

PROJET DE LOI

ENTITLED

The Tomato Marketing (Distribution of Monies) (Guernsey) Law, 1973 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XXIV, p. 137; as amended by the Tomato Marketing (Removal of Compulsion) (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 144); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278). This Law has been repealed by the European Communities (Food and Feed Controls) (Guernsey) Ordinance, 2016 (No. XXI of 2016).

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ARRANGEMENT OF SECTIONS

PART I

SUSPENSION OF SUBSECTION (2A) OF SECTION TWO OF LAW OF 1952 AND DISTRIBUTION OF MONIES

1. States may suspend section 2(2A) of Law of 1952.
2. Board to prepare schemes for distribution of monies.
3. Constitution of Tribunal.
4. Powers and duties of Tribunal.
5. Examination of schemes by Tribunal.
6. Decisions of Tribunal.

PART II

SUSPENSION OF SUBSECTION (2A) OF SECTION TWO OF THE LAW OF 1952 FOR 4th DAY OF AUGUST, 1972, AND DISTRIBUTION OF MONIES

7. Section 2(2A) of Law of 1952 suspended in relation to 4th August, 1972.
8. Board to prepare scheme for 4th August, 1972.
9. Tribunal to examine scheme for 4th August, 1972.

PART III GENERAL

10. Decisions of Tribunal to be in writing and sent to Board.
11. Decisions of Tribunal to be final.
12. Distribution of monies by Board.
13. Distribution to be discharge to Board.
14. Powers of Tribunal.
15. Expenses.
16. Monies distributed to be recoverable as a civil debt.
17. Offences.
18. Offences by bodies corporate.
19. Interpretation.

20. Citation.

REPEALED

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The Tomato Marketing (Distribution of Monies) (Guernsey) Law, 1973

THE STATES, in pursuance of their Resolution of the fourteenth day of December, nineteen hundred and seventy-two, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

PART I

SUSPENSION OF SUBSECTION (2A) OF SECTION TWO OF LAW OF 1952 AND DISTRIBUTION OF MONIES

States may suspend section 2(2A) of Law of 1952.

1. The States may, from time to time, by Ordinance suspend the operation of subsection (2A) of section two of the Tomato Marketing (Guernsey) Law, 1952, as amended (hereinafter referred to as "**the principal Law**")^a, in relation to such date or during such period as may be specified in any such Ordinance if, in the opinion of the States, the operation of the said subsection on any such date or during any such period would be inequitable to the producers.

Board to prepare schemes for distribution of monies.

2. (1) The Board shall, as soon as may be after any date on which or after the expiration of any period during which the operation of subsection (2A) of section two of the principal Law is suspended by an Ordinance made under the

^a Ordres en Conseil Vol. XV, p. 341; Vol. XVIII, p. 262; Vol. XXI, p. 295.

provisions of section one of this Law, prepare a scheme in writing for the distribution of monies realised in respect of tomatoes exported [by the Board] on that date or during that period in a manner which, in the opinion of the Board, is fair and equitable to the producers.

(2) As soon as may be after the preparation of a scheme in accordance with the provisions of the last preceding subsection, the Board shall submit a copy thereof, signed by the Chairman or Vice-Chairman of the Board, to the tribunal constituted in accordance with the provisions of the next succeeding section.

NOTE

In section 2, the words in square brackets in subsection (1) were inserted by the Tomato Marketing (Removal of Compulsion) (Guernsey) Law, 1986, section 2(2)(a), with effect from 8th April, 1986.

Constitution of Tribunal.

3. For the purposes of this Law the Royal Court shall appoint a tribunal (hereinafter referred to as "**the Tribunal**") which shall consist of –

- (a) a Chairman, and
- (b) two other members.

Powers and duties of Tribunal.

4. (1) The Tribunal may exercise the powers and shall perform the duties conferred or imposed upon it by the succeeding provisions of this Law and, subject to the provisions of this Law, shall regulate its own procedure.

(2) In the event of an equality of votes the Chairman of the Tribunal shall have a casting vote.

Examination of schemes by Tribunal.

5. Upon the receipt of a scheme submitted to it under the provisions of subsection (2) of section two of this Law, the Tribunal shall examine the scheme with a view to deciding whether or not the scheme provides for the distribution of the monies realised in respect of tomatoes exported [by the Board] on the date or during the period to which the scheme relates in a manner which, in the opinion of the Tribunal, is fair and equitable to the producers.

NOTE

In section 5, the words in square brackets were inserted by the Tomato Marketing (Removal of Compulsion) (Guernsey) Law, 1986, section 2(2)(a), with effect from 8th April, 1986.

Decisions of Tribunal.

6. After examination of a scheme in accordance with the provisions of the last preceding section the Tribunal shall decide –

- (a) to approve the scheme and direct that the monies to which the scheme relates shall be distributed by the Board in the manner provided by the scheme or
- (b) to amend the scheme and approve the scheme as amended and direct that the monies to which the scheme relates shall be distributed in the manner provided by the scheme as amended, or
- (c) not to approve the scheme and to direct the Board to prepare another scheme for the distribution of the monies to which the first mentioned scheme relates and submit the latter scheme to the Tribunal in accordance with the provisions of section two of this Law for

examination by the Tribunal in accordance with the provisions of section five of this Law, or

- (d) not to approve the scheme and to direct that the monies to which the scheme relates shall be distributed by the Board in the manner provided by subsection (2A) of section two of the principal Law as if that subsection had not been suspended by an Ordinance made in accordance with the provisions of section one of this Law, or
- (e) not to approve the scheme but itself to prepare another scheme for the distribution of the monies to which the first mentioned scheme relates and to direct that the said monies shall be distributed by the Board in the manner provided by the scheme prepared by the Tribunal as aforesaid.

PART II

SUSPENSION OF SUBSECTION (2A) OF SECTION TWO OF THE LAW OF 1952 FOR 4th DAY OF AUGUST, 1972, AND DISTRIBUTION OF MONIES

Section 2(2A) of Law of 1952 suspended in relation to 4th August, 1972.

7. On the date of the coming into force of this Law the provisions of subsection (2A) of section two of the principal Law shall be deemed to have been suspended by an Ordinance made under the provisions of section one of this Law in relation to the fourth day of August, nineteen hundred and seventy-two, as if this Law had then been in force.

Board to prepare scheme for 4th August, 1972.

- 8. (1) The Board shall, as soon as may be after the date of the coming

into force of this Law, prepare a scheme in writing for the distribution of monies realised in respect of tomatoes exported on the fourth day of August, nineteen hundred and seventy-two, in a manner which, in the opinion of the Board, is fair and equitable to the producers.

(2) As soon as may be after the preparation of a scheme in accordance with the provisions of the last preceding subsection, the Board shall submit a copy thereof, signed by the Chairman or Vice-Chairman of the Board, to the Tribunal.

Tribunal to examine scheme for 4th August, 1972.

9. Upon receipt of a scheme submitted to it under the provisions of subsection (2) of the last preceding section, the Tribunal shall examine the scheme under the provisions of section five of this Law as if it were a scheme submitted to it under the provisions of section two of this Law and shall make a decision in relation thereto under the provisions of section six of this Law.

PART III
GENERAL

Decisions of Tribunal to be in writing and sent to Board.

10. Every decision of the Tribunal under the provisions of section six of this Law shall be recorded in writing and a copy thereof, signed by the Chairman of the Tribunal, shall be sent to the Board and to Her Majesty's Greffier as soon as may be after the taking of such decision.

Decisions of Tribunal to be final.

11. Every decision of the Tribunal under the provisions of section six of this Law shall be final.

Distribution of monies by Board.

12. As soon as may be after the receipt of a copy of a decision of the Tribunal under the provisions of paragraph (a), paragraph (b), paragraph (d) or paragraph (e) of section six of this Law the Board shall distribute the monies in the manner directed by the said decision.

Distribution to be discharge to Board.

13. The distribution of monies in the manner directed by a decision under the provisions of section six of this Law shall be a complete discharge to the Board of its obligation under paragraph (d) of subsection (1) of section two of the principal Law in respect of the distribution of the proceeds from the sale of tomatoes exported on any day or during any period to which the decision relates.

Powers of Tribunal.

14. (1) For the purposes of the examination of a scheme in accordance with the provisions of section five of this Law and for the purposes of making a decision in accordance with the provisions of section six of this Law, the Tribunal shall have power –

- (a) by summons under the hand of the Chairman of the Tribunal to call before it and examine all such persons as it thinks fit, to require such persons to answer any question or furnish any information or produce any books, accounts, balance sheets, invoices, receipts, bills of lading, manifests or other documents which the Tribunal considers relevant and to retain such books, accounts, balance sheets, invoices, receipts, bills of lading, manifests and other documents until it has made a decision in accordance with the provisions of section six of this Law,
- (b) to take statements from all such persons as it thinks fit

and to require any such person to make and sign a declaration of the truth of the statement made by him.

(2) Every person summoned by the Tribunal in accordance with the provisions of the last preceding subsection shall be allowed such expenses as Her Majesty's Procureur may, from time to time, determine.

Expenses.

15. All expenses incurred in connection with the operation of this Law shall be paid out of monies provided by the Board.

Monies distributed to be recoverable as a civil debt.

16. Any monies realised by the Board in respect of tomatoes exported on any date or during any period when the operation of the provisions of subsection (2A) of section two of the principal Law is suspended under the provisions of this Law and distributed, in whole or in part, before a copy of a decision of the Tribunal under the provisions of section six of this Law directing the distribution of such monies has been received by the Board, shall be recoverable by the Board as a civil debt from any person to whom any such monies have been paid.

Offences.

17. Any person who –
- (a) without reasonable excuse (proof of which shall lie on him) fails to comply with any summons calling him before the Tribunal in accordance with the provisions of paragraph (a) of subsection (1) of section fourteen of this Law,
 - (b) fails or refuses to answer any question, to furnish any information or to produce any books, accounts, balance

sheets, invoices, receipts, bills of lading, manifests or other documents in accordance with the provisions of paragraph (a) of subsection (1) of section fourteen of this Law,

- (c) refuses or fails to make any statement in accordance with the provisions of paragraph (b) of subsection (1) of section fourteen of this Law,
- (d) makes any statement, furnishes any information or produces any books, accounts, balance sheets, invoices, receipts, bills of lading, manifests or other documents which he is required to make, furnish or produce under the provisions of section fourteen of this Law which he knows to be false or recklessly makes any such statement, furnishes any such information or produces any such books, accounts, balance sheets, invoices, receipts, bills of lading, manifests, or other documents which is or are false in any material particular,

shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the uniform scale].

NOTE

In section 17, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Offences by bodies corporate.

18. Where a person convicted of an offence under this Law is a body corporate, every person who, at the time of the commission of the offence, was a

director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Interpretation.

19. In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"the Board" means the Guernsey Tomato Marketing Board constituted in accordance with the provisions of the principal Law,

"export" means exported by way of trade,

"the producers" means the persons who own tomatoes for export from Guernsey [by the Board] on any date or during any period when the operation of subsection (2A) of section two of the principal Law is suspended under the provisions of this Law and includes the persons who owned tomatoes for export from Guernsey on the fourth day of August, nineteen hundred and seventy-two,

"tomatoes" means fresh tomatoes grown in Guernsey.

NOTE

In section 19, the words in square brackets in the definition of the expression "the producers" were inserted by the Tomato Marketing (Removal of Compulsion) (Guernsey) Law, 1986, section 2(2)(b), with effect from 8th April, 1986.

Citation.

20. This Law may be cited as the Tomato Marketing (Distribution of

Monies) (Guernsey) Law, 1973.

NOTE

The Law received Royal Sanction on 27th July, 1973 and was registered on the Records of the Island of Guernsey and came into force on 1st October, 1973.

REPEALED