

THE COTTON INDUSTRY ACT, 2001
ARRANGEMENT OF SECTIONS

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SHCHEDULE

THE UNITED REPUBLIC OF TANZANIA



NO: 2 OF 2001

I ASSENT

BENJAMIN W. MKAPA,
President

6th APRIL, 2001

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

[..... ..]

ENACTED by, the Parliament of the United Republic of Tanzania.

PART 1

PRELIMINARY PROVISIONS

Short title and commencement

1. This Act may be cited as the Cotton Industry Act, 2001 and shall come into operation on such date as the Minister may, by order published in the *Gazette* appoint.

Interpretation

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

"agro-inputs" includes certified seeds, agro-chemicals and gears necessary for the application of such agro-chemicals;

"Board" means the Tanzania Cotton Board established by, section 3 (1);

"buying licence" means a buying licence issued under the provisions of this Act.,

"Cotton Appeals Board" means an adjudication machinery, for determination of disputes established by section 51.

"cotton buyer" means a person licensed as such under the provisions of this Act;

"Cotton Development Fund" means a fund established under section 48;

"inspector" means an inspector appointed in accordance with the provisions of section 37;

"cotton lint" means ginned cotton;

"Cotton plant" means the plant *Gossypium* species, and includes any portion of such plant;

"cotton seed" means cotton seed produced from seed cotton;

"cotton quarantine area" means an area declared to be as such under this Act;

"Director" means an officer in-charge of the department responsible for crop development;

"export" means export outside Tanzania;

"extension officer" means an extension officer appointed in accordance with the provisions of this Act;

"ginning" means any place in which seed cotton is converted into cotton lint;

"ginning licence" means a ginning licence issued under the provisions of sections 28;

"grade A cotton" means mature seed cotton which is white and free from stain, extraneous matter or damage from any cause.,

"grade B cotton" means any seed cotton of a merchantable quality inferior to grade A cotton;

"grower" means any person who grows cotton plants;

"licensed ginner" means a holder of a valid ginning licence,

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

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

"Ministry" means the ministry for the time being responsible for agriculture;

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

**Act No. 15 of
1991**

"society" means a co-operative society registered under the Co-operative Societies Act, 1991.

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

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

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

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

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

PART 11

THE TANZANIA COTTON BOARD

**Establishment
of the Cotton
Board**

3.-(1) There is hereby established a Board to be known as the Tanzania Cotton Board which shall-

(a) have perpetual succession and a common seal;

(b) in its corporate name be capable of suing and being sued.;

(c) be capable of purchasing or acquiring and managing in any manner and alienating any, movable and immovable property ;

(d) entering into any contract or agreement and doing all such other things or acts for the proper performance of its functions under the provisions of this Act which may lawfully be done or performed by a body corporate;

(2) The provisions of the First Schedule shall have effect as to the constitution, tenure of

office- proceedings of and other matters relating to the Board.

Management of the Board

4. The power to carry out the operations and management of the Board shall vest in the Board of Directors.

Functions of the Board

5.-(1) The functions of the Board shall be the carrying out of such activity and the doing of such things as are necessary, advantageous or proper for the benefit of the cotton industry and in particular shall include-

(a) to advise the government on the policies, strategies and all other matters relating to the development of the cotton industry;

(b) to promote the development of the cotton industry;

(c) to provide for the licensing of persons engaged in the marketing processing of cotton or cotton by-products;

(d) to make regulations for the control or eradication of cotton pests and diseases;

(e) to assist directly or through financial support research and development and extension services;

(f) to ensure competition, fair trade, and to set and monitor indicative prices as established by market forces;

(g) to educate stakeholders on mechanism for international cotton pricing;

(h) to protect 'the interests of farmers against Syndicate of' buyers;

(i) to promote the establishment of societies or associations of stakeholders and monitor their activities;

(j) to regulate and control the quality of seed cotton and cotton lint;

(k) to collect, refine, maintain, or disseminate information or data relating to the cotton industry;

(1) to make regulations for cultivation, marketing, processing importation, exportation and storage of seed cotton and cotton lint;

(m) to receive and administer any fund established under this Act;

(n) to represent the government in all international fora relating to or dealing with cotton industry.

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

(a) to pen-nit or licence buyers and exporters of seed cotton, cotton lint, operators or

ginneries;

(b) to issue export permits for cotton seed, cotton lint and other cotton by-products;

(c) to establish quality standards for cotton seed, seed cotton and cotton lint and to ensure the compliance of such standards by persons licensed hereunder;

(d) to provide for a forum for discussions and negotiations among various stakeholders in the sector;

(e) to determine the manner and quantity of cotton seed which any ginner or owner of seed cotton shall retain for the purpose of planting having regard to geographical location;

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

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

(4) The Board shall have power, for the purpose of carrying out its functions, to do all such acts and things as appear to be requisite, advantageous or convenient for or in connection with the carrying out of its functions or to be incidental or conducive to their proper discharge, and may earn on any activity in that behalf either alone or in association **with** the Government, a local authority or any other person or body of persons.

(5) For the avoidance of doubt, it is hereby declared that the foregoing provisions with respect to the powers of the Board relate only to its capacity as a body corporate and nothing in that subsection shall authorize the disregard by the Board of any, enactment or rule of law.

Minister may give directions to the Board

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

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

**PART III
CULTIVATION OF COTTON**

Cotton to be grown in specified areas

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

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

Varieties of cotton to be grown

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

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

Restriction on cotton seed

9.-(1) No person shall import, breed or multiply cotton seeds or plants for any purpose without the permit issued by the Director.

**importation,
breeding and
multiplication**

(2) Any person who contravenes the provisions of this section shall on conviction be liable to a fine not exceeding three years or to both such a fine and imprisonment and such seeds or plants shall be destroyed by the Board on behalf of the Director at the cost of the defendant.

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

**Only certified
seeds to be
grown
Reservation of
cotton seeds**

10. No cotton grower shall grow cotton seeds which have not been certified by the Director and any person who contravenes the provisions of this section, commits an offence.

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

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

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

**Act No 29 of
1973**

4) Every package of cotton seed offered for sale shall be labelled in accordance with specifications set out under the provisions of the Seeds Act, 1973.

**Power to
appoint agro-
inputs suppliers
Declaration of
quarantine
area**

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

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

(a) prohibit or regulate the sowing in such area of cotton seed or any other crop specified in the order known to harbour insect, pest or diseases of cotton;

(b) prohibit the removal from such area without a permit in writing issued by the Director of any seed cotton or cotton seed or any plant or any article which has contained any seed cotton or cotton seed or any article which in his opinion is likely to harbour insect, pests or diseases of cotton;

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

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

**Prevention of
diseases**

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

specified in such order

(a) require that within such area –

(i) all or any cotton plants, cotton residues or any plant specified in the order, be uprooted and burned by any person possessing or having control over the same;

(ii) all or any seed cotton, cotton seed or cotton refuse be burned;

(b) require any grower within such area forthwith to harvest such of his seed cotton as, in the opinion of the Director, is ready for harvesting;

(c) prohibit any person within such area from planting any cotton seed or cotton plant before a date specified in the order.

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

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

PART IV

MARKETING, LICENSING AND WAREHOUSING

Grower to grade seed cotton before sale

15. Every grower shall grade all seed cotton intended for sale into Grade A or Grade B cotton before any such cotton is sold by him

Board to determine the grades of cotton

16. The Board may, order determine grades at specified areas and for a specified period.

Mixing different grades of seed cotton prohibited

17-(1) No person shall mix any other seed cotton with Grade seed cotton.

(2) No person shall mix any other seed cotton with Grade B seed cotton or any unmerchantable cotton with graded cotton.

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

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

Restriction on buying cotton

18.-(1) No person other than a holder of a valid seed cotton buying licence shall buy seed cotton.

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

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

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

Cotton buying licences

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

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

Provisions relating to Cotton buying licences

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

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

Cotton warehousing

21.-(1) No person shall erect or operate a cotton store for the purpose of storing seed cotton without the permission in writing of the Board.

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

Cotton buying posts

22.-(1) The Board may, by notice, order am premises or place to be a cotton buying post either temporarily or on permanent basis and person shall sell any seed cotton except at a cotton buying post.

(2) Any person who contravenes the provisions of this section com an offence and shall on conviction be liable to pm a rite of not less than two hundred thousands shilling's or to imprisonment for a minimum term of three years or to both such fine and imprisonment.

Purchase of cotton

23.-(1) The Board may, by order-

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

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

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

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

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

Prices to be linked to world market

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

Conditions to be observed by cotton buyers

25.-(1) Every cotton buyer shall-

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

(b) display standards grade sample box approved by the Board;

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

(d) display a weighing scale properly serviced, inspected and approved by the Weights and Measurements Department of the Ministry of Trade and Industries;

(e) store all seed cotton in his possession in a cotton store at one or any of the cotton buying posts at which he is licensed to buy or in such storage facility as the Board may require;

(f) buy all seed cotton offered to him at the prices exhibited;

(g) keep all Grade A cotton separate from Grade B cotton; and

(h) ensure that all cotton purchase by him is correctly graded.

(2) No cotton buyer shall-

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

(b) buy seed cotton without issuing produce receipts to the farmers in respect of all seed cotton purchased; and

(c) buy seed cotton otherwise other than cash payment at the time and place of delivery.

(3) Any cotton buyer who contravenes or fails to comply with any of the provisions of this section commits an offence.

Inspection of premises and records

26.-(1) A cotton inspector may at all times-

(a) enter upon any premises used by cotton buyers for the purposes of inspecting the same, any seed cotton and scales thereon;

(b) inspect and make copies of entries in any books of account or other documents required to be kept under the provisions of this Act and.

(c) suspend the seed cotton buying operation by seizing the weighing scale and revoking the buying licence.

(2) Any person who obstructs an officer law fully exercising his powers under this section or refuses such officer permission to exercise such power or fails to cooperate with such officer in the exercise by such officer of any such power, commits an offence and shall on conviction be liable to pay a minimum fine of shillings two hundred thousand or to all imprisonment for a minimum term of three years or to both such fine and imprisonment.

PART V

GINNING AND BALING

Registration of a ginnery

27.-(1) No person shall erect and register or cause to be erected or registered a new cotton ginnery unless the following particulars have been submitted to and approved by the Board-

(a) the name and address of the proposed ginnery;

(b) the name and address of each director or partner and the shareholding of each shareholder;

(c) processing capacity of the ginnery;

- (d) planned production of the ginnery;
 - (e) capacity number and area of warehouses;
 - (f) existing transport facilities;
 - (g) number and quality of skilled semi-skilled and non skilled personnel employed or to be employed;
 - (h) financial credit worthiness from a reputed bank;
- (2) A person granted with a registration certificate shall complete construction of the ginnery within two years from the date of the issuance of the certificate.
- (3) The certificate of registration is not transferable.
- (4) No person shall operate a ginnery unless it has been duly inspected and certified by the Board.
- (5) The Board may in its discretion limit the number of ginneries which may be constructed or operated in an area.
- (6) Any person who contravenes the provisions of this section or of any orders made under this section commits an offence.

Ginning licences

- 28.-(1) No person shall gin seed cotton or bale cotton lint unless he is a holder of a valid ginning licence issued by the Board and any ginning licence shall, unless revoked or suspended, remain in force until the thirty first day of March following the date of issue of such licence.
- (2) Any person who contravenes the provisions of sub-section (1) commits an offence.

Conditions as to ginning licence

- 29.-(1) A ginning licence shall entitle the holder to gin seed cotton and bale cotton lint upon the premises specified therein and in accordance with such conditions as to machinery, plant, storage accommodation and output.
- (2) Any holder of a ginning licence who fails to comply with any order or condition lawfully made or imposed by the Board commits an offence.
- (3) The Board may for good and sufficient reason refuse to issue a ginner's licence, and in that event shall communicate to the applicant the grounds for such refusal within fourteen days.

Movement of cotton

- 30.-(1) No person shall move or cause to be moved any seed cotton from one region to another save in accordance with a permit in writing issued by the Board.
- (2) Any person who contravenes the provisions of this section commits an offence.

Register of ginneries

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

Ginning licence not assignable

32. A ginning licence shall not be assignable or transferable.

Duties of holder of ginning licence

33. (1) It shall be a condition of every ginning licence that the holder shall-
- (a) maintain and work the ginnery in a proper and workmanship manner and in such a way as not to cause deterioration or damage to the seed cotton, cotton lint, or cotton seed handled

therein;

(b) ensure that all seed cotton delivered to the ginnery is correctly graded and shall keep all Grade A cotton and the lint there from and all Grade B cotton and the lint there from separate from one another and from any other seed cotton;

(c) keep all seed cotton, cotton seed and cotton lint which has been salvaged from damage by fire or water separate from all other seed cotton, cotton seed and cotton lint and shall gin the seed cotton and bale the cotton lint only in accordance with instructions from the Board;

(d) keep such records and make such returns as may be prescribed;

(e) keep all seed cotton, cotton seed and cotton lint in his possession or control properly stored in the ginnery buildings or stores;

(f) keep the ginnery and its precincts in a clean and sanitary condition;

(g) take all reasonable precautions for the prevention of fire as may be prescribed;

(h) if so required by the Board, gin before any other seed cotton in respect of seed of which the Board has given notice of its intention to exercise its powers under the provisions of section 11;

(i) produce cotton lint free from all seeds or parts of seeds or other substances whatsoever which ought to have been removed there from by the processes of ginning if the same had been carried out in a proper and workmanlike manner;

(j) In all seed cotton which may be delivered to him for ginning up to the capacity of the ginnery.

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

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

Licences

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

(a) in the prescribed manner;

(b) valid for a specified period;

(c) subject to such terms and conditions as may be prescribed or endorsed therein;

(d) issued subject to the payment of fees as may be prescribed by Regulations.

Cancellation or suspension of

35.-(1) The Board may cancel or suspend a licence if the licensee fails to comply with terms and conditions of his licence or for good and sufficient cause such cancellation or suspension

licences and appeal

as the case may be is in addition to any penalty to which the Licensee may be liable under this Act.

(2) Any person aggrieved by the decision of the Board cancelling or suspending his licence under subsection (1), may appeal to the Cotton Appeals Board within thirty days from the day of cancellation or suspension

PART VI

PURCHASE, SALE AND EXPORT OF COTTON LINT AND COTTON SEED

Export of cotton lint and cotton seeds

36. Subject to the provisions of this Act, any person may purchase -
(a) cotton lint and cotton seeds for export, or resale within the United Republic;
(b) seed cotton for resale within the United Republic.

Appointment Of Cotton Inspectors

37. -(1) There shall be established an off-ice of Cotton Inspectors which shall be under the Board.

(2) The Board shall appoint fit and qualified persons to be Cotton Inspectors.

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

(4) In discharging the functions conferred to the Cotton Inspectors under subsection (3), the Cotton Inspectors shall have the power of

(a) inspecting cotton seed, cotton ginneries and cotton stores;

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

Restriction on purchase and export of cotton

38.- (1) No person shall in any manner whatsoever-

(a) export any cotton lint or cotton seed, other than a holder of a valid of export permit issued by the Board under the provisions of this Act;

(b) exchange, barter, or enter into any agreement for exchange or barter of seed cotton or cotton lint, or

(c) purchase, sell, export or dispose of any seed cotton, cotton lint or cotton seed, unless he applies and obtains a licence from the Board in accordance with the provisions of this Act.

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

PART VII

ADMINISTRATION AND FINANCIAL POVISIONS

Appointment of Chief Executive and other staff

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

(2) The Board may appoint at such salaries and upon such terms and staff 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), the provisions of the services of all officers or employees of the Cotton Lint and Seed Board immediately proceeding the effective date shall be terminated and every such officers or employees shall be entitled to terminal benefits in accordance with the terms and conditions of the contract of employment with the former Board.

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

Board to grant gratuities etc. employees Seal of the Board

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

41.-(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 Chief Executive or his representative and one Board member or by any two Board members.

Appointment of agents and contractors

42.-(1) 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.

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

Funds and resources of the Board

43. 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 of Tanzania;

(c) any monies raised by way of cess or levy imposed under the provisions of this Act;

(d) any loan or subsidy granted to the Board by the Government or any other person;

(e) 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.

Annual Budget of the Board

44. Before tile 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.

Liability of members, etc. Cap. 16 Acts 1970 No. 7

45. No matter or thing done or omitted to be done by any member, officer, servant or agent of the Board shall, 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 thereunder, render any person as aforesaid to any action, liability, claim or demand

whatsoever.

**Power to
impose levy**

46. There shall be raised, collected and paid in respect of all cotton processed or imported into Mainland Tanzania a cotton levy at such rate as the Minister may after consultation with the Minister responsible for finance, impose by, notice, in the *Gazette*.

**Payment Of
levy**

47. Any levy imposed under the provisions of section 46 of this Act, shall be paid by all cotton 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.

**Establishment
of the Cotton
Development
Fund**

48.-(1) The Board shall cause to be established a fund for cotton development to be known as the Cotton Industry Development Fund (hereinafter referred to as the "Fund") into which moneys realised from cess or levy shall be paid and the Board shall collect such cess or levy on behalf of the Board of Trustees.

(2) The sources of money for the Fund shall include

- (a) any cess or levy determined by the Minister for the purpose;
- (b) any other source as may be determined by the cotton stakeholders from time to time; and
- (c) any donations or grants from government or individuals.

(3) The purpose of the Fund shall include financing the following activities, namely-

- (a) research and development;
- (b) extension services;
- (c) training and human resource development;
- (d) subsidising prices for cotton seeds for planting and agro-inputs;
- (e) the administration of the Fund; and
- (f) such other activities beneficial to the cotton industry as may be deemed fit by stakeholders in the cotton sector.

(4) The Fund shall be managed by a Board of Trustees to be appointed by the Minister on recommendation of Stakeholders from names proposed by the following institutions-

- (a) Cotton Growers Association;
- (b) Tanzania Cotton Association;
- (c) any other credible body or association in the industry.

(5) The General Manager of the Board shall be a member of the Board of Trustees and shall also be the Secretary to the Board of Trustees.

Books of

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

**accounts and
audit**

respect to-

(a) all sums of money received and expended by the Board and the Cotton Development Fund respectively;

**Act No. 33 of
1972**

(b) all the assets and liabilities of the Board and the Fund respectively;

(c) the income and expenditure statement of the Board and the Fund.

(2) The books of accounts of the Board and the Fund shall be audited at the end of each financial year by any authorised auditor duly registered under the Auditors and Accountants (Registration) Act, 1972 appointed by the Board.

(3) The Report of the auditor appointed under the provisions of subsection (2) 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 and Fund at the end of the financial year.

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

**Minister to
submit
Accounts to the
Cotton Appeals
Board
Establishment
of the Cotton
Appeals Board**

50. 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 copy of audited accounts and audit report before the National Assembly.

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

(2) The Cotton Appeals Board shall consist of-

(a) a Chairman to be appointed by the Minister from three names proposed by the Tanzania Chamber of Commerce, Industries and Agriculture,

(b) a member nominated by the Tanzania Cotton Association., and

(c) a member from the Ministry responsible for legal affairs,

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

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

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

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

Rules and regulations

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

(a) governing the cultivation, baling, marketing, transportation, warehousing, ginning, importation and exportation of cotton;

(b) prescribing the forms and particulars to be included in any return, information or statistics to be submitted by cotton growers, buyers, ginnery operators, exporters and tinder the provisions of this Act.

(c) providing for the grading or classification and definitions of grades, fixed in respect of cotton whether locally manufactured or imported;

(d) providing for the inspection of all cotton whether locally grown, or ginned or imported and for the appointment of inspectors and prescribing their duties;

(e) providing for the procedures for grading, sampling, inspection, weighing and determination of quality of cotton,

(f) providing for records or information to be kept and returns to be made by the cotton growers, buyers, ginnery, operators, exporters and importers of cotton;

(g) the prohibiting or control of the import or export of cotton seed

(h) prescribing the variety and quality of cotton seed to be used for sowing in any, specified area or region,

(i) prescribing the method of bagging, transporting, delivering, storing and supplying to growers of cotton seed which has been reserved under the provisions of section 11;

(j) the regulating and control of the lay-out, erection and use of cotton buying posts and their inspection and management;

(k) providing for the control of the erection of ginneries and the conditions upon which they may be erected, maintained and operated;

(l) prescribing the conditions upon which ginning licences may be issued;

(m) the regulating the purchase and sale of seed cotton;

(n) prescribing the prevention of the outbreak of fire at cotton buy- posts or other premises used for cotton buying;

- (o) describing the procedure on appeals of aggrieved parties;
- (p) the determining of the rate of levy to be imposed on cotton.
- (q) prescribing anything which is to be or may be prescribed and generally for better carrying out of the provisions or purpose of this Act;
- (2) Regulations made under this section may, be applicable to the whole of Mainland Tanzania or to any specified part thereof.
- (3) No regulation made or purported to have been made under this section shall be invalid or unenforceable by reason only of the fact that the matter provided for or intended to be provided for by such regulation can only, be provided for by, regulations made under the provisions of this Act, and every such regulation shall be deemed to have been made under this section and shall take effect accordingly.
- (4) Where the matter prescribed or provided for by an., such previous regulation has already been prescribed or provided for by regulations made under the provisions of this Act, then, to the extent of any inconsistency between such previous regulations and the current regulations- the provisions of the current regulations shall prevail.

General penalty

53.-(1) Any person who commits any offence against the provisions of this Act shall be liable on conviction for even, 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 two million shillings or to both.

Board to make regulations

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

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

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

PART VII

REPEAL AND CONSEQUENTIAL PROVISIONS

Repeal Act No. 19 of 1984 55. Subject to the provisions of this Part, the Tanzania Cotton Lint and Seed Board Act is hereby repealed.

Savings 56. Notwithstanding the repeal of the Tanzania Cotton Lint and Seed Board Act 1984-

(a) all rules, directions and orders issued, made or given under the repealed enactment shall be deemed to be regulations, by-laws, directions and orders issued, given or made under this Act, and shall, subject to the provisions of this Act relating to penalty for any contravention, remain in force and apply, *mutates mutandis*, until revoked by regulations, by-laws, orders or directions issued, given or made under this Act provided that this paragraph shall not apply to any rule, direction or order which is inconsistent with any provision of this Act.

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

Minister may make further consequential provisions 57. The Minister may by order published in the *Gazette*, at any time before the expiry of twelve months from the effective date, make such further consequential, transitional and supplementary, provisions as he may consider necessary consequent upon the repeal of the repealed enactment.

SCHEDULE

CONSTITUTION, FUNCTIONS AND PROCEEDINGS OF THE BOARD OF DIRECTORS

Made under section 3 (2)

Constitution of the Board of Directors 1. The Board of Directors shall consist of five members, namely-

- (a) a Chairman, who shall be appointed by the President upon advice of the Minister;

(b) one member from a list of three names proposed by Tanzania Cotton Association;

(c) one member nominated by the Minister responsible for Local Government;

(d) one member from the list of three names proposed by cotton growers; and

(e) one member representing the Ministry.

(2) Members specified under paragraphs (b), (c), (d) and (e) of subsection (1) shall be appointed by the Minister.

Vice-Chairman 2. The members of the Board of Directors shall, from among their number elect a Vice-Chairman and any member elected a Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, and shall be eligible for re-election.

Tenure of office 3.-(1) A member of the Board of Directors shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment.
(2) In the case of a Board member, who is a member by virtue of his holding office he shall cease to be a member upon his ceasing to hold that office.

(3) Any 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 a Board 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 preceding his appointment, has been sentenced to a term of imprisonment exceeding six months without the option of a fine and has not received a free pardon, shall be appointed a Board member.

Meetings of the Board 5.-(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) An ordinary meeting of the Board of Directors shall be convened by the Chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than fourteen days before the date of such meeting.

(3) Notwithstanding the provisions of subsection (2), the Chairman is unable to act by reason of illness, absence from Tanzania, or other sufficient cause, the Vice-Chairman may convene such meeting.

(4) The Chairman shall be bound to convene a special meeting of the Board of Directors

upon receipt of a request in writing in that behalf signed by not less than three members of the Board. Not less than fourteen days notice of such meeting shall be given to all members of the Board in the manner prescribed in sub-paragraph (2).

(5) The Board may co-opt any person to attend any deliberations of the meeting as an expert but that co-opted person shall not be allowed to vote.

Quorum

6.-(1) Three 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 shall be decided by a simple majority of the members present.

(2) Each member of the Board shall have one vote and in the event of equality of votes the Chairman of the meeting shall have a casting vote in addition to his normal vote.

Alternate member

7. If a Board member is unable for any reason to attend the meeting of the Board or the Committee of the Board as the case may be where it is not possible for the Appointing Authority to appoint another member, he may, in writing nominate another person in his place for the purpose of that meeting.

Defects in appointment not to invalidate proceedings

8. Subject to the provisions of paragraph 6 relating to quorum the Board of Directors may act notwithstanding any vacancy in the members thereof and no act or proceedings of the Board shall be invalid by reason only of some defect in the appointment of a person who purports to be a member thereof.

Conflict of interest

9. A Director who is in any way directly or indirectly, personally, interested in a contract or proposed contract or any matter being deliberated by the Board shall declare the nature of his interest to fellow Directors and shall abstain in the deliberations in respect thereof.

Minutes

10. Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at its next meeting and signed by the Chairman of the meeting.

Circular resolution

11. 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 Directors' signatures the matter be brought at the following Board meeting.

Board members to be paid allowances

12. The Chairman and other members of the Board shall be entitled to such allowances and at such rates as the Minister may from time to time approve.

Power to regulate its procedures

13. Subject to the provisions of this Act, the Board shall have power to regulate its own procedures in respect of meetings and the proper conduct of its business.

Passed in the National Assembly on the 8th February, 2001.

KIPENKA M. MUSSA
Clerk of the National Assembly