

THE COTTON ACT, 1988**No. 3 of 1988***Date of Assent: 21st July, 1988**Date of Commencement: By notice***ARRANGEMENT OF SECTIONS***Section***PART I—PRELIMINARY**

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An Act of Parliament to establish the Cotton Board of Kenya and to provide for the promotion and regulation of the cotton industry and for connected purposes

ENACTED by the Parliament of Kenya as follows:—

PART I—PRELIMINARY

1. This Act may be cited as the Cotton Act, 1988 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint and different dates may be appointed for different provisions of this Act.

Short title
and
commencement.

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

Interpretation.

“application” means an application for the first issue of a licence or for the renewal of or variation of a licence as the case may be;

“Board” means the Cotton Board of Kenya established under section 3;

“co-operative society” means a co-operative society registered or deemed to be registered under the Co-operative Societies Act;

Cap. 490.

“cotton zone” means a cotton growing area specified by the Minister for the purposes of selecting and appointing cotton growers and growers’ representatives of co-operative societies under section 3 (2) (i);

“cotton lint” means ginned cotton produced from raw cotton;

“cotton seed” means cotton seed (including planting seed) produced from raw cotton;

“ginner” means any person or company licensed under section 26;

“former Board” means the Cotton Lint and Seed Marketing Board established under the Cotton Lint and Seed Marketing Act (now repealed);

Cap. 335.

“infected area” means an area, cotton ginnery or cotton factory declared to be an infected area under section 40 (1);

“inspector” means a person appointed as an inspector in terms of section 34 (1);

“levy” means a levy imposed under section 32 (1);

“licence” means a licence granted under section 26;

“licence holder” means a person holding a licence;

“managing director” means the person for the time being appointed as managing director under section 10 (1);

“planting seed” means seed for or intended for use for growing cotton;

“premises” includes any building or structure;

“raw cotton” includes unginmed cotton and seed cotton;

“staff” means the managing director, secretary, officers and employees of the Board.

PART II—THE COTTON BOARD OF KENYA

Establishment
of the Board.

3. (1) There is hereby established the Cotton Board of Kenya which—

(a) shall be a body corporate;

(b) shall have perpetual succession and a common seal; and

(c) may sue or be sued in its corporate name.

(2) The Board shall consist of—

(a) a chairman who shall be appointed by the President;

(b) the Permanent Secretary of the Ministry for the time being responsible for agriculture;

(c) the Permanent Secretary of the Ministry for the time being responsible for co-operative development;

(d) the Permanent Secretary of the Ministry for the time being responsible for finance;

(e) the Director of Agriculture;

(f) the Commissioner for Co-operative Development;

(g) the managing director;

(h) two persons experienced in the cotton industry appointed by the Minister of whom one shall be appointed to represent ginneries and one the textile industry;

(i) six representatives of cotton growers, four of whom shall be elected on a zonal basis to represent cotton growing co-operative societies and two of whom shall be appointed by the Minister to represent cotton growers who are not members of any cotton growing co-operative society.

(3) The members of the Board appointed under paragraph (h) shall hold office for three years and shall be eligible for re-appointment.

(4) The members of the Board appointed by the Minister under subsection (2) (i) shall—

(a) hold office for three years or such period as the Minister may specify; and

(b) be eligible for re-appointment.

(5) The appointment of a member of the Board under paragraph (a), (h) and (i) of subsection (2) may cease if the person appointed—

(a) resigns by notice in writing addressed to the Minister;
or

(b) absents himself without permission of the Minister notified to the Board from three consecutive meetings; or

(c) is convicted of an offence and sentenced to imprisonment; or

(d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Board; or

(e) conducts himself in a manner deemed by the Minister, in consultation with the Board, to be inconsistent with the membership of the Board; or

(f) is declared bankrupt.

Proceedings
of the Board.

4. (1) The chairman shall preside at all meetings of the Board unless he is absent from a particular meeting in which case the members present shall elect one of the members present at the meeting to preside.

(2) The quorum for the transaction of business at meeting of the Board shall be five.

(3) All questions at a meeting of the Board shall be determined by a majority of the votes of the members present and voting.

(4) If there is equality of votes, the person presiding at a meeting of the Board shall have a casting as well as a deliberative vote.

(5) The Board shall meet at least four times in each year, but the chairman may, and on written application by two or more members shall, convene a special meeting of the Board at any time.

(6) Subject to this Act, and to any general or special directions the Minister may give in writing, the Board shall regulate its own procedure.

Functions
of the Board.

5. (1) The principal object of the Board is to promote the cotton industry in Kenya.

(2) The functions of the Board include carrying on activities and doing things to further its principal object and without prejudice to those general functions, the particular functions of the Board are—

- (a) to plan, monitor and regulate cotton growing and cotton ginning;
- (b) to license and control ginners and other persons dealing with cotton;
- (c) to regulate and carry out quality control of raw cotton and cotton ginning;
- (d) to regulate the export or import of cotton lint or cotton seed;
- (e) to advise the Minister on the pricing of raw cotton;
- (f) to regulate and control quality and supply of planting seed through ginneries;

- (g) to carry and promote research and development in cotton production and processing technology;
- (h) to provide, either on payment or without charge, or co-ordinate training for any sector of the cotton industry;
- (i) to render any service prescribed by regulations made under section 41 (1) (s).

(3) The Board shall, if the Minister so directs, be the agent of the Government for all matters concerning international agreements made or to be made in relation to cotton.

(4) In carrying out its functions the Board shall comply with any general or special directions which the Minister may give to it in writing.

(5) Notwithstanding any other provisions of this Act, the Board may, during such period as may be determined by the Minister, own and operate the cotton ginneries which at the commencement of this Act are owned and operated by the former Board and for that purpose may purchase raw cotton and sell cotton lint and cotton seed and do all other things necessary for the effective operation of the ginneries.

6. (1) The Board may do anything which a body corporate may lawfully do and perform or which is necessary or helpful to carry out its functions.

Powers of
the Board.

(2) In particular, but without prejudice to the general powers specified in subsection (1), and subject to the provisions of this Act, the Board may—

- (a) enter into contracts, arrangements or guarantees which are, in the opinion of the Board, necessary or expedient for carrying out its functions;
- (b) acquire, buy, sell, dispose of, rent or hire, pledge or mortgage any movable or immovable property or interest therein;
- (c) subject to the prior approval of the Minister, in consultation with the Minister for the time being responsible for finance, borrow money;
- (d) accept gifts and donations;

- (e) make such investments of money as are allowed by the law for the investment of trust funds or as are approved by the Minister;
- (f) make such charges for its services under this Act as it thinks fit;
- (g) appoint and employ agents to perform any of its functions or exercise any of its powers;
- (h) appoint committees, whether of its own members or otherwise, to carry out general or particular functions as specified by the Board;
- (i) by resolution delegate to any member, officer or employee of the Board, or to a committee appointed under paragraph (h), the performance of any of its functions or the exercise of any of its powers, either generally or in any particular case;
- (j) do anything required under this or any other written law to be done by the Board;
- (k) do anything incidental to any of its powers.

PART III—ADMINISTRATION OF THE BOARD

Disclosure of interest.

7. (1) A member of the Board who is, or is likely to be, in any way directly or indirectly interested in a transaction or project of the Board shall, on the matter coming up before the Board for consideration, immediately declare and disclose the nature of his interest; and the disclosure shall be recorded in the minutes of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to the transaction or project.

(2) A member need not attend in person at a meeting of the Board in order to make any disclosure which he is required to make under this section if he takes reasonable steps to secure that the disclosure is made by notice which is brought up and read at the meeting.

Indemnity for members, etc.

8. No action shall lie against any member, officer or employee of the Board or any other public officer for any act done or ordered to be done in good faith in pursuance of this Act.

9. (1) The common seal of the Board shall be authenticated by the signature of the chairman or of another member authorized by the Board to do so, together with the signature of the managing director.

Authentication
of documents.

(2) The Board shall keep a register showing the use of its common seal.

(3) All documents made by the Board, other than those required by law to be under seal, shall be executed, and all decisions of the Board shall be signified, under the hand of the chairman or a member, officer or agent of the Board authorized by the Board to do so.

(4) A document purporting to be executed in accordance with subsection (1) or (3) shall be received in evidence and is, in the absence of evidence to the contrary, deemed to be so executed without further proof.

10. (1) The Minister shall appoint a managing director who shall be the chief executive of the Board responsible to it for the effective operation of its day-to-day activities.

Appointment
of managing
director,
secretary,
officers and
employees of
the Board.

(2) In the exercise of his functions under this Act, the managing director shall act in accordance with such directions as he may, from time to time, receive from the Board.

(3) The Board shall appoint a secretary of the Board who, in addition to any other duties conferred under this Act, shall be responsible for convening all meetings of the Board, the proper recording of its decisions and the communication of those decisions to those who are required to act on them.

(4) The Board shall appoint or employ such other officers and employees as may be necessary for the purposes of or in connection with its functions under this Act, on such terms and conditions as the Board may determine.

(5) The secretary, other officers and employees shall be under the administrative control of the managing director.

(6) The managing director, secretary, other officers and employees shall hold office on such terms and conditions as the Board may determine.

(7) The Board shall provide for the training, career development and discipline of its officers and employees.

Remuneration and expenses of members and staff of the Board.

11. (1) The Board shall pay to its members, other than a member who is a public officer who receives a salary as such, such remuneration, fees and allowances for expenses as the Minister may determine.

(2) The Board shall pay to its officers and employees such remuneration from the funds of the Board as the Board may determine.

(3) The Board shall refund travelling and other expenses reasonably incurred by its members, officers or employees in each case in the performance of their duties under this Act.

(4) The Board may establish and make contributions to pension, superannuation, provident or medical funds, in each case for the benefit of its officers or employees, whom it may require to contribute to those funds.

(5) The Board may grant pensions, gratuities or retirement allowances to its officers or employees from the funds established under subsection (4).

PART IV—FUNDS OF THE BOARD, ETC.

Funds and property of the Board.

12. (1) The funds and property of the Board shall consist of—

- (a) property, assets, powers, rights, obligations, interests, liabilities and contracts of the former Board vested in the Board under section 44;
- (b) money paid to the Board as levy, licence fees, commission, export or import agency fees and fees charged for anything done by it under this Act;
- (c) money paid to the Board as grants, subsidies, donations, loans, subscriptions, rent, repayments of principal, interest and royalties;
- (d) money derived from the sale of property held by or on behalf of the Board;
- (e) sums due on any investment made by the Board;

- (f) other money and property lawfully received by the Board for the purposes of the Board;
- (g) accumulations of income derived from any money or property of the Board; and
- (h) such sums as may be provided by Parliament for the purpose.

(2) The Board may from time to time apply its funds and property—

- (a) to the exercise and carrying out of any of its powers, duties, functions, responsibilities and operations under this Act;
- (b) to the cost of the administration of the Board;
- (c) to the payment of the expenses of its members and of the salaries, gratuities, pensions and retiring allowances of its officers and employees;
- (d) to the remuneration of any agents and other persons employed by or assisting the Board in the carrying out of its powers, duties, functions, responsibilities or operations under this Act; and
- (e) to the payment of interest in respect of any money borrowed under this Act.

13. (1) All money belonging to the Board shall, as soon as practicable after it has come into the hands of an officer authorized to receive money on behalf of the Board, be paid into a bank account in the name of the Board.

Bank account
of the Board.

(2) No money shall be withdrawn from the bank account in the name of the Board except on the signature of the managing director and any other officer authorized so to sign by and on behalf of the Board.

14. The Board shall pursue a policy directed towards securing revenue sufficient to meet all its expenditure properly chargeable to revenue including, in particular, proper provision for the depreciation of assets and allocation under section 16 (2) to the general reserve fund.

Financial duty
of the Board
in conduct of
its operations.

15. For each financial year the Board shall prepare and submit to the Minister not later than such date as the Minister

Estimates.

may direct, estimates of the income and expenditure of the Board, including its capital budget, for the coming financial year and for any longer period required by the Minister.

General
reserve fund.

16. (1) The Board shall establish and maintain a general reserve fund.

(2) At the end of each financial year, the Board shall, after consultation with the Minister, from its revenue make a proper allocation to the general reserve fund.

(3) The Board may apply the proceeds from the general reserve fund to carry out any of its functions.

Accounts
and audit.

17. (1) The Board shall cause to be kept all proper books and records of account of its income, expenditure, assets and liabilities.

(2) Where funds have been received by the Board for a specific purpose, the estimates and accounts of the Board shall show the application of those funds.

(3) At the end of each financial year the accounts of the Board shall be audited by the Auditor-General (Corporations) in accordance with section 30A of the Exchequer and Audit Act.

Cap. 412.

Annual report.

18. (1) Within four months of the end of each financial year or such longer periods as the Minister may approve, the Board shall submit to the Minister an annual report dealing with its operation during the year; and the Board shall publish the annual report in such manner as the Minister may specify.

(2) The Minister shall lay the annual report before the National Assembly as soon as possible after it has been submitted to him.

PART V—PROVISIONS RELATING TO THE EXPORT, MARKETING AND PROCESSING OF COTTON

Restriction on
export and sale
of cotton.

19. (1) Subject to this Act, no person shall—

(a) sell raw cotton, cotton lint or cotton seed to any person unless such person has been licensed by the Board in respect of the raw cotton, cotton lint and

cotton seed to the extent and subject to the conditions considered necessary by the Boards;

- (b) purchase raw cotton from any grower other than a ginner licensed under this Act;
- (c) carry out the ginning of raw cotton unless he holds a ginner's licence granted under section 26.

(2) The Minister may from time to time, after consultation with the Board, fix prices at which purchasers of raw cotton may purchase the cotton.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

20. (1) The Board may, from time to time after consultation with the Minister by order in the Gazette, require cotton growers within a specified area and time to deliver all or any part of the cotton which is in their possession to a ginner registered under this Act for ginning.

Power of the Board to require cotton to be ginned.

(2) Any cotton grower who fails to comply with an order made under subsection (1) shall be guilty of an offence and liable to a fine not exceeding twenty-five thousand shillings or to imprisonment for a term not exceeding two years or to both.

21. (1) Every ginner to whom cotton is delivered for ginning under section 20 shall submit to the Board at such time as may be specified—

Statement of cotton ginned and sample to be sent to the Board.

- (a) a statement in the prescribed form of the cotton ginned;
- (b) a sample of each grade of cotton ginned.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

22. (1) Subject to this Act, the Board shall purchase all cotton lint which has been produced and ginned in Kenya on terms fixed by the Board from time to time and the cotton

Power of the Board to purchase cotton lint.

lint so purchased shall be delivered to the Board in such manner as may be prescribed.

(2) The Board shall dispose of the cotton lint purchased under subsection (1) in the following manner—

- (a) sell the cotton lint to the millers on terms fixed by the Board from time to time;
- (b) export such part of the cotton lint as the Board may determine; and
- (c) sell the cotton lint to exporters licensed under this Act on terms fixed by the Board from time to time.

(3) Any cotton lint and cotton seed sold by the Board under subsection (2) shall be by auction or by tender or by such other method as the Board may consider fit.

(4) Proceeds from the disposal of cotton lint under subsection (2) shall be applied in the following manner—

- (a) payment of such commission fees as the Board may from time to time determine in accordance with this Act;
- (b) payment of such export levy as may be prescribed under this Act; and
- (c) payment for the cotton lint purchased by the Board under subsection (1).

PART VI—LICENSING PROVISIONS

Offences if
unlicensed.

23. (1) No person shall—

- (a) carry out the ginning of raw cotton unless he holds a ginner's licence granted under section 26;
- (b) export or import raw cotton, cotton lint or cotton seed except through the agency of the Board or a licensed cotton export-import agent or unless he holds a cotton export-import agent's licence granted under section 26.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding twenty thousand shillings or to both.

24. (1) There shall be established the Cotton Licensing Advisory Committee with the function of advising the Board on the grant of licences under section 26.

Cotton
Licensing
Advisory
Committee.

(2) The Advisory Committee shall consist of—

- (a) a chairman appointed by the Board;
- (b) the Permanent Secretary of the Ministry for the time being responsible for agriculture;
- (c) the Permanent Secretary of the Ministry for the time being responsible for co-operative development;
- (d) the Commissioner for Co-operative Development;
- (e) three other Board members who are not licence holders under this Act, appointed by the Board;
- (f) the Director of Agriculture;
- (g) the managing director.

(3) Four members of the Advisory Committee shall form a quorum.

(4) Members of the Advisory Committee shall be appointed annually.

25. (1) An application for the grant, renewal or variation of—

Application for
a licence.

- (a) a ginner's licence;
- (b) a cotton dealer's licence; or
- (c) a cotton export-import agent's licence, shall be made to the Board in the prescribed form.

(2) An application shall provide such information as the Board may require.

(3) The prescribed fee shall be payable with an application but shall be refunded to the applicant if the licence, renewal or variation is refused.

26. (1) Before granting, renewing or varying, or refusing to grant, renew or vary, a licence under this section the Board shall consult the Advisory Committee.

Grant of
a licence.

(2) The Board shall not grant a licence under this section unless it considers that the applicant is a fit and proper person

to hold that licence, but otherwise the Board may in its discretion grant or refuse to grant a licence or a renewal or variation of a licence.

(3) A licence shall be in the prescribed form and shall specify the premises on or from which the activity licensed may be carried out.

(4) Unless previously varied, revoked or surrendered a licence is valid for a period of one year from the date of issue and may be renewed for a further period of one year with effect from the date on which it expires.

(5) A licence is not transferable except with the prior written consent of the Board endorsed on the licence.

Conditions of
a licence.

27. (1) A licence issued under this Act shall be subject to such conditions as the Board may determine and as are specified in the licence and to any conditions which may be prescribed.

(2) The Board may at any time during the validity of a licence---

- (a) vary the conditions of the licence; or
- (b) impose conditions or further conditions on the licence.

Revocation
of licence.

28. The Board may revoke a licence if in its opinion---

- (a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder; or
- (b) a condition of the licence has been contravened or not complied with.

Surrender
of licence.

29. (1) The holder of a licence which is revoked shall immediately surrender it to the Board and is not entitled to a refund of fees.

(2) A licence holder may at any time surrender his licence to the Board and the licence shall cease to have effect but the holder is not entitled to a refund of fees in respect of any unexpired period of the licence.

30. (1) An applicant for or holder of a licence who is aggrieved by a decision of the Board on or in respect of—

Appeals.

- (a) the grant, refusal, renewal, variation or revocation; or
- (b) the conditions imposed on the grant, renewal or variation, of a licence,

may appeal to the Agricultural Appeals Tribunal established by Part XV of the Agriculture Act.

Cap. 318.

(2) An appeal under this section shall be lodged within thirty days of the date on which the appellant first received notice of the decision.

(3) Part XV of the Agriculture Act applies to an appeal under this section as if it were an appeal made to the Agricultural Appeal Tribunal under that Act.

31. A person who for the purpose of obtaining, whether for himself or for another person, the grant, renewal or variation of a licence—

False statements.

- (a) wilfully makes or causes to be made a statement which he knows or has reason to know to be false; or
- (b) recklessly makes or causes to be made a statement which is false in a material particular,

shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding twenty thousand shillings or to both.

PART VII—IMPOSITION OF LEVIES

32. (1) The Board may, from time to time, with the approval of the Minister, by notice in the Gazette impose one or more of the following levies—

Imposition of levies

- (a) a ginning levy payable by the ginner on all raw cotton ginned by him;
- (b) a cotton lint levy payable by the purchaser on all lint purchased from the ginner;
- (c) a cotton import levy payable by the importer on all cotton imported (whether as raw cotton, cotton lint or cotton seed) on cotton oil and seed cake;

(d) a cotton export levy payable by the exporter on all cotton exported (whether as raw cotton or cotton lint).

(2) The rate of any levy shall be specified in the notice under subsection (1) and shall not exceed five per cent of the value of the cotton on which the levy is payable.

(3) Different rates of levy may be imposed for different types or grades of raw cotton, cotton lint, cotton seed, cotton oil or cotton cake.

(4) The time (being not earlier than three months' after the date of publication of the notice under subsection (1)) and the manner of payment of levy shall be specified in that notice.

(5) All moneys due on account of a levy are recoverable by the Board as a civil debt due to it from the person by whom it is payable.

(6) No cotton produced in Kenya shall be exported unless the export levy payable in respect thereof has been paid and any person who exports or attempts to export any such cotton in respect of which any money is owing in respect of export levy shall be guilty of an offence.

(7) No cotton produced outside Kenya shall be imported unless the import levy based on proforma invoice has been paid and any person who imports or attempts to import any such cotton in respect of which any money is owing in respect of import levy shall be guilty of an offence.

Use of levies.

33. The proceeds of any levy imposed under section 32 shall form part of the general funds and property of the Board and may be used by the Board in the furtherance or exercise of any function or power of the Board.

PART VIII—ENFORCEMENT PROVISIONS

Appointment
and function
of inspectors.

34. (1) For the purposes of this Act, the Board may by notice in the Gazette appoint such number of inspectors as it may consider necessary.

- (2) The functions of an inspector shall be—
- (a) to monitor cotton growing and cotton ginning;
 - (b) to inspect cotton plants for disease and pests;
 - (c) to carry out quality control of planting seed and raw cotton and of cotton ginning;
 - (d) to take samples and grade raw cotton, cotton lint and cotton seed;
 - (e) to certify weights and qualities of raw cotton, cotton lint and cotton seed.

35. (1) For the purposes of this Act, where an inspector has reasonable grounds for doing so he may at any reasonable time enter upon any land, premises or vehicle and may take with him such persons and things as he considers necessary for those purposes and may—

Powers of entry.

- (a) exercise his functions under section 34 (2);
- (b) search for planting seed, raw cotton, cotton lint or cotton seed;
- (c) make enquiries or carry out a search to ascertain if this Act is being complied with;
- (d) demand the production by a licence holder of his licence for examination;
- (e) seize and remove any planting seed, raw cotton, cotton lint, cotton seed, cotton seed cake or any other article or thing in respect of which he has reasonable grounds for believing that an offence under this Act is being or has been committed; or
- (f) do any other thing authorized under this Act.

(2) The owner or occupier of or any person on land or in premises or a vehicle which is entered under subsection (1) shall render such reasonable assistance as may be required of him by the inspector.

(3) A person who refuses or delays or fails to comply with a requirement under subsection (2) shall be guilty of an offence and liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding ten thousand shillings or to both.

No. 3

Obstruction of
inspectors.

36. (1) No person shall prevent, hinder or obstruct an inspector in performance of his functions, powers or duties under this Act.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding ten thousand shillings or to both.

Offences by
bodies
corporate.

37. Where a body corporate is guilty of an offence under this Act, every person who at the time of the offence was a director or officer or was concerned in the management of the body corporate, or was acting, or purporting to act, in such a capacity, shall also be guilty of an offence unless he proves—

(a) that, through no act or omission on his part, he did not know that the contravention was intended or about to take place or was taking place; or

(b) that he took all reasonable steps to prevent the contravention take place.

Cognizable
offences.

38. Offences under this Act are cognizable offences.

Forfeiture.

39. In any conviction for an offence under this Act, the Court may, in addition to or instead of any other penalty, order that any planting seed, raw cotton, cotton lint, cotton seed, cotton oil, cotton seed cake, implement, machine, vehicle or other thing in respect of which the offence was committed shall be forfeited to the Government.

PART IX—MISCELLANEOUS PROVISIONS

Infected
areas.

40. (1) The Minister may, after consultation with the Board, by order published in the Gazette—

(a) declare an area, cotton ginnery or cotton factory which is infected with cotton disease or pest to be an infected area;

(b) prohibit the use of an infected area for planting, growing, collecting, storing, ginning, baling or other dealing with planting seed, raw cotton, cotton lint or cotton seed or for any purpose connected with those activities;

- (c) for the purpose of preventing cotton disease or pest or the spread of cotton disease or pest, either in the crop or otherwise, prohibit the movement of planting seed, raw cotton, cotton lint or cotton seed from, to, through or within an infected area or another specified areas;
- (d) extend, diminish or otherwise alter an infected area;
- (e) where it is no longer infected with cotton disease or pest, revoke the declaration of an infected area.

(2) The Minister may by regulations make further provisions for the control of infected areas.

41. The Minister may, after consultation with the Board, make regulations generally for the better carrying out of the objects and purposes of this Act, including—

Regulations.

- (a) prescribing the kind and quality of planting seed and prohibiting the use of any other kind and quality or seed for growing cotton;
- (b) regulating the method of purchase, collection, transport, movement, storage, ginning, baling or otherwise preparing, sale or disposal of any particular kind or quality of planting seed, raw cotton, cotton lint or cotton seed;
- (c) regulating the distribution of planting seed to persons requiring it for planting;
- (d) providing for the requisition of planting seed;
- (e) regulating and controlling the method, time and place of planting and growing cotton and the acreage which may be planted by any person;
- (f) providing for the inspection of planting seed, raw cotton, cotton lint, cotton seed, cotton plantations, stores and ginneries and prescribing the class and standard of premises which may be used in the ginning, baling and storage of cotton;
- (g) prescribing either or both maximum or minimum prices to be paid to growers for raw cotton in any area; and different prices may be prescribed for different types of grades of raw cotton;

- (h) limiting the number of licences to be issued in any area and prescribing the procedure to be followed in cases where there are more applicants than one for a licence for any particular area;
- (i) providing for the establishment, organization and administration of cotton buying centres;
- (j) providing for the controlling of the weighing, sales and purchase of raw cotton, cotton lint and cotton seed; and for their classification and for the provision to the Board free of charge of samples for classification;
- (k) providing for the destruction or removal, in either case with or without compensation, of any soil, planting seed, cotton plant, cotton seed or cotton residues;
- (l) controlling diseases and pests in cotton plants, raw cotton, cotton lint and cotton seed;
- (m) requiring cotton ginners to supply to the Board free of charge samples of cotton for experimental purposes or scientific investigation;
- (n) prohibiting or otherwise controlling the use of ginnery sites and buying stores for purposes other than the ginning and buying of cotton;
- (o) prescribing fees for licences granted under this Act;
- (p) providing for the exhibition of licences issued under this Act;
- (q) prescribing the books, accounts, vouchers and records to be kept by licence holders under this Act;
- (r) prescribing fees or charges to be paid for anything done under this Act;
- (s) regulating and prescribing the charges, if any, for services rendered under the Act including handling and processing commissions;
- (t) providing for the enforcement, method of payment and regulation of levies imposed by the Board under section 32;
- (u) prescribing any matter or thing which is to be or may be prescribed under this Act;
- (v) prescribing any forms to be used in connection with this Act.

- (w) prescribing the manner in which representatives of cotton growing co-operative societies for the purposes of section 3 (2) (i) may be elected;
- (x) prescribing the mode of payments to cotton growers for raw cotton delivered to a ginner under section 20 (1).

42. The Cotton Lint and Seed Marketing Act is repealed.

Repeal of
Cap. 335.

43. (1) The Third Schedule to the Agriculture Act is amended by repealing the words "The Cotton Lint and Seed Marketing Act" and substituting the words "The Cotton Board of Kenya established by the Cotton Act, 1988."

Consequential
amendment
Cap. 318.

No. 3 of 1988.

(2) The First Schedule to the Income Tax Act is amended in paragraph 4 by inserting at the end the words "the Cotton Board of Kenya".

Cap. 470.

PART XI—TRANSITIONAL PROVISIONS

44. (1) All immovable and movable property and assets which immediately before the commencement of this Act are vested in or possessed by the former Board (that is the Cotton Lint and Seed Marketing Board) shall from the commencement of this Act by virtue of this section vest in the Board without any further conveyance, transfer or assignment.

Transfer of
assets of the
former Board

(2) All powers, rights, obligations, liabilities and contracts which immediately before the commencement of this Act are vested in or imposed on the former Board shall from the commencement of this Act be deemed to be the powers, rights, obligations, liabilities and contracts of the Board.

(3) All acts, directions, orders, appointments, requirements, authorizations and other things given, made or done by the former Board and subsisting immediately before the commencement of this Act shall, so far as not inconsistent with the provisions of this Act, be deemed to have been given, made or done by the Board.

(4) All references to the former Board in any written law, agreement or instrument subsisting immediately before the commencement of this Act shall from the commencement of this Act, unless the context otherwise requires, be read as

references to the Board; and a reference in such an agreement or instrument to a member, officer or employee of the former Board shall be read as a reference to a member, officer or employee of the Board holding the most nearly equivalent post.

(5) Any legal proceedings pending immediately before the commencement of this Act by or against the former Board shall be continued by or against the Board.

(6) The Minister may by order—

(a) provide that from a specified date, subject to such exceptions as may be contained in the order, all persons who immediately before the commencement of this Act are officers or employees of the former Board shall be officers or employees, as the case may be of the Board;

(b) make provisions consequent on a transfer or exception referred to in paragraph (a);

(c) make provisions with respect to pensions or provident fund benefits of employees of the former Board and with respect to the pension scheme and provident fund of the former Board.

(7) A certificate of vesting by the Minister of any immovable or movable property, asset, powers, right, obligation, liability or contract in the Board under subsection (1) or (2) is conclusive evidence of the fact for all purposes.

(8) Every public officer having the power or duty to effect any entry in a register relating to property, or to issue or amend a certificate or other document affecting or evidencing title to property, shall without payment of fee or other charge and on request by or on behalf of the Board, do all such things as are by law necessary to give final effect to the transfer of any property by virtue of subsection (1).

(9) No duty shall be chargeable under the Stamp Duty Act in respect of any instrument made in consequence of the transfer of assets under this section and executed by or on behalf of or in favour of the Board in cases where, but for this subsection, the Board would be liable to pay such duty.

(10) The Minister may by order provide for any matter, including adaptations of or exemptions from this Act or any other written law which it appears to him necessary or expedient to provide for the better carrying out of the provisions of this section.