

**THE COTTON LINT AND SEED MARKETING
(AMENDMENT) ACT, 1964**

No. 27 of 1964

Date of Assent: 23rd November 1964

Date of Commencement: 24th November 1964

An Act of Parliament to amend the Cotton Lint and Seed Marketing Act and to repeal the Cotton Act, and for purposes incidental thereto and connected therewith

ENACTED by the Parliament of Kenya, as follows:—

1. This Act may be cited as the Cotton Lint and Seed Marketing (Amendment) Act, 1964.

Short title.

2. Section 2 of the Cotton Lint and Seed Marketing Act, hereinafter referred to as the principal Act, is amended by deleting the definition "Provincial Cotton Committee" which appears therein.

Amendment of section 2 of Cap. 335.

3. Section 3 of the principal Act is amended—

Amendment of section 3 of principal Act.

(a) by substituting for subsection (2) thereof a new subsection as follows—

(2) The Board shall consist of—

- (a) a chairman appointed by the Minister;
- (b) the Director of Agriculture or any person deputed by him in writing to exercise his functions as a member of the Board;
- (c) the Commissioner for Co-operative Development or any person deputed by him in writing to exercise his functions as a member of the Board;
- (d) three persons, appointed by the Minister, who are experienced in the cotton industry;
- (e) two persons to represent cotton ginnerers in Kenya appointed by the Minister from a panel of not less than four names submitted to him by the Kenya Cotton Association;
- (f) two members to represent cotton growers in the Western Region, appointed in such manner as may be prescribed by the Regional Assembly of the Western Region;

- (g) two members to represent cotton growers in the Nyanza Region appointed in such manner as may be prescribed by the Regional Assembly of the Nyanza Region;
 - (h) two members to represent cotton growers in the Coast Region appointed in such manner as may be prescribed by the Regional Assembly of the Coast Region;
 - (i) one member to represent cotton growers of the Eastern Region appointed in such manner as may be prescribed by the Regional Assembly of the Eastern Region; and
 - (j) should the Minister at any time after the commencement of the Act declare that any of the Regions specified in paragraphs (f), (g), (h) and (i) of this subsection has sufficiently increased its cotton production or has sufficient potential for the increase of its cotton production to justify increased representation on the Board, or that any of the Regions not represented on the Board has sufficient potential for the growing of cotton to justify representation on the Board, the Minister may increase such membership or provide for such membership, as the case may be, to provide for representation of cotton growers of the Region concerned appointed in such a manner as may be prescribed by the Regional Assembly of that Region.;
- (b) by inserting, immediately after subsection (2) thereof, a new subsection as follows—
- (2A) The Minister shall appoint a vice-chairman from among the members of the Board.;
- (c) by deleting subsection (3) thereof; and
- (d) by substituting for the words “the Governor”, wherever they appear in subsections (4) and (7) thereof, the words “the Minister”.

4. Section 4 of the principal Act is amended—

Amendment of section 4 of principal Act.

(a) by substituting for subsection (1) thereof a new subsection as follows—

(1) The Board shall be a body corporate having perpetual succession and a common seal;

(b) by adding after subsection (3) thereof a new subsection as follows—

(4) Every document purporting to be an instrument issued by the Board which is—

(a) sealed with the seal of the Board authenticated in the manner prescribed by subsection (2) of this section; or

(b) in the case of a document not required to be under seal, signed by the Chairman, any member of the Board authorized in that behalf or the Secretary to the Board, shall be received in evidence and deemed to be such an instrument without further proof unless the contrary is shown.

5. The principal Act is amended by inserting therein, immediately after section 5 thereof, the following new section—

Insertion of new section 5A in principal Act.

Investments of funds of Board. Cap. 167.

5A. The Board shall have power to invest moneys in securities in which trustees are empowered to invest under the Trustee Act, and in such other securities as may be approved by the Minister for the time being responsible for finance.

6. The principal Act is amended by substituting for section 6 thereof a new section as follows—

Replacement of section 6 of principal Act.

Duties of Board.

6. It shall be the duty of the Board—

(a) to make the necessary arrangements—

(i) for the purchase of raw cotton from growers and growers' co-operatives and for the purchase from ginnerers of all cotton lint and cotton seed produced by them at such prices as may, in respect of each cotton season, be fixed by the Board with the approval of the Minister;

(ii) for the sale or disposal within Kenya or the export and sale or disposal outside Kenya, of cotton lint and cotton seed, whether by its own agency or the agency of any other person and in any manner it may think fit;

(iii) for the payment of all sums properly due from the Board under this Act;

(b) to carry out such other duties as are imposed on the Board by this Act.

7. The principal Act is amended by substituting for section 7 thereof a new section as follows—

Replacement
of section 7 of
principal Act.

Powers of
Board.

7. The Board is empowered—

(a) to sue and be sued in its corporate name;

(b) to execute such guarantees or purchase, take on lease, manage and dispose of movable and immovable property;

(c) to enter into such contracts as may, in the opinion of the Board, be necessary and expedient;

(d) (i) from time to time to appoint at such salaries and upon such terms and conditions as it may think fit, such officers and servants as it may deem necessary for the proper and efficient conduct of the business of the Board, and at any time to terminate any such appointment in accordance with due notice in terms of contracts issued to the Board's staff;

(ii) to grant pensions, gratuities or retirement allowances to any officers and servants, with power to require such officers and employees to contribute to any pension or contributory scheme;

(iii) to establish and make contributions to a pension or superannuation fund and a medical fund for its officers and servants;

- (iv) from time to time to appoint and employ agents to perform any of the duties or powers imposed on the Board by this Act;
- (v) to appoint committees, whether of its own members or otherwise, to carry out such general or special functions as may be specified by the Board and to delegate to any such committee such of its powers as to the Board may seem necessary or expedient;
- (e) by resolution to delegate to any member, officer or servant of the Board the exercise of any of the powers or the performance of any of the functions or duties which the Board is authorized or required by this Act to exercise or perform, and either generally or in any particular case;
- (f) in the exercise of its duties under paragraph (a) (ii) of section 6 of this Act, to make use of the services which the Lint Marketing Board of Uganda is authorized to perform under section 4 of the Lint Marketing Board Ordinance, 1959 of Uganda;
- (g) to do all things necessary for and incidental to—
 - (i) the purchase of raw cotton from growers and growers' co-operatives and the purchase from ginnerers of cotton lint and cotton seed;
 - (ii) the collection, delivery, receipt, storage, sale, disposal, import, export, transport or dispatch of raw cotton, cotton lint and cotton seed;
 - (iii) the prescription of cotton seed standards, including the method of regulating the distribution of cotton seed to growers;

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- (iv) the licensing and inspection of cotton stores, buying stores, plantations, markets, ginneries and factories and prescribing standards;
- (h) to arrange for the treatment of diseases and pests in growing cotton, cotton lint and cotton seed at all stages of growth, production and distribution;
- (i) to operate quality incentive schemes by making differential payments to growers or growers' co-operatives for seed cotton and to ginners for cotton lint of varying qualities, for the purpose of fostering improvements in the quality of cotton lint produced by ginners;
- (j) to erect, either for its own use or for letting, stores and other buildings for the storage of raw cotton, cotton lint and cotton seed;
- (k) to purchase, lease or otherwise acquire and operate all kinds of ginneries, factories, stores, works and other undertakings for the manufacture, processing or preparation for market of cotton, its products and by-products, and all types of machinery, furniture, fittings and appliances suitable for use therein;
- (l) with the approval of the Minister, to fix prices for seed cotton, cotton lint and cotton seed;
- (m) to grant financial, technical and other assistance to growers or growers' co-operatives or ginners or intending growers or growers' co-operatives or ginners of cotton and, in particular, but without prejudice to the foregoing generality, to undertake and promote research and development work in connexion with the growing, ginning, processing and protection against diseases and pests of cotton, cotton lint and cotton seed,

and to publicize and make known the results of such research and development and the activities of the Board generally;

(n) to finance the purchase of ginneries by co-operative societies of growers or intended growers.

8. The principal Act is amended by substituting for section 8 thereof a new section as follows—

Replacement of section 8 of principal Act.

Board to comply with Minister's directions.

8. 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 special directions that may be given to it by the Minister.

9. Section 9 (2) (a) of the principal Act is amended by substituting for the words "Legislative Council", which appear therein, the word "Parliament".

Amendment of section 9 of principal Act.

10. Section 9 (3) of the principal Act is amended—

Amendment of section 9 (3) of principal Act.

(a) by deleting the expression "(b)", which appears in paragraph (a) thereof;

(b) by deleting paragraph (b) thereof;

(c) by substituting for paragraph (d) thereof the following new paragraph—

(d) The Board may make loans out of the Cotton Price Assistance Fund to such persons and upon such terms as may be approved by the Minister after consultation with the Minister for the time being responsible for finance, for any object or purpose which shall, in the opinion of the Minister, and the Minister for the time being responsible for finance, be conducive to the attainment of any of the powers and duties of the Board, and in particular, but without prejudice to the foregoing generality for the assistance of growers, growers' co-operatives or ginneries or intending growers, growers' co-operatives or ginneries.;

(d) and by substituting for paragraph (e) thereof a new paragraph as follows—

(e) The Minister may, from time to time, after consultation with the Minister for the time being responsible for finance, and application being made to him by the Board in that behalf, allocate to the Board, out of the Cotton Price Assistance Fund, such sum or sums as he may think fit and any sum or sums so allocated shall form part of those funds and resources which are referred to in section 10 of this Act as the ordinary funds and resources of the Board.

Amendment
of section 10 of
principal Act.

11. Section 10 of the principal Act is amended—

- (a) by substituting for the words “Legislative Council” which appear in subsection (1) (a) thereof, the word “Parliament”;
- (b) by substituting for the words “resolution of the Legislative Council”, which appear in subsection (1) (d) thereof, the words “the Minister”;
- (c) by inserting the words “raw cotton,” immediately after the word “of” in the second line of subsection (2) (a);
- (d) by deleting the words “to a Provincial Cotton Committee or”, which appear in subsection (3) thereof, and
- (e) by deleting the provisos to subsection (3) thereof.

Amendment of
section 12 of
principal Act.

12. Section 12 of the principal Act is amended—

- (a) by adding at the end of subsection (1) thereof a new paragraph as follows—
 - (c) any cess collected by it under section 19 of this Act;
- (b) by substituting for subsection (2) thereof a new subsection as follows—

(2) The accounts of the Board shall be prepared up to the 31st October each year and shall be audited annually by such person who is a member of one or more of the bodies specified in the Schedule to the Accountants (Designation) Act.

13. Section 13 of the principal Act is amended by substituting for the words "Legislative Council", which appear therein, the words "National Assembly".

Amendment of section 13 of principal Act.

14. Section 14 (1) of the principal Act is amended by adding a new second proviso as follows—

Amendment of section 14 (1) of principal Act.

Provided further that when a ginner is acting as agent of the Board for the purchase of raw cotton from growers or growers' co-operatives then all such raw cotton shall become the property of the Board when delivered to such ginner.

15. Section 16 (1) of the principal Act is amended by deleting the words "section 8 of" which appear therein.

Amendment of section 16 (1) of principal Act.

16. The principal Act is amended by substituting for Part V thereof a new Part as follows—

Substitution of Part V of principal Act.

PART V—IMPOSITION AND COLLECTION OF CESS

Cess.

19. (1) The Board may from time to time, with the approval of the Minister, by notice in the Gazette, impose a cess on cotton, its sale, its ginning or its baling.

(2) A cess imposed by notice under subsection (1) of this section shall be at such rate, and shall be payable to the Board by such persons and at such times (being not earlier than one month after the date of publication of the notice) and in such manner, as are specified in the notice, and shall be recoverable by the Board as a civil debt due to it from the person by whom it is payable.

Application of cess

20. The proceeds of any cess imposed under section 19 of this Act may be used for either or both of the following purposes—

(a) the creation of a development fund to further the development of co-operative enterprises among cotton growers and generally to promote cotton production;

(b) the payment of all or any part of the administrative costs and expenses of the Board.

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Amendment of
section 32 of
principal Act.
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17. Section 32 of the principal Act is amended by substituting for the words "section 14 of the Lint Marketing Ordinance of Uganda", which appear therein, the words "section 4 of the Lint Marketing Board Ordinance, 1959 of Uganda".

Amendment of
section 33 of
principal Act.

18. Section 33 of the principal Act is amended by inserting immediately after subsection (3) thereof a new subsection as follows—

(4) In any conviction for an offence under this Act or any regulations made thereunder, the court may, in addition to any penalty otherwise imposed, order that any seed, cotton or implement in respect of which the offence was committed be forfeited to the Board.

Amendment of
section 34 (1) of
principal Act.

19. Section 34 (1) of the principal Act is amended by substituting for paragraphs (a), (b), (c), (d), (e) and (f) thereof, new paragraphs as follows—

- (a) prescribing the kind and quality of seed to be used for the purpose of sowing cotton, and forbidding the use of any other kind and quality of seed in the sowing of cotton;
- (b) regulating the purchase, collection, transport, movement, receipt, storage, ginning, baling or otherwise preparing, sale or disposal of any particular kind or quality of unginning cotton, cotton lint or cotton seed;
- (c) regulating the distribution of cotton seed to persons requiring seed for the purpose of sowing cotton;
- (d) providing for the requisition with or without compensation of cotton seed for sowing purposes;
- (e) regulating and controlling the method, time and place of planting and growing cotton;
- (f) providing for the inspection of cotton, cotton seed, cotton plantations, cotton factories, stores and gineries and prescribing the class and standard of buildings which may be used in the ginning, baling and storage of cotton;
- (g) prescribing maximum and minimum prices to be paid to growers for unginning cotton in any area;

- (h) providing for the licensing of cotton ginners, cotton buyers, ginneries and stores, 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 of cotton markets and for fixing the fees to be paid for market stalls;
- (j) providing for the controlling of the weighing, sales, purchase and export of cotton and all dealings therein;
- (k) controlling the import and export of cotton seed or of cotton of inferior quality or of any particular kind or specifying any particular kind or quality as the only particular kind or quality which may be imported or exported;
- (l) providing for the destruction or removal of any soil, seed crops, cotton plants or cotton residues with or without compensation;
- (m) controlling diseases and pests in growing cotton, cotton lint and cotton seed;
- (n) requiring cotton ginners to supply to the Board free of charge samples of cotton for experimental purposes or scientific investigation;
- (o) prohibiting or otherwise controlling the use of ginnery sites and buying stores for purposes other than the ginning and buying of cotton;
- (p) providing for the issue, suspension, refusal, transfer and revocation of licences for prescribing fees and charges in respect of licences, and for attaching conditions thereto;
- (q) providing for the production and exhibition of licences issued under this Act;
- (r) prescribing the books, accounts, vouchers and records to be kept by licensees under this Act;
- (s) regulating and prescribing the powers, duties, functions, responsibilities and remuneration of officers, servants, agents of the Board and supervisors;

- (t) regulating and prescribing any service to be rendered by the Board to ginnerers, growers, growers' co-operatives or other persons and prescribing the charges, if any, in respect thereof;
- (u) regulating the procedure for appeals made under this Act;
- (v) prescribing any matter or thing which is to be or may be prescribed under this Act.

Insertion of
new section 35
in principal Act.

20. The principal Act is amended by inserting immediately after section 34 thereof a new section as follows—

Declaration
of infected
areas.

35. The Minister, after consultation with the Board, may, by order published in the Gazette—

- (a) declare any area, cotton factory or ginnery to be infected with cotton disease or pest and prohibit the use of such area, factory or ginnery for any purpose connected with the planting, growing, collecting, storing, ginning, baling or other dealing with cotton, cotton lint or cotton seed;
- (b) extend, diminish or otherwise alter the areas and places mentioned in paragraph (a) of this section;
- (c) declare any infected area, cotton factory or ginnery to be free from disease or pest;
- (d) for the purpose of preventing the spread of diseases and pests, either in crop or otherwise, prohibit the removal of cotton or cotton seed from one district, place or area to another district, place or area.

Abolition of
Provincial
Cotton
Committees
and transfer
of assets,
etc., to
Board.

21. (1) The Nyanza Province Cotton Committee and the Coast Province Cotton Committee are hereby abolished and all assets, rights, liabilities and obligations of these Committees are hereby transferred to and vested in the Board.

(2) Where in any written law, contract or other document reference is made to the Nyanza Province Cotton Committee or the Coast Province Cotton Committee such reference shall, so far as the context allows, be deemed to refer to the Board.

Repeal of
Cap. 334.

22. The Cotton Act is hereby repealed.