

Where compensation is payable under this Act in respect of loss by reason of the destruction of bananas not fully bunched or ready for commercial production, the amount to be paid for compensation shall be a percentage only of the full amount of compensation in accordance with and on the following scale:—

Growing Stage of Plants at date of loss.	Age of Plants at date of loss.	Percentage of full amount of compensation to be paid.
Plants which are not over 2 feet 6 inches in height.	Less than three months.	30%
Plants which are over 2 feet 6 inches but not five feet in height.	Three to four months.	40%
Plants which are 5 feet in height and over and up to the bunching stage but having no bunches showing.	More than four months and up to nine months.	50%
Plants which have reached the stage of early bunching.	Ten to twelve months.	75%