

A BILL

ENTITLED

AN ACT to Validate and confirm as lawful acts done in good faith by offices of the Veterinary Services Division in enforcing the provisions of the Conch (Export Levy) Act in respect of the 2011 conch season; and to indemnify the offices of the Division and other persons from liability in respect of such acts.

WHEREAS section 3(1) of the Conch (Export Levy) Act (hereinafter referred to as the "Act") provides, with effect from 2009 for, among other things, the imposition of a levy on the export of conch to be payable to the Veterinary Services Division by a person who proposes to export or who exports conch (hereinafter referred to as a "an exporter"):

AND WHEREAS section 3(1) provides further that for the 2010 conch season and any subsequent conch season the Minister may from time to time, by order subject to affirmative resolution of the House of Representatives, prescribe the rate of the levy to be paid to the Veterinary Services Division by an exporter for conch exported:

AND WHEREAS the Minister did not prescribe a levy for conch exported during the periods March 1, 2011 to March 23, 2011 and April 4, 2011 to July 30, 2011, being the 2011 conch season:

AND WHEREAS officers of the Veterinary Services Division in good faith and inadvertent as to it being unlawful purported to continue to collect, during and in respect of the 2011 conch season, a levy at the rate imposed for the 2010 conch season:

AND WHEREAS it is desirable to validate and confirm as lawful the acts done in good faith by those officers, and inadvertent as to their not having been in compliance with the provisions of the Act, in connection with the purported collection at any time prior to the commencement of this Act of a levy from conch exporters in respect of the 2011 conch season:

[]

NOW THEREFORE, BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same as follows:—

Short title.

1. This Act may be cited as the Conch (Export Levy) (Validation and Indemnity) Act, 2013.

Validation and indemnity.

2.—(1) Subject to subsection (2) and notwithstanding anything to the contrary in any enactment, all acts done in good faith and inadvertent as to their not having been in compliance with the provisions of the Act, by—

- (a) the officers of the Veterinary Services Division;
- (b) any other person having official duties under the Act; and

(c) any person acting in connection with, on the directives of or in support of a person referred to in paragraph (a) or (b),

in purporting to collect and administer at any time prior to the commencement of this Act a levy for the 2011 conch season, at the rate imposed for the 2010 conch season, are hereby declared to have been validly, properly and lawfully carried out and with effect as if an order prescribing a levy at that rate for the 2011 conch season had been properly made.

(2) The officers of the Veterinary Services Division and every other person who would have been liable to be legally proceeded against on the ground of any illegality or impropriety of the acts specified in subsection (1) are hereby freed, acquitted, discharged and indemnified against the Queen's Most Gracious Majesty, Her Heirs and Successors as well against all persons whatsoever from such liability.

MEMORANDUM OF OBJECTS AND REASONS

Section 3(1) of the Conch (Export Levy) Act provides that during and subsequent to the 2010 conch season the Minister may from time to time, by order subject to affirmative resolution, prescribe the rate of the levy to be paid to the Veterinary Services Division by an exporter for each pound of conch exported.

The Minister did not prescribe a rate of levy for conch exported during the 2011 conch season. Officers of the Veterinary Services Division in good faith purported to collect, during the 2011 conch season, a levy at the rate imposed for the 2010 conch season.

A decision has been taken to validate and indemnify, in relation to the amounts purportedly collected as levy from exporters for each pound of conch exported during the 2011 conch season, the acts of—

- (a) the officers of the Veterinary Services Division;
- (b) any person having official duties under the Conch (Export Levy) Act; and
- (c) any person acting in connection with, on the directives of or in support of—
 - (i) the Veterinary Services Division; or
 - (ii) any person having official duties under the Conch (Export Levy) Act,

as they relate to the purported collection and administration at any time prior to the commencement of this Act of a levy for the 2011 conch season inadvertent as to it not having been in compliance with the provisions of the Act.

This Bill seeks to give effect to that decision.

ROGER CLARKE
Minister of Agriculture and Fisheries.

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As introduced by the Honourable Minister of
Agriculture and Fisheries.
