

THE COTTON INDUSTRY ACT, 1973

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SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



No. 3 OF 1973

I ASSENT,

Tulius K. Nyerere
President

8TH MARCH, 1974

An Act to establish the Tanzania Cotton Authority, to provide for the functions of the Authority and for other matters connected with or incidental to the Cotton Industry in Tanganyika

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

- 1.** This Act may be cited as the Cotton Industry Act, 1973 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint. short title and commencement
- 2.** (1) In this Act, unless the context otherwise requires — Interpretation
- "the Authority" means the Tanzania Cotton Authority established by subsection (1) of section 3;
- "the Board of Directors" means the Board of Directors of the Authority established under subsection (2) of section 3;
- "cotton buyer" means a person licensed as such under the provisions of Part V of this Act and includes the Authority;
- "cotton inspector" means an inspector of cotton appointed by the Authority in accordance with the provisions of section 36;
- "cotton lint" means ginned cotton;
- "cotton plant" means the plant *Gossypium* species, and includes any portion of such plant;
- "cotton seed" means cotton seed produced from raw cotton;
- "cotton quarantine area" means an area declared to be such under this Act;
- "the Director" means the Director of Agriculture;
- "export" means export outside Tanganyika;

"gininery" means any place in which raw cotton is converted into cotton lint;

"gininery licence" means a gininery licence issued under the provisions of this Act;

"Grade A cotton" means mature raw cotton which is white and free from stain, extraneous matter or damage from any cause;

"Grade C cotton" means any raw cotton of a merchantable quality inferior to grade A cotton;

"grower" means any person who grows cotton plants;

"licensed ginner" means the holder of a ginning licence and includes the Authority;

"member" in relation to the Board of Directors means a member of the Board of Directors and includes the chairman of the Board of Directors;

"licensing Authority" means any public officer or authority appointed by the Minister to be a licensing authority for the purposes of this Act;

"Minister" means the Minister for the time being responsible for agriculture;

"prescribed" means prescribed either by regulations made under section 59 or by by-laws made under section 60;

"raw cotton" means any cotton after picking and before it has been ginned;

"society" means a co-operative society registered under the Co-operative Societies Act, 1968;

"specified organization" shall have the meaning ascribed to that expression by section 18;

"subsidiary company" means any body corporate established by or under any written law (hereinafter referred to as "the first subsidiary"), not less than fifty per centum of the share capital of which is owned by the Authority, and includes-

- (a) a body corporate (hereinafter referred to as "the second subsidiary") not less than fifty per centum of the issued share capital of which is owned by the first subsidiary;
- (b) a body corporate (hereinafter referred to as "the subsequent subsidiary") not less than fifty per centum of the issued share capital of which is owned by the second or another subsequent subsidiary.

(2) "Buy" and "sell" includes an offer to buy or, as the case may be, an offer to sell and also any transaction whereby the property in the article in relation to which the expression is used may pass to the buyer in future.

(3) The Director may, subject to such limitations and restrictions as he may determine, by order published in the *Gazette*, delegate all or any of his functions under this Act to any public officer or other authority.

(4) Every appointment of a licensing authority shall be made by a notice in the *Gazette*. A licensing authority shall have jurisdiction over, such area as may be specified in the notice.

(5) Where any order or direction made or given by the Director or the Authority under any provision of this Act is not expressly required by that provision to be published in the *Gazette*, such order or direction shall be brought to the notice of persons affected or likely to be affected thereby in such manner as the Director or, as the case may be, the Authority may determine:

Provided if any such order or direction is published in the *Gazette* all persons shall be deemed to have notice thereof.

(6) The expression "offence against this Act" shall, unless the context otherwise requires, include an offence under any subsidiary legislation made under this Act.

(7) The Authority shall, for the purposes of this Act, be deemed to be the holder of each and every certificate, permit, licence and other authority provided for in this Act in relation to the buying, ginning, selling, exporting or otherwise dealing in any description of cotton and products thereof.

PART II

TANZANIA COTTON AUTHORITY

3. (1) There is hereby established an authority which shall be known as the Tanzania Cotton Authority.

Established
ment of
Tanzania
Cotton
Authority

(2) The management and functions of the Authority shall vest the Board of Directors.

(3) The provisions of the Schedule to this Act shall have effect as to the constitution and proceedings of, and otherwise in relation to, the Board of Directors.

(4) The Minister may by order in the *Gazette*, amend, add to, vary or replace the Schedule to this Act.

4. The Authority shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued in its corporate name, of purchasing, holding, alienating, managing and disposing of any property whatsoever, whether movable or immovable, and whether by way of investment or otherwise, and of entering into any such contract as may be necessary or expedient for the performance of its functions under this Act or any other written law.

Authority
to be a body
corporate

5. (1) The functions of the Authority shall be-

(a) to promote the development and improvement of the cotton industry in Tanganyika;

Functions
of
Authority

(b) to carry on, either on its own or in participation with any other person, the business of growers and producers of raw cotton, the business of ginning raw cotton and the business of crushing, processing, and manufacturing cotton seed and products thereof including any other business or activity conducive or incidental thereto;

(c) to regulate and control the marketing and export of cotton lint and to secure the most favourable arrangements for the marketing and export of cotton lint;

(d) to advise Government on all matters affecting the cotton industry.

(2) In particular, and without prejudice to the generality of the provisions of subsection (1) and subject to any special or general directions of the Minister, the Authority shall have power-

(a) to control and fix the prices to be paid from time to time for cotton lint and for cotton seed which is to be exported or sold for the purposes of local industries and to notify such prices in such manner as the Authority may deem expedient or requisite;

(b) to regulate the marketing of cotton lint and of cotton seed for use in industries in the United Republic;

(c) to provide facilities for the inspection, classification and grading of raw cotton and of cotton seed;

(d) to undertake, finance or provide facilities for research in the production, marketing and uses of cotton lint and of cotton seed;

(e) to acquire by agreement and hold interest in any company or firm carrying on business concerned directly or indirectly with cotton lint or with cotton seed;

(f) to establish branches within the United Republic or elsewhere;

(g) to manage the affairs of and continue the business of any firm the interests of which are vested in or acquired by the Authority under the provisions of this Act whether or not that business relates to cotton lint or to cotton seed;

(h) to advance money on loan, give guarantees for the benefit of or provide management or other services to persons, companies or firms engaged in the production or marketing of cotton lint or cotton seed;

(i) to do all such acts and things as, in the opinion of the Board of Directors, may be necessary to uphold and support the credit of the Authority and to obtain and justify public confidence, and to avert or minimize any loss to the Authority;

(j) to do anything or enter into any transaction which in the opinion of the Board of Directors is calculated to facilitate the proper and efficient carrying on of its activities and the proper exercise of its functions under the provisions of this Act.

Orders and
directions of
Authority

6. Contravention of any order or direction lawfully given or issued by the Authority shall be an offence against this Act.

Minister
may give
directions

7. The Minister may give to the Authority directions of a general or specific character as to the exercise or performance by the Authority of any of its functions under this Act, and the Authority shall give effect to every such direction.

PART III

COTTON CULTIVATION

(a) *Planting of Cotton*

8. (1) No grower shall grow cotton except from cotton seed supplied to him in pursuance of the provisions of this Act.

Restriction on growing cotton by growers

(2) If any person contravenes the provisions of this section he shall be guilty of an offence.

9. (1) For the purposes of section 8, the Authority shall reserve such quantity and quality of cotton seed as the Director may from time to time by notice in writing direct and shall hold such cotton seed to the order of the Director.

Reservation of cotton seed

(2) Any cotton seed reserved pursuant to the provisions of subsection (1) shall become the property of the Director from the date of the notice reserving the same.

10. All cotton seed reserved pursuant to the provisions of section 9 shall be bagged, transported, delivered, stored and supplied to growers in the prescribed manner.

Disposal of seed for planting

(b) *Pests and Diseases*

11. (1) The Director may, if he considers it necessary for the purpose of preventing the outbreak or spread of any cotton insect pest or disease, by order under his hand, declare any area to be a cotton quarantine area and may in any such order —

Declaration of quarantine areas

- (a) prohibit or regulate the sowing in such area of cotton seed or any other crop specified in the order known to harbour insect pests or diseases of cotton;
- (b) prohibit the removal from such area without a permit in writing issued by the Director of any raw cotton or cotton seed or any plant or any article which has contained any raw cotton or cotton seed or any article which in his opinion is likely to harbour insect pests or diseases of cotton.

(2) The Director may by written notice require any person within the time specified in such notice to remove to any place or to destroy any raw cotton, cotton seed or cotton refuse in his possession or control in such cotton quarantine area, and where any such person fails to comply with any such notice the Director may, on giving not less than seven days notice in writing of his intention so to do, cause such removal or destruction to be effected and thereupon such person shall, without prejudice to any penalty which he may have incurred by reason of such failure, be liable to pay all the costs of such undertaking which shall be recoverable as a debt due to the Government.

(3) If any person contravenes or fails to comply with any provision of any order or notice made or issued under this section he shall be guilty of an offence.

Prevention of disease

12. (1) The Director may, by order under his hand, for the purpose of preventing or controlling the occurrence or spread of any insect pest or disease of cotton within any area specified in such order-

- (a) require that within such area-
 - (i) all or any cotton plants, cotton residues or any plant specified in the order, shall be uprooted and burned by any person possessing or having control over the same;
 - (ii) all or any raw cotton, cotton seed or cotton refuse shall be burned;
- (b) require any grower within such area forthwith to harvest such of his raw cotton as, in the opinion of the Director, is ready for harvesting;
- (c) prohibit any person within such area from planting any cotton seed or cotton plant before a date specified in the order.

(2) Any person who contravenes or fails to comply with any of the provisions of any order made under subsection (1) shall be guilty of an offence.

(3) Where any person fails to carry out the provisions of any order made under subsection (1) of this section, the Director may, on giving not less than seven days' notice in writing of his intention so to do, cause such measures to be taken as may be necessary to carry out the provisions of such order and thereupon such person shall, without prejudice to any penalty which he may have incurred by reason of such failure, be liable to pay all the costs of such undertaking which costs shall be recoverable as a debt due to the Government.

PART IV

GRADING

Grower to grade raw cotton before sale

13. Every grower shall grade all raw cotton intended for sale, into Grade A cotton or Grade C cotton before any such cotton is sold by him

Authority may determine the grade of cotton

14. (1) The Authority may, by order, determine which grades of raw cotton may be sold or bought in any specified area during a specified period.

(2) If any person sells or buys any raw cotton except in accordance with the provisions of such order, or being a grower sells any raw cotton without first grading the same, he shall be guilty of an offence.

Mixing of unmerchantable cotton with graded cotton

15.-(1) No person shall mix any other raw cotton with any Grade A raw cotton.

(2) No person shall mix any other raw cotton with any Grade C raw cotton.

(3) If any person contravenes, the provisions of this section he shall be guilty of an offence.

PART V

BUYING OF COTTON

16.-(1) No person other than a cotton buyer shall buy raw cotton:

Restriction
on cotton
buying

Provided that where a specified organization licensed as a cotton buyer buys raw cotton through its members, such members shall not be required to be licensed as cotton buyers.

(2) No cotton buyer shall buy raw cotton at any place other than at a cotton buying post specified in his cotton buying licence.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

17.-(1) A licensing authority shall, on application made to him, issue to the applicant a cotton buying licence in the prescribed form which shall entitle the applicant to buy raw cotton in the area under the jurisdiction of such licensing authority.

Cotton
buying
licences

(2) Every cotton buying licence shall specify the cotton buying post or posts at which the holder shall be entitled to buy raw cotton.

(3) A cotton buying licence shall, unless previously revoked or surrendered, remain in force until the thirty-first day of March following the date of issue of such licence.

18. (1) Notwithstanding the provisions of subsection (1) of section 17, the Minister may after consultation with the Authority and by notice in the *Gazette* specify an area or areas in which a cotton buying licence may not be issued to, any person other than a specified organization, and in respect of any such area the licensing authority shall not issue a cotton buying licence to any applicant other than a specified organization.

Restriction
on issue of
cotton
buying
licences

(2) For the purposes of this Act "a specified organization" means the Authority, a co-operative society, a subsidiary company and any body of persons designated by the Authority by writing under its seal or by notice in the *Gazette* to be a specified organization for the purposes of this Act.

19. (1) A cotton buying licence shall not be assignable.

(2) A cotton buyer shall produce his cotton buying licence at all reasonable times upon request of the Director or a cotton inspector or a police officer above the rank of sub-inspector. If any cotton buyer fails without reasonable cause to produce his licence when so requested he shall be guilty of an offence.

Provision
relating to
cotton
buying
licences

Cotton stores

20. (1) No person shall erect or operate a cotton store for the purposes of storing raw cotton without the permission in writing of the Authority.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

cotton buying posts

21. The Authority may, by notice, order any premises or place to be a cotton buying post and may in such order declare such place to be either a temporary cotton buying post or a permanent cotton buying post.

Places where cotton may be sold

22. (1) No person shall sell any raw cotton except at a cotton buying post.

(2) if any person contravenes the provisions of this section he shall be guilty of an offence.

Purchase of cotton

23. (1) The Authority may, by order made after consultation with the Minister, fix the minimum prices which shall be paid to growers for raw cotton in any specified area or at any cotton buying post.

(2) The Authority may, by order-

(a) fix a date in each year prior to which no raw cotton shall be bought in any specified area;

(b) declare the unit of weight to be used for the purpose of weighing raw cotton in any specified area;

(c) fix a date in each year after which no raw cotton shall be bought in any specified area;

(d) fix hours and days on which the premises of cotton buyers shall be kept open for the purpose of conducting business.

(3) if any cotton buyer-

(a) buys raw cotton in any area at a price lower than the price fixed for such raw cotton in respect of such area by an order under subsection (1); or

(b) contravenes or fails to comply with the provisions of any order made under subsection (2),

he shall be guilty of an offence.

Conditions to be observed by cotton buyers

24. (1) Every cotton buyer shall-

(a) at all times when his premises are open for business, display in Kiswahili and English in conspicuous characters the prices offered by him per unit weight of each grade of raw cotton;

(b) keep and render such accounts of his dealings in raw cotton as may be prescribed;

(c) store all raw cotton in his possession in a cotton store at one or any of the cotton buying posts at which he is licensed to buy or in such storage accommodation as the Authority may require;

(d) buy all raw cotton offered to him at the prices exhibited:

Provided that a specified organization shall only buy raw cotton in accordance with the rules, regulations or any written law governing purchases to be made by it;

(e) keep all grade A cotton separate from grade C cotton;

(f) ensure that all cotton purchased by him is correctly graded.

(2) No cotton buyer shall-

(a) buy raw cotton at a price less than the price exhibited;

(b) buy raw cotton unless the entire consideration for the purchase is paid in cash at the time and place of delivery:

Provided that a specified organization may make payment in such manner and in such amounts as may be determined by the Authority.

(3) If any cotton buyer contravenes or fails to comply with any of the provisions of this section he shall be guilty of an offence.

25.-(1) The Director or a cotton inspector or any police officer above the rank of sub-inspector may at all times-

(a) enter upon any premises of cotton buyers for the purposes of inspecting the same and any raw cotton and scales thereon;

(b) inspect and make copies of entries in any books of accounts or other documents required to be kept under the provisions of section 24.

(2) Any person who obstructs any officer lawfully exercising his powers under this section or refuses such officer permission to exercise such power or fails to co-operate with such officer in the exercise by such officer of any such power shall be guilty of an offence.

Inspection of
premises
and
records

PART VI

GINNING AND BALING

26.-(1) No person shall erect or operate a ginnery save with a permit in the prescribed form from the Authority and in accordance with such conditions as the Authority may therein specify or as may be prescribed.

No person
to erect a
ginnery
without a
permit

(2) The Authority may in its discretion by order limit the number of ginneries which may operate in any area and may define the area or specify the cotton buying posts which shall be served by any ginnery or ginneries.

(3) Any person who contravenes any provision of this section or of any order made under subsection (2) shall be guilty of an offence.

Ginnery
licences

27.-(1) No person shall gin raw cotton or bale cotton lint unless he is the holder of a valid ginnery licence issued by the Authority in the prescribed form.

(2) A ginnery licence shall, unless revoked or suspended, remain in force until the thirty-first day of March following the date of issue of such licence.

(3) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence.

Application
for ginnery
licence

28. (1) Application for a ginnery licence shall be made to the Authority in the prescribed manner.

(2) The Authority may for good and sufficient reason refuse to issue a ginner's licence, and in that event shall communicate to the applicant the grounds for such refusal.

Conditions
as to
ginnery
licence

29.-(1) A ginnery licence shall entitle the holder to gin raw cotton and bale cotton lint upon the premises specified therein and in accordance with such conditions as to machinery, plant, storage accommodation and output as may be prescribed, or as may be specified in the licence.

(2) Any holder of a ginnery licence who fails to comply with any order or condition lawfully made or imposed as aforesaid shall be guilty of an offence.

Movement
of cotton

30. (1) No person shall move or cause to be moved any raw cotton from the area in which it is to be ginned under the provisions of section 26 to any place outside such area save in accordance with a permit in writing issued by the Authority:

Provided that a grower may without such permit move from such area to any place outside such area any raw cotton grown by himself.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence.

Register of
ginneries

31. The Authority shall keep and maintain a register of all ginneries in respect of which licences have been issued.

Authority
may
revoke
licence

32. If the holder of a ginnery licence fails to comply with any condition lawfully attached thereto or conducts himself in a manner which in the opinion of the Authority is Prejudicial to the public interest, or fails to discharge any duty imposed upon him by this Act, the Authority may revoke his licence.

Ginnery
licence not
assignable

33. A ginnery licence shall not be assignable.

34. (1) It shall be a condition of every ginnery licence that the holder shall-

Duties of
holder of
ginning
licence

- (a) maintain and work the ginnery in a proper and workmanlike manner and in such a way as not to cause deterioration or damage to the raw cotton, cotton lint, or cotton seed handled therein;
- (b) ensure that all raw cotton delivered to the ginnery is correctly graded and shall thereafter keep all grade A cotton and the lint therefrom and all grade C cotton and the lint therefrom separate from one another and from any other raw cotton;
- (c) keep all raw cotton, cotton seed and cotton lint which has been salvaged from damage by fire or water separate from all other raw cotton, cotton seed and cotton lint and shall gin the raw cotton and bale the cotton lint only in accordance with instructions from the Authority;
- (d) keep such records and make such returns as may be prescribed;
- (e) keep all raw cotton, cotton seed and cotton lint in his possession or control properly stored in the ginnery buildings or stores;
- (f) keep the ginnery and its precincts in a clean and sanitary condition;
- (g) take all reasonable precautions for the prevention of accidents and take such precautions for the prevention of fire as may be prescribed;
- (h) if so required by the Director, gin before any other raw cotton any raw cotton in respect of the seed of which the Director gives notice of his intention to exercise his powers under the provisions of section 9;
- (i) produce cotton lint free from all seeds or parts of seeds or other substance whatsoever which ought to have been removed therefrom by the processes of ginning if the same had been carried out in a proper and workmanlike manner;
- (j) gin all raw cotton which may be delivered to him for ginning up to the capacity of the ginnery.

(2) Any holder of a ginnery licence who contravenes any of the provisions of this section shall be guilty of an offence.

(3) If any ginnery or any machinery in any ginnery is being maintained or used in such a manner as to cause deterioration or other damage to any cotton handled in such ginnery the Authority may suspend the ginnery licence relating to such ginnery until such time as it is satisfied that the cause of such deterioration or other damage has been removed.

PART VII

PURCHASE, SALE AND EXPORT OF COTTON LINT AND COTTON SEED

Purchase
and sale of
cotton lint
and
cotton seed

35. Subject to any direction by the Minister in that behalf, payment for any quantity of cotton lint or cotton seed purchased by the Authority for export or re-sale within the United Republic or otherwise shall be made by the Authority in such manner or by such installments as the Authority may determine:

Provided that in the case of a payment for any quantity of cotton lint or cotton seed exported or resold locally by the Authority such payment shall not, save with the express consent of the seller, be delayed to a date later than thirty days from the date of the receipt by the Authority of the proceeds of the sale on export or on domestic re-sale, as the case may be.

Appointment
of cotton
inspectors

36. The Authority shall have power to appoint fit and proper persons to be cotton inspectors who shall have and exercise powers generally to supervise the arrangements for the purchase and export of cotton lint and cotton seed by the Authority, and who, without prejudice to the generality of the foregoing power, shall have and exercise such other powers, including the inspection of cotton plants and raw cotton, the taking of samples and the certifying of weights, and qualities of cotton seed, as are provided for in this Act or as may be prescribed.

Methods of
sale of
cotton lint
and cotton
seed

37. (1) Any cotton lint or cotton seed sold by the Authority within the United Republic shall be sold by auction or by such other methods as the Authority may think fit.

(2) The Authority may license fit and proper persons who shall be eligible to purchase cotton lint or cotton seed from the Authority.

(3) Licences under subsection (2) may be issued in respect of either cotton lint or cotton seed and shall be—

- (a) in the prescribed form;
- (b) valid for one year;
- (c) subject to such terms and conditions as may be prescribed or endorsed on the licence; and
- (d) issued subject to the payment of the fee prescribed therefor.

(4) No person shall purchase cotton lint or cotton seed from the Authority-

- (a) unless he is in possession of a valid licence issued under the provisions of subsections (2) and (3) of this section; and
- (b) except in accordance with the terms and conditions to which such licence is subject.

(5) The grant or refusal of a licence shall be in the discretion of the Authority.

(6) The Authority may cancel or suspend a licence in any case where the licensee fails to comply with the terms and conditions of his licence or for other good and sufficient cause, and such cancellation or suspension, as the case may be, shall be in addition to any penalty to which the licensee may be liable under the provisions of this Act.

(7) This section shall not apply to any cotton lint or cotton seed sold outside the United Republic.

38. (1) The Authority shall have power to settle the particulars or conditions of any sales under the provisions of section 37 either generally or in respect of any particular sale and such particulars or conditions shall be binding upon all persons licensed to purchase under that section.

Power of Authority to settle conditions of sales

(2) Where any cotton lint or cotton seed, the property of the Authority, is sold by auction it shall not be necessary for the person so selling to take out a licence under the provisions of the Auctioneers' Ordinance and the provisions of that Ordinance shall not apply to sales by auction carried out by or on behalf of the Authority.

cap.227

39. (1) No person shall-

- (a) export any cotton lint or cotton seed, otherwise than on behalf of the Authority; or
- (b) in any manner whatsoever, exchange or barter, or make any agreement for the exchange or barter of any cotton lint or cotton seed with any person other than the Authority; or
- (c) purchase, sell or dispose of any cotton lint or cotton seed otherwise than in accordance with the provisions of this Act.

Restriction on purchase and export of cotton lint and cotton seed

(2) The Minister may in writing exempt any person from compliance with or liability under any provision of paragraph (b) or (c) of subsection (1) for such purposes, to such extent and upon such conditions, as he may think fit.

40. Any person who contravenes any of the provisions of section 37 or of subsection (1) of section 39, or contravenes any of the terms and conditions of a licence granted under section 37, shall be guilty of an offence.

Contravention of any provision of this Parts

PART VIII

ADMINISTRATION OF, AND FINANCIAL PROVISIONS RELATING TO, THE AUTHORITY

41. (1) The Board of Directors may from time to time appoint at such salaries and upon such terms and conditions as it may think fit, of such officers and employees of the Authority as it may deem necessary for the proper and efficient conduct of the business and activities of the Authority.

Appointment of employees

(2) The President shall appoint a General Manager of the Authority who shall be the chief executive officer of the Authority.

Transfer of employees

42. (1) The Board of Directors may transfer any person who is employed by the Authority to the employment of a subsidiary company, or may transfer any person who is employed by a subsidiary company to the employment of the Authority or to the employment of another subsidiary company.

(2) Where any employee is transferred under subsection (1) —

- (a) he shall, as from the date of his transfer, be deemed to be the employee of the Authority or, as the case may be, of the subsidiary company to which he is transferred;
- (b) the terms and conditions of service applicable to him after such transfer shall not be less favourable than those which were applicable to him immediately before the transfer and for the purposes of determining any right to gratuity or any other superannuation benefit, his service, with the Authority or, as the case may be, the subsidiary company to which he is transferred, shall be regarded as continuous with his service immediately preceding such transfer; and
- (c) his employment immediately prior to his transfer and his employment by the Authority or, as the case may be, the subsidiary company to which he is transferred, shall be deemed to be continuous employment by one employer within the meaning of section 8A of the Severance Allowance Act, 1962, and that Act shall apply to the parties in the same manner as it applies to the cases set out in subsection (1) of the said section 8A.

Cap. 487

Remuneration and allowance of Directors and members

43. The members of the Board of Directors shall be entitled to receive such remuneration, allowances and other benefits as the Minister may direct.

Superannuation benefits

44. The Board of Directors may—

- (a) grant gratuities or other retirement allowances or benefits to the officers and employees of the Authority;
- (b) establish and contribute to a superannuation fund or a medical benefits fund for the officers and employees of the Authority;
- (c) require any officer or employee of the Authority to contribute to any such superannuation fund or medical benefits fund and fix the amounts and method of payment of such contribution.

Agents and contractors

45. The Board of Directors may, from time to time, appoint and employ upon such terms and conditions as it may think fit such agents and contractors of the Authority as it may deem necessary.

Power of the Board to delegate

46. (1) Subject to subsection (6) the Board of Directors may from time to time, by writing under the seal of the Authority, delegate, subject such terms, conditions and restrictions as it may specify, to any committee of the Board or to any officer or servant of the Authority, or to any subsidiary company or public corporation, all or any of its functions, powers, authorities or duties under this Act, and where any delegation is so made the delegated function, power, authority or duty may be performed or, as the case may be, exercised by the delegate subject to the terms, conditions and restrictions specified in the writing.

(2) Any delegation under subsection (1) may be made to the holder of an office under the Authority specifying the office but without naming the holder, and in every such case each successive holder of the office in question and each person who occupies or performs the duties of that office may, without any further authority, perform or, as the case may be, exercise the delegated function, power, authority or duty in accordance with the delegation made.

(3) The Board of Directors may revoke a delegation made by it under this section.

(4) No delegation made under this section shall prevent the Authority from itself performing or exercising the function, power, authority or duty delegated.

(5) Any delegation made under this section may be published in the *Gazette*, and upon such publication shall be judicially noticed and shall be presumed to be in force unless the contrary is proved.

(6) The Board of Directors shall not have power under this section to delegate—

- (a) its power of delegation; or
- (b) the power to approve the annual budget or any supplementary budget of receipts and expenditure, the annual balance sheet or any statement of account.

47. (1) In this Act "financial year" means any period not exceeding twelve consecutive months designated in that behalf by the Board of Directors:

Annual and supplementary budget

Provided that the first financial year after the commencement of this Act shall commence on the date of the commencement of this Act and may be of a period of shorter or longer than twelve months.

(2) Not less than two months before the beginning of any financial year (other than the first financial year) the Board of Directors shall, at its meeting especially convened for that purpose, pass a detailed budget (in this Act called the annual budget) of the amounts respectively) —

- (a) expected to be received; and
- (b) expected to be disbursed,

by the Authority during that financial year.

(3) If in any financial year the Authority requires to make any disbursement not provided for or of an amount in excess of the amount provided for, in the annual budget for that year, the Board of Directors shall, at a meeting, pass a supplementary budget detailing such disbursement.

(4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may direct.

(5) Forthwith upon passing any annual budget or any supplementary budget the Board of Directors shall submit same to the Minister for his approval.

(6) The Minister shall, upon receipt, of the annual budget or any supplementary budget, approve or disapprove the same or may approve subject to such amendment as he may deem fit.

(7) Where the Minister has approved any annual budget or supplementary budget, the budget, as amended by him, shall be binding on the Authority which, subject to the provisions of subsection (8), shall confine its disbursements within the items and the amounts contained in the applicable estimates as approved by the Minister.

(8) The Board of Directors may-

- (a) with the sanction in writing of the Minister, make a disbursement notwithstanding that such disbursement is not provided for in any budget;
- (b) from the amount of expenditure provided for in any estimates in respect of any item, transfer a sum not exceeding fifty thousand shillings to any other item contained in such budget;
- (c) adjust expenditure limits to take account of commercial and climatic changes not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of such alteration of expenditure limits becoming necessary.

Reserve and special funds

48. The Board of Directors may, and shall, if so directed by the Minister, establish and maintain such reserve or special funds of the Authority as the Board or the Minister may consider necessary or expedient, and shall make into or from any such fund such payments as the Board may deem fit or, in the case of a fund established pursuant to a direction by the Minister, as the Minister may direct.

Investment

49. With the prior approval of the Minister, the Board of Directors may, from time to time, invest any part of the moneys available in any fund of the Authority maintained by it in such manner as the Board may deem fit.

Power to borrow

50.-(1) With the prior approval of the Minister the Board of Directors may, from time to time, borrow moneys for the purposes of the Authority by way of loan or overdraft, and upon such security and such terms and conditions relating to the repayment of the principal and the payment of interest as, subject to any direction by the Minister, the Board may deem fit.

(2) A person lending money to the Authority shall not be bound to enquire whether the borrowing of that money by the Authority has been approved by the Minister.

Accounts and audit

51.-(1) The Board of Directors shall cause to be provided and kept proper books of accounts and records with respect to —

- (a) the receipt and expenditure of moneys by, and other financial transactions of, the Authority;
 - (b) the assets and liabilities of the Authority;
- and shall cause to be made out for every financial year a balance sheet showing details of the income and expenditure of the Authority and all its assets and liabilities.

(2) At least once in every financial year the accounts including the balance sheet of the Authority shall be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act, 1968.

Acts 1968
No.1

(3) As soon as the accounts of the Authority have been audited, and in any case not later than six months after such audit, the Board of Directors shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report thereon made by the auditors.

(4) Every such audited balance sheet shall be placed before a meeting of the Board of Directors and, if adopted by the Board shall be endorsed with a certificate that it has been so adopted.

(5) As soon as may be practicable after the receipt by him of the statement of accounts together with the report thereon submitted pursuant to subsection (3) the Minister shall lay a copy of same before the National Assembly.

PART IX

MISCELLANEOUS PROVISIONS

52. Without prejudice to the provisions of section 284A of the Penal Code or the Specified Officers (Recovery of Debts) Act, 1970, no act or thing done, or omitted to be done, by any member of the Board of Directors or by any officer, servant or agent of the Authority shall, if done or omitted *bona fide* in the execution or purported execution of his duties as such member, officer, servant or agent, subject any such person to any action, liability or demand whatsoever.

Liability of
members,
etc.
Acts 1970
No. 7

53. (1) The Director or a cotton inspector may, at any reasonable hour of the day, enter any place where cotton is grown, ginned, baled, or stored or where any cotton lint or cotton seed is manufactured or stored, and inspect and examine the same for the purpose of ensuring that the provisions of this Act, or of any regulations or by-laws made hereunder, or of any directions given, or order made by the Minister, the Director or the Authority are being complied with.

Power of
entry,
inspection
etc.

(2) The Director or, as the case may be, the cotton inspector may, for the purpose of securing compliance with the provisions of this Act or of any regulations, by-laws, order or direction made or given under this Act, or for the purposes of detecting and establishing any breach of any such provisions or directions, take samples of any raw cotton, cotton lint or cotton seed, or of any product thereof, found in or on any ginnery, store, plant or other place or premises (including any land) and may subject such samples to such tests as he may deem necessary.

(3) Any person who obstructs the Director or a cotton inspector in the exercise of the powers conferred upon him by this section, or who neglects or refuses to produce to the Director or cotton inspector any book or record which the Director or cotton inspector may request to be produced for his inspection shall be guilty of an offence.

54. (1) If any person adds or causes or permits to be added any foreign or extraneous matter to any raw cotton or cotton lint he shall be guilty of an offence.

Adulteration
of cotton

(2) If on examination of any cotton lint it is found to contain any substance other than cotton lint, the licensed ginner who ginned such cotton lint shall be guilty of an offence:

Provided that it shall be a good defence if such licensed ginner satisfies the court that he took reasonable care to prevent the adulteration of such cotton lint aforesaid.

Carrying on trade upon premises used for storage of cotton

55. (1) Save with the written permission of the Authority and in accordance with such conditions as the Authority may specify, no trade, business or profession other than that in respect of which a licence may be or is deemed to have been issued under the provisions of this Act shall be carried on any premises used for the storing, ginning, baling or sale of raw cotton, cotton lint or cotton seed.

(2) Any person who carries on any trade, business or profession in contravention of the provisions of this section shall be guilty of an offence.

General power of revocation of licence or permit

56. Without prejudice to any specific provision in this Act, if the holder of any licence or permit issued under the provisions of this Act is convicted of an offence against this Act or of any offence involving moral turpitude, the authority empowered to grant such licence or permit may revoke the licence or permit, as the case may be.

Appeal

57. Any person aggrieved by any decision of the Authority, the Director, a licensing authority or other public officer made or purported to have been made in the exercise or purported exercise of any power conferred by this Act, may within thirty days of the decision being taken or given, appeal there against to the Minister whose decision on every such appeal shall be final and conclusive and shall not be subject to review by any court:

Provided that the Minister may in his discretion receive any appeal notwithstanding the fact that it has not been made within the said period of thirty days.

Penalty for offences

58. Any person guilty of an offence under this Act shall be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding five years or to both such fine and imprisonment, and in addition to any such penalty the court may, where the offence committed relates to any quantity of raw cotton, cotton lint or cotton seed, or any product thereof, order the same to, be forfeited to the Authority.

Regulations by Minister

59.-(1) Subject to the provisions of section 60 the Minister may make regulations generally for the better carrying out of the provisions and purposes of this Act and any such regulation may, without prejudice to the generality of the foregoing, provide for—

- (a) the conduct of the business of the Authority and the Board of Directors;
- (b) the appointment by the Board of Directors of sub-committees and co-option of persons thereto;
- (c) the duties of the Director;
- (d) the prohibition or control of the import or export of cotton seed;
- (e) the variety and quality of cotton seed to be used for sowing in any specified area;

- (f) the method of bagging, transporting, delivering, storing and supplying to growers of cotton seed which has been reserved under the provisions of section 9;
- (g) the regulation and control of the lay-out, erection and use of cotton buying posts and their control, inspection and management;
- (h) the control of the erection of ginneries and the conditions upon which they may be erected, maintained and operated;
- (i) the conditions upon which ginnery licences may be issued;
- (j) the control and regulation of the purchase and sale of raw cotton;
- (k) the prevention of the outbreak of fire at cotton buying posts or other premises used for cotton buying;
- (l) the procedure on appeals under section 57;
- (m) anything which is permitted or required by this Act to be prescribed, other than anything which may be prescribed by by-laws made by the Authority under section 60.

(2) Regulations made under this section may be applicable to the whole of Tanganyika or to any specified part thereof.

(3) No regulation made or purported to have been made under this section shall be invalid or unenforceable by reason only of the fact that the matter provided for or intended to be provided for by such regulation can only be provided for by by-laws made under section 60 and every such regulation shall be deemed to have been lawfully made under this section and shall take effect accordingly:

Provided that where the matter prescribed or provided for by any such regulation has already been prescribed or provided for by by-laws made under section 60, then, to the extent of any inconsistency between such regulation and such by-laws, the provisions of the by-laws shall prevail over the provisions of the regulation.

60.-(1) The Authority may, with the consent of the Minister and subject to the provisions of subsection (2), make by-laws for the better carrying out of its functions and powers under this Act, and without prejudice to the generality of the foregoing, may make by-laws—

- (a) prescribing the fees to be paid for anything to be done under this Act;
- (b) prescribing the forms to be used under this Act;
- (c) regulating the applications for, and the issue of, any licence or permit authorized to be issued under this Act;
- (d) prescribing the records to be kept and the returns to be made by the holder of any permit or licence issued in pursuance of this Act;
- (e) prescribing the manner in which raw cotton, cotton seed and cotton lint shall be stored, providing for the storage of different types of raw cotton and cotton seed separately and prescribing the specification in conformity with which cotton stores shall be built and maintained;

By-laws by
Authority

- (f) prescribing or prohibiting methods of packing raw cotton and prescribing the maximum weight which may be packed in any one bag;
- (g) prescribing or prohibiting the types of container used in transporting raw cotton;
- (h) regulating the weighing of raw cotton;
- (i) regulating the ginning of raw cotton;
- (j) regulating the purchase, receipt, storage, sale, disposal and export of cotton lint and cotton seed;
- (k) regulating and prescribing powers, duties, functions, responsibilities, and remuneration of officers, employees and agents of the Authority and of cotton inspectors;
- (l) prescribing the fee for any service to be rendered by the Authority to ginners, growers, and other persons;
- (m) regulating the submission of returns by ginners, growers, agents and other persons engaged in the cotton industry.

(2) Subject to the provisions of subsection (3), no by-laws shall be made under this section which in any way conflict with any regulations, made under section 59.

(3) No by-law made or purported to have been made under this section shall be invalid or unenforceable by reason only of the fact that the matter provided for or intended to be provided for by such by-law can only be provided for by regulations made under section 59 and every such by-law shall be deemed to have been lawfully made under this section and shall take effect accordingly:

Provided that where the matter prescribed or provided for by any such by-law has already been prescribed or provided for by regulations made under section 59 then, to the extent of the consistency, if any between such by-law and such regulations, the provisions of the regulations shall prevail over the provisions of the by-law.

PART X

REPEAL AND CONSEQUENTIAL PROVISIONS

- Construction **61.** In this Part unless the context otherwise requires—
"the effective date" means the date on which this Act comes, into operation;
- Cap. 311 "the Marketing Board" means the Lint and Seed Marketing Board established by the Lint and Seed Marketing ordinance;
"the repealed enactments" means the Ordinances repealed by section 62.
- Repeal
Cap. 362 **62.** Subject to the provisions of this Part the Lint and Seed Marketing Ordinance and the Cotton Ordinance are hereby repealed.
- Dissolution
of Lint and
Seed
Marketing
Board **63.**-(1) With effect from the effective date all the assets and liabilities of the Marketing Board shall, by Virtue of this section and without further assurance, vest in the Authority and the Marketing Board shall be deemed to have been dissolved.

(2) Every person employed by the Marketing Board immediately preceding the effective date shall be employed, and as from the effective date shall be deemed to have been employed, by the Authority.

(3) After a person becomes employed by the Authority by virtue of subsection (2) the terms and conditions of service applicable thereafter to him shall, save where the President otherwise directs, be not less favourable than those which were applicable to him immediately before his transfer to the service of the Authority and such a person shall be deemed to have been appointed to the service of the Authority in such employment and to such office as the Board of Directors shall determine and for the purposes of determining any right to gratuity or other superannuation benefit, his service with the Authority shall be regarded as continuous with his service immediately preceding the effective date.

(4) After a person becomes employed by the Authority by virtue of subsection (2), his employment immediately prior to the effective date and his employment by the Authority shall be deemed to be continuous employment by one employer within the meaning of section 8A of the Severance Allowance Act, 1962, and that Act shall apply to the parties in the same manner as it applies to the cases set out in subsection (1) of the said section 8A. Cap. 487

64.-(1) The instruments to which this section applies are instruments (including contracts, guarantees, agreements, bonds, authorities, mortgages, charges, bills of exchange, promissory notes, bank drafts, bank cheques, letters of credit and securities) — Construction of contain instruments.

- (a) to which the Marketing Board is a party;
- (b) under which any money is or may become payable or any other property is to be, or may become liable to be transferred, conveyed or assigned to the Marketing Board; or
- (c) under which any money is, or may become payable or any other property is to be, or may become liable to be, transferred conveyed or assigned, by the Marketing Board,

which are subsisting at the effective date or come into existence after that date.

(2) Every instrument to which this section applies shall, by virtue of this section continue in full force and effect and the Authority shall by this Act—

- (a) be substituted for the Marketing Board as a party thereto;
- (b) be entitled to receive, and enforce payment of any money payable thereunder;
- (c) be entitled to obtain a transfer, conveyance or assignment of, and enforce possession of, any property which is to be transferred, conveyed or assigned thereunder;
- (d) be liable to make payment of any money payable thereunder; or
- (e) be liable to transfer, convey or assign any property which is to be transferred, conveyed or assigned thereunder,

as the case may be.

(3) The Minister may, by order published in the *Gazette*, exempt from the provisions of this section any such instrument as aforesaid or any class or category of such instruments.

Special provisions relating to funds

65. All funds of the Marketing Board established by the Lint and Seed Marketing Ordinance shall be wound up and shall be paid into and from part of the general revenue of the Authority or, where the Minister so directs, any corresponding fund established by the Authority.

Saving and transitional provisions

66. Notwithstanding the repeal of the repealed enactments-

(a) all rules, directions and orders issued, made or given under the repealed enactments shall be deemed to be regulations, by-laws, directions and orders issued, given or made under this Act, and shall, subject to the provisions of this Act relating to penalty for any contravention, remain in force and apply, *mutatis mutandis*, until revoked by regulations, by-laws, orders or directions issued, given or made under this Act:

Provided that this paragraph shall not apply to any rule, direction or order which is inconsistent with any provision of this Act;

(b) all permits, licences, certificates, authorities and appointments issued, granted or made under any provision of any of the repealed enactments shall remain valid and continue in effect as as a permit, licence, certificate, authority or appointment issued, granted or made under the corresponding provision of this Act:

Provided that any such permit, licence, certificate, authority or appointment may at any time be revoked by the Authority having power under this Act to issue, grant or make the same.

Minister may make further consequential provisions

67. The Minister may, by order published in the *Gazette*, at any time before the expiry of twelve months from the effective date, make such further consequential, transitional and supplementary provisions as he may consider necessary consequent upon the repeal of the repealed enactments and the dissolution of the Marketing Board.

—
SCHEDULE
—

Constitution

1.-(1) The Board of Directors shall consist of the following members-

(a) a chairman appointed by the President;

(b) not less than ten and not more than fifteen other members appointed by the Minister from amongst persons who are, in his opinion, experienced in the production or marketing of raw cotton, cotton lint and cotton seed, and products thereof, in banking or finance, in public Administration, in economic and development planning and in regional development.

(2) The members of the Board of Directors shall, from among their number, elect a vice-chairman, who shall hold office for so long as he remains a member of the Board.

(3) A member of the Board of Directors shall, unless his appointment is sooner determined by the Minister, or he otherwise ceases to be a member, hold office for such period as the Minister may specify in his appointment or if no period is so specified, for a period of three years from the date of his appointment, and shall be eligible for re-appointment:

Provided that in the case of a member who is a member by virtue of his holding some other office, he shall cease to be a member upon his ceasing to hold that office.

(4) Any member of the Board of Directors may at any time resign by giving notice in writing to the Minister; and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the Minister, he shall cease to be a member.

(5) The Board of Directors may, with the approval of the Minister, appoint any member of the Board or any officer of the Authority or any public officer to be the Secretary of the Board.

2. If a member is unable for any reason to attend a meeting, the body or the Ministry, as the case may be, which he represents, may, in writing, nominate another person in his place for the purpose of that meeting.

Absent members to be replaced at meetings casual vacancies

3. Where any member ceases to be a member for any reason before the expiration of his term of office, the Minister shall appoint another person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

4.-(1) An ordinary meeting of the Board of Directors shall be convened by the chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than fourteen days before the date of such meeting. In case the chairman is unable to act by reason of illness absence from Tanganyika, or other sufficient cause, the vice-chairman may convene such meeting.

Meetings

(2) The chairman, or in his absence, the vice-chairman, shall be bound to convene a special meeting of the Board of Directors upon receipt of a request in writing in that behalf signed by not less than three members of the Board. Not less than fourteen days notice of such meeting shall be given to all members of the Board in the manner prescribed in sub-paragraph (1).

(3) The chairman, the vice-chairman, or the temporary chairman elected in accordance with the provisions of paragraph 5 (2) presiding at any meeting of the Board of Directors may invite any person who is not a member to participate in the deliberations of the Board, but any such person shall not be entitled to vote.

5.-(1) One-half of the total number of the members of the Board of Directors, or seven members, whichever is the lesser number, shall form a quorum for a meeting of the Board.

Procedure

(2) In the absence of the chairman from a meeting of the Board of Directors the vice-chairman shall preside. In the absence of both the chairman and the vice-chairman from any meeting, the members present shall elect one of their number to be a temporary chairman of that meeting.

(3) At any meeting of the Board a decision of the majority of the members present and voting shall be deemed to be a decision of the Board. In the event of an equality of votes the chairman of the meeting shall have a casting vote in addition to his deliberative vote.

(4) Notwithstanding the provisions of sub-paragraph (2), where the chairman so directs, a decision may be made by the Board of Directors without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any member shall be entitled to require that any such decision shall be deferred until the subject matter shall be considered at a meeting of the Board of Directors.

6. Minutes in proper form of each meeting of the Board of Directors shall be kept and shall be confirmed by the Board at the next meeting and signed by the chairman of the meeting.

Minutes of meetings

7. The seal of the Authority shall not be affixed to any instrument except in the presence of the General Manager or the Secretary and one member of the Board of Directors.

The seal of the

8. Subject to the provisions of paragraph 5 relating to quorum, the Board of Directors may act notwithstanding any vacancies in the membership thereof and no act or proceeding of the Board shall be invalid by reason only of some defect in the appointment of a person who purports to be a member thereof.

Authority vacancies, etc. not to invalidate proceedings

Orders,
directions,
etc.

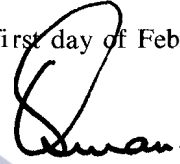
9. All orders, regulations, directions notices or documents made or issued by the Authority or the Board of Directors shall be signed by-

- (a) the General Manager; or
- (b) any member of the Board or other officer of the Authority authorized in writing by the General Manager in that behalf.

Board
may
regulate its
own
proceedings

10. Subject to the provisions of this Schedule the, Board of Directors shall have power to regulate its own proceedings.

Passed in the National Assembly on the twenty-first day of February, 1973.



Clerk of the National Assembly

