

CHAPTER 74:04
BOTSWANA MEAT COMMISSION
ARRANGEMENT OF SECTIONS

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Act 35, 1978,
Act 18, 1979,
Act 3, 1986,
Act 26, 2004.

An Act to provide for the establishment of a Commission to be known as the Botswana Meat Commission, to impose certain duties and confer certain powers on the said Commission, to vest in the said Commission certain assets and liabilities, and to provide for matters incidental to the foregoing matters or connected therewith.

[Date of Commencement: 24th December, 1965]

PART I

Preliminary (ss 1-2)

1. Short title

This Act may be cited as the Botswana Meat Commission Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"**chairperson**" means the person appointed as the chairperson of the Commission under paragraph 2(1) of the Schedule;

"**Chief Executive Officer**" means the person appointed the Chief Executive Officer of the Commission, under paragraph 9(1) of the Schedule;

"**Commission**" means the Commission established under section 3;

"**financial year**" means a period of 12 months ending on 30th September in any year or on such other day as the Commission may determine;

"**livestock**" means cattle and such other kinds of domestic animals as may from time to time be designated by the Minister in terms of section 4(3).

PART II

The Commission and its Functions (ss 3-11)

3. Establishment of Commission

(1) There is hereby established a Commission to be known as the Botswana Meat Commission.

(2) The Commission shall be a body corporate capable of suing and of being sued under the said name.

(3) The provisions of the Schedule shall have effect with respect to the Commission.

4. Purpose of Commission

(1) The purpose for which the Commission is established is to carry on the business referred to in subsections (2) and (3) in such a manner as to promote the interests of the livestock producing industry of Botswana, and in particular to secure that so far as is reasonably possible all livestock offered or available for sale in Botswana to the Commission are purchased and that the prices paid therefor are reasonable and to carry out such other functions as the Minister may, by notice in writing to the Commission, declare to be in the interests of the livestock producing industry.

(2) The business of the Commission is to purchase cattle and to slaughter the same and prepare and sell the products of such slaughtering or, if the Commission thinks fit, to sell on the hoof cattle so purchased; in addition the Commission may, in its discretion and with the consent of the Minister, promote schemes for the improvement of the standard and condition of cattle to be sent for slaughter or sold on the hoof and promote other commercial schemes for the development and improvement of the livestock industry.

(3) The provisions of subsection (2) shall have effect, in like manner as they have in respect of cattle, in respect of such other kinds of domestic animals as the Minister may from time to time designate by order published in the *Gazette* after consultation with the Commission.

5. General powers of Commission

Subject to the provisions of this Act, the Commission shall have power to do anything and enter into any transaction which in its opinion is calculated to facilitate the achievement of the purpose for which it is established, or the proper discharge of any function conferred or imposed upon it by or under this Act or any other law, or which is incidental or conducive

thereto.

6. Formation of companies

(1) The Commission may, with the consent of the Minister, form one or more companies under the Companies Act to carry on any business and to carry out any purpose which the Commission itself may carry on or carry out.

(2) Any consent to the formation of a company given by the Minister may be given subject to such conditions as he may see fit to impose.

7. General duties of Commission

The Commission shall ensure that its business is conducted efficiently and economically, and in a manner which in the opinion of the Commission is best calculated to achieve the purpose for which it is established.

8. Interests of employees

(1) The Commission shall take all practicable steps to secure-

- (a) the safety, health and welfare of persons in its employment or in the employment of others in activities carried on in association with the Commission; and
- (b) the skill, knowledge or usefulness of such persons in the conduct of the activities in which they are employed.

(2) In the performance of its duty under subsection (1), and in dealing with matters affecting terms or conditions of employment, the Commission shall, from time to time, except insofar as it is satisfied that adequate machinery exists for achieving the purpose of this subsection, seek consultation with persons or bodies appearing to it to represent or to have qualifications to speak on behalf of substantial numbers of the employees affected.

9. Powers of Minister in relation to Commission

(1) The Minister may, after consultation with the Commission, give it directions of a general character as to the exercise and performance of its functions in relation to matters appearing to him to concern the public interest, and the Commission shall give effect to any such directions.

(2) The power to give directions conferred by subsection (1) shall include power to give directions as to the manner in which the Commission exercises control over any company which it has formed and the Commission shall give effect to such directions.

(3) The Minister may, after consultation with the Commission, give it directions (notwithstanding that such directions may be of a specific character) in determining which livestock offered or available for sale to the Commission at any time it should purchase, up to the total number thereof which the Commission is in its opinion able to purchase at that time, and the Commission shall give effect to any such directions.

(4) Before undertaking-

- (a) the adoption of substantially new forms of business;
- (b) an outlay of capital account exceeding P500 000 in any single programme or related group of programmes, in respect of works outside the towns in which the Commission owns an abattoir or other property;
- (c) the disposal, or lease exceeding 12 months, of any abattoir or cannery or premises forming part thereof owned by the Commission; or
- (d) the acquisition of shareholding in any company or the entering into any partnership, the Commission shall obtain the approval of the Minister.

(5) The Commission shall not, without the prior approval of the Minister-

- (a) enter into any contract for the sale of meat to any company in which the Commission holds shares or to any partnership in which the Commission is a partner; or
- (b) enter into any long-term contract if the quantity of meat to be delivered thereunder in any financial year, together with the quantity of meat to be delivered under all other long-term contracts in the same financial year, exceeds 10 percent of the total quantity of meat prepared for sale by the Commission in the preceding financial year.

(6) For the purposes of subsection (5)(b), the expression "long-term contract" means a contract under which the Commission contracts to sell meat at a price which is not capable of revision during a period exceeding 12 months.

10. Annual report to the Minister

(1) The Commission shall, as soon as possible after the end of each financial year and in any event before the expiration of six months thereafter, submit to the Minister a full report on its activities during that year.

(2) The report for any year shall include-

- (a) a copy of the statement of accounts for that year prepared in pursuance of section 20(1);
- (b) a copy of the report of the auditors under section 20(3) in respect of the accounts for that year;
- (c) a statement of every direction given by the Minister under section 9(1), (2) or (3) during that year;
- (d) a statement of all matters settled with the approval of the Minister under section 9(3) and (4), 12(2), 15(2) and (3) or 19 during that year;
- (e) a statement of every such matter as is referred to in paragraph (d) in which the Minister has withheld his approval during that year; and
- (f) a statement of every permit issued under section 21(2) during that year without the concurrence of the Commission.

(3) The Minister shall lay a copy of every such report before the National Assembly.

11. Other reports to the Minister

The Commission shall furnish to the Minister such other information and returns relating to the property or activities or proposed activities of the Commission or of others by whom activities are carried on or are proposed to be carried on in association with it (being information which in the opinion of the Minister concerns the public interest and which is in the possession of the Commission or can be obtained by it with reasonable facility or being returns giving such information) as the Minister may from time to time reasonably require, and shall afford to him facilities for the verification of information furnished by it in such manner and at such times as he may reasonably require.

PART III

Financial Provisions relating to the Commission (ss 12-20)

12. Borrowing powers of Commission

(1) Subject to the provisions of this section, the Commission may borrow sums required by it for meeting any of its obligations or for the purpose of its business.

(2) Subject to the provisions of subsection (4), the power of the Commission to borrow shall be exercisable only with the prior approval of the Minister as to the amount and the sources of the borrowing and as to the terms on which the borrowing may be effected.

(3) An approval given in any respect for the purposes of subsection (2) may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

(4) Nothing in subsection (2) shall apply to the borrowing of sums by way of bank overdraft provided that such sums are not, except with the prior approval of the Minister acting in accordance with the advice of the Minister for the time being responsible for finance, secured by any charge on the immovable property of the Commission.

(5) The Minister may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal of, and the payment of the interest and other charges on, any borrowings of the Commission under this section, and any sums required for the fulfilment of any such guarantee shall be charged on and paid out of the Consolidated Fund.

(6) As soon as practicable after any guarantee is given under subsection (5), the Minister shall lay a statement of such guarantee before the National Assembly.

13. Provision for redemption of loans

The Commission shall in each financial year make proper provision for the redemption of loans.

14. Charges to revenue account

(1) The Commission shall charge to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account (including, without prejudice to the generality of that expression, provision in pursuance of section 16 and in respect of income tax) and, in doing so, shall make in each financial year proper provision for-

- (a) the depreciation or other diminution in value of assets; and
- (b) the payment of interest on and all other charges and expenses incurred in connection with loans and such amounts as are required in each year for redemption of loans in pursuance of section 13.

(2) In charging to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account as is provided in subsection (1), the Commission may also in each financial year make reasonable provision for meeting, in whole or in part, increases in the cost of replacing assets.

15. Stabilization Reserve

(1) The Commission shall establish a Stabilization Reserve into which the Commission shall pay such amounts as, subject to the provisions of subsection (3), it may consider reasonably necessary for the purposes of the Reserve.

(2) Moneys in the Stabilization Reserve shall, subject to the provisions of section 19, not be used except to stabilize the price at which livestock are purchased by the Commission or for such other purposes as the Commission may from time to time determine with the approval of the Minister.

(3) Moneys in the Stabilization Reserve shall not at any time exceed the sum of P15,000,000 or such higher sum as the Minister may by order from time to time approve.

16. Development Reserve

(1) The Commission shall establish a Development Reserve to which the Commission shall appropriate such amounts as it may consider reasonably necessary for the purposes of the Reserve:

Provided that the Commission shall not in any financial year appropriate to the Development Reserve an amount exceeding P2 for every head of cattle purchased by the Commission during that year.

(2) Subject to the provisions of section 9(4), the Development Reserve may be used by the Commission for such capital expenditure as the Commission may determine.

17. Balancing of revenue account

It shall be the duty of the Commission so to exercise its functions and conduct its business as to ensure, taking one year with another, that its revenues are sufficient to enable the Commission to meet the outgoings of the Commission properly chargeable to revenue account in terms of section 14 and to make the provision which the Commission is required to make in terms of sections 15 and 16.

18. Surplus revenues

If in any financial year the revenues of the Commission, together with any surplus revenue brought forward from any preceding financial year, exceed the sums required by the Commission to meet the outgoings thereof properly chargeable to revenue account in terms of section 14 and to make the provision which the Commission is required to make in terms of sections 15 and 16, the Commission shall pay the whole of such excess, less any sums reasonably considered by the Commission to be necessary for the purpose of discharging its obligations under section 17 in any succeeding financial year, to the persons who supplied livestock to the Commission during that financial year in accordance with some equitable scheme of division.

19. Meeting of deficiencies

If in any financial year the revenues of the Commission, together with any surplus revenue brought forward from any preceding financial year, are insufficient to enable the Commission to meet the outgoings thereof properly chargeable to revenue account in terms of section 14, the deficiency shall, except as the Commission may otherwise determine with the approval of the Minister, be met from the Stabilization Reserve, or, if the moneys in the Stabilization Reserve are insufficient for meeting the whole of the deficiency, then, to the extent of the shortfall, from the Development Reserve.

20. Accounts and audit

(1) The Commission shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts showing in detail the assets, liabilities, revenue and expenditure of the Commission, in a form which shall conform with the best commercial standards.

(2) The accounts of the Commission in respect of each financial year shall be audited by auditors to be appointed by the Commission:

Provided that no person shall be qualified to be so appointed unless he holds one or more of the qualifications referred to in section 128(1) of the Companies Act.

(3) It shall be the duty of the auditors to report in respect of the accounts for each financial year whether or not-

- (a) they have received all the information and explanations which, to the best of their knowledge and belief were necessary for the performance of their duties as auditors;
- (b) the accounts and related records of the Commission have been properly kept;
- (c) the Commission has complied with all the provisions of this Part with which it is the duty of the Commission to comply; and
- (d) the statement of accounts prepared by the Commission presents a true and fair view of the financial position of the Commission according to the information and explanations given and the accounts and records produced to them.

PART IV

General Provisions (ss 21-22)

21. Control of export of cattle and the licensing of export slaughter-houses

(1) No person other than the Commission shall export cattle or edible products from cattle from Botswana unless he is in possession of a permit in writing to do so issued by the Minister under this section.

(2) No such permit shall be issued without the concurrence of the Commission or unless the Minister declares by order published in the *Gazette* that by reason of exceptional circumstances it is in his opinion clearly in the public interest to issue such permit without the concurrence of the Commission.

(3) Notwithstanding the provisions of section 29 of the Control of Livestock Industry Act the President shall not license any slaughter-house as an export slaughter-house in pursuance of that section unless that slaughter-house is operated, directly, indirectly or in association with others, by the Commission.

(4) In this section "slaughter-house" has the meaning assigned to it in the Control of Livestock Industry Act.

22. Proceedings on failure of Commission to comply with law

If at any time the Minister has good reason to believe that the Commission has contravened or failed to comply with any of the provisions of this Act or any direction given to the Commission in terms of this Act, he may, by notice in writing, require the Commission to make good the default within a specified time.

SCHEDULE

(section 3(3))

PART I

The Commission (paras 1-8)

1. Interpretation

In this Part-

"**Livestock Advisory Committee**" means the committee appointed by the Minister, by such name, to advise him on matters affecting the livestock industry; and

"**member**" includes the chairperson.

2. Composition of Commission

(1) The Commission shall consist of a chairperson and 10 other members who shall be appointed by the Minister by instrument in writing in accordance with the provisions of this paragraph.

(2) Subject to subparagraph (3), the Minister shall appoint—

(a) as members of the Commission, four persons from a panel of names submitted by the Livestock Advisory Committee; and

(b) the remaining members of the Commission from among persons who, it appears to him, possess, by reason of their experience of and capacity in matters relating to the livestock industry, finance or administration, qualities likely to benefit the work of the Commission.

(3) Notwithstanding the provisions of subparagraph (2)(a), the Minister may appoint as members of the Commission persons other than those recommended by the Livestock Advisory Committee.

(4) The chairperson shall from time to time nominate one of the other members of the Commission to be deputy chairperson thereof.

(5) In this paragraph "a panel of names" means a panel containing not less than eight names, being the names of persons not disqualified for appointment as members of the Commission in terms of paragraph 6.

3. Tenure of office of members

(1) Subject to the provisions of this paragraph, members shall hold office for three years, but if not disqualified shall be eligible for re-appointment.

(2) In first appointing members to the Commission, the Minister shall, in the case of four members, direct in the instrument appointing the member that he shall hold office for one year only, and, in the case of four other members, direct in the instrument appointing the member that he shall hold office for two years only.

(3) A member may at any time resign his office by notice in writing addressed to the Minister (and sent, in the case of a member other than the chairperson, through the chairperson), and on the receipt of such notice by the Minister the office of such member shall become vacant.

(4) The office of a member shall become vacant if-

(a) circumstances arise under which, if he was not a member of the Commission, he would be disqualified in terms of paragraph 6 from being appointed as a member of the Commission; or

(b) he is required to vacate his office under subparagraph (5).

(5) The Minister may, by notice in writing, require any member to vacate his office if he considers it in the public interest to do so, and such member shall, with effect from the date of such notice, cease to hold office.

4. Filling of casual vacancies

(1) If a member dies or otherwise vacates his office before the expiration of the period for which he has been appointed, the Minister may by instrument in writing appoint a person to be a member in place of that other member until the expiration of that period.

(2) An appointment under this paragraph shall be subject to the like provisions of paragraph 2(2) as was the appointment of the member in whose place such member is appointed.

5. Temporary incapacity of members of Commission

(1) If the chairperson is temporarily unable to exercise the functions of his office, whether by reason of illness, absence or other cause, the functions of his office shall be performed by the deputy chairperson.

(2) If a member other than the chairperson is temporarily unable to exercise the functions of his office, whether by reason of illness, absence or other cause, the Minister may, by instrument in writing, appoint a temporary member to act in such member's place for such period, not exceeding six months, as the Minister may specify in the instrument.

(3) An appointment made under subparagraph (2) shall be subject to the like provisions of paragraph 2(2) as was the appointment of the member in whose place the temporary member is appointed.

(4) Any appointment made under subparagraph (2) shall cease to have effect if the Minister notifies

the temporary member of the revocation of his appointment, or if the member in whose place the temporary member has been appointed notifies such person that he is about to resume or has resumed the functions of his office.

6. Disqualifications for membership of Commission

No person shall be appointed as a member or temporary member of the Commission if he-

- (a) has been declared insolvent or adjudged or otherwise declared bankrupt under any law in force in Botswana or elsewhere and has not been discharged, or has made a composition with his creditors and has not paid his debts in full; or
- (b) is a Member of the National Assembly.

7. Notification of appointments, etc.

The appointment of or vacation of office by any member or temporary member shall be published by the Minister in the *Gazette*.

8. Remuneration and allowances

The Commission shall pay to each member or temporary member thereof, in respect of his office as such, such remuneration and allowances as may be determined by the Minister, and shall pay to the chairperson, in respect of his office as such, such remuneration and allowances (in addition to any remuneration and allowances to which he may be entitled in respect of his office as a member) as may be so determined.

PART II Staff (paras 9-11)

9. Chief Executive Officer (1) There shall be a Chief Executive Officer of the Commission who shall be appointed by the Minister.

(2) The Chief Executive Officer, appointed under subparagraph (1) shall, subject to such directions on matters of general policy as may be given by the Commission, be charged with the direction of the business of the Commission and its administration and organisation and shall supervise the employees of the Commission.

(3) The Chief Executive Officer shall be responsible to the Commission through the Chairperson and shall exercise such powers of the Commission as the Commission may from time to time delegate to him or her.

(4) The Chief Executive Officer shall, unless the Commission in any particular instance decides, be entitled to attend its meetings and participate in its decisions, but shall have no right to vote.

10. Officers, servants and agents

The Commission shall, subject to the provisions of this Act, appoint such officers, servants and agents as it may deem necessary for the proper discharge of its functions under this Act on such terms and conditions as it may determine.

11. Pensions, etc.

(1) The Commission may, with the approval of the Minister, make provision for the payment on the death, injury or retirement of any of its officers, servants or agents of pensions, gratuities or like benefits to them or to others by reference to their service or otherwise.

(2) Such provision may be made either by contributory or by non-contributory arrangements or partly by the one and partly by the other.

(3) In this paragraph "officers" includes the executive chairperson.

PART III Procedural (paras 12-16)

12. Interpretation

In this Part-

"chairperson" includes a deputy chairperson while exercising the functions of the office of chairperson;

"member" includes the chairperson and any temporary member.

13. Meetings and procedure

(1) The Commission shall meet at such times as may be necessary or expedient for the transaction of the business of the Commission, and such meetings shall be held at such times and places as the chairperson may determine.

(2) The chairperson shall call a special meeting within 14 days of receiving a requisition for that purpose addressed to him by any four members of the Commission.

(3) A notice convening a special meeting of the Commission shall state the purposes for which the

meeting is to be convened.

(4) A quorum of the Commission shall be six of the members thereof.

(5) The chairperson shall preside at meetings of the Commission at which he is present, and at meetings of the Commission at which no chairperson is present the members present shall, subject to the provisions of subparagraph (4), elect from among their number a member to preside at that meeting.

(6) The decisions of the Commission shall be by the vote of a majority of the members present and voting at a meeting of the Commission at which a quorum is present.

(7) At all meetings of the Commission each member present shall have one vote on any question before the Commission:

Provided that the chairperson or other member presiding shall have a casting as well as a deliberative vote.

(8) Subject to the provisions of this Schedule, the Commission shall have power to regulate its own procedure, and it may delegate to any committee or member of the Commission the exercise of such of the functions of the Commission as it may deem fit.

14. Members to declare connection with companies and firms dealing with Commission

(1) Subject to the provisions of this paragraph, if a member or his spouse-

- (a) tenders for or acquires or holds a direct or indirect pecuniary interest in a contract with the Commission;
- (b) acquires or holds a direct or indirect interest in a company or firm which to the knowledge of such member tenders, applies or negotiates for a contract with the Commission; or
- (c) owns immovable property or a right in immovable property or has a direct or indirect pecuniary interest in a company or firm, as a result of which the member's or his spouse's interests come or appear to come into conflict with the member's duties as such,

the member shall forthwith disclose the facts to the Commission and shall not take part in the Commission's consideration or discussion of or vote on any question which relates to such contract, right or interest without the consent of the chairperson or other member presiding.

(2) The provisions of this paragraph shall not apply in relation to a contract with the Commission for the delivery, sale or slaughter of livestock entered into by a member or his spouse in which the member or his spouse receives no preferential treatment over, or more advantageous terms than, other members of the public.

15. Validity of Commission's decisions and acts

No act done or proceeding taken under this Act shall be questioned on the ground-

- (a) of the existence of any vacancy in the membership of, or any defect in the constitution of, the Commission;
- (b) of the contravention by a member of the provisions of paragraph 14; or
- (c) of any omission, defect or irregularity not affecting the merits of the case.

16. Contracts and instruments of Commission

An agreement, contract or instrument may be entered into or executed on behalf of the Commission by any person or persons generally or specially authorized by the Commission for that purpose.