

CHAPTER 201
THE COTTON INDUSTRY ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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SCHEDULE

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CHAPTER 201

THE COTTON INDUSTRY ACT

An Act to enact the Cotton Industry Act, to establish the Tanzania Cotton Board, to make better provisions for the regulation, improvement and development of the cotton industry and for related matters.

[1st July, 2004]

[GN. No. 180 of 2004]

Acts Nos.
2 of 2001
20 of 2009

PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Cotton Industry Act.

Interpretation
Act. No.
20 of 2009 s. 43

2.-(1) In this Act, unless the context requires otherwise-
“agro-inputs” includes certified seeds, agro-chemicals and gears necessary for the application of agro-chemicals;
“Board” means the Tanzania Cotton Board established by section 3(1);
“buying licence” means a buying licence issued under the provisions of this Act;
“Cotton Appeals Board” means an adjudication machinery for determination of disputes established by section 52;
“cotton buyer” means a person licensed as a cotton buyer under the provisions of this Act;
“cotton lint” means ginned cotton;
“cotton plant” means the plant gossypium species, and includes any portion of plant;
“cotton seed” means cotton seed produced from seed cotton;
“cotton quarantine area” means an area declared as cotton quarantine area under this Act;
“contract farming” means farming under agreements between cotton growers, farmers or producers on the one

- part and financiers including cotton buyers, ginneries investors or bankers on the other part;
- “Director” means an officer in-charge of the department responsible for crop development;
- “Director-General” means the Chief Executive Officer of the Board appointed under section 40;
- “export” means export outside Tanzania;
- “extension officer” means an extension officer appointed in accordance with the provisions of this Act;
- “ginning” means a place in which seed cotton is converted into cotton lint;
- “ginning licence” means a ginning licence issued under the provisions of sections 29;
- “Grade A cotton” means mature seed cotton which is white and free from stain, extraneous matter or damage from any cause;
- “Grade B cotton” means any seed cotton of a merchantable quality inferior to grade A cotton;
- “grower” means a person who grows cotton plants;
- “input” means planting materials, agrochemicals, fertilisers, farm implements and packaging materials;
- “inspector” means an inspector appointed in accordance with the provisions of section 38;
- “licensed ginner” means a holder of a valid ginning licence;
- “local government authority” means the district authority and the urban authority established under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act;
- “member” in relation to the Board of Directors means a member of the Board of Directors and includes the Chairman of the Board;
- “Minister” means the Minister responsible for agriculture;
- “Ministry” means the ministry responsible for agriculture;
- “regulatory function” includes quality control and licensing; data collection, analysis and dissemination, market information, enforcement of law and order, making and

enforcing rules and regulations for proper production, processing, marketing, importation, exportation and storage of cotton inputs and products, setting indicative prices and other functions financed exclusively by the Government;

“seed cotton” means any cotton after picking and before it has been ginned;

“society” means a cooperative society registered under the Cooperative Societies Act;

“stakeholder” means a dealer in the cotton industry including the Government, local government authorities, cooperative societies, the Board and private players such as producers, producer associations, traders, processors, marketing agents, exporters, input suppliers, research and extension institutions, financial institutions and any other person with vested interest in the cotton industry; and

“stakeholders meeting” means a meeting of cotton stakeholders referred to under this Act.

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

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

Provided that, where any order or direction is published in the *Gazette*, the persons shall be deemed to have notice thereof.

(5) The expression “offence against this Act” include an offence under any subsidiary legislation made under this Act.

PART II

THE TANZANIA COTTON BOARD

- Establishment of Cotton Board **3.**—(1) There is hereby established a Board to be known as the Tanzania Cotton Board which shall—
- (a) have perpetual succession and a common seal;
 - (b) in its corporate name, be capable of suing and being sued;
 - (c) be capable of purchasing or acquiring and managing in any manner and alienating any movable and immovable property;
 - (d) entering into any contract or agreement and doing other things or acts for the proper performance of its functions under the provisions of this Act which may lawfully be done or performed by a body corporate.
- (2) The provisions of the First Schedule shall have effect as to, the constitution, tenure of office, proceedings of and other matters relating to the Board.
- Management of Board **4.** The power to carry out the operations and management of the Board shall vest in the Board of Directors.
- Function of Board Act No. 20 of 2009 s. 44 **5.**—(1) The Board shall carry out regulatory functions and other activities necessary, advantageous or proper for the benefit of the cotton industry.
- (2) Without prejudice to the generality of subsection (1), the functions of the Board shall be to—
- (a) advise the Government on the policies and strategies for the development of the cotton industry;
 - (b) regulate and control the quality of cotton and cotton by products;
 - (c) collect, refine, maintain, use or disseminate information or data relating to the cotton industry and monitor the production and exportation of cotton;
 - (d) make regulations for processing, exportation and storage of cotton and cotton by-products;

- (e) promote and protect the interests of farmers against syndicates of buyers which may be formed through associations;
- (f) monitor consumption of cotton lint in local textile industries;
- (g) promote the development of the cotton industry; and
- (h) represent the Government in local and international fora in matters relating to the cotton industry.

(3) 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 Board shall have power to-

- (a) permit or licence buyers and exporters of seed cotton, cotton lint, operators or ginneries;
- (b) issue export permits for cotton seed, cotton lint and other cotton by-products;
- (c) establish quality standards for cotton seed, seed cotton and cotton lint and to ensure the compliance of standards by persons licenced hereunder;
- (d) provide for a forum for discussions and negotiations among various stakeholders in the sector;
- (e) determine the manner and quantity of cotton seed which any ginner or owner of seed cotton shall retain for the purpose of planting having regard to geographical location; and
- (f) do anything or enter into any transaction which in the opinion of the Board is calculated to facilitate the proper and efficient carrying out of its activities and the proper exercise of its functions under the provisions of this Act.

(4) The Minister may, where he considers it expedient, direct the Board to perform any commercial function for a specified period.

(5) The Board shall have power, for the purpose of carrying out its functions, to do acts and things as appear to be requisite, advantageous or convenient for or in connection with the

carrying out of its functions or to be incidental or conducive to their proper discharge, and may carry on any activity in that behalf either alone or in association with the Government, a local authority or any person or body of persons.

(6) For the avoidance of doubt, it is hereby declared that, the foregoing provisions with respect to the powers of the Board relate to its capacity as a body corporate and this subsection shall not authorise the disregard by the Board of any enactment or rule of law.

Minister may
give direction to
Board

6.—(1) The Minister may give to the Board directions of a general or specific character as to the carrying out of its functions and the exercise of its powers in relation to matters appearing to the Minister to affect the national interest and the Board shall give effect to the direction.

(2) Where the Board fails to perform any of its functions without good cause or to give effect to any of the Minister's directions, the Minister may exercise disciplinary power as he may deem fit against the Board of Directors.

PART III CULTIVATION OF COTTON

Cotton to
be grown in
specified areas

7.—(1) The Director may, by order published in the *Gazette*, subject to the exemptions as he may specify therein, prescribe areas in Mainland Tanzania where cotton plant may be grown.

(2) A person who, in contravention of any order made under this section, plants cotton on any land to which the order applies, commits an offence and on conviction, shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

Varieties of cotton
to be grown

8.—(1) The Director shall prescribe varieties of cotton to be grown in different parts of Tanzania.

(2) It shall be an offence for a person to grow any cotton variety which has not been prescribed by the Director.

Restriction on cotton seed importation, breeding and multiplication

9.-(1) A person shall not import, breed or multiply cotton seeds or plants for any purpose without the permit issued by the Director.

(2) A person who contravenes the provisions of this section, commits an offence and on conviction, shall be liable to a fine not exceeding three hundred thousand shillings or to an imprisonment for a term not exceeding three years or to both and the seeds or plants shall be destroyed by the Board on behalf of the Director at the cost of the defendant.

(3) The Board on behalf of the Director shall make arrangements for Multiplication of foundation and certified cotton seeds for planting.

Certified seeds to be grown

10. A cotton grower shall not grow cotton seeds which have not been certified by the director and a person who contravenes the provision of this section, commits an offence.

Reservation of cotton seeds

11.-(1) The Board shall cause to be reserved a quantity and quality of cotton seeds as the Director may direct by notice in writing and hold cotton seeds to the order of the Director.

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

(3) The cotton seeds reserved pursuant to the provisions of subsection (2) shall be dusted, bagged transported, delivered, stored and sold to the public in the prescribed manner.

(4) A package of cotton seed offered for sale shall be labeled in accordance with specifications set out under the provisions of the Seeds Act.

Cap. 308

Power to appoint agro-inputs suppliers

12. The Board shall have power to appoint fit and proper persons for the supply and distribution of agro-inputs and their applicators.

Declaration of quarantine area

13.-(1) The Director where he considers necessary for the purpose of preventing the outbreak, or spread of any cotton

insect, pest or disease, by order under his hand, may declare an area to be a cotton quarantine area and in the order-

- (a) prohibit or regulate in the area the sowing of cotton seed or any other crop specified in the order known to harbour insect pest or diseases of cotton; and
- (b) prohibit the removal from the area without a permit in writing issued by the Director of any seed cotton or cotton seed or any plant or any article which has contained any seed 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 the notice to remove to any place or to destroy any seed cotton, cotton seed or cotton refuse in his possession or control in cotton quarantine area, and where person fails to comply with any notice, the Director may, on giving not less than seven days notice in writing of his intention so to do, cause the removal or destruction to be effected and thereupon, the person shall, without prejudice to any penalty which he may have incurred by reason of the failure, be liable to pay costs of undertaking which shall be recoverable as a debt due to the Government.

(3) A person who contravenes or fails to comply with the provisions of any order or notice made or issued under this section, commits an offence.

Prevention of
diseases

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

- (a) require that within the area-
 - (i) all or any cotton plants, cotton residues or any plant specified in the order, be uprooted and burned by any person possessing or having control over the same; or
 - (ii) all or any seed cotton, cotton seed or cotton refuse be burned;

- (b) require any grower within the area forthwith to harvest his seed cotton as, in the opinion of the Director, is ready for harvesting; or
- (c) prohibit a person within the area from planting any cotton seed or cotton plant before a date specified in the order.

(2) A person who contravenes or fails to comply with any of the provisions of any order made under this section, commits an offence.

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

Contract farming
Act No.
20 of 2009 s. 48

15.—(1) A registered farmer may, for the purposes of facilitating farming activities, enter into the contract of farming with financier, cotton buyer, cotton processor, investor or banker.

(2) The contract of farming entered into under subsection (1) shall be in the prescribed standard form and contain-

- (a) name, address and status of the registered farmer;
- (b) name, address and status of the financier;
- (c) obligations of the parties;
- (d) type or kind of facilitation to be granted to the farmer;
- (e) terms and conditions imposed on the farmer; and
- (f) other information as may be necessary for the purpose of the contract farming.

(3) A contract of farming entered into under this section shall be submitted to the Board for perusal and registration.

(4) The Board shall have the mandate to monitor the implementation of the contract of farming in order to protect rights of both parties.

(5) A person being a financier, cotton buyer, cotton processor, investor or banker shall not facilitate a registered farmer in any manner without a contract of farming as required under this section.

(6) A person who contravenes this section, commits an offence and on conviction, shall be liable to a fine of not less than five million shillings or to imprisonment for a term of not less than six months but not more than two years or to both.

[s. 14A]

PART IV

MARKETING, LICENSING AND WAREHOUSING

Grower to grade
seed cotton
before sale

16. A grower shall grade a seed cotton intended for sale into Grade A or Grade B cotton before any cotton is sold by him.

[s. 15]

Board to
determine grade
of cotton

17. The Board may, by order, determine grades of seed cotton for sale at specified areas and for a specified period.

[s. 16]

Mixing different
grades of seed
cotton prohibited

18.—(1) A person shall not mix any other seed cotton with Grade A seed cotton.

(2) A person shall not mix any other seed cotton with Grade B seed cotton or any unmerchantable cotton with graded cotton.

(3) A person who sells seed cotton without first grading the same or mixes unmerchantable cotton with graded cotton, commits an offence and on conviction shall be liable to a fine of not less than fifty thousand shillings or imprisonment for a minimum term of three months or to both.

(4) A person who buys improperly graded seed cotton or graded cotton mixed with unmerchantable cotton, commits an offence.

[s. 17]

Restriction on
cotton buying

19.—(1) A person other than a holder of a valid seed cotton buying licence shall not buy seed cotton.

(2) Notwithstanding the provisions of subsection (1), where an association or cooperative society licensed as a cotton buyer, buys seed cotton through its members, the members shall not be required to be licenced as cotton buyers.

(3) A cotton buyer shall not buy seed cotton at any place other than at a cotton buying post specified in his cotton buying licence.

(4) A person who contravenes any of the provisions of this section, commits an offence.

[s. 18]

Cotton buying
licences

20.—(1) The Board shall, on application made, issue to the applicant a cotton buying licence in the prescribed form which entitle the applicant to buy seed cotton and a cotton buying licence shall specify the cotton buying post or posts at which the holder shall conduct the buying operations.

(2) A cotton buying licence shall, unless previously revoked or surrendered, remain in force until the fifteenth day of November for Western Cotton Growing Area and the fifteenth day of January for Eastern Cotton Growing Area following the date of issue of a licence and the Board shall have power to extend the validity of the licence on sufficient grounds.

[s. 19]

Provisions
relating to cotton
buying licences

21.—(1) A cotton buyer shall produce his cotton buying licence at reasonable times upon request of the inspector, and a buyer who fails without reasonable cause to produce his licence when requested, commits an offence and on conviction shall be liable to pay a fine of not less than two hundred thousand shillings or to an imprisonment for a term of not less than three years or to both.

(2) A cotton buying licence shall not be assignable or transferable.

[s. 20]

Cotton ware-
housing

22.—(1) A person shall not erect or operate a cotton store for the purpose of storing seed cotton without the permission in writing of the Board.

(2) A person who contravenes the provisions of this section, commits an offence.

[s. 21]

Cotton buying posts

23.—(1) The Board may, by notice, order any premises or place to be a cotton buying post either temporarily or on permanent basis and a person shall not sell any seed cotton except at a cotton buying post.

(2) A person who contravenes the provisions of this section commits an offence and on conviction, shall be liable to a fine of not less than two hundred thousand shillings or to imprisonment for a term of not less than three years or to both.

[s. 22]

Purchase of cotton

24.—(1) The Board may, by order—

- (a) fix a date in each year prior to which a seed cotton shall not be bought in any specified area;
- (b) declare the unit of weight to be used for the purpose of weighing seed cotton in any specified area;
- (c) fix a date in each year after which a seed cotton shall not be bought in any specified area; and
- (d) fix hours and days on which the premises of cotton buyers shall be kept open for the purpose of conducting business.

(2) A cotton buyer who contravenes or fails to comply with the provisions of any order made under this section, commits an offence.

[s. 23]

Prices to be linked to world market

25. The traders in the cotton industry shall be guided in their dealings in respect of prices and quality by prevailing international marketing information.

[s. 24]

Conditions to be observed by cotton buyers

26.—(1) A cotton buyer shall—

- (a) when his premises are open for business, display in Kiswahili and English version in conspicuous letters,

- the prices offered by him per unit weight of each grade of seed cotton;
- (b) display standard grade sample box approved by the Board;
 - (c) keep and render accounts of his dealings in seed cotton as may be prescribed;
 - (d) display a weighing scale properly serviced, inspected and approved by the Weights and Measurements Department of the Ministry of Trade and Industries;
 - (e) store seed 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 storage facility as the Board may require;
 - (f) buy seed cotton offered to him at the prices exhibited;
 - (g) keep Grade A cotton separate from Grade B cotton; and
 - (h) ensure that, cotton purchased by him is correctly graded.
- (2) A cotton buyer shall not buy-
- (a) seed cotton at a price less than the price exhibited;
 - (b) seed cotton without issuing produce receipts to the farmers in respect of a seed cotton purchased; and
 - (c) seed cotton otherwise other than by cash payment at the time and place of delivery.
- (3) A cotton buyer who contravenes or fails to comply with any of the provisions of this section, commits an offence.

[s. 25]

Inspection of
premises and
records

- 27.**-(1) A cotton inspector may-
- (a) enter upon any premises used by cotton buyers for the purposes of inspecting the same, any seed cotton and scales thereon;
 - (b) inspect and make copies of entries in any books of account or other documents required to be kept under the provisions of this Act; and
 - (c) suspend the seed cotton buying operation by seizing the weighing scale and revoking the buying licence.

(2) A person who obstructs an officer lawfully exercising his powers under this section or refuses an officer permission to exercise the power or fails to cooperate with the officer in the exercise by officer of any power, commits an offence and on conviction, shall be liable to a fine of not less than two hundred thousand shillings or to an imprisonment for a term of not less than three years or to both.

[s. 26]

PART V GINNING AND BALING

Registration of
ginners

28.—(1) A person shall not erect and register or cause to be erected or registered a new cotton ginners unless the following particulars have been submitted to and approved by the Board-

- (a) the name and address of the proposed ginners;
- (b) the name and address of each director or partner and the shareholding of each shareholder;
- (c) processing capacity of the ginners;
- (d) planned production of the ginners;
- (e) capacity number and area of warehouses;
- (f) existing transport facilities;
- (g) number and quality of skilled, semi-skilled and non-skilled personnel employed or to be employed; and
- (h) financial credit worthiness from a reputed bank.

(2) A person granted with a registration certificate shall complete construction of the ginners within two years from the date of the issuance of the certificate.

(3) The certificate of registration is not transferable.

(4) A person shall not operate a ginners unless it has been duly inspected and certified by the Board.

(5) The Board may, in its discretion, limit the number of ginners which may be constructed or operated in an area.

(6) A person who contravenes the provisions of this section or any orders made under this section, commits an offence.

[s. 27]

Ginning licences **29.**—(1) A person shall not gin seed cotton or bale cotton lint unless he is a holder of a valid ginning licence issued by the Board and a ginning licence shall, unless revoked or suspended, remain in force until the thirty first day of March following the date of issue of the licence.

(2) A person who contravenes the provisions of subsection (1), commits an offence.

[s. 28]

Conditions as to ginning licence **30.**—(1) A ginning licence shall entitle the holder to gin seed cotton and bale cotton lint upon the premises specified therein and in accordance with conditions as to machinery, plant, storage accommodation and output.

(2) A holder of a ginning licence who fails to comply with any order or condition lawfully made or imposed by the Board, commits an offence.

(3) The Board 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 the refusal within fourteen days.

[s. 29]

Movement of cotton **31.**—(1) A person shall not move or cause to be moved any seed cotton from one region to another save in accordance with a permit in writing issued by the Board.

(2) A person who contravenes the provisions of this section, commits an offence.

[s. 30]

Register of ginneries **32.** The Board shall keep and maintain a register of ginneries in respect of which licences have been issued.

[s. 31]

Ginning licence not assignable **33.** A ginning licence shall not be assignable or transferable.

[s. 32]

Duties of holder
of ginning licence
Act No.
20 of 2009 s. 45

34.—(1) It shall be a condition of a ginning licence that, the holder shall-

- (a) maintain and work the ginnery in a proper and workmanship manner and in a way as not to cause deterioration or damage to the seed cotton, cotton lint, or cotton seed handled therein;
- (b) ensure that, the seed cotton delivered to the ginnery is correctly graded and keep Grade A cotton and the lint therefrom and Grade B cotton and the lint therefrom separate from one another and from any other seed cotton;
- (c) keep seed cotton, cotton seed and cotton lint which has been salvaged from damage by fire or water, separate from other seed cotton, cotton seed and cotton lint and gin the seed cotton and bale the cotton lint in accordance with instructions from the Board;
- (d) keep correct records of seed cotton deliveries, lint and seed production and make correct returns to the Board as may be prescribed;
- (e) keep seed 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 reasonable precautions for the prevention of fire as may be prescribed;
- (h) where required by the Board, gin before any other seed cotton of seed of which the Board has given notice of its intention to exercise its powers under the provisions of section 11;
- (i) produce cotton lint free from seeds or parts of seeds or other substances whatsoever which ought to have been removed therefrom by the processes of ginning where the same had been carried out in a proper and workmanship manner; and
- (j) gin seed cotton which may be delivered to him for ginning up to the capacity of the ginnery.

(2) A holder of a ginning licence who contravenes any of the provisions of this section, commits an offence.

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

[s. 33]

Licences
Act No.
20 of 2009 s. 46

35. Licences granted under this Act by the Board, shall be-

- (a) in the prescribed manner;
- (b) valid for a specified period; and
- (c) subject to terms and conditions as may be prescribed or endorsed therein.

[s. 34]

Cancellation
or suspension
of licences and
appeal
Act No.
20 of 2009 s. 47

36.-(1) The Board may cancel or suspend a licence where the licensee fails to comply with terms and conditions of his licence or for sufficient good cause, the cancellation or suspension as the case may be is in addition to any penalty to which the licensee may be liable under this Act.

(2) A person aggrieved by the decision of the Board may, within sixty days from the date of the decision, appeal in writing to the Minister.

[s. 35]

PART VI

PURCHASE, SALE AND EXPORT OF COTTON LINT AND COTTON SEED

Export of cotton
lint and cotton
seeds

37. Subject to the provisions of this Act, a person may purchase-

- (a) cotton lint and cotton seeds for export, or resale within the United Republic; or
- (b) seed cotton for resale within the United Republic.

[s. 36]

Appointment of
cotton inspectors

38.—(1) There shall be established an office of cotton inspectors which shall be under the Board.

(2) The Board shall appoint fit and qualified persons to be cotton inspectors.

(3) The functions of cotton inspectors shall include to supervise the purchase, ginning and export of seed cotton, cotton lint and cotton seed.

(4) In discharging the functions conferred to the cotton inspectors under subsection (3), the cotton inspectors shall have the power of -

- (a) inspecting cotton seed, cotton ginneries and cotton stores; and
- (b) taking of samples and verifying weights and quality of seed cotton, cotton seed and cotton lint as provided for in this Act or as may be prescribed.

[s. 37]

Restriction on
purchase and
export of cotton
Act No.
20 of 2009 s. 49

39.—(1) A person shall not in any manner whatsoever-

- (a) export any cotton lint or cotton seed, other than a holder of a valid export permit issued by the Board under the provisions of this Act;
- (b) exchange, barter or enter into any agreement for exchange or barter of seed cotton or cotton lint;
- (c) purchase, sell, export or dispose of any seed cotton, cotton lint or cotton seed, unless he applies and obtains a licence from the Board in accordance with the provisions of this Act;
- (d) engage in sales contract involving cotton lint or cotton seeds without filing the particulars of sale contract with the Board within seven days after the date of the conclusion of the contract;
- (e) engage in sales for local consumption and export unless he is able to make returns, in a prescribed manner, of sales made for local consumption and export on a weekly basis; and

(f) deal with textile mills unless he is able to make returns to the Board of the cotton lint purchased from the ginner in a prescribed form.

(2) Any person who contravenes any of the provisions of this section or contravenes any of the terms and conditions of a licence granted under this Act, commits an offence and on conviction, shall be liable to a fine of ten million shillings or to an imprisonment for a term of five years.

[s. 38]

PART VII

ADMINISTRATION AND FINANCIAL PROVISIONS

Appointment of
Director-General
and other staff
Act No.
20 of 2009 s. 50

40.—(1) The Board shall, upon approval of the Minister, appoint a Director-General, who shall be the Chief Executive of the Board and the Secretary to the Board of Directors.

(2) The Board may appoint at salaries and upon terms and conditions, as it may think fit, officers and employees as it may deem necessary for the proper and efficient conduct of the business and activities of the Board.

(3) Subject to subsection (2), the provisions of the services of officers or employees of the Cotton Lint and Seed Board immediately preceding the effective date shall be terminated and officers or employees shall be entitled to terminal benefits in accordance with the terms and conditions of the contract of employment with the former Board.

(4) The Board may re-employ some officers or employees of the Cotton Lint and Seed Board whose services are required by the Board upon terms and conditions as the Board may determine.

[s. 39]

Board to grant
gratuities, etc., to
employees

41. The Board may grant gratuities and other retirement benefit and allowances to officers and employees of the Board as the Board may determine.

[s. 40]

Seal of Board **42-**(1) There shall be a common seal of the Board which shall be of a shape, size and form as the Board may determine.

(2) The deeds, contracts or agreements, to which the seal is affixed shall be authenticated either by the Chief Executive or his representative and one Board member or by any two Board members.

[s. 41]

Appointment of agents and contractors

43.-(1) The Board may, on terms and conditions, appoint and employ agents and contractors as it may deem necessary for the better carrying out the functions of this Act.

(2) The Board shall not delegate the power to delegate or to approve the annual budget of the Board.

[s. 42]

Funds and resources of Board
Act No.
20 of 2009 s. 51

44. The funds and resources of the Board shall consist of-

- (a) sums of money as may be provided by the Parliament;
- (b) any monies raised by way of loans, donations or grants made within and outside the United Republic;
- (c) any loan or subsidy granted to the Board by the Government or any other person; and
- (d) sums of money or property which may become payable to or vested in the Board under this Act or any other written law or in respect of any matter incidental to the carrying out of its functions.

[s. 43]

Annual Budget of Board

45. Before the commencement of a financial year, the Board of Directors shall consider and endorse a detailed budget of moneys expected to be received and disbursed by the Board during the coming financial year.

[s. 44]

Liability of members, etc.

46. A matter or thing done or omitted to be done by any member, officer, servant or agent of the Board shall not render any person as aforesaid to any action, liability, claim or demand whatsoever, if the matter or thing is done or omitted to be done

in good faith for the purpose of carrying out the provisions of this Act or any order or regulations made thereunder.

[s. 45]

Stakeholders' meeting
Act No.
20 of 2009 s. 52

47.—(1) For the purposes of promoting the development of the cotton industry, there shall be a stakeholder's forum which shall be responsible for—

- (a) putting in place mechanisms for the management and funding of the shared functions;
- (b) making procedures for conducting the annual general meetings;
- (c) determining modalities for financing its activities and meetings; and
- (d) establishing stakeholders' secretariat and other organs for better carrying out the shared functions.

(2) The stakeholders shall hold the meeting once in a year to agree on the funding, implementation of the shared functions and other matters of common interest.

[s. 46]

Powers to make by-laws
Act No.
20 of 2009 s. 53

48. The local government authority may, in consultation with the Minister, make by-laws for better carrying out of the shared functions as agreed upon by the cotton stakeholders.

[s. 47]

Financing of shared functions
Act No.
20 of 2009 s. 53

49. For the purpose of financing shared functions, stakeholders may put in place a mechanism for the management and mode of contribution.

[s. 48]

Books of accounts and audit
Act No.
20 of 2009 s. 54

50.—(1) The Board shall cause to be kept and maintained proper books of accounts in respect to:

- (a) the income and expenditure statement of the Board; and
- (b) assets and liabilities of the Board.

(2) The books of accounts of the Board shall be audited at the end of each financial year by the Controller and Auditor-General.

(3) The report of the Controller and Auditor-General under the provisions of subsection (2) shall state whether-

- (a) he has obtained the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;
- (b) in his opinion, proper books of accounts have been kept by the Board as it appears from his examination of those books; and
- (c) in his opinion and to the best of his information and according to the explanations given to him, the income and expenditure account gives a true and fair view of the income and a state of affairs of the Board and Fund at the end of the financial year.

(4) The Board shall not later than six months after the end of financial year, submit to the Minister a copy of the audited statement of accounts and annual report on the activities of the Board in respect of that year.

[s. 49]

Minister to
submit accounts
to National
Assembly

51. The Minister shall, within six months or longer period as the National Assembly may by resolution appoint after the accounts have been audited, lay the copy of audited accounts and audit report before the National Assembly.

[s. 50]

Establishment of
Cotton Appeals
Board

52.-(1) There is hereby established a Cotton Appeals Board which shall be responsible for determination of disputes arising in the cotton sector as a result of the decisions of the Board.

- (2) The Cotton Appeals Board shall consist of-
 - (a) a Chairman to be appointed by the Minister from three names proposed by the Tanzania Chamber of Commerce, Industries and Agriculture;

- (b) a member nominated by the Tanzania Cotton Association; and
- (c) a member from the Ministry responsible for legal affairs;

(3) Members of the Cotton Appeals Board referred to in subsection (2), shall be appointed by the Minister, and hold office for a period not exceeding three years and be eligible for re-appointment for another term of three years.

(4) The Minister shall, by notice in the *Gazette*, make regulations setting out powers and procedure for the institution, hearing and determination of appeals before the Cotton Appeals Board.

(5) A person aggrieved by the decision of the Board made pursuant to the provisions of this Act, may appeal to the Cotton Appeals Board within thirty days from the date of the decision.

(6) A person aggrieved by the decision of the Cotton Appeals Board may refer his grievances to the Minister.

[s. 51]

Rules and
regulations

53.—(1) The Minister may make rules and regulations-

- (a) governing the cultivation, baling, marketing, transportation, warehousing, ginning, importation and exportation of cotton;
- (b) prescribing the forms and particulars to be included in any return, information or statistics to be submitted by cotton growers, buyers, ginnery operators, exporters and importers under the provisions of this Act.
- (c) providing for the grading or classification and definitions of grades, fixed in respect of cotton whether locally manufactured or imported;
- (d) providing for the inspection of cotton, whether locally grown, or ginned or imported and for the appointment of inspectors and prescribing their duties;
- (e) providing for the procedures for grading, sampling, inspection; weighing and determination of quality of cotton;

- (f) providing for records or information to be kept and returns to be made by the cotton growers, buyers, ginnery operators, exporters and importers of cotton;
 - (g) prohibiting or control of the import or export of cotton seed;
 - (h) prescribing the variety and quality of cotton seed to be used for sowing in any specified area or region;
 - (i) prescribing the method of bagging, transporting, delivering, storing and supplying to growers of cotton seed which has been reserved under the provisions of section 11;
 - (j) to regulate and control of the layout, erection and use of cotton buying posts and their inspection and management;
 - (k) providing for the control of the erection of ginneries and the conditions upon which they may be erected, maintained and operated;
 - (l) prescribing the conditions upon which ginning licences may be issued;
 - (m) to regulate the purchase and sale of seed cotton;
 - (n) prescribing the prevention of the outbreak of fire at cotton buying posts or other premises used for cotton buying;
 - (o) describing the procedure on appeals of aggrieved parties;
 - (p) the determining of the rate of levy to be imposed on cotton; and
 - (q) prescribing anything which is to be or may be prescribed and generally for better carrying out of the provisions or purpose of this Act;
- (2) Regulations made under this section may be applicable to the whole of Mainland Tanzania or to any specified part thereof.
- (3) Regulations made or purported to have been made under this section shall not be invalid or unenforceable by reason only of the fact that, the matter provided for or intended

to be provided for by the regulations can only be provided for, by regulations made under the provisions of this Act, and the regulations shall be deemed to have been lawfully made under this section and shall take effect, accordingly.

(4) Where the matter prescribed or provided for by any previous regulation has already been prescribed or provided for by regulations made under the provisions of this Act, then, to the extent of any inconsistency between the previous regulations and the current regulations, the provisions of the current regulations shall prevail.

[s. 52]

General penalty **54.** A person who commits any offence against the provisions of this Act where a penalty is not specifically provided, on conviction shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding two million shillings or to both.

[s. 53]

Board to make regulations **55.** The Board may, with the approval of the Minister make regulations for the better carrying out of the functions and powers under this Act, and without prejudice to the generality of the foregoing, may make regulations-

- (a) prescribing the fees to be paid for anything to be done under this Act;
- (b) regulating the applications for, and the issue of any licence or permit authorised to be issued under this Act;
- (c) prescribing the manner in which seed cotton, cotton seed and cotton lint shall be stored, providing for the storage of different types of seed cotton and cotton seed separately and prescribing the specification in conformity with which cotton stores shall be built and maintained;
- (d) prescribing or prohibiting methods of packing seed cotton and prescribing the maximum weight which may be packed in any one bag;

- (e) prescribing or prohibiting the types of containers used in transporting seed cotton;
- (f) regulating the weighing of seed cotton;
- (g) regulating the ginning of seed cotton;
- (h) regulating the purchase, receipt, storage, sale, disposal and export of cotton lint and cotton seed;
- (i) regulating and prescribing powers, duties, functions, responsibilities and remuneration of officers, employees and agents of the Board and of inspectors;
- (j) prescribing the fee for any service to be rendered by the Board to ginners, growers and other persons; and
- (k) regulating the submission of returns by ginners, growers, agents and other persons engaged in the cotton industry.

[s. 54]

PART VIII

REPEAL AND CONSEQUENTIAL PROVISIONS

Repeal
Act No.
19 of 1984

56. [Repeals the Tanzania Cotton Lint and Seed Board Act].

[s. 55]

Savings
Act No.
19 of 1984

57. Notwithstanding the repeal of the Tanzania Cotton Lint and Seed Board Act-

- (a) rules, directions and orders issued, made or given under the repealed enactment 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) permits, licences, certificates, authorities and appointments issued, granted or made under any provision of any of the repealed enactment shall remain valid and continue in effect as a permit, licence, certificate, authority or appointment issued, granted or made under the corresponding provision of this Act, provided that, a Permit, licence, certificate, authority or appointment may at any time be revoked by the Board having power under this Act, to issue, grant or make the same.

[s. 56]

Minister may make further consequential provisions

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

[s. 57]

SCHEDULE

(Made under section 3 (2))

CONSTITUTION, FUNCTIONS AND PROCEEDINGS OF THE BOARD OF DIRECTORS

Constitution of board of directors Act No. 20 of 2009 s. 55

1.—(1) The Board of Directors shall consist of the Chairman who shall be appointed by the President and six other members to be appointed by the Minister as follows:

- (a) one member representing the local government authorities;
- (b) one member representing the Tanzania Cotton Association;
- (c) one member representing the Cotton Growers Association;
- (d) one member representing the textiles industry;
- (e) two members who have knowledge and experience in the matter relating to cotton industry; and
- (f) two members representing cotton grower's co-operative societies.

(2) The Minister shall, in appointing members under subparagraph (1), ensure that, the appointment is made from three names of candidates recommended by the relevant association or sector.

- Vice-Chairman **2.** The members of the Board of directors shall, from among their number, elect a Vice-Chairman and any member elected a Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election and be eligible for re-election.
- Tenure of office **3.**—(1) A member of the Board of Directors shall hold office for a period of three years from the date of appointment and be eligible for re-appointment.
(2) In the case of a Board member, who is a member by virtue of his holding some office, he shall cease to be a member upon his ceasing to hold that office.
(3) A member of the Board may, resign from the Board by giving notice in writing to the Minister and from the date specified in the notice or, where a date is not specified, from the date of receipt of the notice by the Minister, he shall cease to be a member.
(4) Where a person ceases to be a Board member for any reason before the expiration of his term of office, the Minister shall appoint another person in his place and the person appointed shall hold office for the remainder of the term of office of his predecessor.
- Disqualification of a Board member **4.** A person who has been adjudged or otherwise declared insolvent or bankrupt and has not been discharged or within the period of five years proceeding his appointment, has been sentenced to a term of imprisonment exceeding six months without the option of a fine and has not received a free pardon, shall not be appointed a Board member.
- Meeting of Board **5.**—(1) The Board of Directors shall meet at least four times a year and at other times as may be necessary or expedient for the transactions of business.
(2) 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 the meeting.
(3) Notwithstanding the provisions of subsection (2), where the Chairman is unable to act by reason of illness, absence from Tanzania, or other sufficient cause, the Vice- Chairman may convene such meeting.
(4) The 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 the meeting shall be given to members of the Board in the manner prescribed in sub-paragraph (2).
(5) The Board may co-opt any person to attend any deliberations of the meeting as an expert but that co-opted person shall not be allowed to vote.

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| Quorum | <p>6.—(1) Three of the members of the Board shall constitute a quorum at any meeting and acts, matters and things to be done by the Board shall be decided by a simple majority of the members present.</p> <p>(2) A member of the Board shall have one vote and in the event of equality of votes the Chairman of the meeting shall have a casting vote in addition to his normal vote.</p> |
| Alternate member | <p>7. Where a Board member is unable for any reason to attend the meeting of the Board or the Committee of the Board as the case may be, where it is not possible for the Appointing Authority to appoint another member, he may, in writing nominate another person in his place for the purpose of that meeting.</p> |
| Defects in appointment not to invalidate proceeding | <p>8. Subject to the provisions of paragraph 6, the Board of Directors may act notwithstanding any vacancy in the members thereof and an act or proceedings of the Board shall not be invalid by reason only of some defect in the appointment of a person who purport, to be a member thereof.</p> |
| Conflict of interest | <p>9. A Director who is in any way directly or indirectly personally interested in a contract or proposed contract or any matter being deliberated by the Board shall declare the nature of his interest and abstain in the deliberations in respect thereof.</p> |
| Minutes | <p>10. Minutes in proper form of each meeting of the Board shall be kept and confirmed by the Board at its next meeting and signed by the Chairman of the meeting.</p> |
| Circular resolution | <p>11. A circular resolution in writing signed by the Directors for the time being in Tanzania shall be as effectual as a decision made at a meeting provided that a member resolution may require that, notwithstanding the Directors' signatures the matter be brought at the following Board meeting.</p> |
| Board members to be paid allowances | <p>12. The Chairman and other members of the Board shall be entitled to allowances and at the rates as the Minister may approve.</p> |
| Power to regulate its procedure | <p>13. Subject to the provisions of this Act, the Board shall have power to regulate its own procedures in respect of meetings and the proper conduct of its business.</p> |