

CHAPTER 202
THE TOBACCO INDUSTRY ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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SCHEDULE

CHAPTER 202

THE TOBACCO INDUSTRY ACT

An Act to establish the Tanzania Tobacco Board, to repeal the Tanzania Tobacco Act 1984, and to provide for the regulation, improvement and development of the tobacco industry and matters related thereto.

[1st July, 2002]

[GN. No. 330 of 2002]

Acts Nos.
24 of 2001
20 of 2009

PART I PRELIMINARY PROVISIONS

Short title

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

Interpretation
Act No.
20 of 2009 s. 57
Cap. 337

2. In this Act, unless the context requires otherwise-

“association” means an association formed and registered under the Societies Act;

“Board” means the Tanzania Tobacco Board established under section 3;

“contract farming” means farming under an agreement between tobacco growers, farmers or producers on the one part and tobacco industry financiers such as leaf tobacco buyers and sellers, tobacco processors or bankers on the other part;

“Council” means the Tanzania Tobacco Council established under section 43;

“Director” means an officer-in-charge of the department in the ministry responsible for crop development and technical services;

“Director General” means the Chief Executive Officer of the Board;

- Cap. 191 “Environmental Impact Assessment” means a study of environmental impact conducted in accordance with the provisions of the Environmental Management Act;
- “financier” means a banker, district council, financial institution, tobacco trader and any other party who may provide financing to tobacco growers in whatever arrangement to support tobacco production;
- Act No. 20 of 1984 “former Board” means the Board established by the provision of Tanzania Tobacco Processing and Marketing Board Act.
- “inputs distributor” means a seller or stockist of agricultural inputs used in tobacco production;
- “inspector” means an officer appointed by the Board to perform the duties of inspectorate in accordance with the provisions of the Act;
- Caps 287 and 288 “local government authority” means the district authority, the urban authority established under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act;
- “member grower” means an individual farmer cultivating tobacco under growers’ registration;
- “Minister” means the Minister responsible for agriculture;
- “Ministry” means the ministry responsible for agriculture;
- “nesting of tobacco” means hiding of inferior tobacco against good quality tobacco in a tobacco bale;
- “non-contract buyer” means a person who illegally buys tobacco from a grower who has a farming contract with another buyer;
- “non-tobacco related material” means plastics, plants, stones, sands, insects, water and any other liquid substance or solid materials;
- “over conditioning” means presence of moisture above sixteen percent content in tobacco;
- Cap. 211 “primary society” means primary societies formed and registered under the Co-operative Societies Act;
- “regulatory function” includes data collection, data 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 tobacco products and inputs, setting indicative prices and all functions financed exclusively by the Government;

“shared function” means joint function to be undertaken by all tobacco stakeholders as agreed and includes research, extension, inputs supply, crop development, promotion and promotion of fair-trade and competition;

“stakeholder” means a public dealer in the tobacco industry and includes the Central Government, local government authorities, Cooperative Societies, the Board, Tobacco Research Institutes, tobacco traders and private players who are interested in the tobacco industry;

“stakeholders meeting” means the meeting of all tobacco stakeholders to be held at least once a year to agree on the funding and implementation or otherwise of the shared functions and other matters of common interest to tobacco stakeholders;

“tobacco” means the leaves of a plant of species of nicotiana in any form usually accepted by manufacturers of tobacco for conversion into consumption and has been cured by air, sun, smoke or heat conveyed through flue pipes or by other process as may be given by an authorised officer and it also includes all other tobacco products;

“tobacco buyer” means a person or group of persons licensed to buy tobacco from the growers for sale or processing whether or not such buyer has sponsored production of that tobacco by providing inputs and other support services to growers in line with the farming contract and it includes any person or a group of persons buying tobacco from the sales floor at the factories for domestic or export market;

“tobacco exporter” means any person or group of persons licensed under section 21;

“tobacco grower” means a person or group of persons registered by the Board for, the purpose of growing

tobacco independently or with financial or technical assistance pursuant to a subsisting farming contract;

“tobacco marketing” means the buying and selling of tobacco and tobacco products;

“tobacco pest” means tobacco beetle (*basioderma serricorned* F.), the tobacco moth (*Ephasitaelulella* Hb.) and other organisms which the Minister may, by notice in the *Gazette*, declare to be a pest of tobacco;

“tobacco premises” means any land, building, factory, erection, vehicle, article or receptacle whatsoever for the purpose of growing, raising, processing, transporting or connected with the handling of tobacco or other plants or products liable to be infected by a pest of tobacco; and

“tobacco traders” means leaf tobacco buyers, leaf tobacco sellers, tobacco processing factories and cigarette manufacturers.

PART II

THE TANZANIA TOBACCO BOARD

Establishment of Board

3.—(1) There is hereby established a Board to be known as the Tanzania Tobacco Board.

(2) The Board shall be a body corporate and shall-

- (a) have perpetual succession and a common seal;
- (b) in its corporate name, be capable of suing and being sued;
- (c) subject to this Act, be capable of purchasing or acquiring in any manner and alienating any movable and immovable property.

(3) The provisions of the First Schedule shall have effect as to the constitution, tenure of office, proceedings of meetings 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.

Functions of
Board
Act No.
20 of 2009 s. 58

5.-(1) The Board shall carry out regulatory functions and such other activities necessary, advantageous or proper for the benefit of the tobacco industry and shall include-

- (a) advising the Government on the policies and strategies for the development of the tobacco industry;
- (b) regulating and controlling the quality of tobacco and tobacco by products;
- (c) collecting, refining, maintaining, using or disseminating information or data relating to the tobacco industry;
- (d) monitoring the production and exportation of tobacco;
- (e) making rules for processing, exportation and storage of tobacco and tobacco by products;
- (f) facilitating or assisting in the formation of associations or other bodies related to or dealing with the tobacco industry;
- (g) promoting and protecting the interests of farmers against syndicates of buyers which may be formed through associations;
- (h) controlling and prescribing measures for the preservation of the environment including avoidance of land degradation through compulsory afforestation and economical use of wood fuel programmes; and
- (i) representing the Government in international and local fora in matters relating to or dealing with tobacco industry.

(2) Without prejudice to the generality of the provisions of subsection (1) and subject to any special or general direction of the Minister, the Board shall have power to-

- (a) register or license tobacco growers, sellers and processors;
- (b) issue licences to tobacco buyers, sellers and processors;
- (c) grant licences for export or importation of tobacco from or into Tanzania;
- (d) appoint inspectors for the inspection of tobacco premises, and any other facility that may be inspected for the better carrying out of any of the provisions of this Act.

(3) It shall be the duty of the Board in the exercise of its powers and in the performance of its functions under this Act to act in such manner as it appears to be beneficial to the tobacco industry in Tanzania.

(4) In the exercise of its powers and in the performance of its functions under this Act, the Board shall act in accordance with any general or specific directions that may be given to it by the Minister.

Minister may give directions and take disciplinary measures

6.–(1) The Minister may give the Board directions of a general or specific character as to the exercise of performance by the Board of any of its powers or functions under the Act, and the Board shall give effect to such directions.

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

PART III

TOBACCO PRODUCTION¹

Registration of tobacco growers Act No. 20 of 2009 s. 60

7.–(1) The Board shall cause a register to be kept and maintained of all tobacco growers and ancillary facilities owners, occupiers and managers of all land planted with tobacco and of all buildings used or intended to be used for grading, curing or baling of tobacco, market centres, warehouses and tobacco processing factories in such form as the Board deems fit.

(2) A person intending to grow tobacco for sale shall register with the Board prior to growing the tobacco.

(3) Prior to registration, the grower shall provide the following information to the Board:

- (a) name of a member grower and in case of a society or association, names of individual growers;
- (b) types of tobacco to be grown and areas to be put under cultivation in that year of application;

¹ Amended by Act No. 20 of 2009 s. 59

- (c) curing barn space available for the estimated tobacco to be produced;
- (d) crop volume, production estimates, input stocks and additional inputs required in that year of application; and
- (e) number of trees to be planted to supply wood fuel in conformity with production expectations and environmental conservation.

(4) A person shall not grow tobacco on any land in Mainland Tanzania for the purpose of sale unless he has been registered by the Board.

(5) A person who grows tobacco on any land in the area which has not been declared by the Director to be suitable for growing of tobacco commits an offence.

Contract farming
Act No.
20 of 2009 s. 61

8.—(1) A registered farmer may, for the purpose of facilitating farming activities, enter into a contract farming with financier, tobacco buyers, processor, investors or banker.

(2) The contract farming entered into under subsection (1) shall be in the prescribed standard form and shall 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) such other information as may be necessary for the purpose of the contract farming.

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

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

(5) A person being a financier, tobacco buyers, processor, investors or banker shall not facilitate a registered farmer in any manner without a contract 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. 7A]

De-registration of growers

9.—(1) The Board shall strike out of the register a tobacco grower who fails to meet the terms and conditions of registration as provided in this Act and tobacco regulations.

(2) A tobacco grower who has a subsisting contract with outstanding loans shall only be allowed to withdraw his registration after giving three months' notice of his intention to do so.

[s. 8]

Varieties of tobacco to be grown

10.—(1) The Board upon the direction of the Director shall prescribe, varieties of tobacco to be grown in different parts of Mainland Tanzania.

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

[s. 9]

Restriction on tobacco seed importation

11.—(1) A person shall not import, breed or multiply tobacco seeds or plants for any purpose unless authorised by the Director.

(2) A person who contravenes this section, commits an offence and on conviction shall be liable to a fine not exceeding one million shillings or to an imprisonment for a term not exceeding two years or to both.

(3) Any seeds or plants imported, bred or multiplied without the authority of the Director shall be destroyed by the Board at the expense of the offender.

[s. 10]

Restriction on sowing uncertified seeds

12.—(1) A tobacco grower shall not sow tobacco seeds which have not been certified by the Director or an authorised officer.

- (2) A person who contravenes the provisions of this section, commits an offence and on conviction shall be liable-
- (a) in the case of the first offence, to a fine not exceeding one hundred thousand shillings and total destruction of the seedlings or plants by the Board at the cost of the offender;
 - (b) in the case of the second offence, to a fine not exceeding two hundred thousand shillings and the total destruction of seedlings or plants by the Board at the cost of the offender; or
 - (c) in the case of the third offence, to a fine not exceeding five hundred thousand shillings or an imprisonment for a term not exceeding two years and the total destruction of seedlings or plants by the Board at the cost of the offender, and the Board shall cancel the offender's registration.

[s. 11]

Board to make regulations

13. The Board shall, subject to the approval of the Minister, make rules and regulations for better farming husbandry of tobacco.

[s. 12]

PART IV

LICENSING, MARKETING AND INSPECTION

Power to issue various tobacco licences

14.-(1) The Board shall, on application made, issue to the applicant a respective licence, upon such terms and conditions as stipulated by the provisions of this Act and where the Board refuses to issue such a licence on any grounds whatsoever, the Board shall inform the applicant in writing the reasons for refusal.

(2) The licences issued under this section shall be categorised as follows:

- (a) tobacco buying licence;
- (b) tobacco selling licence;
- (c) tobacco seed multiplication licence;

(d) tobacco processing licence.

[s. 13]

Registration
of processing
factory
Act No.
20 of 2009 s. 62

15.—(1) A new processing tobacco factory shall not be registered unless the following particulars have been submitted and approved by the Board—

- (a) the name and address of the factory;
- (b) the name and address of each director or partner and the shareholding of each shareholder;
- (c) processing capacity of the factory;
- (d) planned production of the factory;
- (e) capacity, number and area of warehouses;
- (f) existing transport facilities;
- (g) number and quality of skilled, semi-skilled and on skilled personnel employed or to be employed; and
- (h) Environment Impact Assessment report.

(2) The certificate of registration is not transferrable.

(3) The certificate holder shall begin operations within two years from the date of issuance of the certificate.

(4) A person who buys, markets or processes tobacco without a licence issued by the Board commits an offence.

(5) The Board may if the terms and conditions of licence have not been complied with, cancel, vary or suspend any licence issued under this section.

[s. 14]

Export of
unprocessed
tobacco
prohibited

16. Subject to the authorisation of the Minister under his hand, export of unprocessed tobacco is prohibited.

[s. 15]

Greenleaf buying
licences
Act No.
20 of 2009 s. 63

17.—(1) A person intending to buy greenleaf tobacco from the field shall be required to obtain a greenleaf tobacco buying licence upon terms and conditions as may be determined by the Board.

(2) Buyers shall enter into contract with licensed processors in Tanzania for processing tobacco so bought.

[s. 16]

Appointment of tobacco classifier

18.—(1) The Board shall appoint and register a technically trained person to be a tobacco classifier who shall classify all tobacco leaves at the market centre before sale.

(2) A grower shall grade all his tobacco according to set standard classification, procedures and rules issued by the Board.

(3) The Minister shall prescribe the procedure to be applied in case of disagreement on classification of tobacco between the grower and classifier or between the buyer and classifier.

(4) All tobacco produced under pre-financing arrangement between the grower and the buyer shall, after classification, be bought by the buyer.

(5) Notwithstanding the provisions of subsection (4), the existence of pre-financing arrangement between the buyer and the grower shall not entitle the buyer to refuse to buy tobacco produced under any other different arrangement.

[s. 17]

All tobacco to be classified

19.—(1) A person shall not sell or buy greenleaf tobacco which has not been classified by a tobacco classifier duly registered and employed by the Board.

(2) A person who purports to classify tobacco being not a tobacco classifier appointed by the Board, commits an offence and on conviction shall be liable to a fine not exceeding one million shillings or to imprisonment for a term of three years or to both.

(3) A classifier who during the exercise of tobacco classification fraudulently assign a lower or higher grade to tobacco than its actual grade, commits an offence.

[s. 18]

Power to issue tobacco import licences

20.—(1) The Board shall have power to issue tobacco import licences according to the prescribed procedures and regulations for such imports.

(2) The tobacco import licences issued by the Board shall be subject to such terms and conditions as set out by tobacco regulations.

[s. 19]

Power to issue tobacco export licences

21. The Board shall have power to issue tobacco export licences subject to such terms and conditions as the Board may, by regulation, prescribe.

[s. 20]

Penalty for importation or exportation of tobacco without authority

22. A person, who imports or exports tobacco without a licence issued by the Board or in contravention of any of provisions of this Act, commits an offence and on conviction, shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both.

[s. 21]

Power to issue tobacco seed multiplication licence

23. The Board shall, after the Director's approval, have power to issue tobacco seeds multiplication licences upon such terms and conditions as the Board may prescribe.

[s. 22]

Licences Act No. 20 of 2009 s. 64

24. Licences granted under the provisions of this Act shall be-

- (a) in the prescribed form;
- (b) valid for a specified period; and
- (c) issued subject to terms and conditions as the Board may prescribe in the regulations.

[s. 23]

Power to cancel, vary, suspend licences.

25.-(1) The Board may, where the terms and conditions of licence have not been complied with, cancel, vary or suspend any licence issued under the provisions of this Act.

(2) When a person applying for a buyer's licence has a bad record of-

- (a) buying unclassified tobacco;
- (b) refusing or failing to make payments to growers for the crop already sold to the buyer;
- (c) entering into farming contract with growers who have a farming contract with another buyer;
- (d) having outstanding debts with growers;

- (e) buying tobacco from a grower while knowing that such grower has another farming contract with another buyer; or
- (f) acting in such a manner as to obstruct the Board from performing any of its duties,

then, in addition to any sentence or penalty which may have been imposed upon the buyer, the Board may suspend the buyer's licence for one crop buying season.

[s. 24]

Aggrieved party
to appeal to
Minister

26. A person aggrieved by the decision of the Board pursuant to section 25 hereof, may within thirty days from the date of decision, appeal to the Minister.

[s. 25]

Appointment
of tobacco
inspectors

27. The Board shall have power to appoint proper and fit persons to be tobacco inspectors who shall have and exercise powers generally to supervise the arrangements for the cultivation, purchase, export and import of tobacco and who, without prejudice to the generality of the foregoing power shall have and exercise such other powers including the inspection of tobacco premises, processing plants, market centres, the taking of samples and the certifying of weight and quality of tobacco as are provided for in this Act or as may be prescribed.

[s. 26]

Power of entry,
inspection, etc.

28.—(1) A tobacco inspector or any other person duly authorised in writing in that behalf may, at any reasonable hour during the day time, enter any premises where tobacco is grown, processed, packed, stored or sold to inspect or examine the same for the purpose of ensuring that the provisions of this Act, or of any regulations or rules made hereunder, or of any directions given, or order made by the Minister, the Director or the Board are being complied with.

(2) The tobacco inspector or an authorised person may, for the purpose of securing compliance with the provisions of this Act or of any regulations, by-laws, orders or directions, take

samples of any raw tobacco, found in or on any store, plant or other place or premises including any land and may subject samples to such tests as he may deem necessary.

(3) A person, who obstructs the tobacco inspector or any other authorised person in the exercise of the power conferred upon him by this section, or who neglects or refuses to produce to the tobacco inspector or any other authorised person anything, book or record which the tobacco inspector or any other authorised person may request to be produced for his inspection, commits an offence.

[s. 27]

Prohibition of
adulteration and
nesting of tobacco
Act No.
20 of 2009 s. 65

29.—(1) A person who adds, cause to be added any foreign material or causes over conditioning to tobacco for purposes of adulterating, commits an offence and on conviction shall be liable, in the case of-

- (a) a first offence, to a fine of not less than five hundred thousand shillings but not exceeding two million;
- (b) a second offence, to a fine of not less than two million shillings but not exceeding five million shillings and suspension from tobacco farming for one crop season; and
- (c) a third offence, to a fine of not less than five million shillings but not exceeding ten million shillings and deregistration from tobacco farming.

(2) A person who mixes different tobacco or non-grades for the purpose of misleading or cheating the tobacco classifier in order to be awarded superior classification grades, commits the offence of tobacco nesting and on conviction shall be liable to a fine of not less than one million but not exceeding five million shillings and cancellation of his tobacco registration.

(3) A tobacco bale containing nested tobacco or non-tobacco materials at any stage from the market centre to a processing factory shall be marked accordingly and full particulars of its owner shall be taken for necessary actions provided for under subsections (1) and (2).

(4) The Board shall, in collaboration with tobacco growers and tobacco traders, put in place a system for monitoring nesting of tobacco, tobacco mixing and non-tobacco related materials from grading and baling centre to processing factories.

[s. 28]

PART V

ADMINISTRATION AND FINANCIAL PROVISIONS

Appointment of
Director General
and other staff

30.—(1) The Minister shall, upon recommendation of the Board, appoint a Director General, who shall be the chief executive officer of the Board.

(2) The Board may appoint at such salaries and upon such terms and conditions as it may think fit, such 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), all officers or employees of the former Board whose services are not required by the Board are by virtue of this Act terminated, and every such employee or officer 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 absorb in its service some officers or employees of the former Board whose services are required by the Board upon such terms and conditions as the Board may determine provided that the services of such officers or employees shall be taken, to be continuous and such employees or officers shall not be entitled to any immediate terminal benefits by virtue of such absorption.

[s. 29]

Board to grant
gratuities to
employees

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

[s. 30]

Seal of Board **32.**—(1) There shall be a common seal of the Board which shall be of such shape, size and form as the Board may determine.

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

[s. 31]

Appointment of agents and contractors **33.** The Board may, appoint and employ upon such terms and conditions such agents and contractors as it may deem necessary for the better carrying out the functions of this Act.

[s. 32]

Assets and liabilities to vest in Board **34.** Subject to any direction of the Minister, the assets and liabilities of the former Board shall, by virtue of this Act and without further assurance, vest in the Board.

[s. 33]

Funds and resources of Board Act No. 20 of 2009 s. 66 **35.** The funds and resources of the Board shall consist of-

- (a) such 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) such 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. 34]

Annual budget to Board **36.**—(1) 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.

(2) After approval by the Board of Directors of the budget under subsection (1), the Board shall submit the same to the

Minister for his approval and thereafter the budget so approved shall be binding upon the Board.

(3) In this section, the term “financial year” means a period not exceeding twelve consecutive months designated by the Board of Directors as the accounting period of the Board and the term “budget” includes a supplementary budget.

[s. 35]

Liability of members, etc.

37. An act or thing done or omitted to be done by any member, officer, employee or agent of the Board shall not, 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 of any order or regulations made hereunder, subject any person as aforesaid to any action, liability, claim or demand whatsoever.

[s. 36]

Power to impose levy

38. There shall be raised, paid and collected in respect of all tobacco processed in or imported into Tanzania tobacco levy at such rate as the Minister may, upon recommendation by the Board and after consultation with the Minister responsible for finance and the Minister responsible for marketing, impose by notice published in the *Gazette*.

[s. 37]

Payment of levy

39. Any levy imposed under the provision of section 38, shall be paid by all tobacco buyers, processors, exporters and importers and such levy shall be collected and expended as prescribed by the rules and regulations made under the provisions of this Act.

[s. 38]

Financing shared functions
Act No.
20 of 2009 s. 67

40. For the purpose of financing shared functions, stakeholders may put in place mechanisms for the management and for the mode of contribution.

[s. 39]

Books of accounts
and audit
Act No.
20 of 2009 s. 68

41.—(1) The Board shall cause to be kept and maintained proper books of accounts with respect to-

- (a) all sums of money received and expended by the Board;
- (b) all the assets and liabilities of the Board; and
- (c) the income and expenditure statement 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 auditor shall state-

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

(4) The Board shall, within six months after the end of the financial year, submit to the Minister a copy of the audited accounts and a report on the activities of the Board in respect of that year.

[s. 40]

Minister to
submit accounts
to National
Assembly

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

[s. 41]

Formation of
Tanzania Tobacco
Council
Act No.
20 of 2009 s. 69

43.—(1) The Board may cause to be formed a forum of tobacco growers on one hand and buyers, sellers and processors hereinafter referred to as “traders” on the other to be known as the Tanzania Tobacco Council hereinafter referred to as “the

Council” which shall consist of such number of representatives shared equally between growers and traders and other category of persons engaged in tobacco industry as the Council may determine.

(2) The provisions of the Second Schedule shall have effect as to the tenure of office, proceedings of meetings and other matters relating to the Council.

(3) The Functions of the Council shall be to-

- (a) propose to the Board selling and buying arrangements, including contracts, auctions and tendering between farmers and tobacco buyers;
- (b) set minimum indicative tobacco farmer grade prices, in conformity with mechanism used for selling and buying tobacco as provided under subsection (1); and
- (c) propose mechanisms for procuring input, pricing and supplying arrangements for approval by the Board.

[s. 42]

PART VI

MISCELLANEOUS PROVISIONS

Rules and
regulations

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

- (a) governing the cultivation or production, marketing, transportation, warehousing processing, importation and exportation of tobacco;
- (b) prescribing the forms and particulars to be included in any return, information or statistics to be submitted by tobacco growers, buyers, processors, exporters and importers under the provisions of this Act;
- (c) providing for the grading or classification of grades, fixed in respect of tobacco whether locally manufactured or imported;
- (d) providing for the inspection of all tobacco whether locally, grown, or processed or imported and for the appointment of inspectors and prescribing their duties;

- (e) providing for the procedures, sampling, inspection, weighing and determination of quality of tobacco;
- (f) providing for records or information to be kept by the tobacco growers, buyers, processors, exporters and importers of tobacco;
- (g) 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) Where the Minister discharges any function under this section which relates to or has a bearing on marketing research or promotion, he shall consult with the Minister responsible for marketing.

[s. 43]

General penalty **45.** A person, who commits an offence against the provisions of this Act, on conviction shall be liable for every such offence, except where in any other section a special penalty is provided, to imprisonment for a term not exceeding three years or to a fine not exceeding one million shillings or to both.

[s. 44]

Repeal
Act No.
20 of 1984 **46.** [Repeals the Tanzania Tobacco Board Processing and Marketing Act].

[s. 45]

Saving
Act No.
20 of 2009 s. 70 **47.** Notwithstanding the repeal of the Tanzania Tobacco Board Act, all the directions given and all regulations, orders, notices or rules made, shall be deemed to be directions given and regulations made by or on behalf of the Board under the provisions of this Act and shall remain in force until revoked by directions given or regulations made under this Act.

[s. 46]

Appeals
Act No.
20 of 2009 s. 71 **48.** A person aggrieved by the decision of the Board in matters which are regulatory in nature may, within sixty days after the date of the decision, appeal in writing to the Minister.

[s. 47]

Power to make
by-laws
Act No.
20 of 2009 s. 71

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

[s. 48]

Stakeholders
meeting
Act No.
20 of 2009 s. 71

50.—(1) For the purposes of promoting the development of the tobacco 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) determine 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 a meeting at least once a year to agree on the funding and implementation of the shared functions and other matters.

[s. 49]

FIRST SCHEDULE

(Made under section 3(3))

CONSTITUTION, FUNCTIONS AND PROCEEDINGS OF THE BOARD OF DIRECTORS

Constitution
of Board of
Directors
Act No.
20 of 2009 s. 73

1.—(1) The Board shall consist of a Chairman who shall be appointed by the President and nine members appointed by the Minister as follows:

- (a) one member from a list of not less than three and not more than five names proposed by the Tobacco traders which consist of buyers and sellers;
- (b) one member from a list of not less than three and not more than five names proposed by large scale farmers and small holder growers;
- (c) three members representing co-operative societies as follows:
 - (i) one member representing the Flue Cured Tobacco Growing Zone;

- (ii) one member representing the Dark Fire Tobacco Growing Zone;
- (iii) one member representing the Tobacco Curing Factories;
- (d) one member representing the Ministry; and
- (e) two members being persons who possess knowledge and experience in tobacco industry.
- (2) The members specified under items (a), (b), (c), (d), and (e) of subparagraph (1), shall be appointed by the Minister.
- (3) The Board of Directors shall appoint one of the employees of the Board to be Secretary to the Board of Directors.
- Tenure of office** 2.–(1) A member of the Board of Directors shall hold office for a period of three years from the date of appointment and shall 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 at any time resign from the Board 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 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 so appointed shall hold office for the remainder of the term of office of his predecessor.
- Disqualification of Board member** 3. A person who has been adjudged or otherwise declared insolvent or bankrupt and has not been discharged or within the period of five years preceding his appointment has been sentenced to a term of imprisonment of or exceeding six months imposed without the option of a fine and has not received a free pardon, shall not be appointed a Board member.
- Meetings of Boards** 4.–(1) The Board of Directors shall meet at least four times a year and at such other times as may be necessary or expedient for the transactions of business.
- (2) The Board of Directors shall appoint one of their members to be a Vice-Chairman for a period of one year.
- (3) Meetings of the Board of Directors shall be convened and presided by the Chairman or in his absence by the Vice-Chairman, and in the absence of both the Chairman and the Vice-Chairman, the members present shall elect one from their members to be a Chairman for that meeting.
- (4) The Chairman, or in his absence, the Vice-Chairman, shall convene a special meeting of the Board upon a request in writing

signed by not less than four members of the Board of Directors for such a meeting and shall cause such a meeting to be held within twenty-one days of receiving such request.

(5) The Board of Directors 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.

Alternate member	5. Where a Board member is unable for any reason to attend the meeting of the Board or the Committee of the Board which he represents, he may, in writing nominate another person in his place for the purpose of that meeting.
Power to regulate its procedures	6. Subject to the provisions of this Act, the Board of Directors shall have power to regulate its own procedures in respect of meetings and proper conduct of its business.
Director to declare interest	7. A Director who is in any way directly or indirectly interested in a contract or proposed contract or any matter being deliberated by the Board shall declare the nature of his interest to the fellow Directors.
Circular resolution	8. A circular resolution in writing signed by all the Directors for the time being in Tanzania shall be as effectual as a decision made at a meeting provided that a member may require that notwithstanding the Director's signatures the matter be brought at the following Board meeting.
Quorum	9. —(1) Six of the members of the Board shall constitute a quorum at any meeting and all acts, matters and things to be done by the Board of Directors shall be decided by a simple majority of the members present at the meeting. (2) Each member of the Board of Directors shall have one vote and in the event of equality of votes the Chairman of the meeting shall have a second or casting vote in addition to his normal vote.
Board members to be paid allowances	10. The Chairman and other members of the Board shall be entitled to such allowances and other benefits at such rates as the Minister may approve.
Minutes	11. Minutes in proper form of each meeting of the Board of Directors shall be kept and confirmed by the Board at its next meeting and signed by the Chairman of the meeting.
Defects in appointment not to invalidate proceedings	12. Subject to the provisions of paragraph 9, the Board of Directors may act notwithstanding any vacancy in the members thereof and no act or proceedings of the Board of Directors shall be invalid by reason only of some defect in the appointment of a person who purports to be a member thereof.

SECOND SCHEDULE

(Made under section 43(2))

TENURE OF OFFICE, PROCEEDINGS OF THE MEETING OF THE TOBACCO COUNCIL

Appointment of Chairman	1. The Chairman of the Council shall be appointed by the members of the Council.
Tenure of office	<p>2.-(1) A member of the Council shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment.</p> <p>(2) In the case of a Council 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.</p> <p>(3) A member of the Council may, at any time, resign from the council by giving notice in writing to the Chairman and from the date specified in the notice or, if no date is so specified, from the date of receipt of the notice by the Chairman, he shall cease to be a member.</p>
Council may appoint member	3. Where a person ceases to be a member of the Council for any reason before the expiration of his term of office, the Council 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.
Disqualification of Council member	4. No 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 of or exceeding six months imposed without the option of a fine and has not received a free pardon, shall be appointed a member of the Council.
Meetings of Council	<p>5.-(1) The Council shall meet at least twice a year and at such other times as may be necessary or expedient for the transaction of business.</p> <p>(2) The Council shall appoint one of their members to be a Vice-Chairman for a period of one year on rotation.</p> <p>(3) Meetings of the Council shall be convened by the Chairman or in his absence by the Vice-Chairman.</p> <p>(4) The Chairman, or in his absence, the Vice-Chairman, shall convene a special meeting of the Council upon a request in writing signed by not less than half the members of the Council for such a meeting and shall cause such a meeting to be held within twenty-one days of receiving such request.</p> <p>(5) The Council 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.</p>

Alternate member	6. Where a Council member is unable for any reason to attend the meeting of the Council or the Committee of the Council which he represents, may, in writing nominate another person in his place for the purpose of that meeting.
Power to regulate its procedures	7. Subject to the provisions of this Act, the Council shall have power to regulate its own procedures in respect of meetings and the proper conduct of its business.
Quorum Act No. 20 of 2009 s. 72	8. —(1) Half of the members of the Council shall constitute a quorum at any meeting and all acts, matters and things to be done by the Council shall be decided by a simple majority of the members present; Provided that, the quorum shall be constituted where half of the members are representatives of growers and traders. (2) Each member of the Council shall have one vote and in the event of equality of votes the Chairman of the meeting shall have a second or casting vote in addition to his normal vote.
Minutes	9. Minutes in proper form of each meeting of the Council shall be kept and shall be confirmed by the Council at its next meeting and signed by the Chairman of the meeting.
Defects in appointment not to invalidate proceedings	10. Subject to the provisions of paragraph 8, the Council may act notwithstanding any vacancy in the members thereof and no act or proceedings of the Council shall be invalid by reason only of some defect in the appointment of a person who purports to be a member thereof.

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