



LAWS OF KENYA

AGRICULTURE ACT

CHAPTER 318

Revised Edition 2012 [1986]

Published by the National Council for Law Reporting
with the Authority of the Attorney-General

www.kenyalaw.org

CHAPTER 318
AGRICULTURE ACT

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Provisions as to servants and agents.

PART II – GUARANTEED PRICES AND MARKETING

4. Provisions for securing efficient agricultural production.
5. Annual review of the agricultural industry.
6. Special review of the agricultural industry.
7. Fixing of prices for scheduled crops.
8. Fixing of prices and guaranteed minimum prices for scheduled animal products.
9. Effect given to fixed prices, etc.
10. Variation of prices after special review.
11. Different prices for different qualities, etc.
12. Amendment of First and Second Schedules.
13. Control of purchase, marketing, etc.
14. Constitution or appointment of agents by the Minister.
15. Minister's orders to agents.
16. Prices on marketing of scheduled crops and products by agents.
17. Agents to comply with orders and supply information.
18. Deduction from net price for noxious weeds.
19. Establishment of price equalization funds.
20. Power to require returns.
21. Rules.

PART III – AGRICULTURAL COMMITTEES AND BOARDS

A—District Agricultural Committees and Agricultural Subcommittees

22. District agricultural committees.
23. Tenure of office, etc.
24. Meetings.
25. Functions of district agricultural committee.
26. Staff.
27. Agricultural subcommittees.
28. Constitution, etc., of agricultural subcommittees.

B—Provincial Agricultural Boards

29. Provincial agricultural boards.
30. Tenure of office, etc.
31. Meetings.

Section

- 32. Functions of provincial agricultural boards.
- 33. Staff.
- 34. Committees of provincial agricultural boards.

C—The Central Agricultural Board

- 35. Central Agricultural Board.
- 36. Meetings.
- 37. Functions of Central Agricultural Board.
- 38. Staff.
- 39. Committees of Central Agricultural Board.
- 40. *Deleted.*
- 41. *Deleted.*
- 42. *Deleted.*
- 43. *Deleted.*
- 44. *Deleted.*
- 45. *Deleted.*
- 46. *Deleted.*
- 47. *Deleted.*

PART IV – THE PRESERVATION OF THE SOIL AND ITS FERTILITY

- 48. Land preservation rules.
- 49. Further provisions regarding rules.
- 50. Powers of Director to make land preservation orders.
- 51. Powers of Minister to make land preservation orders.
- 52. Appeals to Minister against orders.
- 53. Cancellation and amendment of orders.
- 54. Registration of land preservation orders.
- 55. Registration of orders made under Cap. 164 (1948).
- 56. Default in compliance with orders.
- 57. Powers of Minister in cases of absentees.
- 58. Appeals to Agricultural Appeals Tribunal.
- 59. Effect of order pending appeal.
- 60. Penalties for failure to comply with order.
- 61. Right of lessee to compensation for work done in compliance with order.
- 62. Change of owner or occupier not to affect order.

PART V – DEVELOPMENT OF LAND

- 63. *Deleted.*
- 64. Minister's power to make land development orders.
- 65. Preliminaries to making of land development orders.
- 66. Development programmes.
- 67. Approval of development programmes by district agricultural committees and provincial agricultural boards.
- 68. Approval of development programmes by Board.
- 69. Modification of development programmes.
- 70. Power to make land development order.

Section

- 71. *Deleted.*
- 72. Appeal against order.
- 73. Penalty for non-compliance with order.
- 74. Application of certain sections to land development orders.
- 74A. Register of land development orders.

PART VI – GENERAL SCHEMES FOR LAND
PRESERVATION AND LAND DEVELOPMENT

- 75. Preparation of schemes.
- 76. Contents of schemes.
- 77. Publication of and objections to draft schemes, and adoption thereof.
- 78. Approval of schemes by National Assembly.
- 79. Execution of schemes and recovery of costs thereof.
- 80. Compensation to persons injuriously affected by schemes.
- 81. Appeals to Agricultural Appeals Tribunal.

PART VII – REPEALED

- 82. *Repealed.*
- 83. *Repealed.*
- 84. *Repealed.*
- 85. *Repealed.*
- 86. *Repealed.*
- 87. *Repealed.*
- 88. *Repealed.*
- 89. *Repealed.*
- 90. *Repealed.*
- 91. *Repealed.*
- 92. *Repealed.*
- 93. *Repealed.*
- 94. *Repealed.*
- 95. *Repealed.*
- 96. *Repealed.*
- 97. *Repealed.*
- 98. *Repealed.*
- 99. *Repealed.*

PART VIII – THE ENSURED PRODUCTION OF A SUFFICIENCY
OF FOOD CROPS FOR THE REQUIREMENTS OF KENYA

A—Programmes of Production, Production Approvals and Production Orders

- 100. Declaration of essential crops.
- 101. Programmes of production of essential crops.
- 102. Programme of production to be forwarded.
- 103. Board's powers to prepare programme of production.
- 104. Production approvals and production orders.
- 105. Variation and cancellation of production approval and or production order.
- 106. Appeal against making of production approval or production order.

Section

- 107. Failure to comply with production order or production approval.
 - 108. Additional powers to vary production approvals and production orders.
 - 109. Return of essential crops.
- B—Guaranteed Minimum Returns, Advances and Grants*
- 110. Guaranteed minimum returns.
 - 111. Assessment of guaranteed minimum return.
 - 112. Adjustments for advances made, and repayment of advances.
 - 113. When and to whom guaranteed minimum return to be paid.
 - 114. Replanting of crops if destroyed.
 - 115. Harvesting of essential crops.
 - 116. Advances against guaranteed minimum returns.
 - 117. Purposes for which advance may be applied.
 - 118. Effect of cancellation or variation of production approval or production order on advance.
 - 119. Interest on advance.
 - 120. Security for advance against guaranteed minimum return.
 - 121. Insurance by person to whom advance has been made.
 - 122. Construction of Part in relation to Part II.
 - 123. Deductions by agents from sale moneys of essential crops.
 - 124. Restrictions on termination of lease, etc., of land on which essential crop is grown.
 - 125. Funds for carrying out provisions of Part.
 - 126. Agricultural Finance Corporation to act as agent for advances, etc.
 - 127. Rules.

PARTS IX AND X – REPEALED

- 128. *Deleted.*
- 129. *Deleted.*
- 130. *Deleted.*
- 131. *Deleted.*
- 132. *Deleted.*
- 133. *Deleted.*
- 134. *Deleted.*
- 135. *Deleted.*
- 136. *Deleted.*
- 137. *Deleted.*
- 138. *Deleted.*
- 139. *Deleted.*
- 140. *Deleted.*
- 141. *Deleted.*
- 142. *Deleted.*
- 143. *Deleted.*
- 144. *Deleted.*
- 145. *Deleted.*
- 146. *Deleted.*
- 147. *Deleted.*

Section

- 148. Deleted.
- 149. Deleted.
- 150. Deleted.
- 151. Deleted.
- 152. Deleted.
- 153. Deleted.
- 154. Deleted.
- 155. Deleted.
- 156. Deleted.
- 157. Deleted.
- 158. Deleted.
- 159. Deleted.
- 160. Deleted.
- 161. Deleted.
- 162. Deleted.
- 163. Deleted.
- 164. Deleted.
- 165. Deleted.
- 166. Deleted.

PART XI – THE AGRICULTURAL SETTLEMENT FUND

- 167. Settlement Fund Trustees.
- 168. Agricultural Settlement Fund.
- 169. Financial provisions.
- 170. Staff.
- 171. Accounts of Fund.
- 172. Delegation of powers.
- 173. Security for advances.
- 174. Remedies for recovery of advances on land.
- 175. Limitation laws not to apply.
- 176. Exemption from stamp duty and other charges.
- 177. Purchase of reversion of freehold estates by Settlement Fund.
- 178. Deleted.
- 179. Deleted.
- 180. Deleted.
- 181. Rules.
- 182. Deleted.
- 183. Deleted.

PART XII – RULES FOR THE PRESERVATION, UTILIZATION
AND DEVELOPMENT OF AGRICULTURAL LAND

- 184. Minister may make general rules for the preservation, utilization and development of agricultural land.

PART XIII – DISPOSSESSION OF OWNERS
AND OCCUPIERS OF AGRICULTURAL LAND

- 185. Minister's powers on persistent contravention of rules.

Section

- 186. Power to acquire unoccupied land.
- 186A. Power to acquire land for production of particular crop.
- 186B. Power to zone land for delivery of crop for processing.
- 187. Minister's powers with respect to inadequately managed or supervised land.
- 188. Mode of acquisition.
- 189. Rules.

PART XIV – DEVELOPMENT OF CERTAIN CROPS

- 190. Special crops.
- 191. Order establishing authority for development of a special crop.
- 192. Contents of order, and amendment and revocation thereof.

PART XIVA – AGRICULTURAL CESSES

- 192A. Agricultural cesses.

PART XV – APPEALS TO THE AGRICULTURAL APPEALS TRIBUNAL

- 193. Establishment of Agricultural Appeals Tribunal.
- 194. How jurisdiction of Tribunal to be exercised.
- 195. Jurisdiction of Tribunal.
- 196. Statement of case by Tribunal.
- 197. Rules of Tribunal.

PART XVI – GENERAL

- 198. No action maintainable against Minister, etc.
- 199. Representation.
- 200. Convictions and forfeiture of livestock.
- 201. Saving of Cap. 372.
- 202. Service of documents.
- 203. Advances and grants exempt from attachment.
- 204. Powers of entry.
- 205. Central Agricultural Board to be body corporate.
- 206. References to owners and occupiers of land.
- 207. Indemnification of Agricultural Finance Corporation.
- 208. Accounts of Agricultural Finance Corporation.
- 209. Misapplication of loan, advance or grant.
- 210. False statements.
- 211. Secrecy.
- 212. Protection from personal liability of members and employees of boards, etc.
- 213. General penalty.
- 214. No election of members to be questioned.
- 215. Defects in membership of authorities not to invalidate duties or powers thereof.
- 216. Procedure of various authorities.
- 217. Expenses of various authorities.
- 218. Officers to be public servants for certain purposes.
- 219. Certificates by Central Agricultural Board.
- 220. Power to extend time.
- 221. Expenses.

Section

222. Provisions of rules to prevail over by-laws.
 223. Saving of rules and orders under Cap. 164 of 1948.
 224. Deleted.

SCHEDULES

FIRST SCHEDULE	–
SCHEDULED CROPS	
SECOND SCHEDULE	–
SCHEDULED ANIMAL PRODUCTS	
THIRD SCHEDULE	–
AGRICULTURAL AND MARKETING ORGANISATIONS	
FOURTH SCHEDULE	–
COMPENSATION IN RESPECT OF CONSTRUCTION OF WORKS, ETC.	
FIFTH SCHEDULE	–
<i>DELETED</i>	

CHAPTER 318
AGRICULTURE ACT

[Date of assent: 25th April, 1955.]

[Date of commencement: All of Kenya except the former Northern Province: 1st July, 1955 The Former Northern Province: 18th June, 1963.]

An Act of Parliament to promote and maintain a stable agriculture, to provide for the conservation of the soil and its fertility and to stimulate the development of agricultural land in accordance with the accepted practices of good land management and good husbandry

[Act No. 8 of 1955, Act No. 39 of 1956, Act No. 58 of 1956, L.N. 74/1956, L.N. 502/1957, Act No. 2 of 1959, Act No. 6 of 1959, Act No. 27 of 1959, L.N. 96/1959, Act No. 47 of 1960, L.N. 153/1961, Act No. 7 of 1962, Act No. 45 of 1962, Act No. 25 of 1963, Act No. 27 of 1963, Act No. 31 of 1963, L.N. 142/1963, L.N. 218/1963, L.N. 256/1963, L.N. 352/1963, L.N. 365/1963, L.N. 396/1963, L.N. 397/1963, L.N. 398/1963, L.N. 438/1963, L.N. 473/1963, L.N. 635/1963, L.N. 750/1963, L.N. 2/1964, L.N. 21/1964, L.N. 365/1964, Act No. 16 of 1965, Act No. 21 of 1966, L.N. 333/1966, Act No. 9 of 1967, Act No. 29 of 1967, Act No. 30 of 1967, Act No. 8 of 1968, Act No. 38 of 1968, Act No. 47 of 1968, L.N. 67/1968, L.N. 78/1968, L.N. 95/1968, Act No. 16 of 1977, Act No. 3 of 1982, Act No. 7 of 1985, Act No. 12 of 1985, L.N. 319/1987, Act No. 3 of 1988, Act No. 11 of 1993, Act No. 2 of 2002, Act No. 2 of 2007, Act No. 6 of 2012.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Agriculture Act.

[Act No. 9 of 1967, Sch.]

2. Interpretation

(1) In this Act, unless the context otherwise requires—

“**Agricultural Appeals Tribunal**” means the tribunal established under Part XV;

“Agricultural Finance Corporation” means the corporation of that name established by the Agricultural Finance Corporation Act (Cap. 323);

“agricultural land” means all land which is used for the purpose of agriculture, not being land which, under any law relating to town and country planning, is proposed for use for purposes other than agriculture;

“agricultural subcommittee” means a committee established under section 27;

“agriculture” means cultivation of land and the use of land (whether or not covered by water) for any purpose of husbandry and includes—

- (a) horticulture, fruit growing and seed growing;
- (b) dairy farming, bee keeping and breeding and keeping of livestock;
- (c) conservation and keeping of game animals, game birds and protected animals (all as defined in the Wildlife Conservation and Management Act (Cap. 376)), and also of all aquatic animals;

- (d) breeding, game ranching, game cropping and other wildlife utilization and otherwise turning to account within the provisions of the Act referred to in paragraph (c) but not otherwise of game animals and game birds (not being protected animals) and also of all aquatic animals whether in inland waters or the waters of the maritime zones falling within the provisions of the Fisheries Act (Cap. 378);
- (e) the use of land as grazing, meadow land, market gardens or nursery grounds; and
- (f) the use of land for woodlands and other forms of agroforestry, when that use is ancillary to the use of land for other agricultural purposes; and **“agricultural”** shall be construed accordingly;

“assisted owner” means a person, not being a tenant farmer, who has been granted an advance under Part XI;

“Central Agricultural Board” means the board established by section 35;

“Central Land Board” means the Central Land Board established by section 187 of the former Constitution of Kenya as set out in Schedule 2 of the Kenya Order in Council 1963;

“chattels” has the meaning assigned to it by section 2 of the Chattels Transfer Act (Cap. 28);

“dairy produce” includes—

- (a) milk and cream; and
- (b) butter, cheese and all other products of milk or cream, whether produced there from by manufacturing processes or otherwise;

“district agricultural committee” means a committee established under section 22;

“drainage” means the removal and disposal by surface drainage or subdrainage of water from land by natural, artificial or mechanical means, but does not include drainage of permanent swamps;

“essential crops” means crops declared as such under section 100;

“farm” includes the aggregate of the agricultural holdings of the members of a co-operative society or of a partnership;

“Fund” means the Agricultural Settlement Fund established under section 168;

“guaranteed minimum return” means the minimum return of money guaranteed by the Government under sections 110 and 111;

“land development order” means an order made under section 64;

“land preservation order” means an order made under section 48(2);

“large-scale farm” means a farm which produces a gross income of not less than ten thousand shillings a year;

“producer” means a producer of agricultural produce and includes any marketing organization acting on behalf of producers;

“production approval” means an approval made under section 104(2);

“**production order**” means an order made under section 104(3);

“**programme of production**” means a programme prepared under section 101 or section 103, as the case may require;

“**provincial agricultural board**” means a board established under section 29;

“**register of titles**”, in connexion with land, means a register, kept under some Act relating to the registration of title to land, wherein the title to the land is for the time being registered;

“**Registrar of Titles**” means the officer responsible for making entries in a register of titles;

“**scheduled animal product**” means any animal product for the time being specified in the Second Schedule;

“**scheduled crop**” means any crop for the time being specified in the First Schedule;

“**settler**” means a person holding land in an approved settlement scheme, and includes an assisted owner or tenant farmer;

“**small-scale farm**” means any farm which is not a large-scale farm;

“**special crop**” means a crop declared as such under section 190;

“**tenant farmer**” means a person to whom a lease of agricultural land has, under Part XI or any rules made thereunder, been granted for his life or for a term of years, or a person with whom an agreement for such a lease has been made.

(2) Any reference in this Act to good husbandry shall be deemed to refer to such farming of land as, having regard to the character and situation of the land, the standard of management thereof by the owner and other relevant circumstances, maintains a reasonable standard of efficient production as respects both the kind of agricultural produce and the quality and quantity thereof, while keeping the land in a condition to enable such a standard to be maintained in the future.

(3) Any reference in this Act to good land management shall be deemed to refer to such management of land as is reasonably adequate to enable good husbandry to be practised by the occupier thereof.

(4) In this Act, “**owner**”, in relation to any agricultural land, means, subject as hereinafter appearing, the person in whom for the time being is vested—

- (a) where the land is held in freehold of the Government under a title registered under the Government Lands Act (Cap. 280) or the Registration of Titles Act (Cap. 281), the freehold;
- (b) where the land is held in leasehold of the Government under such a title, the Government lease;
- (c) where the title to the land is registered under the Land Titles Act (Cap. 282), the freehold;
- (d) where the land is situated in the special areas and the title to the land is registered under the Registered Land Act (Cap. 300);

- (e) where the title to the land is not registered, the person for the time being claiming to be entitled thereto under the Land Titles Act:

Provided that—

- (i) where a Government lease is subject to a sublease whereunder a nominal reversion only is reserved to the Government lessee, the sublessee shall be deemed to be the owner;
- (ii) a mortgagee or chargee not in possession shall not be deemed to be the owner of the land to which the mortgage or charge relates.

(5) Where, by reason of any claim by adverse possession or prescription or by reason of any other circumstances whatsoever, doubt arises as to who is the owner of any land, the Minister may determine that some person shall be deemed for the purposes of this Act to be the owner of the land:

Provided that—

- (i) in making any such determination the Minister shall have regard to the respective interests, whether registered under any Act relating to the registration of title, or title deeds, to land or not, of the persons interested in the land; and
- (ii) any person aggrieved by any such determination may appeal to the Agricultural Appeals Tribunal.

(6) References in this Act to the farming of land include references to the carrying on in relation to the land of any agricultural activity; and in relation to any agricultural activity the person having the right to carry it on shall be deemed to be the occupier of the land.

[Act No. 27 of 1959, Sch., Act No. 47 of 1960, s. 2, Act No. 7 of 1962, s. 3, Act No. 25 of 1963, Sch., Act No. 27 of 1963, s. 11, L.N. 352/1963, L.N. 365/1964, Act No. 9 of 1967, Sch., Act No. 11 of 1993, Sch.]

3. Provisions as to servant and agents

Anything which under this Act may be required or authorized to be done by, or to or in respect of, an owner or occupier may, where an agent or servant of the owner or occupier is responsible for the management of farming, as the case may be, of the land in question, be required to be done by, or to or in respect of, such agent or servant, and references in this Act to an owner or occupier shall be construed accordingly.

PART II – GUARANTEED PRICES AND MARKETING

4. Provisions for securing efficient agricultural production

This Part shall have effect for the purpose of promoting and maintaining, by the provision of guaranteed prices and assured markets for scheduled crops and scheduled animal products, a stable and efficient agricultural industry capable of producing such part of Kenya's food and other agricultural produce as in the interest of Kenya it is desirable to produce therein, and of producing it at minimum prices due regard being had to the interests of all persons engaged or employed, or having capital invested, in the industry.

5. Annual review of the agricultural industry

(1) The Minister shall, before the 15th December in each year, review the prospects of the agricultural industry, having particular regard to the costs of production, market prospects and any obligations to supply external demands, with the object of determining—

- (a) the kinds of agricultural produce which should be specified as scheduled crops in the First Schedule;
- (b) the prices for scheduled crops, and the prices and guaranteed prices for scheduled animal products, which are to be or may be fixed in accordance with sections 7 and 8 respectively;
- (c) the kinds of scheduled crops which should be declared to be essential crops under section 100; and
- (d) an overall programme of production of essential crops in Kenya, to which the Central Agricultural Board shall have regard in exercising its powers to make Production Approvals and Production Orders.

(2) In holding any review under this section the Minister shall consult with such bodies of persons as appear to him to represent the interests of producers generally in Kenya.

[Act No. 47 of 1960, s. 3, L.N. 352/1963, L.N. 365/1964.]

6. Special review of the agricultural industry

(1) If it appears to the Minister at any time between two annual reviews under section 5 that there has been, or is likely to be, a change in the economic condition of the agricultural industry or any section thereof, and that the change is, or is likely to be, of sufficient importance to require that he should exercise his powers under this section, the Minister may hold a special review of the matters referred to in section 5.

(2) Whenever the Minister holds such a special review, the provisions of this Act shall apply thereto as they apply to an annual review:

Provided that sections 7 and 8 shall have effect in their application as aforesaid as if there were substituted for the periods respectively specified therein such periods respectively as the Minister may determine.

7. Fixing of prices for scheduled crops

The Minister shall, in the light of his conclusions from the annual review held by him under section 5, after consultation with the Minister for the time being responsible for Finance, before the 1st February in each year, by order published in the *Gazette*, fix the prices for scheduled crops to be paid (whether by agents constituted or appointed under section 14 or by any person authorised or required by or under any enactment to purchase any such crops) to producers of such of those crops as may be planted in the calendar year in which the order is made:

Provided that, in the case of any particular scheduled crop which is not an essential crop, the price therefor may be fixed at any time before the general beginning of harvesting thereof in Kenya, and may be fixed in the light of the conditions then prevailing.

[Act No. 58 of 1956, s. 2, Act No. 47 of 1960, s. 4, L.N. 750/1963.]

8. Fixing of prices and guaranteed minimum prices for scheduled animal products

(1) The Minister may, in the light of his conclusions from the annual review held by him under section 5, after consultation with the Minister for the time being responsible for Finance, before the 1st January in each year, by order published in the *Gazette*, fix—

- (a) the prices for scheduled animal products to be paid (whether by agents constituted or appointed under section 14 or by any person authorised or required by or under any enactment to purchase any such product) to producers of such of those products as may be sold by the producers in the calendar year commencing on such 1st January; and
- (b) the prices to be guaranteed to producers of scheduled animal products for all such products as may be sold by the producers in each of the two calendar years immediately succeeding any year for which prices shall have been fixed under paragraph (a):

Provided that, whenever a price is not fixed or guaranteed in respect of any scheduled animal product for any period under the foregoing provisions of this subsection, the Minister shall agree with such bodies of persons as appear to him to represent the interests of producers of that product, the price at which that product may be acquired and the period for which the agreed price shall be effective.

(2) Any price fixed under paragraph (a) of subsection (1) in respect of any scheduled animal product for any year shall not be less than the guaranteed price subsisting under paragraph (b) of subsection (1) for the same product in respect of the same year.

[Act No. 2 of 1959, s. 2, L.N. 750/1963.]

9. Effect given to fixed prices, etc.

(1) For the purpose of giving effect to prices fixed under section 7 or section 8, or prices agreed under the proviso to section 8, in so far as scheduled crops or scheduled animal products may be purchased by agents constituted or appointed under section 14, the Minister shall issue orders to the agents requiring them to purchase those crops or products at prices not less than those fixed or agreed.

(2) Except so far as is or may be provided to the contrary by any other enactment, no producer of any agricultural produce in respect of which a price has been fixed or agreed shall sell or attempt to sell it otherwise than to or through the agency of any agent who is constituted or appointed under section 14 for the purchase of that produce and who is required by an order made under subsection (1) to purchase that produce.

(3) Any producer who contravenes subsection (2) shall be guilty of an offence, subject to such general or special exemptions from that subsection as may from time to time be prescribed.

(4) Except where the order under which a price is fixed otherwise provides, every price shall be deemed to be the price free on rail at the railway station nearest to the farm where the agricultural produce in question is produced.

(5) Any person who, not being an agent constituted or appointed under section 14 or a person empowered or required by any other enactment so to do, purchases or attempts to purchase from any producer any agricultural produce in respect of which any price has been fixed or agreed shall be guilty of an offence.

(6) References in this Act to an agent constituted or appointed under section 14 shall, in the case of an agent who is constituted or appointed for a part only of Kenya or a particular quantity, grade, quality or variety of any agricultural produce or for a particular class or kind of transaction or for a particular time of the year, be construed as references to an agent having such a limited authority.

10. Variation of prices after special review

(1) Whenever the Minister holds a special review under section 6, he may, if it appears to him expedient so to do, after consultation with the Minister for the time being responsible for Finance, by order published in the *Gazette*, vary any price or guaranteed price fixed for any period at the last annual or special review, or any price agreed with the representatives of producers for any period, with respect to any scheduled crop or scheduled animal product and with effect for the remainder of the period.

(2) Any order authorized by this section shall be made and published within one month after the Minister has completed the special review and shall take effect from such date as shall be specified therein not being earlier than fourteen days from the date of publication thereof.

(3) An order may be made under this section for varying any price or guaranteed price notwithstanding that the period for which any such price has been fixed or agreed under this Act is unexpired.

(4) Whenever it appears to the Minister that any order made under the preceding provisions of this section will result in inequality as between different producers or different classes of producers of the same type of scheduled crop or scheduled animal product marketed in the same season, he may, after consulting with such bodies of persons as appear to him to represent the interests of such producers, make a scheme for removing such inequality.

(5) A scheme made under subsection (4) may provide—

- (a) for reducing any price otherwise payable under an order made under the preceding provisions of this section to any producer in respect of any scheduled crop or scheduled animal product purchased by or on behalf of the Minister after the date on which the order came into force where the producer has received in respect of any crop or product of the same type, purchased by or on behalf of the Minister before the date the order came into force, any payment based on a price which was operative before that date;
- (b) otherwise for equating the prices received for the same type of crop or product marketed in the same season by all producers irrespective of the date of purchase thereof by or on behalf of the Minister;
- (c) for the payment by the Minister to, or recovery by the Minister from, any producer of any sum payable by or to the Minister under the terms of the scheme,

and may contain such provisions as appear to the Minister, after consultation as aforesaid, to be necessary for securing the due operation and enforcement of the scheme; and any sum payable to the Minister by any producer under a scheme shall be deemed to be a debt due from that producer to the Minister and be recoverable accordingly.

[L.N. 750/1963.]

11. Different prices for different qualities, etc.

In exercising his powers under section 7, section 8 or section 10, the Minister may, subject to this Act, fix different prices or different guaranteed minimum prices for different agricultural produce, for produce produced in different areas of Kenya, for different quantities, grades, qualities or varieties of any produce, for different classes or kinds of transactions and for different times of the year.

12. Amendment of First and Second Schedule

(1) Subject to this Act, the Minister may, from time to time, after consultation with the Central Agricultural Board, by order published in the *Gazette*, vary or amend the First Schedule by adding thereto or deleting therefrom any agricultural crop, and may likewise vary or amend the Second Schedule by adding thereto or deleting therefrom any agricultural produce other than an agricultural crop.

(2) An order made under this section may modify this Act and any other Act so far as may appear to the Minister necessary for carrying the order into effect.

(3) Before any order is made under this section, a draft thereof shall be laid before the National Assembly, and no order shall have effect unless the National Assembly has by resolution approved the draft, or, if the National Assembly resolves that the order be modified, except as so modified.

(4) No order deleting any scheduled animal product from the Second Schedule shall be made under this section so as to take effect at a date earlier than the date of the expiration of the period for which a guaranteed minimum price subsists in respect of that product.

(5) Where an order adding any agricultural produce to the First Schedule or Second Schedule is made under this section, section 7 or, as the case may be, section 8 shall have effect in relation to that produce as if there were substituted for the periods respectively specified in those sections such periods respectively as the Minister may specify in the order.

[L.N. 352/1963, L.N. 365/1964.]

13. Control of purchase, marketing, etc.

The control of the purchase, collection, storage and marketing of all scheduled crops and scheduled animal products is vested in the Minister, and such control shall be exercised as provided by this Part:

Provided that nothing in this section contained shall apply to—

- (i) maize and maize products as defined in the National Cereals and Produce Board Act (Cap. 338);
- (ii) wheat or to flour as defined by National Cereals and Produce Board Act;

- (iii) slaughter stock as defined by the Kenya Meat Commission Act (Cap. 363), or to any produce derived from any such slaughter stock including the hides.

[Act No. 6 of 1959, Sch., L.N. 352/1963, Act No. 7 of 1985, s. 32.]

14. Constitution or appointment of agents by the Minister

(1) The Minister may, by notice in the *Gazette*, constitute or appoint an agent or agents for the purchase, collection, storage and marketing of any scheduled crop or scheduled animal product, or for any of those purposes, and the Minister may in the same manner revoke or vary a constitution or appointment.

(2) An agent may be constituted or appointed to act for all or any of the purposes specified in subsection (1), and different agents may be constituted or appointed for different areas of Kenya, for different agricultural produce, for different quantities, grades, qualities or varieties of any agricultural produce, for different classes or kinds of transactions and for different times of the year.

(3) All scheduled crops and scheduled animal products, the control of the purchase, collection, storage and marketing of which is vested in the Minister under section 13, and not being crops or products consumed on the holding upon which they are produced, shall, unless in any case the Minister directs otherwise, until marketed or disposed of by or under the direction of the Minister, be held on behalf of the Government and shall become the property of the Government upon delivery thereof to an agent of the Minister, or, whichever shall be the earlier, upon payment of any part of the purchase price thereof by or on behalf of the Minister.

[Act No. 58 of 1956, s. 3.]

15. Minister's orders to agents

(1) The Minister may, after consultation with the Minister for the time being responsible for Finance, issue to any agent constituted or appointed under section 14 orders, not being contrary to any law in force in Kenya, respecting the agency in relation to—

- (a) the expenses which may be incurred and the charges which may be made by the agent; and
- (b) the deductions which may be made or allowed by the agent from the proceeds of sale of any agricultural produce.

(2) Any such order may be made applicable generally to all agents or specially to any particular agent or class of agents.

16. Prices on marketing of scheduled crops and products by agents

(1) The Minister may from time to time, after consultation with the Minister for the time being responsible for Finance, by order published in the *Gazette*, fix the price at which any scheduled crop or scheduled animal product may be marketed by any agent constituted or appointed under section 14.

(2) Different prices may be fixed under subsection (1) in like manner as different prices may be fixed under section 11.

[L.N. 750/1963.]

17. Agents to comply with orders and supply information

(1) Every agent constituted or appointed under section 14 shall comply with all orders lawfully issued to him by the Minister under sections 9 and 15, and shall, on demand by the Minister, or by any person authorised by him in writing in that behalf, supply to the Minister all such accounts, returns, audited statements and other information relating to scheduled crops or scheduled animal products purchased, collected, stored or disposed of by such agents as the Minister may require.

(2) No agent shall be required under subsection (1) to furnish any balance sheet or profit and loss account, but this subsection shall not prevent the requiring of information under subsection (1) by reason only that it is or might be contained as an item in a balance sheet or account.

(3) Any agent who contravenes subsection (1) shall be guilty of an offence.

18. Deduction from net price for noxious weeds

(1) An order issued under section 9 or section 15 may provide for the deduction by the agent from the price to be paid by him to any producer in respect of any scheduled crop of such sum by way of penalty for delivering to the agent any scheduled crop containing a noxious weed within the meaning of the Suppression of Noxious Weeds Act (Cap. 325) as may be specified in the order, and for the disposal of any money so deducted.

(2) Subsection (1) shall have effect in respect of crops produced in any area within the special areas, notwithstanding section 6 of the Suppression of Noxious Weeds Act (Cap. 325).

19. Establishment of price equalization funds

(1) The Minister may establish and administer in accordance with the provisions of this section a price equalisation fund for any scheduled crop or scheduled animal product.

(2) If, in any respect of any year of guarantee, the proceeds from the sales of any scheduled crop or scheduled animal product marketed by or on behalf of the Minister are greater than the expenditure incurred by the Minister in the purchase and marketing thereof, the Minister shall pay into the appropriate price equalisation fund, if any, an amount equal to the difference.

(3) If, in respect of any year of guarantee, the proceeds from the sales of any scheduled crop or scheduled animal product marketed by or on behalf of the Minister are less than the expenditure incurred by the Minister in the purchase and marketing thereof, the difference shall be met from the appropriate price equalisation fund, if any.

(4) If, at the expiration of three complete years from the establishment of any price equalization fund or of any year thereafter, the amount of moneys standing to the credit of such fund is greater than an amount equal to ten per centum of the average of the gross proceeds per annum of the sales of the scheduled crop or scheduled animal product in respect of which the fund is maintained during the last preceding three years, the Minister may, after consulting the Central Agricultural Board and the Minister for the time being responsible for Finance, apply a sum equal to the difference in or towards such purposes connected with the scheduled crop or scheduled animal product, or the marketing thereof, as he may think fit.

(5) For the purposes of this section, “**year of guarantee**” means in respect of any scheduled crop or scheduled animal product any period of twelve months during which prices for that crop or product are fixed or guaranteed under this Part.

[L.N. 352/1963.]

20. Power to require returns

(1) Whenever it appears to the Minister expedient so to do for the better carrying out of the provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, for the purpose of obtaining assistance in the holding of any annual or special review to be held under section 5 or section 6, he may, after consultation with the Central Agricultural Board—

- (a) by notice published in the *Gazette*, require the owners and occupiers of land used for agriculture to complete and return, periodically or otherwise, to such person as may be specified in the notice, and within such time and with respect to such date or dates or such period or periods as may be so specified. such forms and returns relating to the land, or the use, management or farming thereof, or the livestock or animals thereon, agricultural produce produced therefrom or persons employed thereon, as the Minister shall specify or as may be prescribed;
- (b) serve upon any owners or occupiers of land which the Minister has reason to believe may be usable for agriculture notices requiring them to complete and return to such person as may be specified in the notices, and within such time and with respect to such date or dates or such period or periods as may be so specified, the forms and returns specified in paragraph (a),

and a notice may apply either to owners or occupiers generally or to any class or description of owners or occupiers.

(2) For the purpose of obtaining statistical information relating to agriculture, any person authorised by the Minister in that behalf may, by written notice, require the owner or occupier of land to furnish to him within a specified period, being not less than twenty-one days, either orally or in writing as the owner or occupier may elect, such information as the authorised person may require.

(3) No person shall be required under the foregoing provisions of this section to furnish any balance sheet or profit and loss account, but this subsection shall not prevent the requiring of information by reason only that it is or might be contained as an item in a balance sheet or account.

(4) No information relating to any particular land or business obtained under this section shall be published or otherwise disclosed without the previous consent in writing of the person by whom the information was furnished:

Provided that nothing in this section shall restrict the disclosure of information—

- (i) to the Minister, or any officer authorized by the Minister;

- (ii) to any authority having power under any enactment to promote or give permission for the development of land, for the purpose of assisting that authority in the preparation of proposals regarding the development or in considering whether or not to give permission;
- (iii) to any person for the purpose of any legal proceedings under this Act,

or the use of that information in any manner which the Minister thinks necessary or expedient in connection with the objects of this Act.

(5) Any person who fails to furnish information in compliance with a requirement made under this section shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or in default of payment to imprisonment for a term not exceeding one month.

(6) If any person—

- (a) in purported compliance with a requirement made under this section knowingly or recklessly furnishes any information which is false in any material particular; or
- (b) publishes or otherwise discloses any information in contravention of subsection (4),

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

21. Rules

(1) The Minister may, after consultation with the Central Agricultural Board, make rules for the better carrying out of the provisions of this Part, and, without prejudice to the generality of the foregoing, in particular for—

- (a) prescribing anything required to be prescribed under this Part;
- (b) regulating and controlling the purchase, collection, storage and disposal, whether by way of marketing or otherwise, of scheduled crops and scheduled animal products;
- (c) prescribing the standards to which scheduled crops and scheduled animal products must conform in order that guaranteed minimum prices shall be payable therefor;
- (d) prescribing the factors to be applied or taken into account in determining standards;
- (e) securing that any producer who is aggrieved by the act or omission of an agent may refer the matter to the Minister, and for the manner in which a reference is to be heard and determined;
- (f) the terms and conditions upon which an agent referred to in section 14 shall be constituted or appointed;
- (g) the manner in which an agent shall perform the duties of the agency;
- (h) empowering an agent to produce any specified commodity from any agricultural produce purchased by him as such, or to sell, grade, pack, store, adapt for sale, insure, advertise or transport that produce or commodity;

- (i) empowering an agent to co-operate with any other person in doing anything which the agent is or might be empowered to do under this Act;
 - (j) regulating the manner in which any scheduled crop or scheduled animal product or any description or quantity thereof is to be graded or otherwise dealt with under this Act.
- (2) Rules made under this section may contain—
- (a) different provisions for different parts of Kenya;
 - (b) different provisions for different classes of producers and for different classes or kinds of transactions;
 - (c) different provisions for different quantities, grades qualities or varieties of any agricultural produce;
 - (d) exemptions or conditional exemptions from the operation of any rule made under this section.

(3) No rules varying the standards or grades of any scheduled crop or scheduled animal product, or the factors to be applied or taken into account in determining those standards, shall be made so as to operate to the prejudice of any producer of that crop or product during the currency of any price fixed or agreed under this Part in respect thereof.

[Act No. 39 of 1956, Sch., L.N. 352/1963.]

PART III – AGRICULTURAL COMMITTEES AND BOARDS

A—District Agricultural Committees and Agricultural Subcommittees

22. District Agricultural Committees

(1) Except where the Minister otherwise approves, there shall be established a district agricultural committee for each district.

(2) Every district agricultural committee shall consist of—

- (a) not less than six and not more than ten persons who are owners or occupiers of farms in the district, elected or appointed in such manner as the Minister may prescribe:

Provided that—

- (i) where there are large-scale farms in the district, some of the members shall be elected or appointed by the owners or occupiers of those farms, and the number of members so elected or appointed shall bear the same proportion to the total number of members elected or appointed under this paragraph as the area of large-scale farms bears to the area of the district;
 - (ii) where there is communally owned land in the district, the election or appointment of members to represent the community using the land shall be such as the Minister may prescribe;
- (b) the District Commissioner of the district;

- (c) the senior officer of the Agricultural Department serving in the district;
- (d) the senior officer of the Veterinary Department serving in the district;
- (e) the senior officer of the Forestry Department serving in the district;
- (f) the senior officer of the Co-operative Development Department serving in the district; and
- (g) two persons appointed by the county council having jurisdiction in the district from among the persons representing the district on the county council.

(3) The chairman of a district agricultural committee shall be appointed by the Minister from among the members thereof.

(4) The members of a district agricultural committee shall elect annually a deputy chairman from among the persons elected or appointed under paragraph (a) of subsection (2).

(5) If the chairman and the deputy chairman are absent from a meeting, the members present at the meeting shall elect one of themselves to preside at that meeting.

(6) For the purposes of this Part, owners or occupiers of large-scale farms in a province shall be registered in such manner as the Minister may prescribe.

[L.N. 352/1963, Act No. 9 of 1967, Sch., L.N. 67/1968.]

23. Tenure of office, etc.

The tenure of office, disqualifications, rotation and filling of vacancies of members of a district agricultural committee shall be such as may be prescribed by the Minister.

[L.N. 352/1963, Act No. 9 of 1967, Sch.]

24. Meetings

(1) The chairman of a district agricultural committee shall convene a meeting of the committee at least once in every three months, and the committee shall meet at such place as he directs.

(2) Minutes of the proceedings at every meeting shall be regularly entered in books kept for the purpose by the secretary or other appropriate officer of the committee.

(3) A simple majority of the members of a district agricultural committee shall constitute a quorum.

(4) The procedure governing meetings and voting at meetings shall be such as may be prescribed by the Minister.

(5) A district agricultural committee may appoint committees, constituted in such manner as it may determine, for exercising and performing on behalf of the committee all or any of the powers conferred upon the committee by this Act.

[L.N. 352/1963, Act No. 9 of 1967, Sch.]

25. Functions of district agricultural committee

The functions of every district agricultural committee shall be—

- (a) to exercise such powers and perform such duties as may be conferred or imposed on it by or under this Act or any other written law;
- (b) to advise and assist the provincial agricultural board on such matters as may be referred to it by that board, and to bring to the notice of that board such matters as it thinks fit in relation to the powers and duties of the district agricultural committees; and
- (c) with the approval of the provincial agricultural board, to advise the Agricultural Finance Corporation.

[L.N. 352/1963.]

26. Staff

A district agricultural committee may appoint such officers and servants, on such terms and conditions, as the Minister may approve, both for itself and for an Agricultural subcommittee established by it under section 27.

[L.N. 352/1963, Act No. 9 of 1967, Sch.]

27. Agricultural subcommittees

A district agricultural committee may establish an agricultural subcommittee for any particular area of its district.

[Act No. 58 of 1956, s. 4, L.N. 352/1963.]

28. Constitution, etc., of agricultural subcommittees

The constitution, functions, mode of appointment and tenure of office of the members of an agricultural subcommittee shall be determined by the district agricultural committee.

[L.N. 352/1963.]

*B—Provincial Agricultural Boards***29. Provincial agricultural boards**

- (1) There shall be established a provincial agricultural board for each province.
- (2) Every provincial agricultural board shall consist of—
 - (a) one member appointed by each district agricultural committee in the province from amongst the members elected or appointed under section 22(2)(a);
 - (b) the Provincial Commissioner of the province;
 - (c) the senior officer of the Agricultural Department serving in the province;
 - (d) the senior officer of the Veterinary Department serving in the province;
 - (e) the senior officer of the Forestry Department serving in the province;and

- (f) the senior officer of the Co-operative Development Department serving in the province.

(3) The chairman of a provincial agricultural board shall be appointed by the Minister from among the members thereof.

(4) The members of a provincial agricultural board shall elect annually a deputy chairman from among the persons appointed under paragraph (a) of subsection (2).

(5) If the chairman and the deputy chairman are absent from a meeting, the members present at the meeting shall elect one of themselves to preside at that meeting.

[Act No. 58 of 1956, s. 29, Act No. 9 of 1967, Sch., L.N. 352/1963, L.N. 67/1968.]

30. Tenure of office, etc.

The tenure of office, disqualifications, rotation and filling of vacancies of members of a provincial agricultural board shall be such as the Minister may prescribe.

[L.N. 352/1963, Act No. 9 of 1967, Sch.]

31. Meetings

(1) The chairman of a provincial agricultural board shall convene a meeting of the board at least once in every three months, and the board shall meet at such place as he directs.

(2) Minutes of the proceedings at every meeting shall be regularly entered in books kept for the purpose by the appropriate officer of the board.

(3) A simple majority of the members of a provincial agricultural board shall constitute a quorum.

(4) The procedure governing meetings and voting at meetings shall be such as may be prescribed by the Minister.

[L.N. 352/1963, Act No. 9 of 1967, Sch.]

32. Functions of provincial agricultural boards

The functions of a provincial agricultural board shall be—

- (a) to exercise such powers and perform such duties as may be conferred or imposed on it by or under this Act or any other written law;
- (b) to advise and assist the Central Agricultural Board on such matters as may be referred to it by that Board, and to bring to the notice of that Board such matters as it thinks fit;
- (c) to carry out such other functions as the Minister may direct;
- (d) to render such assistance as is required by the Agricultural Finance Corporation.

[L.N. 352/1963, Act No. 9 of 1967, Sch.]

33. Staff

A provincial agricultural board may appoint such officers and servants, on such terms and conditions, as the Minister may approve.

[L.N. 352/1963, Act No. 9 of 1967, Sch.]

34. Committees of provincial agricultural boards

A provincial agricultural board may appoint committees, constituted in such manner as it may determine, for exercising and performing on behalf of the board all or any of the powers and duties conferred or imposed on the board by this Act.

[L.N. 352/1963.]

*C—The Central Agricultural Board***35. Central Agricultural Board**

(1) There is hereby established the Central Agricultural Board, consisting of—

- (a) seven members, one to represent each of the seven provinces, appointed by the Minister;
- (b) seven members, one appointed by each provincial agricultural board from amongst the members of the Board appointed under section 29(2)(a);
- (c) the Permanent Secretary of the Ministry, or a person deputed by him generally or in respect of a particular meeting;
- (d) the Director of Agriculture;
- (e) the Director of Veterinary Services;
- (f) the Commissioner for Co-operative Development;
- (g) the Director of Settlement; and
- (h) six persons who in the opinion of the Minister will benefit the work of the Board, appointed by the Minister.

(2) Each of the agricultural and marketing organizations specified in the Third Schedule shall be an associate member of the Central Agricultural Board, and the following provisions shall have effect in relation thereto—

- (a) the chairman of the Board may invite any associate member to send a representative to attend any meeting of the Board at which an item which he thinks is likely to be of particular interest to the organization concerned;
- (b) an associate member invited under paragraph (a) to attend a meeting, and any associate member which thinks that an item which is to be discussed at a meeting is likely to be of particular concern to it, shall, if it desires to attend that meeting, send a representative to attend at the beginning thereof, and the Board shall thereupon either disallow his attendance at the meeting (whereupon the representative shall leave the meeting) or allow his attendance thereat during the discussion and disposal of such items of agenda as it determines, and the associate member so allowed to attend shall during that time be deemed to be a full member of the Board and shall be entitled to vote on those items accordingly.

(3) The Minister may from time to time, after consultation with the Board, by order amend the Third Schedule by adding thereto or deleting therefrom any agricultural or marketing organization.

(4) Where an organization which is an associate member of the Board is dissolved or is deleted from the Third Schedule, it shall cease to be an associate member of the Board.

(5) The term of office of a member of the Board appointed under paragraph (a) or paragraph (b) of subsection (1) shall be such as may be prescribed by the Minister.

(6) The chairman of the Board shall be a person appointed by the Minister either from among the members of the Board or from elsewhere, and if he is not already a member of the Board—

- (a) he shall thereupon become a member of the Board in addition to the members prescribed by subsection (1); and
- (b) his term of office as chairman and member shall be three years.

(7) The members of the Board may elect a deputy chairman from among their number.

[L.N. 352/1963, L.N. 397/1963, L.N. 398/1963, L.N. 473/1963, Act No. 9 of 1967, Sch.]

36. Meetings

(1) The chairman of the Central Agricultural Board shall convene a meeting of the Board at least once in every period of three months beginning on the first day of the month, and the Board shall meet at such place as he directs.

(2) Minutes of the proceedings of every meeting of the Board and of every committee thereof shall be regularly entered in books kept for that purpose by the chief executive officer of the Board.

(3) A simple majority of the members of the Central Agricultural Board shall constitute a quorum.

(4) At every meeting of the Board, all questions shall be decided by a majority of members present and voting at the meeting; and in the event of an equality of votes the chairman or other person presiding at the meeting shall have a second or casting vote.

[L.N. 352/1963.]

37. Functions of Central Agricultural Board

The functions of the Central Agricultural Board shall be—

- (a) to advise the Minister on all matters of national agricultural policy;
- (b) to co-ordinate agricultural policy on matters affecting more than one province;
- (c) to advise the Minister in the determining of scheduled crops, and on the fixing of prices, in accordance with Part II;
- (d) to carry out such other executive or advisory functions as are conferred upon it by or under this Act or any other written law, or as the Minister, after consultation with the Board, may delegate to it;
- (e) *deleted by Act No. 38 of 1968, Sch.*

[L.N. 352/1963, L.N. 438/1963, Act No. 38 of 1968, Sch.]

38. Staff

The Central Agricultural Board shall appoint a suitable person to be chief executive officer of the Board, and may appoint such other officers and servants, on such terms and conditions, as the Minister may approve.

[L.N. 352/1963.]

39. Committees of Central Agricultural Board

The Central Agricultural Board may appoint committees for such purposes as it thinks fit, and may empower a committee to co-opt persons who are not members of the Board; and the constitution, functions and procedure of a committee shall be such as the Board may determine either generally or specifically.

[L.N. 352/1963.]

40. *Repealed by L.N. 352/1963.*

41. *Repealed by L.N. 352/1963.*

42. *Repealed by L.N. 352/1963.*

43. *Repealed by L.N. 352/1963.*

44. *Repealed by L.N. 352/1963.*

45. *Repealed by L.N. 352/1963.*

46. *Repealed by L.N. 352/1963.*

47. *Repealed by L.N. 352/1963.*

PART IV – THE PRESERVATION OF THE SOIL AND ITS FERTILITY**48. Land preservation rules**

(1) Whenever the Minister considers it necessary or expedient so to do for the purposes of the conservation of the soil of, or the prevention of the adverse effects of soil erosion on, any land, he may, with the concurrence of the Central Agricultural Board, make rules for any or all of the following matters—

(a) prohibiting, regulating or controlling—

- (i) the breaking or clearing of land for the purposes of cultivation;
- (ii) the grazing or watering of livestock;

the firing, clearing or destruction of vegetation including stubble,

when such prohibiting, regulating or controlling is deemed by the Minister, with the concurrence of the Central Agricultural Board, to be necessary—

- (A) for the protection of land against storms, winds, rolling stones, floods or landslips;
- (B) for the preservation of soil on ridges, or slopes, or in valleys;
- (C) for preventing the formation of gullies;

- (D) for the protection of the land against erosion or the deposit thereon of sand, stones or gravel;
- (E) for the maintenance of water in a body of water within the meaning of the Water Act (Cap. 372);
- (F) for the protection of roads, bridges, railways or other lines of communication and for the protection of land from deterioration arising from the disposal of water from or through roads, bridges, railways or other communications or structural works, aerodromes, factories or military encampments (whether, in the case of any of the foregoing, in use or abandoned), municipalities, townships or urban districts or such other areas as may be prescribed;
- (G) otherwise for the preservation of the soil and its fertility;
 - (b) requiring, regulating or controlling—
 - (i) the afforestation or re-afforestation of land;
 - (ii) the protection of slopes, catchment areas or areas where rules made under paragraph (e) are in force;
 - (iii) the drainage of land, including the construction, maintenance or repair of artificial or natural drains, gullies, contour banks, terraces and diversion ditches;
 - (c) requiring the uprooting or destruction, without payment of any compensation therefor, of any vegetation which has been planted in contravention of a land preservation order;
 - (d) requiring the supervision of unoccupied land;
 - (e) prohibiting, restricting or controlling the use of land for any agricultural purpose including the depasturing of stock.

(2) Any rule made under the provisions of subsection (1) may empower a district agricultural committee, with the approval of the Minister given after consultation with the Minister for the time being responsible for Local Government and the Central Agricultural Board, to make regulations, applicable to its area or a part thereof, for any of the purposes for which rules may be made under that subsection, and any such rule, and any such regulations, may empower the Director of Agriculture to issue orders (in this Act referred to as land preservation orders) to any person requiring acts or things to be performed or done or prohibiting acts or things from being performed or done to the satisfaction of the Director of Agriculture or any specified person or authority, imposing conditions upon any such requirement, and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(3) Any rule made under subsection (1) may empower local authorities generally, or particular local authorities or classes of local authorities, with the approval of the Minister given after consultation with the Minister for the time being responsible for Local Government and the Central Agricultural Board, to make by-laws, applicable to their respective areas or any part thereof, for any of

the purposes for which rules may be made under that subsection, and any such rule, and any such by-law, may empower the Director of Agriculture to issue such orders as are referred to in subsection (2).

(4) Any rule or regulation under this section, and any land preservation order, may provide—

- (a) for such exemptions or conditional exemptions from the operation thereof as may be specified;
- (b) for the grant of permits or conditional permits of exemption from the operation thereof;
- (c) for its application to certain periods or seasons of the year;
- (d) for restricting its application to specified persons or any class or description of person or to any area or areas;
- (e) for requiring or prohibiting any act or thing to be done to or in respect of any land notwithstanding that the purpose of such rule or order or its carrying into effect is or will be to the benefit of any other land or land in the ownership or occupation of another person.

(5) Where in this Act or in any other written law, reference is made to rules or regulations made under this section or this Part, such reference shall, except where the context otherwise requires, be deemed to include a reference to any by-laws made under rules made under this section.

(6) The procedure for the making, approval and publication of by-laws made under rules made under this section shall be that prescribed under the Local Government Act (Cap. 265), and for the purposes of the enforcement thereof and the disposal of fines imposed for contravention thereof those by-laws shall be deemed to be by-laws made by the same local authority under that Act.

(7) All by-laws made by a county council and in force in any area immediately before the commencement of the Local Government Act, which could be validly made under any rule made by the Minister under this section shall remain in force as if so made and the county council which, under that Act, has jurisdiction in that area in place of the county council which made those by-laws shall be deemed to have been empowered by the Minister under this section to make by-laws for the purposes for which those by-laws were made.

(8) Rules may be made by the Minister under this section notwithstanding that they may be inconsistent with or repugnant to any by-law of a local authority in force in the area to which those rules apply, and to the extent, if any, of the inconsistency or repugnancy those rules shall prevail.

[Act No. 39 of 1956, Sch., Act No. 2 of 1959, s. 5, Act No. 47 of 1960, s. 21, L.N. 256/1963, L.N. 352/1963, L.N. 365/1964.]

49. Further provisions regarding rules

Rules made under section 48 may provide for the seizure and forfeiture of any stock depastured in contravention of a land preservation order.

50. Powers of Director to make land preservation orders

(1) No land preservation order shall be made by the Director of Agriculture except after consultation with the appropriate district agricultural committee, or, in cases of urgency, the chairman of that district agricultural committee.

(2) A land preservation order may be made against the owner or occupier of land, or against both the owner and occupier either at the same time or at different times.

(3) The Director of Agriculture shall forward a copy of every land preservation order made by him to the Central Agricultural Board and to the district agricultural committee concerned.

[Act No. 58 of 1956, s. 11, L.N. 352/1963, L.N. 365/1964.]

51. Powers of Minister to make land preservation orders

Notwithstanding anything in this Part, or in any rules made thereunder, the Minister may, whenever it appears to him to be urgently necessary in the public interest so to do, exercise any of the powers of the Director of Agriculture under this Part; and the Minister shall be the sole judge of the necessity for any action taken by him under this section, subject only to such appeal to the Agricultural Appeals Tribunal as is provided for by this Act.

52. Appeals to Minister against orders

(1) Any person aggrieved by the making of a land preservation order by the Director of Agriculture may appeal to the Minister within thirty days of the issue of the order and upon an appeal the Minister may confirm, vary or cancel the order.

(2) The Minister may, with the concurrence of the Central Agricultural Board, make rules for the conduct of appeals.

[L.N. 352/1963, L.N. 365/1964.]

53. Cancellation and amendment of orders

(1) Without prejudice to his powers on appeal as provided in section 52, the Minister may, after consultation with the Central Agricultural Board, by order, cancel any land preservation order, or exempt the person on whom any such order has been served from complying with any of the terms of the order, or extend the period within which any of the terms of the order is to be complied with.

(2) Whenever the Minister exercises the powers conferred by subsection (1) he shall cause a notice to be served on the person concerned specifying the manner in which those powers have been exercised, and the order in respect of which those powers have been exercised shall thereupon be deemed to be cancelled or amended accordingly.

[L.N. 352/1963, L.N. 365/1964.]

54. Registration of land preservation orders

(1) The Director of Agriculture shall cause a register (hereinafter referred to as the register) to be kept containing the names and addresses of all persons upon whom land preservation orders are served and containing also copies of those orders, and, where any order does not contain them, particulars of the survey or land reference number of the land to which each order relates.

(2) Upon any land preservation order being fully complied with, or being varied or cancelled under any of the powers conferred by this Act, an appropriate entry recording compliance, variation or cancellation shall be made in the register.

(3) The register shall at all reasonable times be open to inspection by any person upon payment of a fee to be prescribed by the Central Agricultural Board, and any person inspecting the register may take copies of or extracts from any entry therein.

(4) Any person may on payment of a fee to be prescribed by the Central Agricultural Board require to be furnished with a copy of or extract from any entry in the register certified to be a true copy by an officer of the Board.

(5) Forthwith upon a land preservation order, or any cancellation or variation of such an order, coming into effect, the Director of Agriculture shall cause a notification thereof, and of the survey, land reference or title number of the land affected thereby, to be given to the Registrar of Titles, who shall, without fee, enter against the title of the land in the appropriate register of titles a memorandum or note of the making, cancellation or variation of the order.

(6) Every land preservation order shall be deemed to be an encumbrance on the land to which the order relates for the purposes of the Registration of Titles Act (Cap. 281) and the Registered Land Act (Cap. 300).

[Act No. 25 of 1963, Sch., L.N. 352/1963, L.N. 365/1964.]

55. Registration of orders made

The Director of Agriculture shall cause to be entered in the register to be maintained under section 54 all subsisting orders made under the Land and Water Preservation Ordinance (Cap. 164 of 1948) (now repealed), together with the particulars required to be entered in the register, and thereupon the provisions of that section shall apply to the orders as those provisions apply to land preservation orders made under this Part.

56. Default in compliance with orders

(1) Where any owner or occupier against whom a land preservation order is made refuses or fails to comply with the terms of the order, the Minister may authorize the Director of Agriculture, or any other person or body of persons, to enter upon the land to which the order relates and to carry out such works thereon or to place such things in, on or over the land as are required to be done by the order or which are otherwise necessary to comply therewith; and any person who obstructs the execution of any such works, or any part thereof, or the placing of any such things in, on or over the land shall be guilty of an offence.

(2) The expenses incurred in or about the exercise of the powers conferred by subsection (1) shall be a debt due to the Government from the owner or occupier of the land affected, as the Minister with the agreement of the Central Agricultural Board may determine, or from the owner and occupier of the land affected in such proportions as the Minister, with the agreement of the Board, may determine.

(3) *Deleted by Act No. 38 of 1968, Sch.*

(4) So long as any debt under subsection (2) remains due, interest at such rate as may be prescribed by the Minister in consultation with the Minister for the time being responsible for Finance shall be payable thereon as from the date upon which the expenses were incurred.

(5) The certificate of the Director of Agriculture as to the date upon which expenses were incurred shall be final for the purposes of this section.

[L.N. 352/1963, L.N. 365/1964, Act No. 38 of 1968, Sch.]

57. Powers of Minister in cases of absentees

(1) Where the Minister is satisfied that a land preservation order should be made in respect of any agricultural land, but, after having made such inquiries and given such notices, by advertisement or otherwise, of his intention to exercise his powers under this section in respect of that land, as he shall think fit, is further satisfied that the person on whom such an order should be served is not in Kenya or cannot be found, the Minister may authorise the Director of Agriculture, or any other person or body of persons, to enter upon the land and to carry out such works thereon, or to place such things in, on or over the land, as the Minister may consider necessary to conserve the soil or to prevent soil erosion.

(2) Subsections (2), (4) and (5) of section 56 shall apply in respect of the exercise of the powers conferred by this section and any expenses incurred thereunder as they apply in respect of the exercise of the powers conferred by section 56 and any expenses incurred thereunder.

58. Appeals to Agricultural Appeals Tribunal

Any person aggrieved by—

- (a) the making of a land preservation order by the Director of Agriculture and by the rejection of an appeal made to the Minister under section 52;
 - (b) the making of a land preservation order by the Minister under the powers conferred on him by section 50; or
 - (c) any apportionment of liability under section 56 or section 57,
- may appeal to the Agricultural Appeals Tribunal.

59. Effect of order pending appeal

So long as any appeal against a land preservation order either to the Minister or to the Agricultural Appeals Tribunal is pending—

- (a) all prohibitions or restrictions contained in an order shall be of full force and effect;
- (b) no person shall be required to expend any money in compliance with an order unless the Minister otherwise directs.

60. Penalties for failure to comply with order

Subject to the provisions of this Act relating to appeals to the Agricultural Appeals Tribunal, any person who contravenes or fails to comply with the terms of any land preservation order duly served upon him shall be guilty of an offence punishable as provided by section 213, and in addition, in the case of a continuing offence, to a fine not exceeding one hundred shillings for each day on which the offence continues.

61. Right of lessee to compensation for work done in compliance with order

(1) Subject in all respects to the terms of his lease, where a lessee of any land has incurred expenditure on the land in complying with the terms of any land preservation order, he shall be entitled, at the termination of his lease, on quitting the land, to obtain from the lessor, as compensation for that expenditure, such sum as fairly represents the residuary value of the expenditure to the lessor.

(2) No claim for compensation under this section shall be enforceable unless before the expiration of two months after the termination of the lease the lessee has served notice in writing on his lessor of his intention to make the claim; and a notice under this subsection shall specify the nature of the claim and particulars of the expenditure incurred by the lessee.

(3) The lessor and the lessee may, within the period of four months after the termination of the lease, by agreement in writing, settle a claim under this section, and the Minister may, upon the application of the lessor or lessee made within that period, extend that period by three months.

(4) Where, on the expiration of the period and any extension thereof made under subsection (3), a claim has not been settled, it shall cease to be enforceable unless before the expiration of one month from the end of the period and any extension, or within such longer time as the Minister may in special circumstances allow, an arbitrator has been appointed by agreement between the lessor and the lessee under the provisions of this Act in that behalf or an application for the appointment of an arbitrator under those provisions has been made by the lessor or the lessee.

(5) Where a lessee lawfully remains in occupation of part of the land in respect of which expenditure referred to in subsection (1) was incurred after the termination of a lease, references in this section to the termination thereof shall, in the case of a claim relating to that part of the land, be construed as references to the termination of the occupation.

(6) A claim for compensation under this section shall, in default of agreement, be determined by the arbitration of a single arbitrator, and the provisions of the Arbitration Act (Cap. 49) shall apply to the arbitration.

(7) For the purposes of this section, “**lessor**” includes a landlord and a licensor, “**lessee**” includes a tenant and a licensee and “**lease**” includes a tenancy and a licence.

(8) Nothing in this section shall affect the provisions of Part VI of the Trusts of Land Act (Cap. 290) relating to improvements in respect of land held upon trust for sale.

62. Change of owner or occupier affect order

Where a land preservation order is in force in respect of any land, any disposition (including a testamentary disposition), devolution or transmission of the land to which the order relates shall not affect the continued operation of the order, and accordingly the order shall remain in force and be binding on the new owner or occupier as if it had been made so as to relate to the new owner or occupier as well as to the former owner or occupier.

PART V – DEVELOPMENT OF LAND

63. Deleted by L.N. 352/1963.

64. Minister's power to make land development orders

(1) Subject to this Part, the Minister may make orders (in this Act referred to as land development orders) requiring the execution in respect of any agricultural land by the owners or the occupiers thereof of development programmes to be carried out at such rate and to be completed within such period as may be specified in the orders.

(2) A land development order may be made against the owner or occupier of land, or against both the owner and occupier, either at the same or at different times.

(3) For the purposes of this Act, “**development programme**” means the adoption of such system of management or farming practice or other system in relation to the land in question (including the execution of such work and the placing of such things in, on or over the land, from time to time) as the Central Agricultural Board may consider necessary for the proper development of the land for agricultural purposes.

[L.N. 352/1963, L.N. 365/1964.]

65. Preliminaries to making of land development orders

(1) Whenever a district agricultural committee considers that it is in the interests of good land management or good husbandry or the proper development of the land for agricultural purposes that a land development order should be made in respect of any agricultural land against the owner or occupier thereof, the committee may serve on the owner or occupier a notice to the effect that the committee intends to submit a report on the matter to the provincial agricultural board having jurisdiction in the area of the committee; and every such notice shall indicate the general nature of the report proposed and shall afford the person upon whom it is served an opportunity to show cause within fourteen days why a report should not be made.

(2) As soon as practicable after the expiration of the period of fourteen days, the provincial agricultural board, having taken into consideration any representations made to it under subsection (1), may submit a report embodying any of those representations and such facts and circumstances relating to the management or development of the land as are known to it, to the Central Agricultural Board, and, whether or not it decides to submit a report, communicate its decision in writing to the person upon whom the notice was served:

Provided that no report shall be made without prior inspection of the land by at least one member of the provincial agricultural board, the owner or occupier having been given reasonable opportunity for himself or his representative to attend the inspection.

(3) In the event of the committee deciding to submit a report, the person to whom that decision is communicated under subsection (2) may, by written notice delivered to the provincial agricultural board within fourteen days after receipt by him of the communication, object to the decision by notice in writing, stating the grounds of his objection, to the provincial agricultural board.

(4) Upon receipt of a report pursuant to this section, the provincial agricultural board shall, if it supports the report, forward the report to the Central Agricultural Board with a recommendation for the acceptance thereof, and in any event inform the committee and the person concerned, in writing, of its decision and reasons:

Provided that, in the event of an objection having been lodged under subsection (3), the provincial agricultural board shall not make any decision without having invited the person objecting to attend before it and having heard him if he has attended.

[L.N. 352/1963, L.N. 365/1964, Act No. 9 of 1967, Sch.]

66. Development Programmes

(1) Upon receipt of the recommendation of a provincial agricultural board under subsection (4) of section 65, the Central Agricultural Board shall, if it accepts the recommendation, serve a notice on the person concerned, being the owner or occupier, as in the opinion of the Board the case may require, of the land to which the recommendation relates, requiring him to submit to the appropriate district agricultural committee, before a date to be specified in the notice, a development programme in respect of such land.

(2) A development programme shall be submitted in such form and shall contain such estimates of cost and other information as may from time to time be prescribed or required by the Central Agricultural Board.

(3) Where, upon receipt of any recommendation, the Central Agricultural Board decides not to accept it, it shall inform the district agricultural committee, the provincial agricultural board and the person concerned, in writing, of its decision and the reasons therefor.

(4) Whenever an owner or occupier fails to submit a development programme within the time specified in a notice served on him under this section, the Central Agricultural Board shall itself prepare a development programme for the land to which the notice relates.

[L.N. 352/1963, L.N. 365/1964, Act No. 9 of 1967, Sch.]

67. Approval of development programmes by district agricultural committees and provincial agricultural board

(1) On receipt of a development programme submitted by an owner or occupier under section 66, the district agricultural committee shall forward it to the provincial agricultural board having jurisdiction in the area of the committee endorsed with its approval or, after consultation with the person concerned but not necessarily with his consent, with its approval subject to such conditions thereof as the committee may deem expedient.

(2) A provincial agricultural board, on receiving a development programme with endorsements under subsection (1) shall forward it to the Central Agricultural Board together with such recommendations of its own as it shall think fit to make thereon.

[L.N. 352/1963, L.N. 365/1964.]

68. Approval of development programmes by Board

(1) The Central Agricultural Board upon receipt of a development programme endorsed under subsection (1) of section 67, and after consideration of the recommendations made thereon to the Board under subsection (2) of that section, may approve the development programme with or without modifications, and it may thereupon recommend to the Minister the making of a land development order against the owner or the occupier, as in the opinion of the Board the case may require, of the land to which the development programme relates.

(2) In any case in which the Central Agricultural Board itself prepares a development programme under section 66, the Board shall recommend to the Minister the making of a land development order against the person who, having been required so to do under section 66, has failed to submit a development programme in accordance with that section or his successor in title or interest.

69. Modification of development programmes

Any modifications of a development programme made under section 67, and any modifications made by the Central Agricultural Board under section 68(1), may include the substitution, wholly or in part, of another development programme for that submitted by the owner or occupier of the land affected.

[L.N. 352/1963, L.N. 365/1964.]

70. Power to make land development order

Whenever a recommendation has been made to the Minister under section 68, the Minister shall, unless he sees special reason to the contrary, forthwith make a land development order, in the terms of the recommendation, and cause it to be served upon the owner or occupier against whom it is made.

71. *Deleted by Act No. 29 of 1967, Sch.*

72. Appeal against order

Any person aggrieved by the making of a land development order, may appeal to the Agricultural Appeals Tribunal.

[Act No. 47 of 1960, s. 24.]

73. Penalty for non-compliance with order

Any person who contravenes or fails to comply with the terms of a land development order shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or in default of payment to imprisonment for one month, and in the case of a continuing offence to a fine not exceeding one hundred shillings for every day of which the offence continues.

74. Application of certain sections to land development orders

The following sections of this Act shall apply to land development orders as they apply to land preservation orders—

53 —cancellation. and amendment of land preservation orders;

- 56 —default in compliance with land preservation orders;
- 57 —powers of Minister in cases of absentees;
- 59 —effect of land preservation orders pending appeal;
- 61 —right of lessee to compensation for work done in compliance with land preservation order;
- 62 —changes of owner or occupier not to affect land preservation orders.

[Act No. 58 of 1956, s. 12, Act No. 25 of 1963, Sch., L.N. 352/1963, L.N. 365/1964.]

74A. Register of land development orders

(1) The Central Agricultural Board shall cause a register (in this section referred to as the register) to be kept containing the names and addresses of all persons upon whom land development orders are served and containing also copies of the orders, and, where any order does not contain them, particulars of the survey or land reference number of the land to which each order relates.

(2) Upon any land development order being fully complied with, or being varied cancelled under any of the powers conferred by this Act, an appropriate entry recording compliance, variation or cancellation shall be made in the register.

(3) The register shall at all reasonable times be open to inspection by any person upon payment of a fee to be fixed by the Central Agricultural Board, and any person inspecting the register may take copies of or extracts from any entry therein.

(4) Any person may, on payment of a fee to be fixed by the Central Agricultural Board, require to be furnished with a copy of or extract from any entry in the register certified to be a true copy by an officer of the Board.

(5) Upon a land development order, or any cancellation or variation of such an order, coming into effect, the Central Agricultural Board shall cause a notification thereof, and of the survey, land reference or title number of the land affected thereby, to be given to the Registrar of Titles, who shall, without fee, enter against the title of the land in the appropriate register of titles a memorandum or note of the making, cancellation or variation of the order.

(6) Every land development order shall be deemed to be an encumbrance on the land to which the order relates for the purposes of the Registration of Titles Act (Cap. 281) and the Registered Land Act (Cap. 300).

PART VI – GENERAL SCHEMES FOR LAND PRESERVATION AND LAND DEVELOPMENT

75. Preparation of schemes

Whenever the Minister, on representations by the Central Agricultural Board, considers it to be for the general benefit of any area of land that work should be carried out on the land for any of the purposes referred to in section 48 or section 64, he may cause to be prepared a draft scheme for that purpose in the manner hereinafter provided.

[L.N. 352/1963, L.N. 365/1964.]

76. Contents of schemes

Every draft scheme prepared under this Part shall set out—

- (a) the area of the land to be affected by the scheme;
- (b) a description of the works proposed to be executed in pursuance of the scheme;
- (c) the estimated cost of preparing and carrying out the scheme;
- (d) the contribution, if any, which the Minister, in consultation with the Minister for the time being responsible for Finance, proposes should be made towards the cost out of public funds, having regard to any prospective liability under section 80;
- (e) the basis of apportionment, as between the holdings comprised in the area of the draft scheme and as between the owners of interests in and occupiers of the holdings, of the net cost of the scheme after deduction of the contribution, if any, to be made thereto;
- (f) the manner in which and the period during which payments to become due from the owners and occupiers under the terms of the draft scheme are to be made, and the rate of interest to be payable on any payment for the time being in arrear.

77. Publication of and objection to draft schemes, and adoption thereof

(1) The Central Agricultural Board shall give to the owners of interests in and occupiers of the holdings comprised in the area of any draft scheme prepared under this Part notice of the making thereof, of the place where it can be inspected and of the time (which shall not be less than twenty-one days from the date of the notice) within which objections thereto may be made to the Board.

(2) After considering any objections which have not been withdrawn and making any modifications in the draft scheme which he thinks expedient having regard to any such objection, and upon the Central Agricultural Board certifying that such persons as appear to the Board to represent interests amounting to not less than three-fourths of the improved value of the area comprised in the draft scheme consent thereto, the Minister may adopt the scheme.

(3) No land shall be included in the area of any scheme as adopted by the Minister which was not included in the area of the draft scheme of which notice was given under subsection (1).

[L.N. 352/1963, L.N. 365/1964.]

78. Approval of schemes by National Assembly

(1) Every scheme adopted by the Minister under section 77 shall be submitted to the National Assembly for approval, and the National Assembly may approve or reject the scheme or may approve the scheme subject to such modification in the amount of the contribution to be made out of public funds towards the cost of the scheme as it may think fit.

(2) As soon as may be after the approval of a scheme by the National Assembly, the Minister shall cause notice thereof and of the contents thereof to be published in the *Gazette* and served upon every owner and occupier affected thereby.

[L.N. 365/1964.]

79. Execution of schemes and recovery of costs thereof

(1) Where a scheme has been approved by the National Assembly under section 78—

- (a) the Director of Agriculture, or any other person or body of persons authorised by the Minister in that behalf, may execute the scheme, and for that purpose shall have the same powers as may be conferred by the Minister under section 56(1); and
- (b) the persons between whom the net cost of the scheme is apportioned under section 76(e) shall be liable respectively to pay to the Government, in the manner and within the period provided for by the scheme, the amounts apportioned to them by the scheme.

(2) Any person who obstructs the execution of any scheme, or any part thereof, shall be guilty of an offence.

[L.N. 365/1964.]

80. Compensation to person's injuriously affected by schemes

(1) Compensation assessed by the Minister in accordance with the Fourth Schedule shall be payable out of moneys provided by Parliament in respect of the execution of any scheme under this Part to the owner or occupier of any land injuriously affected thereby.

(2) Where compensation is due to any person under this section and any sum is due from him in respect of the net cost of any scheme, the compensation and sum shall be set off the one against the other and the difference only, if any, shall be payable to or by that person.

[L.N. 365/1964.]

81. Appeals to Agricultural Appeals Tribunal

Any person aggrieved by the making of a scheme under this Part may appeal to the Agricultural Appeals Tribunal; and for the purposes of Part XV the date of the making of a scheme shall be deemed to be the date of the publication thereof under section 78(2).

PART VII

82. *Repealed by Act No. 27 of 1963, s. 11.*

83. *Repealed by Act No. 27 of 1963, s. 11.*

84. *Repealed by Act No. 27 of 1963, s. 11.*

85. *Repealed by Act No. 27 of 1963, s. 11.*

86. *Repealed by Act No. 27 of 1963, s. 11.*

87. *Repealed by Act No. 27 of 1963, s. 11.*

88. *Repealed by Act No. 27 of 1963, s. 11.*

89. *Repealed by Act No. 27 of 1963, s. 11.*

90. *Repealed by Act No. 27 of 1963, s. 11.*

91. Repealed by Act No. 27 of 1963, s. 11.
92. Repealed by Act No. 27 of 1963, s. 11.
93. Repealed by Act No. 27 of 1963, s. 11.
94. Repealed by Act No. 27 of 1963, s. 11.
95. Repealed by Act No. 27 of 1963, s. 11.
96. Repealed by Act No. 27 of 1963, s. 11.
97. Repealed by Act No. 27 of 1963, s. 11.
98. Repealed by Act No. 27 of 1963, s. 11.
99. Repealed by L.N. 352/1963.

PART VIII – THE ENSURED PRODUCTION OF A SUFFICIENCY
OF FOOD CROPS FOR THE REQUIREMENTS OF KENYA

*A— Programmes of Production, Production Approvals and
Production Orders*

100. Declaration of essential crops

(1) The Minister may, as soon as may be after every annual review made under section 5, by order published in the *Gazette*, declare such scheduled crops as in his opinion are necessary for the requirements of Kenya and for fulfilling any obligations to supply East African demands or are necessary for good land management, to be essential crops for the purposes of this Part.

(2) In making a declaration under subsection (1) the Minister may declare a particular variety only of a scheduled crop to be an essential crop.

(3) For the purposes of this section, “**scheduled crops**” includes maize as defined in the Maize Marketing Act (Cap. 338).

[Act No. 58 of 1956, s. 13, Act No. 6 of 1959, Sch., Act No. 47 of 1960, s. 31, L.N. 21/1964.]

101. Programmes of production of essential crops

(1) Within fourteen days of the publication of an order under section 100, the chief executive officer of the Central Agricultural Board shall send by post to every person who in his opinion will or is likely to produce an essential crop, and who is also registered as the owner or occupier of a large-scale farm under section 22(4), such forms relating to farming operations concerning the production of essential crops as may be prescribed by the Board for the purposes of this Part.

(2) Any person who is registered under section 22(4) may, within forty-two days of the publication of an order under section 100, apply in writing to the chief executive officer of the Central Agricultural Board for such forms as may relate to farming operations concerning the production of essential crops as may be prescribed by the Board; and on receipt of the application the chief executive officer shall forthwith send the forms by post to the applicant.

(3) Every person to whom forms are sent under subsection (1) or subsection (2) shall complete them and submit them to the district agricultural committee before such date as may be specified by the Central Agricultural Board, either generally or by reference to any crop or area in Kenya, by notice in the *Gazette*:

Provided that not less than twenty-one days from the date on which, in due course of post, the prescribed forms ought to have reached him shall be allowed to a person for the completion and submission thereof by him.

(4) The Central Agricultural Board may, with the approval of the Minister, by notice published in the *Gazette*, direct that each form submitted under this section to a committee shall be accompanied by such map, plan and aerial photograph, and on such scale, as the Board may specify.

(5) Separate forms or sets of forms shall be completed in respect of each farm or farming unit of which the person is the owner or occupier:

Provided that, where a form is completed in respect of part only of a farm other parts of which are occupied by another person or persons, there shall be attached to the form a rough sketch plan of the land which it is proposed to plant showing its relation to the farm as a whole, together with details of the kind of crop or crops which it is intended to plant on that land.

(6) The forms referred to in this section shall require details of the owner's or occupier's planting programme of essential crops, and shall when completed in accordance with this section constitute his programme of production of the crops in respect of the land to which the forms relate.

(7) Any person who knowingly or recklessly gives any false information or withholds any material information in any form referred to in this section or in any programme of production, whether in those forms or not, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or in default of payment to imprisonment for a period not exceeding one month.

[Act No. 58 of 1956, s. 14, Act No. 2 of 1959, s. 8, L.N. 352/1963, L.N. 365/1964.]

102. Programme of production to be forwarded

Where a programme of production is submitted to a district agricultural committee under section 101, the committee shall proceed to consider it and shall, within one month of its receipt, forward it to the provincial agricultural board having jurisdiction in the area of the committee, endorsed with such recommendations as the committee may think fit to make thereon; and the provincial agricultural board, on receipt of the programme of production, shall within one month thereof consider and forward it, together with its recommendations thereon, to the Central Agricultural Board:

Provided that the provincial agricultural board may, with the consent of the Central Agricultural Board, arrange for any programme of production to be forwarded direct to that Board by the committee endorsed only with the recommendations of the committee.

[L.N. 352/1963, L.N. 365/1964.]

103. Board's powers to prepare programme of production

(1) Where any occupier of agricultural land required under section 101 to submit a programme of production fails so to do, the Central Agricultural Board

may itself prepare a programme of production of essential crops in respect of that land; and nothing in this subsection shall prejudice the taking of proceedings for an offence under that section.

(2) Every programme of production shall specify, in such manner as the Board thinks proper, the planting and other acts or things required to be done thereunder.

[L.N. 352/1963, L.N. 365/1964.]

104. Production approval and production orders

(1) Upon receipt of a programme of production and the recommendations thereon of the provincial agricultural board or the district agricultural committee under section 102, the Central Agricultural Board may—

(a) approve the programme of production, or approve it with such modifications as it thinks fit; or

(b) refuse to approve the programme of production.

(2) Where, under paragraph (a) of subsection (1), the Board has approved, or approved with modifications, a programme of production, it may, at the request of the owner or occupier who has submitted the programme of production, make and issue to the owner or occupier of the land to which the programme of production relates a production approval approving the programme of production.

(3) Where, under section 103, the Board has itself prepared a programme of production, it may make and serve on the occupier of the land to which the programme of production relates a production order ordering the production on the land or on a specified part thereof of the essential crops therein specified.

(4) Wherever it appears to the Minister necessary in the national interest to do so, he may direct the Board in specified cases or classes of cases to make and serve production orders in lieu of making and issuing production approvals in cases where, but for such direction, production approvals would have been made and issued.

(5) Every production approval and every production order shall be in such form as may be prescribed, and shall be subject to such conditions as may be prescribed and endorsed thereon by the Board.

(6) Where a production approval or a production order is in force in respect of any land, a disposition (including a testamentary disposition), devolution or transmission of the land shall not affect the continued operation of the approval or order, and accordingly the approval or order shall remain in force and be binding on every person for the time being in occupation of the land as if it had been made so as to relate to that person as well as to the person in occupation at the date of the making thereof.

(7) The Board may, by resolution, delegate to any officer of the Board the exercise of any of the powers conferred upon the Board by this section, either generally or in any particular case.

[Act No. 47 of 1960, s. 32, L.N. 352/1963, L.N. 365/1964.]

105. Variation and cancellation of production approvals and production orders

(1) The Central Agricultural Board may at any time, by order, cancel any production approval or production order, or vary the terms thereof, or extend the period allowed thereby for compliance with the terms thereof.

(2) The Board shall give effect to an order made under subsection (1) by serving a copy of the order on the person affected by the production approval or production order.

[Act No. 47 of 1960, s. 33, L.N. 352/1963, L.N. 365/1964.]

106. Appeal against making of production approval or production order

Any person who is aggrieved by the making of a production approval or production order in his respect may, within fourteen days after the issue to him of the approval or the service on him of the order, appeal to the Agricultural Appeals Tribunal.

[Act No. 47 of 1960, s. 33.]

107. Failure to comply with production order or production approval

Any person who fails to comply with the terms of a production order, and any person to whom a production approval has been issued for the production of an essential crop and who, having received an advance under section 116, fails to produce the essential crop in accordance with the terms of the production approval, shall be guilty of an offence.

[Act No. 47 of 1960, s. 33.]

108. Additional powers to vary production approvals and production orders

(1) Where a person served with a production order, at any time after the time limited for an appeal to the Agricultural Appeals Tribunal against the order, considers that compliance with the order would entail grave hardship to him, he shall forthwith notify in writing the appropriate district agricultural committee thereof, stating the circumstances giving rise to the alleged hardship.

(2) Where a person has submitted a programme of production, or where under the provisions of section 103 the Central Agricultural Board has prepared a programme of production in respect of the land occupied by any person, and, at any time after that person is issued with a production approval or served with a production order, he wishes to increase or vary the programme, he shall forthwith notify in writing the appropriate district agricultural committee thereof.

(3) A district agricultural committee receiving a notification under subsection (1) or subsection (2) shall forward it through the provincial agricultural board having jurisdiction in the area of the committee to the Central Agricultural Board with such recommendations as the committee may think fit to make thereon, and the latter Board may thereupon exercise the powers conferred upon it by section 105 in respect of the production approval or production order to which the notification relates or make a new production approval or production order.

(4) A person who has submitted a notification to a district agricultural committee under subsection (2) shall not be entitled to the benefit of any guarantee referred to in section 110 unless the Central Agricultural Board has consented in writing to the proposals contained in the notification.

[Act No. 47 of 1960, s. 34, L.N. 352/1963, L.N. 365/1964.]

109. Return of essential crops

(1) Every person registered as an owner or occupier of a large-scale farm under section 22(4) shall, if so required by the Board, in each year within fourteen days of the appointed day, submit a return to the appropriate district agricultural committee, showing—

- (a) the total acreage of land which has been planted with essential crops;
- (b) the quantity of those crops which have been harvested; and
- (c) the quantity of those crops which that person has retained or wishes to retain for consumption on his farm.

(2) The Committee, on receipt of a return submitted under subsection (1), shall forward it to the Central Agricultural Board.

(3) The return to be submitted under this section shall be in such form as may be prescribed, and where no crop has resulted a return to that effect shall be submitted.

(4) Any person who fails to submit a return in accordance with the requirements of this section shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or in default of payment to imprisonment for a term not exceeding one month.

(5) If any person in purported compliance with the requirements of this section knowingly or recklessly submits a return or furnishes any information which is false in any material particular, or withholds any material information in a return, he shall be guilty of an offence.

(6) For the purposes of this section, “**the appointed day**” means such day in each year as the Board may, by notice in the *Gazette*, appoint for the submission of returns in respect of essential crops; and the Board may appoint different dates for different essential crops or for different areas of Kenya.

[Act No. 58 of 1956, s. 16, Act No. 47 of 1960, s. 35, L.N. 352/1963, L.N. 365/1964.]

B—Guaranteed Minimum Returns, Advances and Grants

110. Guaranteed minimum returns

Every person upon whom a production approval or a production order has been served shall, subject to this Act, be guaranteed by the Government such minimum return of money for every acre of land appropriate for planting with an essential crop, in compliance with the terms of the approval or the order, as may from time to time be prescribed by order made by the Minister.

[Act No. 47 of 1960, s. 36, L.N. 365/1964.]

111. Assessment of guaranteed minimum return

(1) The sum of money which, subject to this Act, shall be paid out of public funds as representing the guaranteed minimum return provided for by section 110 shall be the aggregate of the following amounts—

- (a) in respect of every acre of essential crops actually harvested, the prescribed sum per acre;
- (b) in respect of every acre of land actually planted with essential crops, exclusive of any acreage in respect of which a payment is due under paragraph (a), the prescribed sum per acre;
- (c) in respect of every acre of land prepared for planting under the terms of the production approval or production order, but not in fact planted due to causes which, in the opinion of the Central Agricultural Board, were outside the control of the person concerned, such sum per acre as, in the opinion of the Board, is sufficient to cover the expenditure necessarily incurred in preparing the land for planting:

Provided that—

- (i) in any case where a person is required under section 114 to replant any acreage of land, the amount of the guaranteed minimum return in respect of the crop concerned may, in the discretion of the Board, but subject to any rules made under any Act, be deemed to be increased by such additional sum of money as, in the opinion of the Board, is sufficient to cover the actual expenditure incurred by the farmer in replanting the land and where the Board has directed that the land shall be replanted with a crop different from the crop originally planted an additional sum per acre may be paid on the direction of the Board at such rate as may be prescribed;
- (ii) the sum per acre payable under paragraph (b) shall be less than the sum per acre payable under paragraph (a), and the sum per acre payable under paragraph (c) shall be less than the sum per acre payable under paragraph (b);
- (iii) the value of any essential crops reaped by the person concerned, including the value of any proportion of those crops retained by him, shall be deducted from any payments due to him under the preceding provisions of this subsection;
- (iv) for the purposes of paragraph (iii) of this proviso, the value of any essential crops reaped by the person concerned shall be calculated, if the crops are scheduled crops, on the prices fixed or agreed for those crops under Part II, less such amount as may be prescribed in respect of transport between the farm where the crops are grown and the place where the crops are, or would but for their retention have been, delivered to an agent constituted or appointed under Part II;
- (v) no amount shall be payable in respect of any acreage exceeding the maximum acreage required to be planted by a production approval or production order.

(2) Different sums per acre may be prescribed for different essential crops or for different areas of Kenya, for any of the purposes of subsection (1).

(3) Where any person is required under the terms of any production approval or production order to produce one kind of essential crop upon two or more farms, the value, if any, of all crops of that kind produced on both or all those farms shall be aggregated for the purpose of determining any deductions which may be made under paragraphs (iii) and (iv) of the proviso to subsection (1).

(4) Where any person is required under the terms of a production approval or production order to produce more than one kind of essential crop, no account shall be taken, in determining whether or not he is entitled to payment of the guaranteed minimum return for any particular kind of crop, of the value of any other kind of essential crop produced by him.

[Act No. 47 of 1960, s. 37, L.N. 352/1963, L.N. 365/1964.]

112. Adjustments for advances made, and repayment of advances

(1) There shall be deducted from the amount due under this Act to any person on account of the guaranteed minimum return in respect of any essential crop all amounts outstanding on account of any advance made to him under section 116 together with all interest due thereon.

(2) Where the sum of money which under this Act may be paid to any person on account of the guaranteed minimum return in respect of any essential crop is less than the amount outstanding on account of any advance made to him together with interest thereon, the difference between that sum of money and the amount so outstanding, with interest, shall be a debt due by that person to the Central Agricultural Board.

(3) Where a person has received an advance against the guaranteed minimum return in respect of any essential crop, and the value of the essential crop, calculated as provided by section 111, equals or exceeds the guaranteed minimum return in respect of that crop, the amount outstanding on account of the advance together with interest thereon shall be a debt due by that person to the Central Agricultural Board.

(4) Where a person has received an advance against the guaranteed minimum return in respect of any essential crop and the value of the essential crop calculated under section 111, if any, does not equal or exceed the guaranteed minimum return in respect of that crop, and the Central Agricultural Board is satisfied that the failure to attain a return from that crop equal to the guaranteed minimum return is due to neglect or default on the part of that person, the amount outstanding on account of the advance together with interest thereon shall be a debt due from that person to the Board.

(5) Every debt due to the Board under this section shall accrue and become due and payable on such date as the Board demands payment thereof.

[L.N. 352/1963, L.N. 365/1964.]

113. When and to whom guaranteed minimum return to be paid

(1) It shall be a condition precedent to any claim for payment of the guaranteed minimum return, or any sum on account thereof, that in the event of—

- (a) failure, or anticipated failure, of an essential crop; or

(b) failure, or partial failure, of the harvesting of an essential crop, the producer of the crop shall give written notification thereof to the chairman of the appropriate district agricultural committee and afford such facilities as the committee may reasonably require for inspection of the crop in its then state; a producer shall be presumed to anticipate a failure of a crop whenever he ought reasonably so to do in the circumstances of any case.

(2) Payments of the guaranteed minimum return or any portion thereof in respect of any essential crop may be made in one sum or by instalments as the Central Agricultural Board may determine, at the end of the crop year, or at such time or times as may be prescribed, on proof to the satisfaction of the Board being furnished by the person claiming any such payment—

- (a) that at the end of the crop year, or at such time as may be prescribed, his financial return in respect of the essential crop does not equal or exceed the amount of the guaranteed minimum return; and
- (b) that his failure or inability to obtain a financial return equal to or exceeding the amount of the guaranteed minimum return is not due to any neglect or default, in any respect, on his part.

(3) Where any dispute or question arises as to the person entitled to claim or receive any payment on account of the guaranteed minimum return in respect of any essential crop, or as to the amount of any such payment, the dispute may be determined by the Board, whose decision shall be final.

[Act No. 2 of 1959, s. 10, L.N. 352/1963, L.N. 365/1964.]

114. Replanting of crops if destroyed

(1) Where any essential crop which a person is producing under the terms of a production approval or production order is destroyed or substantially damaged by insect pests or plant disease or act of God, that person shall forthwith report the destruction or damage to the chairman of the appropriate district agricultural committee who may require him to replant as soon as possible the acreage of land affected with such essential crops as the chairman directs.

(2) The chairman of the district agricultural committee shall forthwith give written notification to the Central Agricultural Board of any instance in which he has required land to be replanted under this section, and of the details thereof, and the Board shall thereupon vary the terms of the appropriate production approval or production order so as to conform to that requirement.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding four thousand shillings or in default of payment to imprisonment for a term not exceeding two months.

[Act No. 2 of 1959, s. 11, Act No. 47 of 1960, s. 38, L.N. 352/1963, L.N. 365/1964.]

115. Harvesting of essential crops

(1) Every person who, under the terms of a production approval or production order, is producing any essential crop shall, unless the Central Agricultural Board exempts him from so doing, harvest every essential crop produced by him in accordance with the terms of the order, and, without prejudice to the taking of proceedings under subsection (2), the Board, by any person authorized by them

in that behalf, may enter upon the land and harvest and market the crops, reimbursing themselves, out of the proceeds of sale thereof, the expenses thereby incurred.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or in default of payment to imprisonment for a term not exceeding three months.

[Act No. 47 of 1960, s. 39, L.N. 352/1963, L.N. 365/1964.]

116. Advances against guaranteed minimum returns

(1) Any person to whom a production approval has been issued for the production of, and any person required by the terms of a production order to produce, any essential crop may apply for an advance up to the amount of the guaranteed minimum return estimated to be payable in respect of that crop; applications for such advances shall be made, in such form as the Central Agricultural Board may prescribe, to the Board, through the appropriate district agricultural committee.

(2) The Board may require any person applying for an advance under this section to submit such evidence and such particulars in relation to the purposes for which it is intended to expend the advance as the Board may think fit, and the evidence and particulars shall be furnished in such form as the Board may determine or as may be prescribed.

(3) Upon application being made the Central Agricultural Board may make an advance against the guaranteed minimum return, and the advance may be made in instalments or in any other manner approved by the Board:

Provided that the amount of the advance shall not exceed such amount, or such percentage of the guaranteed minimum return, or estimated guaranteed minimum return, as may be prescribed.

(4) The Board may, by resolution, delegate to any officer of the Board the exercise of any of the powers conferred upon the Board by this section, either generally or in any particular case.

[Act No. 2 of 1959, s. 12, Act No. 47 of 1960, s. 40, L.N. 352/1963, L.N. 365/1964.]

117. Purposes for which advance may be applied

An advance made under section 116 against a guaranteed minimum return shall, unless the Central Agricultural Board approves otherwise, be used for the purpose only of meeting actual expenditure incurred in preparing and fertilizing the land on which it is proposed to plant the essential crop to which the guaranteed minimum return relates, or in planting the crop, bringing the crop to maturity or harvesting, storing, insuring or transporting the crop, and shall not be used for any other purpose whatsoever; and any person who fails to comply with this section shall be guilty of an offence punishable as provided by section 213, and, in addition, shall be liable forthwith to repay the advance with interest at such rate as may from time to time be prescribed by the Minister with the concurrence of the Treasury from the date of payment of the advance.

[Act No. 2 of 1959, s. 13, L.N. 352/1963, L.N. 365/1964.]

118. Effect of cancellation or variation of production approval or production order on advance

Where the Central Agricultural Board has, under section 105, cancelled or varied the terms of any production approval or production order and such cancellation or variation affects the amount of any advance made or which may be made to the person affected by the approval or order under section 116, the Board shall inform the Agricultural Finance Corporation accordingly, and the Agricultural Finance Corporation shall comply with the terms of such instructions as the Board may issue in respect of the advance; and the Board may require the immediate repayment of the whole or any part of the advance, but shall have regard to the amount of any expenses already incurred by the person affected by the approval or order in complying with the terms of the approval or order prior to its cancellation or variation.

[Act No. 47 of 1960, s. 41, Act No. 27 of 1963, s. 11, L.N. 352/1963, L.N. 365/1964.]

119. Interest on advance

The amount for the time being outstanding on account of any advance made under section 116 shall until repaid bear interest at such rate as may be prescribed by the Minister with the concurrence of the Minister for the time being responsible for Finance.

120. Security for advance against guaranteed minimum return

(1) All moneys advanced to any person under the provisions of section 116, together with interest thereon and all charges incidental thereto and to the repayment thereof, shall, subject to any prior charge duly registered under the Chattels Transfer Act or the Companies Act, become on registration of the notification referred to in this subsection a first charge on the essential crop in respect of which the advance is made and upon such other chattels of that person as the Central Agricultural Board may specify; and the Agricultural Finance Corporation shall cause written notification of every such advance to be given to the registrar concerned, who shall without fee register the notification as if it were an instrument within the meaning of the Chattels Transfer Act or a charge within the meaning of the Companies Act, and the Chattels Transfer Act or the Companies Act shall thereupon apply as if the advance were secured by an instrument or charge duly made and registered under and in accordance with the Act applicable.

(2) Notwithstanding any provision of the Chattels Transfer Act or the Companies Act, every registration of a notification under subsection (1) shall remain in force until cancelled.

(3) Where any advance the subject of a notification under subsection (1) has been repaid or written off or replaced by an instrument or charge registered under the Chattels Transfer Act (Cap. 28) or the Companies Act (Cap. 486), as the case may be, the Agricultural Finance Corporation shall notify the cancellation of the notification to the registrar concerned, who shall without fee record the cancellation.

[Act No. 2 of 1959, s. 14, Act No. 27 of 1963, s. 11, L.N. 352/1963, L.N. 365/1964.]

121. Insurance by person to whom advance has been made

(1) Every person to whom an advance against a guaranteed minimum return has been made under section 116 shall take out an insurance policy against fire and against such other risks as the Central Agricultural Board may require over the crop in respect of which the advance is made in a sum not less than the amount of the advance.

(2) For the purposes of this section, “**crop**” means the crop when severed from the soil.

(3) An insurance policy shall be taken out with an insurance company approved by the Board in the joint names of the recipient of the advance and the Board, and shall be endorsed with a memorandum of or otherwise refer to their respective rights and interests.

(4) Any person to whom a production approval has been issued or upon whom a production order has been served, whether or not he has applied for or received an advance, shall not be eligible to claim the guaranteed minimum return in respect of any essential crop if his claim is based on the destruction or damage of the crop by fire or other risk referred to in subsection (1) and he has failed to take out an insurance against that risk or, in the opinion of the Central Agricultural Board, to take reasonable precautions against the risk.

(5) Any person who fails to comply with subsection (1) shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or in default of payment to imprisonment for a term not exceeding six months.

[Act No. 47 of 1960, s. 42, L.N. 352/1963, L.N. 365/1964.]

122. Construction of Part in relation to Part II

Nothing in this Part shall be construed as affecting the application of Part II to essential crops.

123. Deduction by agents from sale moneys of essential crops

(1) Every agent constituted or appointed under Part II or under any other enactment controlling the purchase, collection, storage or marketing of any scheduled crop or scheduled animal product is hereby empowered to deduct from any moneys derived from the sale of any essential crop produced by any person marketed through that agent the amount outstanding on account of any advance made to that person under section 116.

(2) Deductions may be made under subsection (1) notwithstanding that any person would, but for the provisions of this section, be entitled, at law or in equity to, or to a charge on the proceeds of sale of, or to a charge on, the guaranteed minimum return in respect of, the essential crops; and, for the purposes of this subsection, “**charge**” includes any mortgage, lien, pledge, hypothecation or other charge or security whatsoever.

[Act No. 2 of 1959, s. 15.]

124. Restrictions on termination of lease, etc., of land on which essential crop is grown

(1) Notwithstanding the provisions of any lease, tenancy agreement or licence of land in respect of which a production approval has been issued or a

production order has been served under this Act, and notwithstanding any law for the time being in force, the lessor, landlord or licensor shall not, except with the consent of the Central Agricultural Board, exercise any power of determination of the lease, tenancy agreement or licence by notice, forfeiture or otherwise so as to determine it before the harvesting and disposal of any essential crop produced by the lessee, tenant or licensee on the land in accordance with the production approval or the production order.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or in default of payment to imprisonment for a term not exceeding one month, and any purported determination shall be void and of no effect.

[Act No. 47 of 1960, s. 43, L.N. 352/1963, L.N. 365/1964.]

125. Funds for carrying out provisions of Part

(1) The Minister for the time being responsible for Finance is hereby authorized to place at the disposal of the Minister all such moneys as may from time to time be provided by Parliament for the purposes of this Part, and to afford the Agricultural Finance Corporation all such guarantees or other credit facilities as may be approved by the National Assembly for those purposes; and the Minister may place any portion of those moneys, as he may from time to time think fit at the disposal of the Central Agricultural Board for the like purposes.

(2) All repayments made on account of the capital amounts of advances made in respect of guaranteed minimum returns shall be transferred by the Agricultural Finance Corporation on the direction of the Minister for the time being responsible for Finance to the Consolidated Fund.

[Act No. 27 of 1963, s. 11, L.N. 352/1963, L.N. 365/1964.]

126. Agricultural Finance Corporation to act as agent for advances, etc.

The Agricultural Finance Corporation shall act as agent for the Central Agricultural Board in making, on the order of the Board, out of moneys provided under this Act—

- (a) advances under section 116; and
- (b) payments of or on account of guaranteed minimum returns,

and in collecting and accounting for all repayments of capital and interest and other payments on account of all such advances and payments.

[Act No. 27 of 1963, s. 11, L.N. 352/1963, L.N. 365/1964.]

127. Rules

The Minister may, after consultation with the Central Agricultural Board, make rules prescribing—

- (a) anything required to be prescribed under this Part;
- (b) the terms and conditions subject to which the guaranteed minimum return shall be payable in respect of any essential crop;
- (c) the time at which any guaranteed minimum return may be paid;
- (d) the method of ascertainment of the persons entitled to the guaranteed minimum return;

- (e) the amounts or the method of calculation of the amounts which shall be deducted in respect of transport of any essential crop in connexion with any of the purposes of this Act.

[L.N. 352/1963, L.N. 365/1964.]

PART IX and X

- 128.** Deleted by L.N. 352/1963.
- 129.** Deleted by L.N. 352/1963.
- 130.** Deleted by L.N. 352/1963.
- 131.** Deleted by L.N. 352/1963.
- 132.** Deleted by L.N. 352/1963.
- 133.** Deleted by L.N. 352/1963.
- 134.** Deleted by L.N. 352/1963.
- 135.** Deleted by L.N. 352/1963.
- 136.** Deleted by L.N. 352/1963.
- 137.** Deleted by L.N. 352/1963.
- 138.** Deleted by L.N. 352/1963.
- 139.** Deleted by L.N. 352/1963.
- 140.** Deleted by L.N. 352/1963.
- 141.** Deleted by L.N. 352/1963.
- 142.** Deleted by L.N. 352/1963.
- 143.** Deleted by L.N. 352/1963.
- 144.** Deleted by L.N. 352/1963.
- 145.** Deleted by L.N. 352/1963.
- 146.** Deleted by L.N. 352/1963.
- 147.** Deleted by L.N. 352/1963.
- 148.** Deleted by L.N. 352/1963.
- 149.** Deleted by L.N. 352/1963.
- 150.** Deleted by L.N. 352/1963.
- 151.** Deleted by L.N. 352/1963.
- 152.** Deleted by L.N. 352/1963.

153. Deleted by L.N. 352/1963.

154. Deleted by L.N. 352/1963.

155. Deleted by L.N. 352/1963.

156. Deleted by L.N. 352/1963.

157. Deleted by L.N. 352/1963.

158. Deleted by L.N. 352/1963.

159. Deleted by L.N. 352/1963.

160. Deleted by L.N. 352/1963.

161. Deleted by L.N. 352/1963.

162. Deleted by L.N. 352/1963.

163. Deleted by L.N. 352/1963.

164. Deleted by L.N. 352/1963.

165. Deleted by L.N. 352/1963.

166. Deleted by L.N. 352/1963.

PART XI – THE AGRICULTURAL SETTLEMENT FUND

167. Settlement Fund Trustees

(1) There is hereby established a body of trustees, to be known as the Settlement Fund Trustees, which shall consist of the Minister, the Minister for the time being responsible for Agriculture and the Minister for the time being responsible for Finance.

(2) The Settlement Fund Trustees shall, by that name, be a body corporate having perpetual succession and a common seal, and may in its corporate name sue and be sued, and, for and in connexion with the purposes of this Part, may purchase, hold, manage and dispose of movable and immovable property, and may enter into such contracts as it may deem necessary or expedient.

(3) The seal of the Settlement Fund Trustees shall be authenticated by the signature of one of its members or of the officer administering the Fund.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the Settlement Fund Trustees may be signified under the hand of one of the Trustees or of the officer administering the Fund.

[L.N. 352/1963, L.N. 396/1963.]

168. Agricultural Settlement Fund

(1) There is hereby established an Agricultural Settlement Fund, which shall be vested in the Settlement Fund Trustees.

(2) There shall be paid into the Fund—

- (a) any sums from time to time provided by Parliament for the purposes of the Fund;
- (b) all rentals, interest on advances and repayments of advances or instalments thereof;
- (c) all moneys derived from the sale of any land acquired by the Central Land Board for the purposes of any approved settlement scheme or for any other purpose approved by the Minister;
- (d) *Deleted by Act No. 6 of 2012, s. 163;*
- (e) *Deleted by Act No. 6 of 2012, s. 163;*
- (f) all sums raised or borrowed under section 169(5);
- (g) *Deleted by Act No. 38 of 1968, Sch.;*
- (h) all other receipts of whatsoever fund derived from or arising out of the operation of any approved settlement scheme; and
- (i) all receipts from any other source approved in that behalf by the Settlement Fund Trustees.

(3) The Settlement Fund Trustees shall appoint a member of their staff or a public officer to be the officer responsible for administering the Fund.

[L.N. 352/1963, L.N. 365/1964, Act No. 9 of 1967, Sch., Act No. 38 of 1968, Sch., Act No. 6 of 2012, s. 163.]

169. Financial Provisions

(1) The Settlement Fund Trustees may out of the Financial Agricultural Settlement Fund expend money on—

- (a) carrying on the business of agriculture, or establishing permanent improvements, on any land acquired by the Central Land Board;
- (b) purchasing any livestock and chattels suitable for farming purposes;
- (c) making such advances, for such periods and subject to such conditions as may be prescribed, to settlers, co-operative societies or such other persons as may be approved by the Trustees, for the purpose of carrying out the provisions of this Part;
- (d) purchasing any land for resale;
- (e) defraying any expenses incurred by the Government for any purpose in connection with this Part;
- (f) reimbursing the Government for the salaries, gratuities, pensions, retiring allowances and other costs of the staff engaged in carrying out the provisions of this section;
- (g) paying the salaries, gratuities, pensions, retiring allowances or other emoluments of any officer or employers engaged under section 170;
- (h) remunerating any agents or other persons employed in the carrying out of the provisions of this section;
- (i) repaying any moneys borrowed under this Part, and paying interest on those moneys;

- (j) making any payment for any purpose approved in that behalf by the Trustees.

(2) The Trustees may grant relief with regard to repayment of capital of, and payment of interest on, advances and write off such debts as they may from time to time determine.

(3) The Trustees may dispose of any surplus assets which have been acquired in the exercise of any of the powers contained in this Part (or in the Part replaced by this Part), and shall pay the proceeds of any such disposal into the Fund.

(4) The Trustees may establish within the Fund such reserves as may to them appear from time to time be necessary.

(5) The Trustees may raise or borrow, whether by way of mortgage, bank overdraft or otherwise, such sums of money for or in connection with the exercise of their functions, powers and duties under this section and for the purposes of this as they may deem necessary.

[L.N. 352/1963.]

170. Staff

The Settlement Fund Trustees may appoint at such salaries, and for such terms as they may think fit, such officers and servants of the Trustees as they may deem necessary.

[L.N. 352/1963.]

171. Accounts of Fund

(1) The officer administering the Fund shall keep such books of account and other books in relation thereto and to all their undertakings, funds, activities and property as the Settlement Fund Trustees deem necessary and shall within a period of four months after the end of their financial year, or within such longer period as the Trustees may approve, prepare, sign and transmit to the auditor—

- (a) a balance sheet showing in detail the assets and liabilities of the Fund; and
(b) such other statements of account as the Trustees may require.

(2) The accounts of the Fund shall be examined, audited and reported upon annually by the Auditor-General (Corporations).

(3) The officer administering the Fund shall produce and lay before the auditor all books and accounts of the Fund, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditor shall be entitled to require such information and explanation as he may consider to be necessary for the performance of his duties as auditor; and the expenses of and incidental to the audit shall be paid by the Fund.

(4) The Trustees shall, within a period of seven months after the end of their financial year or within such longer period as they may approve, lay before the National Assembly a report of the operations of the Trustees during that year, together with the yearly balance sheet and such other statements of accounts as they have required and the auditor's report thereon; and they shall cause them to be published.

[L.N. 352/1963, Act No. 12 of 1985, Sch., L.N. 319/1987, Sch.]

172. Delegation of powers

The Settlement Fund Trustees may delegate such of the powers conferred on them by this Part as they may decide to the officer administering the Fund, who in turn may delegate those powers to an officer of the Trustees approved by them.

[L.N. 352/1963.]

173. Security for advances

(1) All moneys advanced from the Fund to settlers, together with interest thereon and all charges incidental thereto or to the repayment thereof, shall be secured by a legal mortgage or charge or by an equitable mortgage or charge or otherwise, as the Settlement Fund Trustees may direct, and in addition thereto or in lieu thereof if the Trustees so determine shall be secured on the land or on the chattels of the settler by notification of the advance made in the prescribed form and delivered to the Registrar of Titles or the Registrar-General, as the case may be, and—

- (a) on receipt of such a notification the Registrar of Titles shall without charge register it in the Register of Titles, and upon registration the moneys advanced shall become charged upon the land, subject to all prior registered mortgages or charges; and
- (b) on receipt of such a notification the Registrar-General shall without charge register it as if it were an instrument within the meaning of the Chattels Transfer Act (Cap. 28), and the notification shall thereupon take effect as if it were such an instrument and the provisions of that Act, as modified by the provisions of this section, shall apply.

(2) Notwithstanding the provisions of section 10 of the Chattels Transfer Act, registration of a notification under subsection (1) of this section shall remain in force until cancelled.

(3) The Trustees may at any time, in writing, consent to any particular chattels of a settler which are subject to a notification under this section being released from the security thereof, and thereupon those particular chattels shall be discharged absolutely from the security.

(4) In this section and in any notification thereunder, “**chattels**” includes all chattels which the settler acquires or becomes entitled to after the execution of the notification.

[L.N. 352/1963.]

174. Remedies for recovery of advances on land

(1) Where an advance has been made and secured upon any land under this Part, the Settlement Fund Trustees, or any person duly authorised by the Trustees in writing in that behalf, may exercise all such remedies for the recovery of the advance as the Agricultural Finance Corporation is empowered to exercise under the Agricultural Finance Corporation Act (Cap. 323).

(2) If any sum of money, whether principal or interest, due in respect of any advance made by the Settlement Fund Trustees, such advance not being secured upon any land under this Part, is unpaid, that sum shall be a civil debt recoverable summarily.

(3) If any sum of money, whether principal or interest, due in respect of any advance made by the Settlement Fund Trustees, such advance not being secured upon any land under this Part, is unpaid for more than six months, whether or not action has been taken under subsection (2), the Settlement Fund Trustees may, without recourse to any court, terminate any interest (whether express or implied) in land in respect of which the advance was made and which is vested in or deemed to be vested in the person to whom the advance was made, and thereupon that interest shall vest in the Settlement Fund Trustees, who may thereupon take possession of the land in question.

[L.N. 352/1963, Act No. 16 of 1965, s. 2, Act No. 9 of 1967, Sch.]

175. Limitation laws not to apply

Notwithstanding anything to the contrary contained in any law relating to limitation, no suit, application or proceeding by the Settlement Fund Trustees shall be rejected or dismissed on the ground only that the suit, application or proceeding is barred by limitation under any such law.

[L.N. 352/1963.]

176. Exemption from stamp duty and other charges

(1) No duty shall be chargeable under the Stamp Duty Act (Cap. 480) in respect of any instrument executed by, or on behalf of, or in favour of, the Central Land Board or the Settlement Fund Trustees in cases where, but for this exemption, the Board or the Trustees would be liable to pay such duty.

(2) No registration or other fee or charge whatsoever shall be payable by the Central Land Board or the Settlement Fund Trustees in respect of any grant, lease or transfer of property (otherwise than by way of mortgage, charge or other security for an advance) to the Board or the Trustees, nor in respect of any search or inspection by or on behalf of the Board or the Trustees in any register of titles, deeds registry or other registration office.

[L.N. 352/1963.]

177. Purchase of reversion of freehold estates by Settlement Fund Trustees

Notwithstanding the provisions of any other written law, where a leasehold estate or interest in any land situated in the areas to which section 198 of the Constitution of Kenya established under the provisions of the Kenya Independence Order in Council, 1963, applied, vests in the Settlement Fund Trustees, being an estate or interest the immediate reversion to which is vested in the Government and in respect of which no other person or authority has a superior estate or interest, the reversion shall be extinguished and the leasehold estate or interest vested in or acquired by the Settlement Fund Trustees shall be converted into an estate in fee simple, but without prejudice to any estate, interest or right, by way of mortgage, charge or otherwise subject to which the Settlement Fund Trustees may have acquired the leasehold estate or interest.

[L.N. 718/1963, Act No. 3 of 1982, s. 2.]

178. Deleted by L.N. 352/1963.

179. Deleted by L.N. 352/1963.

180. Deleted by L.N. 352/1963.

181. Rules

(1) The Minister may, with the consent of the Board, make rules—

- (a) prescribing what shall be, and the terms of, an approved settlement scheme;
- (b) prohibiting, or controlling and regulating, the growing of any crop, and prescribing what crops shall be grown, by a settler;
- (c) prohibiting the keeping of any particular kinds of livestock, and regulating and controlling the number of any kind of livestock which may be kept, and prescribing the kind of stock and the number thereof that shall be kept, by a settler;
- (d) prescribing the terms and conditions of any lease granted to any settler;
- (e) defining what shall be regarded as the beneficial occupation of land, where that expression is used in connection with any approved settlement scheme;
- (f) prescribing the forms of application to participate in an approved settlement scheme, or for an advance under this Part, the person to whom the application shall be made, and the details and particulars which an applicant shall give in connection with the application;
- (g) prescribing anything which may be prescribed under this Part;
- (h) for any other purpose, whether of a like nature to the foregoing or not, which he may deem necessary or desirable for the proper carrying out of the provisions of this Part.

(2) Rules made under subsection (1) may require acts or things to be performed or done to the satisfaction of a specified authority, may prohibit acts or things being performed or done without the prior approval of a specified authority, may empower a specified authority to impose conditions, and may prescribe periods or dates upon, within or before which any such act or thing shall be performed or done or any such condition shall be fulfilled.

[Act No. 47 of 1960, s. 56, L.N. 352/1963.]

182. Deleted by Act No. 16 of 1977, Sch.

183. Deleted by Act No. 16 of 1977, Sch.

PART XII – RULES FOR THE PRESERVATION, UTILIZATION AND DEVELOPMENT OF AGRICULTURAL LAND

184. Minister may make general rules for the preservation, utilization and development of agricultural land

(1) The Minister may, on the advice of the Central Agricultural Board, make general rules for the preservation, utilisation and development of agricultural land, either in Kenya generally or in any particular part thereof.

(2) Without prejudice to the generality of subsection (1), rules made thereunder may—

- (a) provide for requiring owners (whether or not also occupiers) to manage their land in accordance with rules of good estate management;
- (b) provide for requiring occupiers to farm their land in accordance with the rules of good husbandry;
- (c) provide for regulating, controlling or prohibiting the cultivation of land or the keeping of stock or any particular kind of stock thereon;
- (d) provide for regulating the kinds of crops which may be grown on land;
- (e) provide for controlling the erection of buildings and other works on agricultural land;
- (f) confer upon agricultural workers the right to harvest and remove crops grown by them on land provided by their employer for their use, or to be compensated therefor in lieu;
- (g) limit the size of the plots of land which may be provided by an employer of agricultural workers for their use for cultivation or for grazing, and require stock grazing on any such land to be branded;
- (h) provide for the determination by a subordinate court of disputes arising out of the provision by an employer of land for the use of any of his workers for cultivation or for grazing;
- (i) provide for such exemptions or conditional exemptions from the provisions thereof as the Minister may think fit;
- (j) empower specified persons or authorities to make orders providing for any of the matters specified in the foregoing paragraphs of this subsection, in relation to particular areas of land;
- (k) empower local authorities generally, or particular local authorities or classes of local authorities, with the approval of the Minister for the time being responsible for Local Government, to make by-laws for any of the purposes for which rules may be made under this section.

(3) For the purposes of this section and of any rules made thereunder, and of any by-laws or orders made under those rules—

- (a) an owner of agricultural land shall be deemed to fulfil his responsibilities to manage it in accordance with the rules of good estate management in so far as his management of the land and (so far as it affects the management of that land) of other land managed by him is of such a standard as, having regard to the character and situation of the land and other relevant circumstances, to enable an occupier of the land reasonably skilled in husbandry to maintain efficient production as respects both the kind of produce and the quality and quantity thereof;
- (b) the occupier of agricultural land shall be deemed to fulfil his responsibilities to farm it in accordance with the rules of good husbandry in so far as the extent to which and the manner in which the land is being farmed (as respects both the kind of operations carried out and the way in which they are carried out) are such that,

- (c) “**relevant circumstances**”, in relation to an owner or occupier, includes all circumstances affecting management or farming other than the personal circumstances of the owner or occupier.

(4) The procedure for the making, approval and publication of by-laws made under rules made under this section shall be that prescribed by the Local Government Act (Cap. 265), and, for the purposes of the enforcement thereof and of the disposal of fines imposed for their contravention, such by-laws shall be deemed to be by-laws made under that Act.

(5) Orders made, by virtue of the provisions of paragraph (j) of subsection (2), under rules made under this section shall be published in the *Gazette*, and shall be subject to such provisions in regard to the making and approval thereof as may be contained in the rules.

[Act No. 47 of 1960, s. 56, L.N. 256/1963, L.N. 352/1963.]

PART XIII – DISPOSSESSION OF OWNERS AND OCCUPIERS OF AGRICULTURAL LAND

185. Minister’s powers on persistent contravention of rules

(1) Subject to subsections (2), (3) and (4), where the Minister is satisfied that an occupier of agricultural land has persistently contravened any rules made under section 184, and certifies accordingly, then, with the consent of the Central Agricultural Board—

- (a) where the occupier is not the owner of the land, the Minister shall have power by order to terminate his interest in the land or any part thereof specified in the order, as from such date not earlier than three months after the making of the order as may be specified therein, and to require that the owner shall as from that date either farm it himself, if he so elects and the Minister approves, or let it to a tenant approved by the Central Agricultural Board;
- (b) where the occupier is the owner of the land, the Minister shall have power either—
- (i) by order to direct that as from the date referred to in paragraph (a) the occupier shall give up his occupation of the land, or any part thereof specified in the order, and let it to a tenant approved by the Central Agricultural Board; or
 - (ii) to agree with the owner and all other persons having an interest therein for the purchase thereof, and thereafter to purchase the land accordingly; or
 - (iii) to acquire the land or any part of the land compulsorily.

(2) The Minister shall not give any certificate under subsection (1), subsection (5) or subsection (6) until, after affording to the owner or occupier, as the case may be, an opportunity, within a specified period of not less than one month, of making representations to the Minister, whether in writing or on being heard by the Minister or a person appointed by him, the Minister has given to the owner or occupier notice in writing of the proposal to give the certificate together with such particulars as appear to the Minister requisite for informing him of the grounds on which the Minister is satisfied as mentioned in subsection (1).

(3) Any person to whom notice of a proposal is given under subsection (2) may, within one month after the service thereof on him, require that the proposal be referred to the Agricultural Appeals Tribunal, which may either confirm the proposal, or confirm the proposal subject to such modifications or conditions as it may think fit, or direct that the proposal be not proceeded with, and such a reference shall be deemed to be an appeal for the purposes of Part XV.

(4) Where, under subsection (3), the Agricultural Appeals Tribunal confirms a proposal (whether with or without modifications or conditions), the person at whose instance the proposal was referred to the Tribunal may, within one month after the date of the decision of the Tribunal, appeal to the High Court, which shall hear the matter *de novo* and may either confirm the proposal, or confirm the proposal subject to such modifications or conditions as it may think fit, or order that it be not proceeded with, and whose decision shall be final.

(5) Where, under subsection (1), the Minister proposes to purchase or acquire compulsorily any land, and is satisfied that it is necessary for the purpose of securing the proper management thereof that he should acquire any other land which is being managed by the same person in conjunction with the first-mentioned land, and certifies accordingly, the Minister shall, subject to this section, have power to agree for the purchase of that other land or acquire it compulsorily.

(6) Where any person having an interest in land, by notice in writing served on the Minister within six months of the giving by the Minister of a certificate under subsection (5) relating to any other land, represents to the Minister that the first-mentioned land was at the time when the certificate was given being managed in conjunction with that other land and that it is not reasonably practicable to manage it except in conjunction therewith, and requires that the Minister shall purchase that interest, then, unless the Minister is satisfied that the representation is not justified and certifies accordingly before the expiration of the prescribed period, the Minister shall be deemed on the date on which that period expires to have been authorised to agree for the purchase of the land or to acquire it compulsorily in accordance with this section.

(7) Where an order is made under paragraph (a) of subsection (1)—

- (a) it shall be delivered to the Registrar of Titles for registration in the register of titles in accordance with the law under which the title to the land is registered, and shall not take effect until after it has been so registered;
- (b) if it is made so as to terminate the interest of a tenant in part only of his holding, the tenant shall be entitled to a reduction of rent proportionate to the part to which the order relates.

[Act No. 47 of 1960, s. 56, L.N. 352/1963.]

186. Power to acquire unoccupied land

(1) The Central Agricultural Board, if it is satisfied, with respect to any agricultural land, that—

- (a) the land is not in the actual occupation and management of the owner or his manager or a tenant of his or is not being utilized for an agricultural purpose; and
- (b) having regard to the ecological characteristics of the land and the principles of good land management and good husbandry, the land is not reasonably capable of being profitably farmed without the addition thereto of other land; and
- (c) it is in the interests of the proper development of the land for agricultural purposes that it should be added to and farmed with particular adjacent agricultural land; and
- (d) the owner of such adjacent land is willing to acquire it,

may in writing recommend to the Minister that the land be acquired by the Government for the purpose of sale to the owner of the adjacent land.

(2) Where, under subsection (1), the Minister receives a recommendation from the Central Agricultural Board for the acquisition of land, and is satisfied that the conditions specified in paragraphs (a) to (d) of subsection (1) apply, and certifies accordingly, he may agree with the owner and all other persons having an interest therein for the purchase thereof and thereafter purchase the land accordingly.

(3) Where the Minister is unable to agree with the owner and other interested persons for the purchase of any land under subsection (2), or is unable so to agree without unreasonable delay, he may, after affording to the owner and other persons interested an opportunity, within a specified period of not less than one month, of making representations to the Minister, whether in writing or on being heard by the Minister or a person appointed by him, give to the owner and those persons notice in writing of the proposal to acquire the land compulsorily, together with such particulars as appear to the Minister requisite for informing him of the grounds on which the Minister is satisfied as mentioned in subsection (2).

(4) Any person to whom notice of a proposal is given under subsection (3) may, within one month after the service thereof on him, require that the proposal be referred to the Agricultural Appeals Tribunal, which may either confirm the proposal, or confirm the proposal subject to such modifications or conditions as it may think fit, or direct that the proposal be not proceeded with, and such a reference shall be deemed to be an appeal for the purposes of Part XV.

(5) Where, under subsection (4), the Agricultural Appeals Tribunal confirms a proposal (whether with or without modifications or conditions), the person at whose instance the proposal was referred to the Tribunal may, within one month after the date of the decision of the Tribunal, appeal to the High Court, which shall hear the matter *de novo*, and may either confirm the proposal or confirm the proposal subject to such modifications or conditions as it may think fit or order that it be not proceeded with, and the court's decision shall be final.

(6) Subject to any direction of the Agricultural Appeals Tribunal or the High Court under subsection (4) or subsection (5), the Minister shall have power to purchase the land or any part of the land compulsorily.

(7) Where land has been purchased or compulsorily acquired under this section, the Minister shall arrange as soon as practicable for the sale thereof to the adjacent owner for sale to whom the land was purchased or acquired.

[Act No. 47 of 1960, s. 56, L.N. 365/1963.]

186A. Power to acquire land for production of particular crop

(1) Where the Minister, after consulting the Central Agricultural Board, is satisfied, in relation to a particular area of land, that—

- (a) the land within the area is peculiarly suitable for the production of a particular crop; and
- (b) all the land within the area, so far as is practicable, should, in the interests of the development of the land in such manner as to promote the public benefit, be used for the production of that crop but is unlikely to be so used unless it is acquired by the Government under this section; and
- (c) suitable facilities for the processing of the whole of the crop which can conveniently be produced within the area will be forthcoming if the land within the area is devoted to the production of that crop,

he may agree with the owner and all other persons having an interest in the land within the area for the purchase of the land and thereafter purchase the land accordingly.

(2) Where the Minister is unable to agree with the owners and other interested persons for the purchase of any land under subsection (1), and is satisfied that—

- (a) the owners or the occupier of the land have had sufficient time, since they obtained possession of the land, to bring the land into use for the production of the crop in question; and
- (b) the necessity for obtaining the land is such as to afford reasonable justification for the causing of any hardship that may result to the owners and other interested persons,

he may acquire the land within the area, or any part thereof, compulsorily.

(3) Where land has been purchased or compulsorily acquired under this section, the Minister shall make such arrangements, whether by sale, letting or otherwise, as will ensure that the land is used, so far as is practicable, for the production of the particular crop and for the provision of suitable facilities for its processing if such do not already exist.

[Act No. 31 of 1963, s. 2.]

186B. Power to zone land for delivery of crop for processing

Where the Minister, after consulting the Central Agricultural Board, is satisfied that it is necessary, in the interests of a particular agricultural industry, that the whole of the crop produced in the course of that industry in a particular area should be processed in a factory in that area, he may, by order—

- (a) declare all land in that area to be zoned for the purpose of delivery of that crop to that factory;

- (b) require that the whole of that crop produced on the zoned land shall be delivered to that factory for processing and to no other factory; and
- (c) make such supplemental provision as may be necessary or expedient for the carrying into effect of the order, including the provision of penalties, not exceeding imprisonment for twelve months or a fine of ten thousand shillings or both, for the contravention of the order.

[Act No. 31 of 1963, s. 2.]

187. Minister's power with respect to inadequately managed or supervised land

- (1) Where the Minister is satisfied that any holding of agricultural land—
 - (a) has ceased to be managed or supervised and that it is necessary for preventing or delaying the deterioration of the holding to do so; or
 - (b) is being managed or supervised so inadequately that it is necessary for preventing or delaying the deterioration of the holding to do so,

and certifies that he is so satisfied, he may, after consultation with the agricultural committee for the area within which the holding is situated, make and serve on the owner an order (hereafter in this section called a management order) directing that as from a specified date the holding shall, subject to the provisions of this section, be occupied and managed by the Minister, to the exclusion of the owner.

(2) Where a management order is in force in respect of any holding, the holding shall, except while it is leased or let, and until it is sold, under an order made under subsection (4), be exclusively occupied and managed by the Minister, his agents and servants of the Government, without liability for any kind of waste committed by them in the course of such occupation and management, but with due attention to the need for careful management, and for such purpose the Minister, his agents and the servants of the Government shall have power—

- (a) to manage and farm the holding in such manner as they may think fit;
- (b) to utilize all fixed and other equipment, foodstuffs, manure and fertilizers in or about the holding;
- (c) to sell the produce (including timber) of the holding;
- (d) to effect such improvements and to execute such other works and things on or about the holding as they may think necessary or expedient.

(2A) Where the Minister makes a management order—

- (a) the owner shall be entitled to be compensated by the Government for any loss which he may suffer by reason of the making of the order, but so that the compensation shall in no case exceed the

- (b) the compensation, if any is payable, shall take the form of an annual sum, payable yearly in arrear, for so long as the management order is in force; and
- (c) the Government may retain out of the compensation, if any is payable, any sums owing to it by the owner.

(3) The Minister may, at any time during which a management order is in force in respect of any holding, by notice in writing served on the owner, call upon the owner to show cause, within a period of one month after the date of service of the notice, to the satisfaction of the Minister, why an order should not be made by the Minister, with the consent of the Central Agricultural Board—

- (a) ordering that the holding or a part thereof and all or any of the fixed and other equipment thereon be leased or let to such a tenant, and on such terms and conditions as may, with the approval of the Central Agricultural Board, be determined by the Minister; or
- (b) ordering that the holding or a part thereof, or the interest therein of the owner, and all or any of the fixed and other equipment thereon, be sold at the best price which in the opinion of the Minister may reasonably be obtained for it in the circumstances then prevailing, and that the proceeds of sale (after deducting any expenses incurred in connection with the sale and any sums owing to the Government) be paid to the owner.

(4) Where, in response to a notice under subsection (3), the owner does not show cause to the satisfaction of the Minister, the Minister may, with the consent of the Central Agricultural Board, make and serve on the owner an order for all or any of the purposes specified in the notice.

(5) Where the Minister leases, lets or sells any holding under this section, the instrument of lease, letting or sale, and any other instrument necessary or expedient to effectuate the leasing, letting or sale, may be executed by the Minister as if he were the attorney of the owner duly appointed under a power of attorney registered in the register of titles.

(6) Where a holding in respect of which a management order is in force is subject to a mortgage or charge, or to an equitable mortgage or charge, which has been, or a memorandum whereof has been, duly registered in the register of titles (hereafter in this section referred to as a mortgage), then, notwithstanding the foregoing provisions of this section—

- (a) the Minister may exercise all the powers conferred by this section, in accordance with this section, but any money which, under subsection (2A), would, but for this provision, have been payable to the owner shall be payable to the mortgagee, and where any moneys are payable to the owner under subsection (3)(b) there shall be paid to the mortgagee thereout all such sums as are owing to the mortgagee under the mortgage, and the balance only shall be paid to the owner;

- (b) where an order is made under subsection (4), notice shall also be given to the mortgagee;
- (c) an instrument of sale executed by the Minister under subsection (5) may, if the Minister thinks fit, be expressed to take effect, and shall then take effect, free from the mortgage, but in that case the Minister shall hold the proceeds of sale in trust to pay thereout (so far as they will suffice) the moneys due to the mortgagee under the mortgage:

Provided that, where a management order is in force in relation to the holding, the mortgagee, if he desires to exercise any of his powers of taking possession or appointing a receiver of the holding, or of leasing or selling the holding, or of foreclosing his mortgage, may give written notice to the Minister of his desire, and thereupon the Minister shall make arrangements for the winding up as soon as practicable of the management, and on completion thereof shall, under subsection (10), revoke the management order.

(7) Where, under an order made under subsection (4), any moneys are due to an owner whose present address or whereabouts is not known to the Minister, the Minister shall make diligent inquiry of such address or whereabouts with a view to informing the owner of the moneys due to him, and if, at the end of a period of not less than two years, there appears to the Minister no practical possibility of so informing the owner, he may direct that the money be forfeited and paid into the Consolidated Fund.

(7A) Where a management order is made in respect of any holding, the owner thereof may—

- (a) at any time after the making of the order, apply to the Minister for a review of the order;
- (b) at any time after one year has elapsed from the date of the making of the order, appeal to the Agricultural Appeals Tribunal, and section 186(4) shall apply *mutatis mutandis* with respect thereto.

(8) Where an order is made under subsection (4) in respect of any holding or a part thereof or an order is amended under subsection (10) (except where the owner has not made any endeavour to show cause in response to the notice served upon him under subsection (3) within the period prescribed by that notice), the owner may, within one month after the date of the service thereof on him, appeal against the order to the Agricultural Appeals Tribunal, and subsections (4) and (5) of section 186 shall apply *mutatis mutandis* with respect thereto.

(9) Where the address of an owner or mortgagee on whom the Minister intends to serve an order or notice under this section is not certainly known to the Minister, the Minister may, in addition to or in lieu of any other form of service, publish the notice or order (addressed to the owner or mortgagee, as the case may be) in the *Gazette*, and the publication shall be deemed to be good service of the notice or order on that person, whether or not some other method of service has also been used.

(10) Any order under this section may be amended by the Minister with the consent of the Central Agricultural Board, or may be revoked by the Minister by a further order served on the owner.

[Act No. 47 of 1960, s. 56, Act No. 45 of 1962, s. 2, L.N. 352/1963, L.N. 365/1964.]

188. Mode of acquisition

Where land is acquired compulsorily under this Part, it shall be acquired in accordance with the Land Acquisition Act (Cap. 295).

[Act No. 47 of 1960, s. 56, Act No. 38 of 1968, Sch.]

189. Rules

The Minister, with the consent of the Central Agricultural Board, may make rules generally for carrying into effect the intent and purposes of this Part, and any such rules may provide penalties, not exceeding a fine of an amount not exceeding two thousand shillings or imprisonment for a term not exceeding two months, or both for their contravention.

[Act No. 47 of 1960, s. 56, L.N. 352/1963.]

PART XIV – DEVELOPMENT OF CERTAIN CROPS

190. Special crops

Where the Minister is satisfied that the development of a particular crop which is grown in Kenya for the purpose generally of sale should be promoted or fostered under this Part, he may, after consultation with the Central Agricultural Board and after giving thirty days' notice in the *Gazette* of his intention so to do, by order in the *Gazette*, declare that crop to be a special crop.

[Act No. 47 of 1960, s. 56, L.N. 352/1963, Act No. 38 of 1968, Sch.]

191. Order establishing authority for development of a special crop

(1) Whenever a crop is declared to be a special crop under section 190, the Minister shall, after consultation with the Treasury, by order in the *Gazette*, establish an Authority for promoting and fostering the development of that crop for such area, and consisting of such members, as the Minister shall in the order specify:

Provided that nothing in this subsection shall prevent an Authority being made responsible for the development of more than one special crop.

(2) An Authority established under subsection (1) shall, by the name by which it is established by the Minister, be a body corporate having perpetual succession and a common seal, and may in its corporate name sue and be sued, and, for and in connection with the purposes of this Part, may purchase, sell, lease or otherwise acquire or dispose of, hold and manage movable and immovable property, and may enter into such contracts as may be necessary or expedient.

[Act No. 47 of 1960, s. 56.]

192. Contents of order, and amendment and revocation thereof

(1) An order under section 191 establishing an Authority may, in relation to the Authority and to the special crop, make provision for all or any of the following matters—

- (a) the authentication of the seal, the signification of decisions and the execution of documents of the Authority;
- (b) the appointment of a chairman of the Authority and the regulation of and procedure and voting at its meetings;
- (c) the terms of office of members;
- (d) the remuneration of and allowances to be paid to members;
- (e) the appointment of committees and the delegation of powers to those committees or to officers of the Authority;
- (f) the appointment and remuneration of officers;
- (g) the functions of the Authority, which may include—
 - (i) the establishment and management of nurseries;
 - (ii) the purchase and sale of seed and seedlings;
 - (iii) the control and supervision of cultivation of crops;
 - (iv) the inspection of growing and harvested crops;
 - (v) the purchase, transportation and storage of crops;
- (h) the powers of the Authority, which may include power—
 - (i) to employ and remunerate agents;
 - (ii) to borrow money;
 - (iii) to impose levies on growers for financing its operations and for other purposes approved by the Minister, and to provide for the manner in which and the persons by whom any such levies shall be collected;
 - (iv) to create and operate price stabilisation funds;
 - (v) to make loans for the purpose of the development of crops;
 - (vi) to engage in the marketing of crops;
 - (vii) to regulate and control the marketing of crops by growers and others, including the requiring of growers and others to sell crops to particular persons only;
 - (viii) to establish or acquire, and to operate, factories for the processing of crops, and to enter into agreements with other persons operating factories for them to purchase or process crops;
 - (ix) to invest moneys not immediately required for use;
 - (x) with the approval of the Minister, to do such other things as in the opinion of the Authority will assist in the development of crops in the area for which the Authority is established;
 - (xi) to do any other thing which is incidental or conducive to the exercise of its powers under this Part;

- (i) the manner of utilisation of profits;
- (j) the manner in which accounts shall be kept, audited and produced by the Authority;
- (k) the imposition of a penalty, which shall not exceed a fine of an amount not exceeding one thousand shillings or imprisonment for a term not exceeding one month, for the contravention of any of the provisions of the order.

(2) An order under section 191 may make different provision in regard to different special crops or in relation to different parts of the area for which the Authority is established.

(3) An order under section 191 shall not be made so as to conflict with the provisions of any other Act relating to agricultural crops.

(4) The Minister may, by order in the *Gazette*, amend or revoke an order, and any order of revocation may provide for winding up the affairs of an Authority and for distributing, transferring or otherwise disposing of the property and liabilities of the Authority, and for all such matters as appear to the Minister to be connected with or incidental to the dissolution of the Authority.

[Act No. 47 of 1960, s. 56.]

PART XIVA – AGRICULTURAL CESSES

192A. Agricultural cesses

(1) Subject to subsection (1A), local authority may, with the consent of the Minister given after consultation with the Minister for the time being responsible for Local Government, by by-laws, impose a cess on any kind of agricultural produce, and may in the by-laws make such incidental provision as is necessary or expedient; and the cess shall form part of the local authority's revenues.

(1A) Notwithstanding the provisions of subsection (1), eighty per cent of all monies collected as cess under that subsection shall be used in maintaining roads and other services, in the local authority, related to the sectors in respect of which such monies are levied, and the remaining twenty per cent shall be credited to the general account of the local authority:

Provided that the eighty per cent of the cess collected in respect of tea and coffee shall be transmitted to the Kenya Roads Board Fund.

(1B) For the purposes of this section “**Kenya Roads Board Fund**” shall mean the Kenya Roads Board Fund established under the Kenya Roads Board Act, 1999 (No. 7 of 1999).

(2) The incidental provisions which may be made in by-laws under subsection (1) may include provision—

- (a) requiring any person (whether within or outside the area of jurisdiction of the local authorities) who buys or markets on behalf of a producer agricultural produce on which the cess is payable, and on which no cess has then been paid, to deduct from the money payable to the seller an amount equal to the cess payable on the produce, and to remit the amount to the authority to whom the cess is payable;

(b) providing that in any proceedings it shall be presumed, where agricultural produce on which a cess is payable is brought, that no cess has been paid on that produce, until the contrary is proved.

(3) The procedure for the making, approval and publication of by-laws made under subsection (1) shall be that prescribed by the Law under which the local authority is established, and, for the purposes of the enforcement thereof, such by-laws shall be deemed to be by-laws made under that Law.

(4) All by-laws made by an African district council under section 37 (17) of the African District Councils Ordinance, 1950 (No. 12 of 1950) (now repealed) imposing a tax or cess in respect of the production, sale, purchase or possession of any natural product or of any animal or the product of animal or agricultural husbandry, and in force immediately before the repeal of that Ordinance, shall, notwithstanding the repeal, continue in force after the repeal, and may be amended or revoked by by-laws made under subsection (1).

[L.N. 352/1963, L.N. 397/1963, L.N. 398/1963, Act No. 30 of 1967, s. 2, Act No. 2 of 2002, Sch., Act No. 2 of 2007, Fifth Sch.]

PART XV – APPEALS TO THE AGRICULTURAL APPEALS TRIBUNAL

193. Establishment of Agricultural Appeals Tribunal

(1) There shall be established a tribunal, to be called the Agricultural Appeals Tribunal, in this Part called the Tribunal, which shall consist of a chairman to be appointed and two members to be selected in the manner provided.

(2) The chairman shall be a person to be appointed by the Chief Justice, being a barrister or solicitor of not less than seven years' standing and being, in the opinion of the Chief Justice, possessed of the necessary experience to discharge the duties of the office of chairman of the Tribunal; the appointment of the chairman shall be published in the *Gazette*, and before entering upon the duties of his office the chairman shall take an oath in the form of the oath for due execution of office prescribed by the Promissory Oaths Act (Cap. 100) before judge.

(3) Whenever the Chief Justice is satisfied that the chairman of the Tribunal is prevented by sickness or any other reason from attending any sitting of the Tribunal to hear an appeal, the Chief Justice may appoint another person, being a person qualified to be appointed chairman of the Tribunal, to act as chairman of the Tribunal for the purposes of that appeal, and any person so appointed shall, for the purposes of that appeal and for all matters incidental thereto, have the powers of the chairman of the Tribunal, first taking the oath for due execution of office as prescribed.

(4) The Minister shall, by notice published in the *Gazette*, appoint a panel of persons, being preferably persons having experience in or knowledge of the agricultural industry, and being persons who are considered suitable to serve as members of the Tribunal for the hearing of appeals, and, whenever an appeal to the Tribunal is pending, the chairman shall select two persons from the panel to serve as members of the Tribunal on the hearing of the appeal; and every such member shall on first selection before entering on the duties of his office as a member of the Tribunal take the oath prescribed for due execution of office before the chairman of the Tribunal.

(5) If a member of the panel becomes, in the opinion of the Minister, unfit to be selected to serve as a member of the Tribunal or incapable of performing any duties as such, the Minister shall forthwith declare his office to be vacant and shall notify the fact in such manner as he thinks fit, and thereupon the office shall become vacant.

(6) Subject to subsection (5), the appointment of a member of the panel shall be for such term as may be determined by the Minister and shall be subject to such conditions as may be so determined.

(7) The chairman or any other member of the panel may resign from office by notice in writing to the Chief Justice, or, as the case may be, to the Minister.

(8) A person who ceases to hold office as a member of the panel shall be eligible for reappointment thereto.

[L.N. 352/1963, L.N. 635/1963.]

194. How jurisdiction of Tribunal to be exercised

(1) Subject to this Act, the jurisdiction of the Tribunal shall be exercised by the chairman and two members selected in the manner provided by section 193, and references in this Act to the Tribunal shall be construed accordingly.

(2) Whenever an appeal is dealt with by the Tribunal—

- (a) the chairman shall preside at the hearing; and
- (b) a decision shall be taken in the event of a difference between the members dealing with the appeal by the votes of the majority:

Provided that any point of law arising at any hearing of an appeal shall be reserved to, and pronounced upon exclusively by, the chairman.

195. Jurisdiction of Tribunal

(1) It shall be within the jurisdiction of the Tribunal to determine such appeals as may be made to the Tribunal under this Act.

(2) No appeal shall be deemed to be validly made under this Act unless, within thirty days, or such other period as may be expressly provided for by this Act in the case of any particular form of appeal, from the date of the service on the appellant of notice of the order or determination appealed against, notice is given by the appellant, stating the grounds of his appeal, to such person and in such form as may be prescribed and copies of that notice are sent by registered post both to the chief executive officer of the Central Agricultural Board and to the Minister; and notice shall be given to the appellant of the date and place of hearing of the appeal.

(3) On any appeal the Tribunal shall determine—

- (a) whether any conditions precedent to the making of the order or determination appealed against, including any condition requiring the service of any notice or consultation with any person or body, were regularly fulfilled; and
- (b) whether, having regard to their findings under paragraph (a) and to all the circumstances of the case, the order or determination appealed against is an order or determination

and shall report to the Minister accordingly; and the Minister shall forward a copy of the report to the appellant.

(4) Whenever an appeal is determined by the Tribunal, the Minister and all persons or authorities affected by the appeal shall act in accordance with the report of the Tribunal and not otherwise.

[L.N. 352/1963.]

196. Statement of case by Tribunal

(1) The chairman of the Tribunal may, and shall on the application of any party to an appeal to the Tribunal, state a case on a question of law for the opinion of the High Court.

(2) Where a case is stated on a question of law for the opinion of the High Court, the High Court shall (subject to subsection (3)) hear and determine the question or questions of law arising on the case stated, and shall remit the matter to the Tribunal with the decision of the Court thereon, and may make such order as to costs as it may think fit, and any determination or order made by the High Court in the exercise of its powers under this subsection shall be final and conclusive on all parties.

(3) The High Court may cause a case stated to be sent back for amendment or restatement by the chairman of the Tribunal, and thereupon it shall be amended or restated accordingly, and the question or questions of law shall be heard and determined under subsection (2) after the case has been so amended or restated.

(4) Subject to the foregoing provisions of this section, every determination of the Tribunal shall be final and conclusive.

197. Rules of Tribunal

(1) The chairman of the Tribunal may, with the approval of the Minister, make rules—

- (a) prescribing the procedure of the Tribunal, and in particular—
 - (i) the form in which any decision, order or determination of the Tribunal is to be given;
 - (ii) the taking of evidence on oath, affirmation or otherwise in proceedings before the Tribunal, and the summoning and examination of witnesses; and
 - (iii) the evidence which may be admitted in any such proceedings;
- (b) enabling the Tribunal to sit with assessors when dealing with cases calling, in the opinion of the chairman, for special knowledge;
- (c) prescribing the forms to be used and the fees to be paid upon every appeal to the Tribunal; and
- (d) generally, for anything required to be prescribed under this Part and all matters in connection with the bringing, hearing and determining of appeals to the Tribunal, including costs and expenses.

(2) In the hearing or determination of any appeal the Tribunal shall not be bound by any rule of law, other than a rule made under subsection (1), relating to the admissibility of evidence, or relating to the form in which evidence should be adduced.

[L.N. 635/1963.]

PART XVI – GENERAL

198. No action maintainable against Minister, etc.

Neither the Minister nor any other person or body of persons shall be personally liable to any action or proceedings for or in respect of any act or thing done or omitted to be done in good faith in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Act.

199. Representation

Notwithstanding any other written law, in all actions, suits and proceedings the Central Agricultural Board may be represented by the Attorney-General or by such other person as may be appointed by him for the purpose.

[Act No. 2 of 1959, s. 16, L.N. 352/1963.]

200. Convictions and forfeiture of livestock

It shall not be a bar to conviction or punishment of any person for an offence under this Act that any livestock belonging to that person has been seized, impounded or sold under this Act or any rules made thereunder, and, where under this Act or any rules made thereunder any person is empowered to seize, impound or sell the livestock of any person, those powers may be exercised notwithstanding the conviction or punishment of the owner of the livestock for the offence.

201. Saving of Cap. 372

Nothing in this Act or any rules made thereunder shall prejudice or affect the provisions of the Water Act (Cap. 372), and where anything in this Act or any rule is inconsistent with any such provision that provision shall prevail.

202. Service of document

Any order, notice or other document required or authorised to be served under this Act shall be served either—

- (a) by delivering it to the person on whom it is to be served; or
- (b) by sending it by registered post addressed to that person at his last known postal address;
- (c) in the case of a corporate body, by delivering it to its secretary or clerk, or sending it by letter addressed to its secretary or clerk at its registered office; or
- (d) if it is not practicable after reasonable inquiry to ascertain the name or address of the person on whom it should be served, being a person having an interest in land, by addressing it to him by the description of the person having that interest in the land (naming it),

203. Advances and grants exempt from attachment

No part of any loan, advance or grant made under this Act which has become mixed with other assets, and no loan, advance or grant to be made under this Act, shall be liable to levy or attachment in execution of any judgment or decree of any court.

204. Powers of entry

(1) Any authorized officer may, at all reasonable times and on giving reasonable notice, without a search warrant—

- (a) enter upon any land for the purpose of inspection thereof or of ascertaining whether, and if so in what manner, any of the duties or powers imposed or conferred by or under this Act should be exercised in relation to the land, or ascertaining whether, and if so in what manner, any requirement imposed under any such duty or power has been complied with, or of ensuring that any loan, advance or grant made by or under the provisions of this Act is being used for the purpose for which it was made;
- (b) enter any building or structure on any land and examine and inspect it or any fixed equipment or chattels thereon or therein, or crops or other produce for the time being stored or being therein; and
- (c) enter any land, building or structure and examine any livestock being thereon or therein:

Provided that a private dwelling-house shall not be entered under the powers conferred by this subsection.

(2) Any person who knowingly obstructs or hinders any authorised officer in the exercise of his powers or the performance of his duties under the provisions of this section shall be guilty of an offence.

(3) Every officer of the Agricultural Department, and every person appointed by the Central Agricultural Board, the Settlement Fund Trustees or an Authority established under section 191 in that behalf, shall be an authorised officer for the purposes of this section.

[Act No. 47 of 1960, s. 57, L.N. 352/1963, L.N. 398/1963.]

205. Central Agricultural Board to be body corporate

(1) The Central Agricultural Board shall be a body corporate by that name with perpetual succession, and shall be capable in law of suing and being sued and of acquiring, letting and alienating any property, movable or immovable.

(2) All instruments or documents made by, and all decisions of, the Board may be signified under the hand of the chairman, or the deputy chairman, or any authorised officer of the Board pursuant to a resolution by the Board in that behalf.

[L.N. 352/1963.]

206. References to owners and occupiers of land

Any reference in this Act to an occupier of land shall have effect notwithstanding that such person is also the owner of the land, and any reference in this Act to an owner of land shall have effect notwithstanding that such person is also the occupier of the land.

207. Indemnification of Agricultural Finance Corporation

All expenses and all losses, if any, incurred or sustained by the Agricultural Finance Corporation in connection with the administration of this Act shall be met out of funds provided by Parliament for the purposes of this Act, and no part of any such expenses or losses shall fall to be met out of any other funds of the Corporation.

[Act No. 27 of 1963, s. 11.]

208. Accounts of Agricultural Finance Corporation

The Agricultural Finance Corporation shall once in every year, and at other times when required by the Minister, transmit to the Minister a statement of accounts and balance sheet, duly audited and certified, relating to those funds in respect of which it has, in the course of that year, acted as an agent under the provisions of this Act, and the Minister shall cause the accounts and balance sheet to be laid before the National Assembly.

[Act No. 27 of 1963, s. 11, L.N. 365/1964.]

209. Misapplication of loan, advance or grant

Any person who, without the consent of the Minister, applies any loan, advance or grant made to him under this Act for any purpose other than the purpose for which it is made, or who, without that consent, fails to comply with any condition relating to it, shall be guilty of an offence.

210. False statements

Any applicant for an advance under this Act who wilfully fails to disclose any material information within his knowledge, or who wilfully makes any statement which he knows to be false or does not believe to be true, shall be guilty of an offence and, without prejudice to the imposition of any penalty which he may incur under this Act, shall be liable forthwith to repay all sums advanced to him under this Act together with interest thereon.

[Act No. 47 of 1960, s. 58.]

211. Secrecy

Any person having the possession of, or control over, any document, information, return or form relating to applications for advances or the making of advances under this Act who communicates or attempts to communicate that information or anything contained in that document, return or form to any person—

- (a) other than a person to whom he is authorised to communicate it; or
- (b) otherwise than for the purposes of this Act,

shall be guilty of an offence.

[Act No. 47 of 1960, s. 58.]

212. Protection from personal liability of members and employees of boards, etc.

No matter or thing done by the chairman or any other member, or any officer or employee, of any board, committee, subcommittee or authority established by or under this Act shall, if the matter or thing be done *bona fide* for the purpose of executing any provision of this Act, render the chairman, member, officer or employee, or any person acting by his directions, personally responsible to any action, liability, claim or demand whatsoever.

[Act No. 47 of 1960, s. 58.]

213. General penalty

(1) Any person who is guilty of an offence under this Act for which no special penalty is provided by this Act shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both and any rules made under this Act may provide for penalties for the breach thereof not exceeding the foregoing penalties.

(2) Where a person convicted of an offence under this Act or any rules made thereunder is a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

(3) Any agent or servant who does or omits to do any act or thing which if done or omitted to be done by his employer or principal would be an offence under this Act or any rules made thereunder shall himself be guilty of an offence and liable to the penalty provided by this Act or by the rules, as the case may be.

(4) Every employer or principal, being the owner or occupier of any land, shall be answerable for the acts or omissions of his servant or agent in relation to the land and the farming thereof, and if any servant or agent commits an offence under this Act or any rules made thereunder the employer or principal shall also be guilty of an offence and liable to the penalty provided by this Act.

214. No election of members to be questioned

No election, appointment or nomination of any person to any body or authority established or constituted by or under this Act shall be questioned in any legal proceedings whatsoever.

215. Defects in membership of authorities not to invalidate duties or powers thereof

(1) Neither the powers nor the duties of any authority or body established or constituted or functioning by or under this Act shall be prejudiced or affected by any vacancy in the membership thereof, or by the fact that it is afterwards discovered that there is some defect in the election, appointment, nomination or qualifications of any person purporting to be a member thereof.

(2) If in any legal proceedings any question or dispute shall arise as to the constitution of any authority or body established, constituted or functioning by or under this Act, or as to whether any authority or body purporting to exercise any

powers or duties under this Act is legally constituted or established, the question shall be referred to the Minister, whose determination of any such question or dispute shall be final and conclusive.

216. Procedure of various authorities

Subject to this Act and any rules made thereunder, every authority or body established, constituted or functioning by or under this Act is empowered to regulate its own procedure.

217. Expenses of various authorities

The Minister may, in consultation with the Minister for the time being responsible for Finance, make rules providing for the payment of travelling and other expenses and subsistence allowances to members of any authority or body established, constituted or functioning by or under this Act, not being persons in the public service.

218. Officers to be public servants for certain purposes

The officers of an authority or body constituted, established or functioning by or under this Act shall be deemed to be persons employed in the public service for the purposes of the Penal Code (Cap. 63).

219. Certificates by Central Agricultural Board

(1) The Central Agricultural Board may certify—

- (a) whether any area is within the area of jurisdiction of a particular provincial agricultural board or district agricultural committee;
- (b) whether any, and if so what, amount is due as a debt to the Minister or the Board by virtue of this Act or any rules made thereunder or any act or thing done or omitted to be done thereunder.

(2) A certificate purporting to be, a certificate of the Central Agricultural Board under subsection (1), and to be signed by the chairman or executive officer thereof, shall be presumed, until the contrary is proved, to be conclusive as to matters or things stated therein.

[L.N. 352/1963, L.N. 365/1964.]

220. Power to extend time

The Central Agricultural Board, with respect to any act or thing to be done or omitted to be done or to be done by the Board itself, may extend any time therefor or alter any date fixed by or under this Act in relation thereto.

[L.N. 352/1963, L.N. 365/1964.]

221. Expenses

Any expenses which are incurred for the purposes of this Act by the Minister, the Central Agricultural Board, the Agricultural Appeals Tribunal, the Agricultural Finance Corporation or a district agricultural committee, and which are not hereinbefore directed to be defrayed in any other manner, shall be defrayed out of moneys provided by Parliament, but without prejudice to the provisions of this Act, or of any rules made thereunder, authorising the recovery of such expenses, or any part thereof, from any person.

[L.N. 352/1963, L.N. 365/1964.]

222. Provisions of rules to prevail over by-laws

The provisions of any rules or regulations made under section 48 or section 184 shall prevail over those of any by-laws made by a local authority under the Local Government Act (Cap. 265), to the extent of any inconsistency between the two, or in so far as the subject matter of the rules or regulations and the by-laws is the same.

[Act No. 47 of 1960, s. 59, L.N. 352/1963,
Act No. 9 of 1967, Sch.]

223. Saving of rules and orders under Cap. 164 of 1948

Notwithstanding the repeal of the Land and Water Preservation Ordinance (Cap. 164 of 1948)—

- (a) all rules made under that Ordinance and in force at the commencement of this section shall, except only so far as they conflict with this Act, remain in force until revoked as if they were rules made under this Act; and
- (b) all orders made under that Ordinance and subsisting at the commencement of this section shall remain in force as if they were land preservation orders made under this Act.

224. Deleted by L.N. 352/1963.

FIRST SCHEDULE

[Sections 2, 5 and 12, L.N. 74/1956, L.N. 502/1957, Act No. 6 of 1959, Sch., L.N. 96/1959,
L.N. 218/1963, L.N. 333/1966.]

SCHEDULED CROPS

Wheat.

Barley.

Beans (rose coco, Canadian wonder, white haricot, mixed, lima).

Millet (finger).

Sorghum (white, red/mixed).

Rice.

Sugar-cane for the production of white sugar.

SECOND SCHEDULE

[Sections 2 and 12.]

SCHEDULED ANIMAL PRODUCTS

Cattle and sheep for slaughter.

THIRD SCHEDULE

[Section 35, L.N. 78/1968.]

AGRICULTURAL AND MARKETING ORGANISATIONS

The National Cereals and Produce Board established by the National Cereals and Produce Board Act (Cap. 338).

Kenya Meat Commission established by the Kenya Meat Commission Act (Cap. 363).

Tea Board of Kenya established by the Tea Act (Cap. 343).

Pyrethrum Board of Kenya established by the Pyrethrum Act (Cap. 340).

Pig Industry Board established by the Pig Industry Act (Cap. 361).

Coffee Board of Kenya established by the Coffee Act (Cap. 333).

Sisal Board of Kenya established by the Sisal Industry Act (Cap. 341).

Kenya Dairy Board established by the Dairy Industry Act (Cap. 336).

Kenya Maize and Produce Board established by the Agricultural Produce Marketing Act (Cap. 320).

Agricultural Finance Corporation established by the Agricultural Finance Corporation Act (Cap. 323).

Agricultural Development Corporation established by the Agricultural Development Corporation Act (Cap. 346).

National Irrigation Board established by the Irrigation Act (Cap. 347).

Cotton Board of Kenya established by the Cotton Act, 1988 (No. 3 of 1988, s. 43).

Canning Crops Board established by the Canning Crops Act (Cap. 328).

Pineapple Development Authority established by the Pineapple Development Authority Order.

Horticultural Crops Development Authority established by the Horticultural Crops Development Authority Order.

Kenya Tea Development Authority established by the Kenya Tea Development Authority Order.

Sugar Advisory Council.

FOURTH SCHEDULE

[Section 80, L.N. 352/1963.]

COMPENSATION IN RESPECT OF CONSTRUCTION OF WORKS, ETC

1. Compensation shall be payable only if the annual value of the land is diminished by reason of the exercise of the powers conferred by this Act, in this Schedule called "the powers".

2. The compensation payable shall, in the first instance, be the sum calculated by reference to the diminution of the annual value of the land ascribable to the exercise of the powers, and shall be paid in instalments, half-yearly in arrear, to the person who for the time being is entitled to occupy the land.

3. The compensation shall be considered as accruing from day to day, and shall be apportionable in respect of time accordingly.

4. There shall be deducted from, or set off against, the compensation any benefit or betterment of any other land accruing to the person entitled, or otherwise entitled, to the compensation by reason of the exercise of the powers.

5. If, at any time after compensation has become payable under the preceding provisions of this Schedule, the Minister—

- (a) causes the land in respect of which the powers were exercised, so far as practicable, to be restored to the condition in which it would be but for the exercise of such powers; or
- (b) serves upon the person for the time being entitled to occupy the land a written notice of intention to discharge the liability for compensation by making, not earlier than the date specified in the notice, payment of a lump sum in accordance with the following provisions of this Schedule,

the period in respect of which compensation is payable under the preceding provisions of this Schedule shall end on the day immediately preceding the day on which restoration is completed, or, as the case may be, the date specified in the notice.

6. Where, by virtue of the operation of paragraph 5, the period in respect of which compensation in respect of the exercise of the powers is payable comes to an end, then if, at the expiration of that period, the value of any interest which a person then has in the land is less than it would be but for the exercise of the powers, there shall be paid to him, by way of compensation, a sum equal to the amount of the said depreciation; and that compensation shall be taken to accrue due at the expiration of the said period:

Provided that there shall be deducted from or set off against that compensation any benefit or betterment to any other land which has accrued or may accrue to the person entitled to that compensation by reason of the exercise of the powers.

7. For the purposes of this Schedule, no account shall be taken of any diminution or depreciation in value ascribable only to loss of pleasure or amenity.

8. In this Schedule—

- (a) “**annual value**” means, in relation to any land, the rent at which the land might reasonably be expected to let from year to year, if the tenant undertook to bear the costs of the repairs and insurance and other expenses, if any, necessary to maintain the land in a state to command that rent, and to pay all the usual tenant’s rates and taxes; and

FOURTH SCHEDULE—*continued*

- (b) “**diminution of the annual value**” means the amount by which the annual value of the land is less than it would be if the powers had not been exercised in respect thereof.

9. All compensation shall carry interest as from the date on which it accrues due until payment at the rate of six per centum per annum or at such rate as may from time to time be prescribed.

10. No claim for any compensation shall be entertained unless notice of the claim has been given in writing to the Central Agricultural Board within the period of three months, or such longer period as the Board may, either generally or in relation to any particular claim, allow, beginning in either case with the date on which the compensation accrues due.

11. The Minister may make rules—

- (a) for prescribing the procedure for notifying and presenting claims for compensation and all matters incidental thereto; and
- (b) for requiring persons to produce and give discovery and inspection of documents to the Minister or any person authorized by him in that behalf in a similar manner as in proceedings in the High Court.

FIFTH SCHEDULE

Deleted by Act No. 16 of 1977, Sch.

CHAPTER 318

AGRICULTURE ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. Orders under sections 7, 8, 10 and 11	A11 – 87
2. Persons authorized to require statistical information under section 20(2)	A11 – 89
3. Orders under section 100.....	A11 – 91
4. Rate of Interest prescribed under section 117.....	A11 – 93
5. Orders under section 190.....	A11 – 95
6. By-laws under section 192A.....	A11 – 97
7. Orders under paragraph 8 of the Wheat Development Authority Order	A11 – 99
8. Agriculture (Land Preservation) Rules, 1956	A11 – 101
9. Agriculture (Crop Production) Rules, 1957	A11 – 103
10. Agricultural Settlement Board (Notification of Advance) Rules, 1961	A11 – 111
11. Agriculture (Special Crops Development Authority) Order, 1961	A11 – 113
12. Agriculture (Agricultural Subcommittee) Rules, 1961	A11 – 119
13. Agricultural Appeals Tribunal Rules, 1961	A11 – 125
14. Land Utilization and Settlement Rules, 1962	A11 – 131
15. Agriculture (Guaranteed Minimum Return Advances) (Rate of Interest for Offenders) Rules, 1962	A11 – 139
16. Agriculture (Land Utilisation) (Farm Employees) Rules, 1964	A11 – 141
17. Agriculture (Basic Land Usage) Rules, 1965	A11 – 149
18. Coffee Development Authority Order, 1966	A11 – 153
19. Pineapple Development Authority Order, 1967	A11 – 155
20. Agriculture (Declaration of Special Crops) (Horticultural Crops) Order, 1967 .	A11 – 157
21. Pineapple Development Authority (Imposition of Levy) Order, 1967	A11 – 159
22. Agriculture (Sugar Settlement Organisation) Rules, 1968	A11 – 161
23. Wheat Development Authority Order, 1968	A11 – 167
24. Kenya Sugar Authority Order, 1973	A11 – 171
25. Agriculture (Guaranteed Minimum Return Advances) (Interest) Rules, 1975 .	A11 – 175
26. Agriculture (Guaranteed Minimum Return Advances) Rules, 1977	A11 – 177
27. Agriculture (Guaranteed Minimum Return) Order, 1977	A11 – 179
28. Revocation of the Agriculture (Sugar-Cane Marketing) Rules, 1984	A11 – 181
29. Horticultural Crops Development Authority (Marketing of Horticultural Produce) (Revocation) Order, 1990	A11 – 183

Agriculture Act

[Subsidiary]

30. Agriculture (Tobacco Growing) Rules, 1991A11 – 185

	<i>Page</i>
31. Horticultural Crops Development Authority (Control of Mangoes) and Crops Development Authority (Onion Marketing) (Revocation) Order, 1992	A11 – 187
32. Pineapples Development Authority (Control of Movement of Pineapples) (Revocation) Order, 1992	A11 – 189
33. Kenya Sugar Authority (Imposition of Levy) Order, 1994	A11 – 191
34. Agriculture (Declaration of Special Crops) (Revocation) Order, 1998	A11 – 195
35. Kenya Tea Development Authority (Revocation) Order, 1999	A11 – 197
36. Agriculture (Declaration of Special Crops) (Oil Seeds/Oilcrops) Order, 2001 .	A11 – 201
37. Kenya Oilcrops Development Authority Order, 2001	A11 – 203
38. Agriculture (Declaration of Special Crops) Order, 2001	A11 – 211
39. Horticultural Crops Development Authority (Control of Mangoes) (Revocation) Order, 2005	A11 – 213
40. Horticultural Crops Development Authority (Export) (Revocation) Order, 2005	A11 – 215
41. Horticultural Crops Development Authority (Onion Marketing) (Revocation) Order, 2005	A11 – 217
42. Agricultural (Prohibition of Exportation of Raw Nuts) Order, 2009	A11 – 219
43. Agriculture (Farm Forestry) Rules, 2009	A11 – 221
44. Horticultural Crops Development Order, 2011	A11 – 229

[Subsidiary]

ORDERS UNDER SECTIONS 7, 8, 10 AND 11

Orders under sections 7, 8, 10 and 11 fixing prices to be paid for scheduled crops and scheduled animal products are not included in the Laws of Kenya, being of transitory effect.

**PERSONS AUTHORIZED TO REQUIRE
STATISTICAL INFORMATION UNDER SECTION 20(2)**

[L.N. 58/1956, L.N. 352/1963.]

The chairman of the Central Agricultural Board and the chairmen of all provincial agricultural boards and district agricultural committees are authorized to require the owner or occupier of land to furnish to them such information as they may require for the purpose of obtaining statistical information relating to agriculture.

ORDERS UNDER SECTION 100

Orders under section 100 declaring scheduled crops to be essential crops are not included in the laws of Kenya, being of transitory effect.

RATE OF INTEREST PRESCRIBED UNDER SECTION 117

[L.N. 147/1959.]

The rate of interest for the purposes of section 126 of the Act is seven and a half per cent per annum.

ORDERS UNDER SECTION 190

[L.N. 242/1961, L.N. 188/1967, L.N. 167/1968, L.N. 14/1973.]

The following crops have been declared to be special crops—

Tea.

Pineapples.

Wheat.

Sugar-cane for the production of white sugar.

BY-LAWS UNDER SECTION 192A

These are not reproduced being of local application only but can be found in
L.N. 227/1965; 249/1965; 53/1968; 54/1968; 92/1968; 154/1968; 84/1970; 192/1971;
193/1971; 96/1977; 12/1978; 61/1978; 93/1978; 71/1979.

**ORDERS UNDER PARAGRAPH 8 OF THE WHEAT DEVELOPMENT
AUTHORITY ORDER**

These have not been reproduced being of transitory effect.

AGRICULTURE (LAND PRESERVATION) RULES, 1956

[L.N. 492/1956, L.N. 352/1963.]

1. These Rules may be cited as the Agriculture (Land Preservation) Rules, 1956.
2. In these Rules, "Director" means the Director of Agriculture.
3. The Director may, with the approval of the district agricultural committee concerned, issue a land preservation order to any owner or occupier of land for any of the purposes set out in section 48 of the Act requiring acts or things to be performed or done or prohibiting acts or things from being performed or done to the satisfaction of the Director, imposing conditions upon any such requirement and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.
 - (1) A land preservation order shall be in the form in the Schedule.
 - (2) The Director may, with the approval of the district agricultural committee concerned, alter or amend any land preservation order.
 - (3) All land preservation orders shall remain in force until cancelled.
 - (1) The Director shall forward a copy of every land preservation order made by him to the Central Agricultural Board and to the district agricultural committee concerned.
 - (2) The Director shall notify the owner or occupier of land affected by a land preservation order by serving the order on such owner or occupier, and the Director shall notify the Registrar of Titles of the making of the order by forwarding to him a certified copy thereof.

SCHEDULE

[Rule 4.]

LAND PRESERVATION ORDER

IN EXERCISE of the powers conferred by section 48 of the Agriculture Act, and by the Agriculture (Land Preservation) Rules, the Director of Agriculture makes the following Order:—

To

Farm

Address

You are hereby ordered to carry out the following work in the area described in the Schedule to this Order:

- (a)
- (b)
- (c)
- (d)

You are hereby prohibited from doing any of the following things in the area described in the Schedule to this Order:

- (a)
- (b)

Agriculture Act

[Subsidiary]

SCHEDULE—*continued*

(c)
(d)

Should you be in any doubt as to the provisions of this Order, or the area of land affected, you should consult an agricultural officer, an assistant agricultural officer or an inspector.

Date *Director of Agriculture*

Copy to:
The Senior Agricultural Officer i/c the Province.
The Registrar of Titles, Lands Department.
The chief executive officer, Central Agricultural Board.
The chairman, district agricultural committee of the area.

DESCRIPTION OF LAND AFFECTED

All that area being [part of] farm No.
at, and being an area of
Approximately acres, and known as
and situated near the or on the said farm.

Sketch Plan of the area



[Subsidiary]

AGRICULTURE (CROP PRODUCTION) RULES, 1957

[L.N. 478/1957, L.N. 151/1958, L.N. 101/1959, L.N. 352/1963.]

1. Citation

These Rules may be cited as the Agriculture (Crop Production) Rules, 1957.

2. Interpretation

In these Rules, unless the context otherwise requires—

“**Board**” means the Central Agricultural Board;

“**committee**” means the relative District Agricultural Committee;

“**earliest date of planting**” means the date specified as such under rule 5;

“**latest date of planting**” means the date specified as such under rule 5;

“**latest date of claim**” means the date specified as such under rule 4.

3. Forms

(1) Every programme of production shall be in Form 1 in the First Schedule.

(2) Every production order shall be in Form 2 in the First Schedule and shall contain the conditions therein enumerated.

4. Latest date of claim

The Board shall, by notice in the *Gazette* and in a newspaper or news bulletin circulating in the area concerned, declare annually, and either generally or in relation to a particular area, a latest date upon which claims for the payment of guaranteed minimum returns shall be received by the Board.

5. Earliest and latest dates of planting

(1) Every provincial agricultural board shall, in respect of its area, declare—

(a) an earliest date of planting; and

(b) a latest date of planting,

either generally or in relation to any particular crop or in relation to any particular part of its area or otherwise as it may deem appropriate, and may at any time alter or vary the same.

(2) Such declarations, which shall be signed by the chairman, shall be issued in a form approved by the Board, and shall be published in a newspaper or news bulletin circulating in the area concerned.

(3) Two copies of every such notice shall be sent to the Board, which shall arrange for its publication in the *Gazette*.

6. Conditions attached to production order

No person upon whom a production order has been served shall be paid the guaranteed minimum return unless he—

(a) properly cultivates and manages the land in respect of which the production order is in force and applies to the land such quantity and such type of fertilizer as may be required or be necessary to ensure a good or normal crop yield; and

- (b) plants the required acreage with the specified essential crop between the earliest date of planting and the latest date of planting;
- (c) informs in writing the chairman of the committee of the acreage of any land planted by him with an essential crop other than the acreage specified in the production order, including with the notification a diagram clearly indicating the land planted under the terms of the production order and the other land so planted; and
- (d) informs in writing the chairman of the committee of any inability to comply with the requirements of a production order as soon as this becomes apparent to him and, if necessary, applies for an amendment thereto; and
- (e) in accordance with section 113 of the Act, informs in writing, by registered post, the chairman of the committee of any failure or anticipated failure of an essential crop at the time when the failure becomes apparent; and
- (f) makes a claim in writing for payment of the guaranteed minimum return in the form approved by the Board, which shall be submitted to the Board through the chairmen of the committee and provincial agricultural board, and which shall be received by the Board on or before the latest date of claim:

Provided that where a claim is, through no fault of the claimant, not received by that date the Board may, if it thinks fit, entertain the claim.

7. Essential crops may not be retained without Board’s permission

(1) No person upon whom a production order has been served and who, in compliance with the terms thereof, has planted any essential crop, and who has an outstanding advance against the guaranteed minimum return estimated to be payable in respect of that crop, may retain for his own use or for any other purpose any part of that crop without first obtaining the written consent of the Board.

(2) A person who desires to retain any part of the crop shall make application to the appropriate committee so to do in the form in the Second Schedule.

(3) Any person who fails to comply with this rule shall be guilty of an offence and liable to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding two months.

FIRST SCHEDULE

[Rule 3(1).]

FORM 1

Original
Duplicate
Triplicate

No.

PROGRAMME OF PRODUCTION

1. I/We
 [names in full or name of limited company or partnership]
 of [postal address]
 wish to apply for a PRODUCTION ORDER on—

2. Name of farm

3. L.O. No.[s]

4. Acreage

Agriculture Act

[Subsidiary]

FIRST SCHEDULE, FORM 1—continued

- 5. District agricultural committee
 - 6. L.R. No[s], of any other farm[s] on which essential crops will be planted
 - 7. Committee[s] referred to in para. 6 above
- PROPOSED PROGRAMME OF ESSENTIAL CROPS TO BE PLANTED ON L.O. NO[S] NAMED AT PARAGRAPH 3 ABOVE
 [Columns 2, 3, 4 and 5 to be Completed by Applicant]

Essential crops	PRODUCTION LAST CROP YEAR*			Proposals present year (State varieties of Wheat and Barley) (Acres)	Recommendations district agricultural committee (Acres)	Acreage ordered to be planted under production order
	Acres planted	Yield (bags)	Retained (bags)			
1	2	3	4	5	6	7
Wheat						
Barley						
(Specify varieties in column 5)						
Oats						
Sunflower						
Maize	White					
	Yellow					

*If exact figures are not available, give estimate.
 I certify that the above particulars quoted in columns 2, 3, 4 and 5 are correct to the best of my knowledge and belief.

Date
 Signature of Applicant for production order

[If signature is on behalf of a limited company or partnership, this must be stated]
 RECOMMENDATIONS OF DISTRICT AGRICULTURAL COMMITTEE

Date
 Chairman of District Agricultural Committee

RECOMMENDATIONS OF PROVINCIAL AGRICULTURAL BOARD
 Date
 Chairman of Provincial Agricultural Board

Agriculture Act

[Subsidiary]

FIRST SCHEDULE—continued
[Rule 3(2)]

FORM 2

PRODUCTION ORDER

Under section 104 of the Agriculture Act

Take notice that you are hereby required to plant the acreages specified in column 7 of the crops specified in column 1 of the programme of production overleaf dated the 20

Conditions

The person to whom this production order is issued shall—

- (a) properly cultivate and manage the land affected by the Production Order and apply to it such quantity and such type of fertilizer as may be required or be necessary to ensure a good or normal crop yield; and
- (b) plant the required acreage with the appropriate essential crop between the earliest date of planting and the latest date of planting; and
- (c) inform the Chairman of the Agricultural Sub-Committee concerned, in writing, within one month of planting, of any land planted by him with an essential crop being an addition to the required acreage of the essential crop required to be planted by the production order, and the notification shall include a diagram clearly indicating the situation of the land planted with the required essential crop under this production order and also the essential crop planted in addition to the crop required by this production order; and
- (d) inform, in writing, the chairman of the appropriate district agricultural committee of his inability to comply with the requirements of this production order as soon as this becomes apparent to him, and, if necessary, apply for an amendment hereto; and
- (e) in accordance with section 113 of the Act, inform in writing, by registered post, the chairman of the district agricultural committee of any failure or anticipated failure of an essential crop at the time when the failure becomes apparent; and
- (f) in no circumstances retain for his own use or for any other purpose any essential crop planted under the terms of his production order in respect of which he has an outstanding advance against the estimated guaranteed minimum return without first obtaining the written consent of the Central Agricultural Board; and
- (g) comply with every modification and recommendation of the Central Agricultural Board which are set out hereafter.

.....
for Chairman, Central Agricultural Board

NOTE—The failure to comply with any of the conditions may, in addition to any penalty which may be imposed under the Agriculture Act, result in the cancellation of this production order under section 105 of the Act.

SECOND SCHEDULE

[Rule 7.]

APPLICATION FOR THE RETENTION FOR CONSUMPTION ON THE FARM OF ESSENTIAL CROPS IN RESPECT OF WHICH A GUARANTEED MINIMUM RETURN ADVANCE HAS BEEN TAKEN AND IS IN WHOLE OR IN PART OUTSTANDING

To: The District Agricultural Committee
1. I,
of

Agriculture Act

[Subsidiary]

SECOND SCHEDULE—*continued*

hereby apply for permission to retain the crops shown in column IV below for consumption on the farm(s) on which they have been grown in accordance with the terms of my production order dated the 20

2. I have been granted guaranteed minimum return advance[s] against the said production order of Sh of which I have drawn Sh and of which Sh are still outstanding.
3. If permission is granted, it will mean that my deliveries to the *agents/by farm-to-farm sales through the books of the K.F.A. will not be sufficient to repay the whole of my guaranteed minimum return advance, and I anticipate a shortfall of approximately Sh
- *4. I hereby undertake to make good any shortfall by payment to the Agricultural Finance Corporation within six months from which is the date on which the harvesting of the crop concerned was completed.

ALL ESSENTIAL CROPS GROWN TO BE INSERTED BELOW

I	II	III	IV
Essential crops	Acres harvested	Total crop harvested † (bags)	Number of bags required to be retained on farm
Wheat		(200 lb. bags)	
Maize		(200 lb. bags)	
Barley		(180 lb. bags)	
Oats		(150 lb. bags)	
Sunflower		(100 lb. bags)	
Linseed		(200 lb. bags)	

Date Applicant.

* Delete where not applicable.
 † If exact figures are not available, give estimate.

RECOMMENDATION OF CHAIRMAN OF DISTRICT AGRICULTURAL COMMITTEE

To: The Manager,
 Agricultural Finance Corporation,
 Nairobi.

Retention of the crops applied for in Column IV is recommended.
 is not recommended.

Comments (if any):

Date Chairman.

.....
 District Agricultural Committee.

* Delete where not applicable.

Agriculture Act

[Subsidiary]

SECOND SCHEDULE—*continued*

OBSERVATIONS OF AGRICULTURAL FINANCE CORPORATION

To: The Chairman,
Central Agricultural Board,
Nairobi.

Date
Manager,
Agricultural Finance Corporation.



To: The Manager,
Agricultural Finance Corporation,
Nairobi.

The applicant has been permitted to retain _____^{*the crops applied for}
the following crops _____ on his farm, the
approximate value of which is Sh and your security is reduced
accordingly.

Date
for Chairman,
Central Agricultural Board.

* Delete where not applicable.



**AGRICULTURAL SETTLEMENT TRUST
(NOTIFICATION OF ADVANCE) RULES, 1961**

[L.N. 227/1961, L.N. 292/1961.]

1. These Rules may be cited as the Agricultural Settlement Trust (Notification of Advance) Rules, 1961.
2. Every notification of advance made by the Agricultural Settlement Trust by virtue of the provisions of subsection (4) of section 176Q and section 176J of the Agriculture (Amendment) Act shall be in the form prescribed in the Schedule hereto.

SCHEDULE

[Cap. 318.]

NOTIFICATION OF ADVANCE

To: The Registrar-General

In pursuance of section 176J and of subsection (4) of section 176Q of the Agriculture Ordinance, 1955, this notification of advance (relating to the assisted owner/tenant farmer, advance and interest hereinafter specified) is, by the Agricultural Settlement Trust, hereby delivered.

Name and address of assisted owner or tenant farmer	Land Reference Number of farm	Amount of Advance	Rate of Interest	Date of Advance

Date

*Chief Executive Officer,
Land Development and Settlement Trust.*

* Delete where not applicable.

**AGRICULTURE (SPECIAL CROPS
DEVELOPMENT AUTHORITY) ORDER, 1961**

[L.N. 243/1961, L.N. 292/1961, L.N. 540/1961, L.N. 588/1962.]

1. This Order may be cited as the Agriculture (Special Crops Development Authority) Order, 1961.

2. There is hereby established an Authority, to be known as the Special Crops Development Authority, for promoting and fostering the development of tea, for the areas specified in the Schedule to this Order.

(1) The Authority shall consist of—

- (a) a Chairman appointed by the Minister by notice in the *Gazette*;
- (b) the Permanent Secretary to the Ministry responsible for agriculture;
- (c) the Director of Agriculture;
- (d) the Chairman of the Tea Board;
- (e) one member appointed—
 - (i) by the Colonial Development Corporation, for so long as the Authority is indebted to the Colonial Development Corporation; or thereafter;
 - (ii) by the Minister by notice in the *Gazette*, for his ability or experience in the field of commerce and finance;
- (f) four members appointed by the Minister to represent African tea growers in the areas specified in the Schedule to this Order;
- (g) the General Manager of the Authority appointed under paragraph 9 of this Order.
- (a) The Minister after consultation with the Authority shall appoint from among the members specified in paragraphs (b), (c), (d), (e) and (f) of subparagraph (1) of this paragraph a Deputy Chairman who shall act in place of the Chairman during the absence of the Chairman.
- (b) In the absence of both the Chairman and the Deputy Chairman, the members present at any meeting may elect any one of their number to act as Chairman at such meeting.
- (c) The Deputy Chairman and any person appointed or elected to act as chairman under the provisions of this subparagraph, shall have all the powers and privileges of the Chairman at and in respect of any meeting at which he presides.

(3) If any member specified in paragraphs (b), (c), (d) and (e), of subparagraph (1) of this paragraph is for any reason unable to attend any meeting or meetings of the Authority, he may in writing appoint any person to represent him and such person shall thereupon be deemed to be a duly appointed member for all purposes connected with such meeting or meetings.

(4) Every written instrument of appointment under subparagraphs (2) and (3) of this paragraph shall be preserved in the records of the Authority.

[L.N. 540/1961, s. 2, L.N. 588/1962, s. 2.]

(1) The Chairman, Deputy Chairman and members appointed under subparagraph (f) of subparagraph (1) of paragraph 3 of this Order shall hold office at the pleasure of the Minister.

(2) Subject to subparagraph (1) of this paragraph the Chairman and Deputy Chairman shall each hold office for a period of two years, but shall be eligible for reappointment.

Agriculture Act

[Subsidiary]

(3) Two of the members appointed under paragraph (f) of subparagraph (1) of paragraph 3 of this Order shall retire annually commencing with the first appointment of the Authority, but shall be eligible for reappointment.

(4) The members to retire shall be the members who have been continuously longest in office (reappointments being deemed for this purpose to break continuity of office) and as between members who have been continuously in office for an equal period shall, in default of agreement, be determined by the Authority by ballot.

(5) Notwithstanding anything to the contrary in this Order contained, the membership of a member shall terminate—

- (a) upon receipt by the Minister of his resignation in writing;
- (b) upon his death;
- (c) if he is certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Kenya;
- (d) if the Minister declares him to be physically or otherwise incapable of discharging his duties as a member;
- (e) if he is absent, without the permission of the Authority, from three consecutive meetings of the Authority;
- (f) if he is adjudged or otherwise declared bankrupt under any law in force in Kenya; and
- (g) if he is sentenced by a court to imprisonment for a term of or exceeding six months.

[L.N. 588/1962, s. 3.]

5. Every member of the Authority who is or is likely to be concerned in or who participates or is likely to participate in the profits of any contract with or work done for the Authority otherwise than in his capacity as a member of the Authority shall, on the matter coming before the Authority for consideration immediately declare his interest therein, and shall in any case abstain from voting in the matter.

6. The Authority shall meet not less than four times in each year.

7. A quorum of the Authority shall be a majority of the members thereof.

8. Every decision of the Authority shall be by a simple majority of the members present and voting provided that the Chairman, or in his absence the Deputy Chairman or the person elected to act as Chairman under paragraph (b) of sub-paragraph (2) of paragraph 3 of this Order shall have a casting as well as a deliberative vote; subject thereto the Authority shall have power to regulate its meetings and the procedure thereat.

[L.N. 588/1962, s. 4.]

9. The Authority shall appoint a General Manager and may appoint such other officers as it deems necessary on such terms and conditions of service as the Authority, with the approval of the Minister, shall determine.

10. The Authority may delegate any of its powers to any committee thereof or to the General Manager.

11. The Authority may set up Regional Boards or Committees, consisting of members and officers of the Authority and such other persons associated with them as it considers desirable, to advise the Authority in carrying out its functions.

12. Members of the Authority other than Government Officers shall receive such remuneration and allowances (if any) as the Minister may approve.

13. The seal of the Authority shall be authenticated by the signature of the Chairman and of the General Manager of the Authority.

14. All documents, other than those required by law to be under seal, made by, and all decisions of the Authority may be signified under the hand of the Chairman of the Authority, or of any member of the Authority, authorized by the Authority in that behalf, or of the General Manager of the Authority.

15. The financial year of the Authority shall be from the first day of July in each year to the thirtieth day of June, in the year following.

(1) The Authority shall cause to be kept such books of account and other books in relation thereto and to all its undertakings, funds, activities and property, as the Minister may from time to time require; and shall, within a period of four months after the end of its financial year or within such longer period as the Minister may approve, cause to be prepared, signed and transmitted to the auditor—

- (i) a balance sheet showing in detail the assets and liabilities of the Authority; and
- (ii) such other statements of accounts as the Minister may require.

(2) The accounts of the Authority shall be examined, audited and reported upon annually by the Controller and Auditor-General or by such other person as the Minister may appoint, being a person who is a member of one or more of the bodies specified in the Schedule to the Accountants (Designation) Ordinance, 1950 (No. 66 of 1950).

- (a) The Authority shall produce and lay before the auditor all books and accounts of the Authority with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditor shall be entitled to require from all members, officers, employees and agents of the Board such information and explanation as he may consider to be necessary for the performance of his duties as auditor.

- (b) The expenses of and incidental to the audit shall be paid by the Authority,

(4) The Authority shall, within a period of seven months after the end of its financial year or within such longer period as the Minister may approve, submit to the Minister a report of its operations during such year, and the year's balance sheet and such other statements of account as the Minister shall require together with the auditor's report thereon; and the Authority shall, if the Minister so requires, publish them in such manner as the Minister may specify.

(5) The Minister shall lay the Authority's report and the Auditor's report, together with the balance sheet and such other statements of account as he may have required, on the Table of the Legislative Council within fourteen days of receipt of the reports and statements by him, or, if the Legislative Council is not sitting, within fourteen days of the commencement of the next sitting.

17. Any levy imposed by the Authority under the provisions of this Order shall be payable to the Authority or its agents in that behalf by the person on whom it is imposed in such manner and within such time as the Authority may direct, and shall be a civil debt due from such person to the Authority.

18. The Authority shall be empowered to do the following things—

- (a) to prepare and carry out schemes for the development of tea including—
 - (i) the establishment and management of nurseries for the cultivation of seed;
 - (ii) the purchase of seed and seedlings;
 - (iii) the sale of seed and seedlings to growers and others;

Agriculture Act

[Subsidiary]

- (iv) the supervision of cultivation by growers;
- (v) the inspection of growing and harvested green leaf;
- (vi) the purchase, collection and transportation of green leaf from growers;
- (vii) storage of green leaf;
- (viii) the processing of green leaf for the manufacture of made tea, or its sale to others for that purpose;
- (ix) the transportation and sale of made tea;
- (b) to deduct, from moneys held for and on behalf of growers, any levies due to the Authority from those growers;
- (c) to employ agents for the implementation of any scheme, or for the performance of any function of the Authority under this Order, at such remuneration as may be agreed;
- (d) to raise such loans on such terms and for such purposes as may be approved by the Minister after consultation with the Minister for Finance;
- (e) to utilize its profits for repayment of any outstanding loans, and with the approval of the Minister for promoting and fostering the development of tea or for any other purpose whether of a like nature or otherwise;
- (f) to make loans for the purpose of developing tea;
- (g) to market green leaf;
- (h) to enter into agreement with a processing factory or factories for the purchase or processing of green leaf;
- (i) to establish, acquire and operate processing factories, to enter into agreements for the establishment of factories and to promote and subscribe for shares in any Company incorporated in Kenya for the purpose of processing and/or marketing tea;
- (j) to market made tea;
- (k) to create and operate price stabilization funds, and such other reserve funds as the Minister may approve and to apply any such funds to the repayment of any outstanding loans;
- (l) to invest sums belonging to it which are not immediately required for any of the purposes of this Order in any manner in which trustees are authorized by law to invest trust funds and to sell or vary any investments so made, to place money on deposit with a bank and to establish and operate bank accounts;
- (m) if, in any year, the operations of the Authority result in a surplus after all expenses and charges have been met and provision for payment to the funds provided for in subparagraph (k) of this paragraph has been made, the Authority may, with the approval of the Minister, utilize such part of the surplus as it thinks fit in repayment of any outstanding loan or in payments to the growers; any surplus not disposed of pursuant to the provisions of this Order and not otherwise appropriated shall be carried forward in the revenue and expenditure account for appropriation in succeeding years; and
- (n) with the approval of the Minister, by order published in the *Gazette*—
 - (i) to impose a levy or levies on growers, including levies at different rates in respect of any growers or section of growers, for the purpose of financing the operations of the Authority and for such other purpose or purposes as the Minister may approve;

Agriculture Act

[Subsidiary]

- (ii) to fix prices either generally or in reference to any particular circumstances or section of growers to be paid to growers for green leaf;
- (iii) to regulate and control the marketing of crops by growers and others, including the requiring of growers and others to sell crops to particular persons only;
- (iv) provide for any other matter which is approved by the Minister as being in the furtherance of the development of tea or incidental or conducive to the exercise of any of the powers of the Authority;
- (o) with the approval of the Minister, to do any other thing which in the opinion of the Authority will assist the development of tea in the said areas.

19. Any person who contravenes any order of the Authority made under subparagraph (n), of paragraph 18 of this Order shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month.

20. The Agriculture (Local Land Development Board) Order, 1960 (L.N. 458/60), is hereby revoked.

SCHEDULE

[L.N. 588/1962, s. 5.]

(1) The Non-Scheduled Areas in the Nyanza, Central and Rift Valley Provinces, save and excepting such parts thereof as may have been set aside and leased under the provisions of the Trust Land Ordinance (Cap. 100) to registered companies for the development or processing of tea.

(2) Those pieces of land situated in the Uasin Gishu area of the Rift Valley Province and numbered L.R. No. 8739, L.R. No. 8740, L.R. No. 698/2 and L.R. No. 699, respectively.

AGRICULTURE (AGRICULTURAL SUBCOMMITTEE) RULES, 1961

ARRANGEMENT OF RULES

Rule

1. Citation.
 2. Interpretation.
 3. Constitution of Agricultural Subcommittees.
 - 4.
 5. Provisions as to elections of Agricultural Subcommittees generally and nominations.
 6. Nominations and qualifications therefore.
 7. Minister may add candidates.
 8. Nominations to be notified to electors.
 9. Voting for candidates for election to Agricultural Subcommittees.
 10. Counting of votes and declaration of election.
-

[Subsidiary]

AGRICULTURE (AGRICULTURAL SUBCOMMITTEE) RULES, 1961

[L.N. 363/1961, L.N. 696/1961, L.N. 9/1963.]

1. Citation

These Rules may be cited as the Agriculture (Agricultural Subcommittee) Rules, 1961, and shall come into operation on 30th June, 1961.

2. Interpretation

In these Rules, unless the context otherwise requires—

“**Agricultural Subcommittee**” means an Agricultural Sub-committee constituted under subsection (1) of section 26 of the Act;

“**Board**” means the Board (Scheduled Areas);

“**Chief Executive Officer**” means the Chief Executive Officer appointed by the Board under section 46 of the Act;

“**Production area**” means a production area constituted under section 24 of the Act.

3. Constitution of Agricultural Subcommittees

(1) Every Agricultural Subcommittee shall consist of not less than three and not more than five persons, as may be decided by the Board.

(2) Any Agricultural Subcommittee may apply to the Board for the number of members to be varied at any time; upon any such application the Board may from time to time vary the number of members of which any Agricultural Subcommittee is to consist as from a date to be specified by the Board, and as from such date the constitution of the Subcommittee shall be varied accordingly.

(1) The following provisions shall regulate the tenure of office of the members of an Agricultural Subcommittee—

- (a) if the Subcommittee consists of five members, two of their number shall retire at the end of every calendar year;
- (b) if the Subcommittee consists of four or three members, one of their number shall retire at the end of every calendar year,

and in every case the member to retire as aforesaid shall be the member who has been longest in office, but as between members who have been in office for an equal time the member to retire shall, in default of agreement between them, be determined by lot.

Provided that the Minister may, after consultation with the Board, by order published in the *Gazette*, suspend the provisions of the paragraph for such period as shall be specified in the order and upon such suspension no member of an Agricultural Subcommittee shall be required to retire in the manner prescribed under this paragraph.

(2) Every member of an Agricultural Subcommittee shall hold office until the day on which his successor is appointed.

(3) Every member of an Agricultural Subcommittee shall be eligible for re-election.

(4) Each Agricultural Subcommittee shall elect annually one of its members to act as chairman and another member to act as deputy chairman in the absence of the chairman, but no person shall, unless his election be unanimous, be elected as chairman or deputy chairman of any Agricultural Subcommittee for more than three consecutive years without the prior consent of the Minister.

(5) In the event of there being an equality of votes on the election of a chairman or deputy chairman, the person presiding at such meeting shall not have a second or casting vote, but the election shall again be put to the vote until the question is decided by a majority vote.

(6) The members of Agricultural Subcommittees in office immediately before the commencement of section 6 of the Agriculture (Amendment) Act, 1960, shall continue in office as though they had been elected as members under these Rules until they retire under paragraph (1) of this rule.

[L.N. 9/1963.]

5. Provisions as to elections of Agricultural Subcommittees generally and nominations

(1) The provisions of this rule and of rules 6 to 10 inclusive of these Rules shall apply to every election of members of, or of a member to fill a vacancy on, an Agricultural Subcommittee.

(2) The Chief Executive Officer shall, by notice in the *Gazette* specify a day, hereinafter referred to as the nomination day, by which nominations of persons willing to be elected are to be submitted to him.

(3) Different nomination days may be appointed for different production areas.

(4) Nominations received after nomination day shall be null and void.

6. Nominations and qualifications therefor

(1) Except as otherwise provided by rule 7 of these Rules, every candidate for election shall be nominated by being proposed and seconded in a statement in writing sent to the Chief Executive Officer by registered post.

(2) No person shall be eligible to be nominated as a candidate for an Agricultural Subcommittee unless he is on the nomination day a person owning, occupying or employed upon agricultural land which is, or is under section 25 of the Act determined to be, within the production area for which such Agricultural Subcommittee is to be elected; nor shall any person be eligible to propose or second any such candidate unless he is on the nomination day a registered owner or occupier of such agricultural land as aforesaid.

(3) In the case of a registered Company, the person signing on behalf of the Company must be the official nominee (or the alternative nominee) of that Company, empowered by resolution to act on behalf of the Company in respect of this rule; and, unless notification of such a resolution has been communicated by the Company to the Board, the signature of any person purporting to sign on behalf of the Company shall not be acceptable for the purposes of this rule.

(4) Every nomination shall be accompanied by a statement in writing signed by the candidate consenting to his nomination; any candidate may, not later than 12 noon on the nomination day appointed for the production area, withdraw from his candidature by giving notice to that effect signed by him to the Chief Executive Officer.

7. Minister may add candidates

The Minister may, not later than the expiration of two months after the nomination day appointed for any production area, nominate an additional number of persons for election to the Agricultural Subcommittee to be elected for such production area:

Provided that—

- (i) the person so nominated by the Minister shall be persons owning, occupying or employed upon agricultural land which is, or is under the

[Subsidiary]

- (ii) the number of persons so nominated shall not exceed three or such larger number as may be required to complete the full membership of the Agricultural Subcommittee in accordance with the provisions of rule 3 of these Rules.

[L.N. 696/1961.]

8. Nominations to be notified to electors

The Chief Executive Officer shall in respect of each production area for which an Agricultural Subcommittee, or a member thereof, is to be elected, on receipt of the nominations referred to in rule 6 and rule 7 of these Rules, prepare a list of the candidates, indicating therein which of the candidates are persons nominated by the Minister under rule 7 of these Rules, and, with regard to the other candidates the names of their proposers and seconders respectively, and shall serve a copy of the list on each registered occupier or owner entitled, under these Rules, to vote at such election:

Provided that—

- (i) where the number of candidates for election to any Agricultural Subcommittee does not exceed the prescribed number, the candidates shall be deemed to have been duly elected;
- (ii) where only one candidate is nominated to fill a single vacancy on any Agricultural Subcommittee he shall be deemed to have been duly elected;
- (iii) in any such case as is referred to in the preceding paragraphs of this proviso, the foregoing provisions of this rule and of rules 7 and 10 of these Rules shall cease to have any application to the election of any such Agricultural Subcommittee or member thereof, except that the result of every such election shall be published by the Chief Executive Officer in the *Gazette*.

9. Voting for candidates for election to Agricultural Subcommittees

(1) Every registered owner or occupier of agricultural land within the production area shall be entitled to vote for the election of one candidate in respect of each vacancy on the Agricultural Subcommittee for the production area in respect of which he is registered on the election day as hereinafter defined:

Provided that—

- (i) where a person is registered in respect of more than one holding of agricultural land in a single production area, he shall not be entitled to vote more than once in respect of the same vacancy;
- (ii) where in respect of a single holding of agricultural land both the owner and occupier thereof are registered, the occupier shall be entitled to vote to the exclusion of the owner;
- (iii) where a person is registered and otherwise qualified to vote in respect of holdings situate in two or more production areas, he shall be entitled to vote in every such area.

(2) In the case of a registered Company, the person signing on behalf of the Company must be the official nominee (or the alternative nominee) of that Company, empowered by resolution to act on behalf of the Company in respect of this rule; and, unless notification of such a resolution has been communicated by the Company to the Board, the signature of any person purporting to sign on behalf of the Company shall not be acceptable for the purposes of this rule.

(3) The Chief Executive Officer shall, by notice in the *Gazette*, specify a day, hereinafter referred to as the election day, for the election of members of each Agricultural Subcommittee or of a member to fill a vacancy on any such Subcommittee.

(4) Different election days may be specified for different production areas.

(5) An election day may be notified in a notice appointing a nomination day under paragraph (2) of rule 5 of these Rules.

(6) Every vote shall be submitted in writing to the Chief Executive Officer either personally or by post, and any vote received by him after the election day shall not be eligible to be counted under rule 10 of these Rules.

10. Counting of votes and declaration of election

(1) With respect to each production area, as soon as practicable after the election day, the Chief Executive Officer shall make arrangements for the counting of the votes in the presence of such persons as the Board may appoint to be scrutineers.

(2) The decision of the Chief Executive Officer as to the acceptance or rejection of any vote shall be subject to an appeal to the Board, whose decision shall be final.

(3) When the counting of the votes has been completed the Chief Executive Officer shall declare to be elected the candidate or prescribed number of candidates to whom the greatest number of votes has been given and shall cause the result of every election to be published in the *Gazette*.

(4) Where an equality of votes occurs and the addition of a vote would enable any candidate to be declared elected, the determination of the candidate to whom such one additional vote shall be deemed to have been given shall be made by lot in the presence of the scrutineers appointed as aforesaid in such manner as the Chief Executive Officer shall think fit.

AGRICULTURAL APPEALS TRIBUNAL RULES, 1961

[L.N. 380/1961, L.N. 761/1963.]

1. These Rules may be cited as the Agricultural Appeals Tribunal Rules, 1961.
2. In these Rules, unless the context otherwise requires—

“**appellant**” means a person who is empowered by any Act to appeal to the Tribunal;

“**chairman**” means the chairman of the Tribunal;

“**hearing**” means a sitting of the Tribunal duly constituted for the purpose of receiving evidence, hearing addresses and witnesses, delivering the decision of the Tribunal or doing anything lawfully requisite to enable the Tribunal to reach a decision on any particular appeal or matter prosecuted before it;

“**secretary**” means the person appointed by the Minister, from time to time, to perform the duties of secretary to the Tribunal;

“**Tribunal**” means the Agricultural Appeals Tribunal established under section 193 of the Act.

(1) Every appeal shall be made in the form of a memorandum in writing presented by the appellant or his advocate and shall have attached thereto a copy of the order, action, decision or direction appealed against.

(2) Each separate ground of appeal shall be contained in a separate paragraph of the memorandum and numbered consecutively.

(3) The appellant shall, within the time specified in the Act under the provisions of which the appeal is made, deliver to the secretary in person or send to him by registered post his memorandum of appeal.

(4) The appellant shall attach to his memorandum of appeal any documentary evidence, or copy thereof, relative to his appeal, which is in his possession or which he can reasonably obtain.

(1) As soon as may be practicable after the lodging of the memorandum of appeal in pursuance of rule 3, the chairman shall fix a date and place for the hearing and shall cause to be served upon the appellant, not less than fourteen clear days before the date fixed for the hearing, a notice in the form in the First Schedule, and shall at the same time cause a copy of the notice to be sent to the Minister.

(2) An appellant may at any time before the hearing of his appeal deliver in writing to the secretary notice that he desires to withdraw his appeal, and thereupon the appeal shall be struck out with such order as to costs as may appear just to the Tribunal.

(3) If at the hearing the appellant fails to appear, either in person or by his representative, or if the Minister’s representative fails to appear, it shall be at the discretion of the Tribunal whether to proceed with the hearing or to adjourn the hearing or determine it, or to give such instructions as appear to it to be just and expedient in all the circumstances of the case.

(1) The hearings of the Tribunal shall be in public, unless for good cause shown the Tribunal directs that a hearing shall be held in private.

[Subsidiary]

(2) The Tribunal shall give the Minister's representative an opportunity to address the Tribunal and call witnesses, and shall give the appellant and other interested parties or their representatives an opportunity to cross-examine any witness called, and shall give the Minister's representative an opportunity to re-examine any witness cross-examined.

(3) The Tribunal shall give the appellant or his representative an opportunity to address the Tribunal and call witnesses, and shall give the Minister's representative an opportunity to cross-examine any witnesses called, and shall give the appellant or his representative an opportunity to re-examine any witness cross-examined.

(4) The appellant may, if he so desires, give evidence as a witness on his own behalf.

(5) The Tribunal may require any witness to give evidence on oath, and for that purpose the chairman may administer oaths.

(1) The provisions of Order XV of the Civil Procedure Rules (which deals with the summoning and attendance of witnesses) shall apply *mutatis mutandis* for the purposes of hearing under these Rules.

(2) Any assessor called to sit with the Tribunal shall be paid his reasonable out-of-pocket expenses and a daily remuneration, the amount of which shall be decided by the chairman subject to any general or specific direction by the Minister.

7. The Tribunal may with the consent of the owner or occupier, if it deems necessary or expedient in any particular case, enter and inspect any land or anything else of whatsoever description concerned in an appeal.

(1) The Tribunal may require the attendance before it of such other persons as witnesses, not called by any of the parties to an appeal, and may consider such other evidence, as may appear to the Tribunal to assist it in reaching its decision, subject to the right of the Minister and the appellant, or their representatives, to cross-examine any such witnesses as provided in rule 5.

(2) The Tribunal shall not be bound to reject any evidence on the ground only that the evidence would be inadmissible in any other court or tribunal, and may dispense with the formal proof of any of the documents mentioned in subrule (4) of rule 3 and in the Second Schedule.

(3) The Tribunal may take notice of the circumstances existing at the date of the hearing of the appeal where there has been any change of circumstance since the date of the lodging of the appeal.

(4) The Tribunal may adjourn the hearing from time to time if for any reason it appears to the Tribunal necessary or desirable to do so.

9. The chairman may, upon such terms and conditions, if any, as appear to him to be just and expedient, extend the time appointed by these Rules for doing any act or taking any proceedings; a request for any such extension may be addressed to the secretary either before or after the expiration of the time so appointed:

Provided that no such extension shall be granted after the expiry of a period of three months after the time so appointed.

(1) The decision of the Tribunal shall be recorded in a document to be certified by the chairman as correctly recording such decision.

(2) As soon as may be practicable after the certification of the document mentioned in paragraph (1), a copy thereof, certified in accordance with subrule (3), shall be forwarded by the secretary to the Minister and to the appellant.

(3) Copies of the document referred to in subrule (2) shall be prepared as may be necessary by the secretary and shall be certified by him as true copies.

(4) Every copy so certified shall be conclusive evidence of the decision of the Tribunal on the matter to which the decision relates.

(1) Save as in these Rules expressly provided, the Tribunal shall have the power to regulate its own procedure.

(2) Subject to the provisions of rule 9, non-compliance by either the Minister or an appellant with any of the provisions of these Rules shall not render proceedings void unless the Tribunal so directs, and the chairman may at any time give such instructions as appear to him to be necessary or desirable by reason of any such non-compliance.

(1) Any appeal to the Tribunal under paragraph (ii) of the proviso to subsection (5) of section 2 of the Act shall be made by notice in writing in the form in the Third Schedule to these Rules, signed by the appellant or his advocate, and served at the same time on—

(a) the secretary; and

(b) any person interested or appearing to the appellant to be interested in the land.

(2) Any person served with a notice under paragraph (b) of subrule (1) may, if he so desires, within twenty-one days from the date of service, make a written statement either personally or through his advocate, by way of comment upon the application and serve copies of the statement upon the appellant, or his advocate and the Minister, and in that event he shall at the same time forward a copy of the statement to the secretary.

(3) As soon as may be practicable after the period of twenty-one days, the chairman shall fix a date and place for the hearing of the appeal, and shall cause to be served upon the parties interested in the appeal, or their advocates, not less than ten clear days before the date fixed for the hearing, a notice in the form in the Fourth Schedule.

(4) The chairman may at any time direct that a copy of any notice of appeal pending under this rule, and of the notice of hearing, shall be served upon any person appearing to him to be interested in the land the subject of the appeal, whether or not that person is named in the notice of appeal or has been served with a notice in accordance with paragraph (b) of subrule (1).

(1) When in the opinion of the chairman a matter arises in a hearing under these Rules which calls for special knowledge, he may call upon any person who he considers to be possessed of such special knowledge to sit with the Tribunal as an assessor.

(2) At the conclusion of a hearing with an assessor, the chairman shall require the assessor to state his opinion on the matter referred to in subrule (1).

(3) The Tribunal in delivering its decision shall not be bound to conform to the opinion of the assessor.

(4) In the event of the Tribunal not agreeing with the opinion of an assessor it shall record the reasons for so doing in writing.

(1) There shall be paid to the secretary the sum of twenty shillings at the time of lodging an appeal under rule 3 or an application under subrule (2) of rule 12:

Provided that if the appellant or applicant, as the case may be, succeeds in the appeal or application such fee shall be returned to him.

(2) Any such fees not refunded shall be paid by the secretary to the Minister.

Agriculture Act

[Subsidiary]

FIRST SCHEDULE

[Rule 4(1).]

NOTICE OF HEARING OF APPEAL

THE AGRICULTURAL APPEALS TRIBUNAL

P.O. BOX
NAIROBI

To

NOTICE OF HEARING

TAKE NOTICE that a hearing has been fixed pursuant to your application for an appeal to this Tribunal dated and will take place at on the day of 20..... at o'clock in the noon. In your own interests, you should attend the hearing with your witnesses at the above time and place whether or not you are to be represented. If for any reason you do not propose or are unable to attend, either in person or by your representative, you should IMMEDIATELY inform me in writing at the address mentioned at the head of this Notice, stating the reasons for your inability to attend.

Date

.....
for Chairman

SECOND SCHEDULE

[Rule 8(2).]

DOCUMENTS OF WHICH FORMAL PROOF MAY BE
DISPENSED WITH AT THE DISCRETION OF THE TRIBUNAL

1. A plan of any land concerned in the case.
2. A schedule, related to the plan, of any crops, including existing crops or fallows, previous crops or fallows, and any permanent or temporary pasture, relative to the Minister's case.
3. A copy of any directions relative to the Minister's case given by or on behalf of the Minister to the appellant.
4. A copy of any documentary evidence relative to the Minister's case, other than documents sent, given or served at any time by or on behalf of the Minister to or on the appellant.

Agriculture Act

[Subsidiary]

THIRD SCHEDULE

[Rule 12(1).]

NOTICE OF APPEAL AGAINST DETERMINATION OF OWNERSHIP BY THE MINISTER

To:

.....

TAKE NOTICE that

of

is appealing to the Agricultural Appeals Tribunal under the proviso to section 2(5) of the Agriculture Act, for a determination that the said

in relation to the provisions of Part I of the said Act, be treated as the owner of the land known as

in the place of who has been determined by the Minister to be deemed to be the owner of the said land.

My reasons for this appeal are as follows—

The following persons are or appear to be interested in the land—

Names	Addresses
.....

Date

Appellant or his Advocate

FOURTH SCHEDULE

[Rule 12(3).]

NOTICE OF LEAVING OF APPEAL AGAINST DETERMINATION OF OWNERSHIP BY THE MINISTER

THE AGRICULTURAL APPEALS TRIBUNAL

P.O. BOX

NAIROBI

To:

.....

NOTICE OF HEARING

TAKE NOTICE that a hearing of the appeal by

dated that he should, in relation to the provisions of Part I of the Agriculture Act, be treated as the owner of the land known as

..... in the place of

..... has been fixed to take place

at

on the day of 20

at o'clock in the noon. If for any reason

Agriculture Act

[Subsidiary]

FOURTH SCHEDULE—*continued*

you do not propose or are unable to attend, either in person or by your representative, you should IMMEDIATELY inform me in writing at the address mentioned at the head of this Notice, stating the reasons for your inability to attend.

Date
.....
for Chairman

LAND UTILIZATION AND SETTLEMENT RULES, 1962

[L.N. 46/1962.]

PART I – PRELIMINARY

1. These Rules may be cited as the Land Utilization and Settlement Rules, 1962.
2. In these Rules, unless the context otherwise requires, “the board” means the Land Development and Settlement Board constituted under section 167 of the Act; “lease” includes an agreement to lease.
3. Every application for participation in an approved settlement scheme shall be made in the appropriate form specified in the First Schedule to these Rules, and the applicant shall be required to satisfy the Board that he is—
 - (a) a resident of the Colony;
 - (b) an experienced farmer or that he is prepared to undergo a course of agricultural training to the satisfaction of the Board;
 - (c) in possession of financial resources adequate to enable him to undertake farming under the scheme in question;
 - (d) prepared to comply with such directions as the Board may give in respect of his farming operations; and
 - (e) that he has attained the age of twenty-one years.
4. The Board shall administer the following approved settlement schemes—
 - (a) the Tenant Farming Scheme, to which the provisions of rules 5 to 8 inclusive of these Rules shall apply;
 - (b) the Assisted Ownership Scheme, to which the provisions of rule 9 of these Rules shall apply.

PART II – TENANT FARMING SCHEME

5. The Board may allot land and grant leases to tenant farmers selected by the Board, and every such lease shall, subject to such modifications as the Board may make in any particular case, contain inter alia the following conditions, which shall be deemed to be covenants in every such lease except, and in so far as they are excluded expressly or by necessary application—
 - (a) the term shall not exceed 35 years;
 - (b) the rent shall be payable half-yearly in arrear on 31st March and 30th September in each year, provided that the Board may, with the approval of the Minister, grant relief with regard to payment of rent;
 - (c) the Board may at any time during the currency of the lease effect at the Board's expense any improvements which the Board may deem necessary, and may, by notice in writing given to the tenant farmer not later than six months after the completion of such improvements, increase the rent payable in succeeding years thereafter by an annual amount representing such percentage of the actual cost of the improvements not exceeding eight per centum thereof, as the Board shall specify in such notice;
 - (d) the tenant farmer shall not make any improvements on the land, whether at his own expense or otherwise, except with the written consent of the Board;
 - (e) the tenant farmer shall not make any alterations or additions to any buildings on the land except with the written consent of the Board;

Agriculture Act

[Subsidiary]

- (f) the tenant farmer shall at his own expense maintain in good order, ditches, hedges, water-courses, culverts, shelter trees and other improvements on the land, and on any failure so to maintain or repair the Board may by its agents or servants enter upon the said land and carry out any work required in or towards such maintenance or repair, and the cost of so doing shall be recoverable from the tenant farmer;

Provided that the Board may in its discretion bear the cost of repairing any structural failure in any building, or any improvement on the land;

- (g) the tenant farmer shall keep on the land such minimum number and type of livestock as the Board may require;
- (h) the tenant farmer shall manage the land according to the principles of good husbandry, to the satisfaction of the Board;
- (i) the tenant farmer shall plant and maintain such areas of trees of such types as he may be required to do so by notice in writing by the Board, and shall not without the permission of the Board cut or destroy any trees so planted and growing;
- (j) the tenant farmer shall personally occupy the land during the term of the lease and shall not sublet or in any way part with possession of any portion thereof or any building or part thereof, nor shall he sell or let any grazing to any labourer or other person whomsoever, whether for a consideration or not, nor depasture any livestock other than his own, without the written consent of the Board;
- (k) the tenant farmer shall not without the consent of the Board mortgage any part of his interest in the land or enter into any bill of sale or chattels mortgage over any movable property, crops or stock on the farm;
- (l) the Board may make such inspection of the land, buildings and farming operations as it shall think fit, and for this purpose shall by its agents or servants have access to the land at all reasonable times;
- (m) the tenant farmer shall pay the rent reserved and all rates, taxes, licences, fees and other outgoings payable either by the Board or the occupier in respect of the land and improvements;
- (n) the tenant farmer shall insure for such sum or sums as shall be approved in writing by the Board, with an insurance company approved by the Board, all movables and harvested crops on the land, and all improvements, against loss or damage by fire or otherwise, and shall effect such further insurance as may be required by law, and shall deliver the appropriate policy or policies, and receipts for premia, to the Board;

Provided that the Board may at any time exempt him from the requirements to insure a particular movable, crop or improvement for the purposes of the lease;

- (o) no tenant farmer shall, except with the written consent of the Board, either personally or through a nominee, acquire or retain any interest in any land, farm or farming business other than the subject of the lease under the scheme in which he is participating;
- (p) the lease may be terminated by the tenant farmer giving to the Board twelve calendar months' notice in writing to that effect;
- (i) if the tenant farmer has for thirty days after any rental or other moneys became due by him made default in the payment thereof; or,
- (ii) if the tenant farmer has at any time during the currency of the lease made default in the observance or performance of any of the covenants or conditions contained or implied therein, or has been adjudged bankrupt or convicted of any criminal offence involving

- (iii) if the tenant farmer becomes mentally or physically incapable of carrying out the conditions of the lease or of managing his business of farming,

then in any of those events the Board may at any time thereafter re-enter upon the land or any part thereof in the name of the whole and thereupon the lease shall set determine, but without prejudice to any rights of the Board the accrued prior to such determination:

Provided that on the occurrence of any such disability as is referred to in subparagraph (iii) hereof the Board in its discretion and subject to such conditions as it may think fit to impose, grant a new lease of the land to the wife or any one child of the tenant farmer;

- (r) on the termination of the lease, otherwise than in pursuance of rule 7 of these Rules—
 - (i) all rent, loans and other moneys payable to the Board by the tenant farmer shall become due for payment, and the Board may set off any such moneys against any moneys due to the tenant farmer;
 - (ii) the Board shall credit the tenant farmer with an amount equal to the value of any improvements made by him at his expense in accordance with these Rules, as assessed at the time of termination by a valuer to be agreed upon between the Board and the tenant farmer, or failing such agreement, to be appointed by the Minister;
 - (iii) the Board may, at its option, take possession and sell or otherwise dispose of any livestock, chattels and growing or harvested crops in or upon the land, in which case it shall credit the tenant farmer with the value thereof, or may require the tenant farmer to remove from the land, within such reasonable period as it shall specify, any such livestock, chattels or crops; if the tenant farmer fails to remove the livestock, chattels or crops within the specified period, the Board may sell or otherwise dispose of the livestock, chattels or crops, in which case the net proceeds shall be credited to the tenant farmer, but the Board shall not be liable for any loss or damage whatsoever thereby occasioned: provided that the Board shall not by reason only of re-entering upon the land be deemed to have taken possession of any livestock, chattels or crops therein or thereupon. In this subparagraph the word "crops" does not include volunteer or selfsown crops or unimproved grassland.

(1) The Board may from time to time approve and make loans (to be known as settlement loans) to tenant farmers, for all or any of the following purposes—

- (a) to purchase stock, plant and other agricultural requirement;
- (b) to carry out farming operations generally;
- (c) to purchase at an agreed value all the improvements existing on the farm which have been made or paid for by the Board and which the Board considers to be of a permanent nature;
- (d) to effect any improvement which the Board considers will be of a permanent nature.

(2) Every loan granted in pursuance of this rule shall be repayable in equal half-yearly instalments together with interest at such rate as the Board may determine, over a period

[Subsidiary]

not exceeding thirty-five years from the first day of April or the first day of October immediately preceding the grant of the loan, whichever is the later.

(3) The grant of a loan for improvement shall not preclude the Board from erecting further improvements at its own expense.

7. Notwithstanding the provisions of paragraph (a) of rule 5 of these Rules, the Board may in its discretion, any time, in writing—

- (a) permit a tenant farmer to purchase; or
- (b) grant the tenant farmer an option to purchase, subject to such terms and conditions as it shall specify and to there being no subsisting breach of any of the terms and conditions of the lease at the time of the exercise thereof, the whole estate or interest of the Board in the land the subject of the lease, at a premium determined in accordance with the provisions of rule 8 of these Rules.

(1) The premium on the acquisition of the estate or interest of the Board under rule 7 of these Rules shall be a sum equal to the value of such estate or interest at the commencement of the lease to the tenant farmer, as determined by the Board, plus the value, as at the date of the exercise of the option, of any improvements effected on land after the commencement of the lease at the expense of the Board, such value to be assessed by a value to be agreed upon between the Board and the tenant farmer, plus the cost (as certified by the Director of Surveys, whose certificate shall be conclusive) of any survey or re-survey of the land effected subsequent to the acquisition of such estate or interest as aforesaid by the Board and prior to the transfer of such estate or interest to the tenant farmer (whether or not such cost shall have been met by or debited against the Board).

(2) Such premium shall, unless otherwise agreed between the Board and the tenant farmer, be paid by the tenant farmer, either in the whole or as to such proportion as the Board may determine, in cash on completion of the acquisition by him, the balance (if any) to be paid by equal half-yearly instalments, together with interest at such rate as the Board may determine on such amount as shall from time to time remain outstanding, over a period not exceeding thirty-five years, the first of such instalment to be paid on the expiry of six months from completion of the acquisition.

(3) All costs of and incidental to the acquisition by the tenant farmer of the estate or interest of the Board as aforesaid (including conveyancing, registration and survey fees and stamp duty) shall be borne by the tenant farmer.

PART III – ASSISTED OWNERSHIP SCHEME

(1) The Board may make advances to owners of any estate or interest in land in the Colony and to persons who intend to acquire such estate or interest, for any of the following purposes—

- (a) to acquire land for farming (including the legal and other costs involved in such acquisition);
- (b) to purchase stock, plant and other agricultural requirements;
- (c) to carry out farming operations generally;
- (d) to effect improvements on land.

(2) The Board may require such security for advances as it deems necessary or desirable.

PART IV – GENERAL PROVISIONS RELATING TO ADVANCES

10. All advances under these Rules shall, subject to the provisions of the Act, be made on such terms and conditions as the Board may see fit to impose and shall, except as otherwise prescribed, be repayable in the case of an advance under the Tenant Farming Scheme or a guarantee under subsection (6) of section 173 of the Ordinance over a period not exceeding thirty-five years from the date of the lease, and in the case of an advance under the Assisted Ownership Scheme, over a period not exceeding thirty-five years from the date of issue of the advance.

11. All advances under these Rules shall be repayable in equal half-yearly instalments of capital and interest falling due on the 31st day of March and the 30th day of September in each year.

12. The balance outstanding on any advance under these Rules may be repaid at any time prior to the due date, and in that event the Board shall claim interest to the date of such repayment only.

13. Every notification to secure an advance by way of a charge on the chattels of an assisted owner or of a tenant farmer under Section 176 of the Act shall be in the form set out in the Second Schedule to these Rules.

14. Notwithstanding any provisions to the contrary under these Rules, the Board may, on the application of a borrower, agree to a suspension of the payment of capital instalments for an initial period not exceeding five years and the amounts accruing during any such period and remaining unpaid shall be deemed to be further advances under these Rules.

15. All advances under the Ordinance and these Rules shall, except as otherwise provided, bear interest at a rate to be determined by the Board.

STRICTLY
CONFIDENTIAL

Original
Duplicate

FIRST SCHEDULE
[Rule 3.]

FORM "A"

LAND DEVELOPMENT AND SETTLEMENT BOARD

APPLICATION FOR PARTICIPATION IN AN APPROVED SETTLEMENT SCHEME

I, son of
(Full name in BLOCK letters)

of (address) being a resident of the Scheduled Areas of the Colony hereby apply for participation in the Tenant Farming/Assisted Ownership Scheme and I undertake, if accepted, to comply faithfully with such directions as to training requirements and the adoption of sound farming practice as the Board may issue.

.....
Signature of Applicant.

Agriculture Act

[Subsidiary]

FIRST SCHEDULE, FORM "A"—continued

REFERENCES

Local Agricultural Subcommittee

Date Signature

One other person with knowledge of applicant

Date Signature

STATUTORY DECLARATION

I, son of of (address) do solemnly and sincerely declare and truly declare on oath (or) do solemnly, sincerely and affirm* that the information given below relates to myself and is true.—

Date and place of birth

Married/Single

Children and ages

Nationality

If naturalized, date and place of naturalization and previous nationality

* Delete as necessary. The second form is the affirmation for persons objecting on religious grounds to taking an oath.

HISTORY

(1) Career other than farming

(2) Farming experience

[P.T.O.]

Agriculture Act

[Subsidiary]

FIRST SCHEDULE, FORM "A"—continued
FINANCIAL RESOURCES

- (i) Cash
- *(ii) Investments
-
-
- (iii) Private income
- *(iv) Livestock (with values)
- *(v) Implements (with values)
- *(vi) Other assets
- Total capital resources
- Less: Liabilities
- Nett: Capital Resources

* Attach separate schedule if necessary.
I make this Declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act.

Declared at in
the district of this
day of 20 before me

Signature of Applicant.

Magistrate, Justice of the Peace or
Commissioner for Oaths

STRICTLY Original
CONFIDENTIAL Duplicate

- FORM "B"
LAND DEVELOPMENT AND SETTLEMENT BOARD
APPLICATION FOR PARTICIPATION IN AN APPROVED SETTLEMENT SCHEME
- A. 1. Name son of
2. Tribe
3. Postal Address
4. I wish to apply for a farm in
5. I certify that I have in CASH available for the purchase of the land and for working capital Shillings
6. I wish "do not wish" to take my cattle/sheep* to the new farm as follows:—
Cattle* Type
- Sheep* Type

Agriculture Act

[Subsidiary]

FIRST SCHEDULE, FROM "B"—continued

7. I have^ahave not^a attended an agricultural training course (details)

8. I have experience in growing coffee * /pyrethrum/tea^a and keeping grade cattle^a.

9. I certify the above information is correct and that I am a resident of the Non-Scheduled Areas.

Date Applicant)

B. The above named is known to me personally and is recommended^anot recommended^a as a suitable candidate for an Assisted Owner Farm for the following reasons:—

(a) Farming experience and ability

(b) Sense of responsibility over cash and marketing ability with reference to cash crops and dairy produce

(c) Any specialized knowledge of fruit or vegetable growing

General Comments

Date

.....
Divisional Officer

^a Delete as necessary.

SECOND SCHEDULE

[Rule 13.]

AGRICULTURE ACT, 1955

(Revised Edition 1961)

NOTIFICATION OF ADVANCE

To,

The Registrar-General

In pursuance of section 176 of the Agriculture Act, 1955, this notification of advance (relating to the assisted owner/tenant farmer, advance and interest hereinafter specified) is, by the Land Development and Settlement Board, hereby delivered.

Name and address of assisted owner or tenant farmer	Land Reference Number of farm	Amount of Advance	Rate of Interest	Date of Advance

Date

.....
Chief Executive Officer,
Land Development and Settlement Board.

**AGRICULTURE (GUARANTEED MINIMUM RETURN ADVANCES)
(RATE OF INTEREST FOR OFFENDERS) RULES, 1962**

[L.N. 384/1962.]

1. These Rules may be cited as the Agriculture (Guaranteed Minimum Return Advances) (Rate of Interest for Offenders) Rules, 1962.
 2. The rate at which interest shall be payable under section 117 if the Act shall be ten per centum per annum.
-

AGRICULTURE (LAND UTILISATION) (FARM EMPLOYEES) RULES, 1964

ARRANGEMENT OF RULES

Rule

1. Citation.
2. Application.
3. Interpretation.
4. Restriction on cultivation of land on farms.
5. Power of Committee to prevent excessive cultivation.
6. Restriction on keeping of stock.
7. Compliance with conditions.
8. Consideration.
9. Maintenance of records.
10. Power to require production of records and licences.
11. Termination of employment and revocation of licences.
12. Action on revocation of licences.
13. Occupier to ensure employee understands provision of licence.
14. Powers of court.
15. Penalties.

SCHEDULES

FIRST SCHEDULE	—
CULTIVATION LICENCE	
SECOND SCHEDULE	—
LICENCE TO KEEP STOCK	

[Subsidiary]

AGRICULTURE (LAND UTILISATION) (FARM EMPLOYEES) RULES, 1964

[L.N. 129/1964, Corr. 114/1964.]

1. Citation

These Rules may be cited as the Agriculture (Land Utilisation) Farm Employees) Rules, 1964.

2. Application

These Rules shall apply to large-scale farms only.

3. Interpretation

In these Rules, unless the context otherwise requires—

“**committee**” means the district agricultural committee established under section 22 of the Act having jurisdiction over the land concerned;

“**employee**” means a person who is in the whole-time employment of an occupier on his farm, or a person who has retired, with the occupier’s permission, from that employment owing to old age or infirmity and who normally resides on the farm of that occupier;

“**family**”, in relation to an employee, means his dependent father or mother, his wife or wives and such of their children as are under the age of eighteen years and unmarried;

“**farm**” means land used for agricultural purposes, which is owned by or is in the possession of any person by virtue of a freehold title or a lease and is not situated in a municipality, former township or trading centre;

“**inspector**” means any public officer appointed by the Minister by notice in the *Gazette* to be an inspector for the purpose of these Rules;

“**licence**” means a cultivation licence or stock licence granted under rule 4 or rule 6;

“**licensee**” means the holder of a licence;

“**occupier**” means any person other than a licensee who is in lawful and physical occupation or entitled to the occupation of a farm;

“**stock**” means cattle, sheep, goats and donkeys.

4. Restriction on cultivation of land on farms

(1) No employee may cultivate for his own use any land on any farm, nor may any occupier of any farm permit such cultivation, unless the employee possesses a valid cultivation licence issued by the occupier in the form set out in the First Schedule:

Provided that—

- (i) an occupier may permit an employee to cultivate without a licence land for his own use not in excess of one-half of one acre;
- (ii) a committee may order the reduction of the maximum area which may be cultivated without a licence, to such lesser area as it may, in the interests of proper land use, determine.

(2) Every occupier who permits an employee to cultivate land without a licence in accordance with subrule (1) shall keep and maintain a record of those permits.

(3) The committee may direct that licences under this rule may not be issued in respect of any particular area or farm without its prior consent:

Provided that an occupier shall have a right of appeal from any such, directive to the provincial agricultural board, whose decision shall be final.

(4) An occupier shall not—

- (a) having granted a cultivation licence to an employee, grant another cultivation licence to the same employee or to a member of his family while the first cultivation licence is still in force; or
- (b) grant a cultivation licence in respect of more than two acres of land, except where the committee, having regard to the interests of land development, otherwise approves in writing;
- (c) grant a cultivation licence to any employee who has not attained the age of eighteen years.

(5) Any person who contravenes this rule shall be guilty of an offence.

5. Power of Committee to prevent excessive cultivation

(1) Where a committee is satisfied that the amount of land comprised in cultivation licences on a particular farm should be limited, having regard to the requirements of the preservation, proper utilization and development of the land, it may, by written order served on the occupier, require him not to renew licences, except with the permission of the committee, or to revoke any licence issued.

(2) An order under subrule (1) may be of limited or indefinite duration.

(3) Any occupier or licensee who is aggrieved by an order served on the occupier under subrule (1) may appeal in writing to the provincial agricultural board within thirty days of the service of the notice or the notice of revocation as the case may be, and the decision of that board shall be final.

(4) Any person who fails to comply with an order issued under subrule (1) shall be guilty of an offence.

6. Restriction on keeping of stock

(1) No employee may keep any stock for his own use on any farm, nor may any occupier of any farm permit such keeping of stock, unless the employee possesses a valid stock licence issued by the occupier in the form set out in the Second Schedule; but no occupier shall issue a stock licence without the permission of the committee.

(2) The agricultural committee may determine the farms or areas where stock licences may be granted, the maximum permissible number of types of stock per licence and the total number of stock which may be licensed on any one farm.

(3) The occupier of a farm on which stock is licensed under subrule (1) shall—

- (a) cause all cattle so kept, which are over the age of one year, to be branded at his own expense with his brand together with such symbol as may be prescribed by the Registrar of Brands;
- (b) for the purpose of keeping and maintaining a register under rule 9(1)(b), count or cause to be counted all licensees' stock at intervals not exceeding ninety days.

(4) Any person who contravenes this rule shall be guilty of an offence.

[Subsidiary]

7. Compliance with conditions

A licensee who fails to comply with the terms and conditions of his licence shall be guilty of an offence.

8. Consideration

(1) No occupier may require or accept from any licensee or prospective licensee any consideration in respect of a licence or for any rights granted thereby or in connexion therewith:

Provided that it shall be lawful for the occupier to grant a licence to an employee as part of his emoluments, but it shall be so stated in the licence and the value attaching to the concession shall be shown.

(2) In this rule, “**consideration**” includes both money and things other than money.

9. Maintenance of records

(1) Every occupier who grants a licence shall keep and maintain, or cause to be kept and maintained—

- (a) a record of the dates of and the parties to all licences for the time being in force relating to land and stock on his farm; and
- (b) where stock licences are issued, a register of all licensed stock kept on his farm.

(2) Any occupier who contravenes this rule shall be guilty of an offence.

10. Power to require production of records and licences

(1) An inspector may require—

- (a) any occupier to declare any stock or cultivation licences which are in force on his farm and to produce for his inspection any record or register which he is required to keep under rule 9;
- (b) any person, whom he has reasonable grounds for believing may be a licensor or licensee, to produce for his inspection the original or the duplicate of the licence.

(2) Any person who wilfully gives false information to an inspector, or who fails to produce any record or register or an original or duplicate licence which he is required to produce under subrule (1), shall be guilty of an offence.

11. Termination of employment and revocation of licences

(1) Where—

- (a) a licensee's contract of employment terminates and is not immediately renewed, or is lawfully terminated; or
- (b) a licensee has given thirty days' notice to the occupier of his desire to have his licence revoked; or
- (c) the committee, under rule 5(1), orders an occupier to terminate a cultivation licence,

the occupier shall revoke the licence concerned by notice in writing served on the licensee:

Provided that if the occupier does not intend to renew the licence after the normal expiry he shall give the licensee thirty days' notice thereof.

(2) A notice of revocation under subrule (1) shall specify the date on which the licence stands revoked, and such date shall—

- (a) in the case of termination of employment, be the date on which the employment terminates;
- (b) in any other case, be a date not later than thirty days after the date on which the occupier becomes liable to revoke the licence.

(3) Where a licensee is absent from his employment without lawful cause for a period of fourteen days or more, the licence may be revoked by the occupier.

(4) Any occupier who is required by subrule (1) to revoke a licence and who fails to do so in accordance with this rule shall be guilty of an offence.

12. Action on revocation of licences

(1) Upon revocation of his licence under rule 11 the licensee shall—

- (a) in the case of a cultivation licence, cease to cultivate the area licensed forthwith and, within thirty days of the revocation, remove himself, his family and his possessions from the plot;
- (b) in the case of a stock licence, remove his stock from the farm of the occupier within seven days.

(2) Where the committee requires a cultivation licence to be revoked under rule 11(1)(c), it may at the same time either order the occupier to pay to the licensee the value of the crops at the time or, notwithstanding subrule (1)(a) of this rule, permit the licensee to return to his plot for a stated period, to harvest and remove any crops.

(3) If the occupier has been required to pay the value of the crops, this shall be done within fourteen days of the revocation of the licence, and in the event of disagreement as to the value of the crops, the value as assessed by an inspector shall be payable.

(4) When a licence is revoked in consequence of rule 11(1)(a), the licensee may harvest and remove any crops planted before the revocation of his licence, and may, with the written permission of the occupier, return to his plot to do so for such period as may be agreed between him and the occupier.

(5) Permission under subrule (4) shall not be unreasonably withheld; and, where permission appears to the licensee to be unreasonably withheld or the owner and the licensee are unable to agree on a period, the licensee may appeal to the committee, which may order the occupier either—

- (a) to pay to the licensee the value of the crops in accordance with subrule (2); or
- (b) to permit the licensee to return to the plot for a stated period to harvest and remove his crops.

(6) When a licence is revoked in consequence of rule 11(1)(b), the occupier may either—

- (a) pay to the licensee the value of the crops in accordance with subrule (2) of this rule; or
- (b) permit the licensee to return to the plot for a stated period to harvest and remove the crops; or
- (c) require the licensee to sell his crop to someone acceptable to the occupier within the terms of these Rules.

[Subsidiary]

13. Occupier to ensure employee understands provision of licence

An occupier granting a licence shall ensure that—

- (a) rules 4(1), 5(1) and (3), 6(1), 7, 12 and 15, together with the licence, are read over and explained to the licensee, in a language he understands, by a third person, and that the certificate at the end of the licence is completed by that person; and
- (b) upon completion of the certificate at the end of the licence, both he and the licensee sign or affix their marks to the licence; and
- (c) the licensee is given a copy of the licence.

14. Powers of court

A court convicting a licensee of an offence under these Rules or of any other offence may order that his licence or licences be forthwith revoked, and—

- (a) in the case of a cultivation licence, order the licensee to cease cultivation of the area licensed forthwith and to remove himself, his family and his possessions from the plot within a stated period;
- (b) in the case of a stock licence, order the licensee to remove his stock from the farm of the occupier within a stated period.

15. Penalties

Any person who is guilty of an offence under these Rules shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months, and the Court may make such order for the disposal of his crops or his stock as it may think fit.

16. Revocation

The Agricultural (Land Utilization) (Farm Employees) Rules, 1963 are revoked.

FIRST SCHEDULE

[Rule 4.]

CULTIVATION LICENCE

Farm:
 Name
 L.R. No.
 Occupier:
 Name
 Employee:
 Name

Particulars appearing on identity card

BY THIS LICENCE, issued under rule 4 of the Agriculture (Land Utilisation) (Farm Employees) Rules, the above-named occupier (hereinafter called the Occupier) licenses the above-named employee (hereinafter called the Licensee) to cultivate a plot of land measuring acres or (hereabouts on the above-named farm, the situation of the plots being determined from time to time by the Occupier.

THIS LICENCE is granted for a period of one year, and is revocable in accordance with the above-mentioned Rules, and is granted on condition that the Licensee—

- (a) shall use the plot for cultivation only, and shall not erect any building or other erection of any kind on the plot without the permission of the Occupier;

Agriculture Act

[Subsidiary]

FIRST SCHEDULE—continued

- (b) shall not without the written permission of the Occupier allow any person other than a member of his family or another employee on the farm or a member of such employee's family to work on the plot;
- (c) shall not sell, give, rent or mortgage his interest in any growing crops without the written permission of the Occupier;
- (d) shall comply with such reasonable instructions as the Occupier may from time to time give for the purpose of achieving an overall planting programme on the farm and the proper rotation of crops;
- (e) shall not cultivate any land of which the slope exceeds 12 per cent until he has carried out soil conservation measures to the satisfaction of the District Agricultural Committee;
- (f) shall not cultivate any land of which the slope exceeds 35 per cent;
- (g) shall not cultivate any land lying within 100 feet of the edge of a watercourse, except with the approval of the District Agricultural Committee;
- (h) shall farm the plot in accordance with the standards of husbandry required by the District Agricultural Committee;
- (i) shall only grow such crops as the occupier with the approval of the District Agricultural Officer permits in writing.

*It is agreed that this Licence is part of the emoluments of the Licensee in accordance with the rule 8 of the above-mentioned Rules, and that this concession is valued at Sh per month.

*Delete if not applicable.

.....
Signature of Occupier

.....
Address of Occupier

.....

.....

.....
Signature of Licensee

CERTIFICATE BY THIRD PERSON

I hereby certify that this Licence and rules 4(1), 5(1) and (3), 6(1), 7, 12 and 15 of the Agriculture (Land Utilisation) (Farm Employees) Rules were read over in the presence of both parties, and explained to the person named therein as the Licensee in the language, which he understands, and that to the best of my belief he understood this Licence and the said Rules and has voluntarily assented to the terms of this Licence.

Date

.....
Signature

.....
Description

.....
Address

.....

Agriculture Act

[Subsidiary]

SECOND SCHEDULE

[Rule 6.]

LICENCE TO KEEP STOCK

Under the Agriculture (Land Utilisation) (Farm Employees) Rules, 1964

Farm:
Name
L.R. No.
Occupier:
Name
Employee:
Name
Particulars appearing on identity card

BY THIS LICENCE, issued under rule 6 of the Agriculture (Land Utilization) (Farm Employees) Rules, the above-named occupier (hereinafter called the Occupier), with the permission of the Agricultural Committee, licenses the above-named employee (hereinafter called the Licensee) to keep stock [state type and sex] on the above-named farm, subject to the conditions of rule 6(3) of these Rules.

THIS LICENCE is granted for a period of one year and is revocable in accordance with the above-mentioned Rules, and is granted on condition that the Licensee shall—

- (a) at his own expense cause all stock to be inoculated, dipped or sprayed in such a manner and at such reasonable intervals of time as the occupier or veterinary officer may direct;
(b) report to the Occupier all natural increase, of stock within 30 days of birth; and
(c) comply with the directions of the Occupier for the removal of any stock in excess of that which he is allowed to keep on the farm.

*It is agreed that this Licence is part of the emoluments of the Licensee in accordance with the rule 8 of the above-mentioned Rules, and that this concession is valued at Sh per month.
*Delete if not applicable.

CERTIFICATE BY THIRD PERSON

I hereby certify that this Licence and rules 4(1), 5(1) and 3, 6(1), 7, 12 and 15 of the Agriculture (Land Utilization) (Farm Employees) Rules were read over in the presence of both parties, and explained to the person named therein as the Licensee in the language, which he understands, and that to the best of my belief he understood this Licence and the said Rules and has voluntarily assented to the terms of this Licence.

Date Signature
Description
Address

AGRICULTURE (BASIC LAND USAGE) RULES, 1965

ARRANGEMENT OF RULES

Rule

1. Citation and application.
 2. Interpretation.
 3. Protection of land with slope exceeding 35 per cent.
 4. Protection of land with slope exceeding 20 per cent.
 5. Protection of land with slope exceeding 12 per cent.
 6. Protection of watercourse.
 7. Protection against erosion by run-off water.
 8. Failure to comply with order.
 9. Appeal.
 10. Penalty.
 11. District agricultural committee may make regulations.
-

AGRICULTURE (BASIC LAND USAGE) RULES, 1965

[L.N. 26/1965.]

1. Citation and application

These Rules may be cited as the Agriculture (Basic Land Usage) Rules, 1965, and shall not apply to plots of two acres or less used for residential purposes only within a municipality or a former township, or land used for recreational purposes.

2. Interpretation

In these Rules, unless the context otherwise requires—

“**authorized officer**” means the Director of Agriculture, a provincial agricultural officer, a District Agricultural Committee and any person appointed in writing in that behalf by the Director, a Provincial Agricultural Officer or a District Agricultural Committee;

“**owner**” means the occupier, cultivator or right holder of the land in question;

“**slope**” means the vertical interval expressed as a percentage of the horizontal distance between two points;

“**vegetation**” means trees, palms, bamboos, stumps, brushwood, undergrowth, reeds or grass;

“**watercourse**” means a natural channel or depression in which water flows, either continuously or intermittently.

3. Protection of land with slope exceeding 35 per cent

Any person who cultivates, cuts down or destroys any vegetation, or depastures any livestock on any land of which the slope exceeds 35 per cent shall be guilty of an offence:

Provided that an authorised officer may authorize an owner to cultivate, depasture, cut down or destroy vegetation on the land subject to such conditions as he may decide.

4. Protection of land with slope exceeding 20 per cent

An authorized officer may by written order prohibit cultivation or cutting down or destruction of vegetation on any land of which the slope exceeds 20 per cent.

5. Protection of land with slope exceeding 12 per cent

(1) Any person who cultivates any land of which the slope exceeds 12 per cent and does not exceed 35 per cent, when the soil is not protected against erosion by conservation works to the satisfaction of an authorised officer, shall be guilty of an offence.

(2) Where the soil on any slope exceeding 12 per cent is not, in the opinion of an authorised officer, adequately protected against erosion, he may, by written order, require the owner to construct such works or to carry out such repairs as he deems necessary within such reasonable period of time as may be specified in the order.

(3) Any person who cultivates by ploughing or other means any land of which the slope exceeds 12 per cent except along the contour, or, except with the written permission of an authorised officer digs or ploughs any boundary furrows, trenches or ditches on such land, shall be guilty of an offence.

6. Protection of watercourse

Any person who, except with the written permission of an authorized officer, cultivates or destroys the soil, or cuts down any vegetation or depastures any livestock, on any land lying within 2 metres of a watercourse, or, in the case of a watercourse more than 2 metres wide, within a distance equal to the width of that watercourse to a maximum of 30 metres, shall be guilty of an offence.

7. Protection against erosion by run-off water

(1) Any person who uses any channel, ditch or drainage way which has been constructed for the removal of run-off water as a footpath, road, wagon track or livestock track shall be guilty of an offence, and the owners of the land over which such channel, ditch or drainage way passes, and of the adjoining land, shall comply with any orders issued by an authorized officer for the effective removal of run-off water and the avoidance of erosion.

(2) The owner of any land shall take such steps as an authorized officer may specify to prevent water from flowing on to any adjoining land in such manner as to cause the erosion thereof, and shall comply with such orders as may be given by an authorized officer to carry out the measures which the authorised officer deems necessary to prevent such erosion.

8. Failure to comply with order

Any person who fails to comply with any order made or any conditions imposed under these Rules shall be guilty of an offence.

9. Appeal

Any person who is aggrieved by a decision taken, or an order made, under these Rules may, within 28 days of the decision or order, appeal to the Agricultural Appeals Tribunal, whose decision shall be final and shall not be questioned in any court.

10. Penalty

Any person who is guilty of an offence under these Rules shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both.

11. District agricultural committee may make regulations

A district agricultural committee may make regulations relating to agriculture and land usage under these Rules in respect of the district for which it is established.

COFFEE DEVELOPMENT AUTHORITY ORDER, 1966

[L.N. 279/1966.]

1. This Order may be cited as the Coffee Development Authority Order, 1966.
2. There is hereby established an authority, to be known as the Coffee Development Authority (hereinafter called the Authority).
 - (1) The Authority shall consist of the following members—
 - (a) the Permanent Secretary of the Ministry;
 - (b) the Permanent Secretary of the Ministry for the time being responsible for Co-operatives;
 - (c) the Director of Agriculture;
 - (d) the Commissioner for Co-operative Development;
 - (e) the chairman of the Coffee Board;
 - (f) the chairman of the Coffee Marketing Board.
 - (2) The members present at the meeting shall appoint any one of their members to act as chairman at that meeting.
4. A quorum of the Authority shall be a majority of the members of the Authority.
5. A decision of the Authority shall be by a simple majority of the members present and voting, but the chairman shall have a casting as well as a deliberative vote.
6. Subject to this Order, the Authority shall regulate its own proceedings.
7. The Authority shall be empowered to do the following things in respect of coffee—
 - (a) control and supervise the cultivation by growers;
 - (b) control and supervise the establishment of nurseries;
 - (c) control and supervise the purchase and sale of seedlings;
 - (d) inspect the growing and harvested crops;
 - (e) control and supervise the purchase, transportation and storage of the crop;
 - (f) control and supervise the processing of cherry;
 - (g) appoint agents for the implementation or performance of any function of the Authority under this Order;
 - (h) with the approval of the Minister, by order published in the *Gazette*—
 - (i) regulate and control the cultivation, picking, selecting, processing and marketing of coffee;
 - (ii) provide for any other matter which is approved by the Minister as being in the furtherance of the development of coffee or incidental or conducive to the exercise of any of the powers of the Authority;
 - (i) with the approval of the Minister, do any other thing which in the opinion of the Authority will assist the development of the coffee industry:

Provided that, without prejudice to powers conferred upon it elsewhere in this Order, the Authority shall carry out its functions subject to any general or specific directions that may be given to it by the Minister.

[Subsidiary]

8. Any person who contravenes any Order of the Authority made under section 7(h) shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month.

PINEAPPLE DEVELOPMENT AUTHORITY ORDER, 1967

[L.N. 190/1967.]

1. This Order may be cited as the Pineapple Development Authority Order, 1967.
2. There is hereby established an authority to be known as the Pineapple Development Authority (hereinafter called the Authority).
 - (1) The Authority shall consist of the following members—
 - (a) the chairman of the Canning Crops Board to be chairman;
 - (b) the Permanent Secretary, Ministry of Agriculture, or his representative;
 - (c) the Director of Agriculture or his representative;
 - (d) the executive officer, the Canning Crops Board.
 - (2) In the absence of the chairman the members present at any meeting may appoint any one of their number to act as chairman at such a meeting.
4. A quorum of the Authority shall be a majority of the members of the Authority.
5. Every decision of the Authority shall be by a simple majority of the members present and voting but the chairman or the person elected to be chairman under section 3(2) shall have a casting as well as a deliberative vote.
6. Subject to this Order the Authority shall regulate its own proceedings.
7. The Authority may delegate any of its powers to any committee thereof.
8. The financial year of the Authority shall be from 1st July in each year to the 30th June in the year following.
 - (1) The Authority shall cause to be kept such books of account and other books in relation thereto and to all its undertakings, funds and activities as the Minister may from time to time require or approve.
 - (2) The accounts of the Authority shall be examined, audited and reported upon annually by the Controller and Auditor-General or by such other person as the Minister may appoint.
10. Any levy imposed by the Authority under this Order shall be payable to the Authority or its agents by the person on whom it is imposed in such manner and within such time as the Authority may direct, and shall be a civil debt due from that person to the Authority.
11. The Authority shall be empowered to do the following things in respect of pineapples—
 - (a) control and supervise the cultivation by growers;
 - (b) control and supervise the purchase and sale of planting material;
 - (c) inspect the growing and harvested crops;
 - (d) control and supervise the purchase, transportation and sale of the crop;
 - (e) appoint agents for the implementation or performance of any function of the Authority under this Order;
 - (f) with the approval of the Minister, by order published in the *Gazette*—
 - (i) regulate and control the cultivation, picking, transporting and marketing of pineapples;

Agriculture Act

[Subsidiary]

- (ii) impose a levy or levies on growers including levies at different rates in respect of any growers or sections of growers, for the purpose of financing the operations of the Authority or its agents and for such other purpose as the Minister may approve;
 - (iii) fix prices either generally or in reference to any particular circumstances;
 - (iv) regulate and control the marketing of the crop by growers and others;
 - (v) provide for any other matter which is approved by the Minister as being in the furtherance of the development of pineapples or conducive to the exercise of any of the powers of the Authority;
- (g) with the approval of the Minister, any other thing which in the opinion of the Authority will assist the development of pineapples:

Provided that the Authority shall carry out its functions subject to the general or specific directions of the Minister.

12. Any person who contravenes any order of the Authority made under section 11(f) shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month.

13. The Pineapple Development Authority Order, 1966 (L.N. 33/1967) is hereby revoked.

AGRICULTURE (DECLARATION OF SPECIAL CROPS) (HORTICULTURAL CROPS) ORDER, 1967

[L.N. 228/1967, L.N. 53/1973, L.N. 130/1998.]

1. This Order may be cited as the Agriculture (Declaration of Special Crops) Order, 1967.
2. The horticultural crops specified in the Schedule are declared to be special crops.

SCHEDULE

<i>Common Name</i>	<i>Botanical Name</i>
A. FRUIT TREES	
Apple	<i>Pyrus malus</i> L.
Pear	<i>Pyrus communis</i> L.
Peach	<i>Prunus persica</i> L.
Nectarine	<i>Prunus</i> sp. L.
Quince	<i>Cydonia oblonga</i> .
Plum	<i>Prunus salicina</i> L.
Plum	<i>Prunus domestica</i> L.
Apricot	
Citrus	All Citrus species.
Avocado pear	<i>Persea americana</i> ;
	<i>Persea gratissima</i> .
Pawpaw	<i>Carica papaya</i> .
Pawpaw (mountain)	<i>Carica candanacensis</i> .
Guava	<i>Psidium guajava</i> .
Mango	<i>Mangifera indica</i> .
Loquat	<i>Eriobotrya japonica</i> .
White sapote	<i>Casimiroa edulis</i> .
Litchi	<i>Litchi chinensis</i> .
Litchi	<i>Nephelium litchi</i> .
B. OTHER FRUITS	
Passion fruits	<i>Passiflora edulis</i> .
Bananas and plantains	<i>Musa</i> sp.
Strawberries	<i>Fragaria vesca</i> ;
	<i>F. chiloensis</i> .
Cape Gooseberry	<i>Physalis peruviana</i> .
Pineapple	<i>Ananas comosus</i> .
Mulberries	<i>Morus</i> sp.
Berries	<i>Rubus</i> sp.
Date palm	<i>Phoenix dactylifera</i> .
Custard-apple	<i>Annona</i> sp.
Melons	<i>Cucumis melo</i> ;
	<i>Citrullus vulgaris</i> .
Grapes	<i>Vitis</i> sp.
C. NUT CROPS	
Macadamia nut	<i>Macadamia</i> sp.

Agriculture Act

[Subsidiary]

SCHEDULE—continued

Common Name	Botanical Name
Pistachio nut	<i>Pistachio vera.</i>
Oyster nut	<i>Tefairia pedata.</i>
D. OIL PLANTS	
Geranium	<i>Pelagonium sp.</i>
Salvia	<i>Salvia solarea.</i>
E. VEGETABLES	
Tomatoes	<i>Lycopersicon esculentum.</i>
Carrots	<i>Daucus carota.</i>
Brussel sprouts, cabbages and cauliflower	<i>Brassica oleracea.</i>
Lettuce	<i>Lactuca sativa.</i>
Potatoes	<i>Solanum tuberosum.</i>
Brinjals (egg plant)	<i>Solanum melongena.</i>
Okra	<i>Hibiscus esculentum.</i>
Celery	<i>Apium graveolens.</i>
Cucumbers	<i>Cucumis sativus.</i>
Onions and garlic	<i>Allium sp.</i>
Spinach	<i>Spinacea cleraces.</i>
Chillies (green)	<i>Capsicum sp.</i>
Sweet peppers	<i>Capsicum sp.</i>
Green beans, French beans	<i>Phaseolus sp.</i>
Peas (green)	<i>Pisum sativum.</i>
Pumpkins	<i>Cucurbita sp.</i>
Asparagus	<i>Asparagus officinalis.</i>
Karelia	<i>Momordica charantia.</i>
Cowpeas (green), chora	<i>Vigna unguiculata.</i>
Cluster bean (green)	<i>Cyamopsis psoraloides.</i>
Courgettes and marrows	<i>Cucurbita sp.</i>
Dioscorea	<i>Dioscorea sp.</i>
Dudi (kaddu)	<i>Lagenaria siceraria.</i>
Globe artichoke	<i>Cynara scolymus.</i>
Horseradish	<i>Radicala ammoracia.</i>
Artichokes	<i>Helianthus tuberosus.</i>
Kohl rabi	<i>Brassica sp.</i>
Leek	<i>Allium porrum.</i>
Loofah	<i>Luffa cylindrica.</i>
Mushroom	<i>Agaricus campestris.</i>
New Zealand spinach	<i>Tetragonia expansa.</i>
Green maize	<i>Zea mays.</i>
Radish	<i>Rhaphanus sativas.</i>
Sweet potato	<i>Ipomoea batatas.</i>
Beet	<i>Beta vulgaris.</i>
F. FLOWERS AND DECORATIVE PLANTS	
All flowers and decorative plants.	
G. OTHER	
Miraa	<i>Catha edulis.</i>

**PINEAPPLE DEVELOPMENT AUTHORITY
(IMPOSITION OF LEVY) ORDER, 1967**

[L.N. 247/1967.]

1. This Order may be cited as the Pineapple Development Authority (Imposition of Levy) Order, 1967.
 2. All consignments of pineapples destined for the fresh market shall bear a levy of Sh. 2/75 per ton of pineapples subject to a minimum levy of Sh. 1/50 for any one consignment.
 3. The levy shall be payable to the Pineapple Development Authority by the holder of a valid transporter's licence at the time of issue of a pineapple movement permit under the Pineapple Development Authority (Control of Movement of Pineapples) Order, 1967.
-

AGRICULTURE (SUGAR SETTLEMENT ORGANIZATION) RULES, 1968

[L.N. 101/1968, L.N. 354/1968.]

1. These Rules may be cited as the Agriculture (Sugar Settlement Organisation) Rules, 1968, and shall apply to the sugar settlement schemes specified in the first column of the First Schedule comprising the areas described in the second column of that Schedule, and to any such area as the Minister may, by notice in the Gazette, prescribe to be an approved sugar settlement scheme.
2. In these Rules, unless the context otherwise requires—
 - “**Board**” means the Sugar Settlement Organization Board established under rule 7;
 - “**cane**” means the sugar-cane plant (*Saccharum officinarum*);
 - “**executive controller**” means such person as may from time to time be appointed under rule 5 by the Trustees to be in overall charge of the Sugar Settlement Organization;
 - “**grower**” means any farmer who has been allotted land within a sugar settlement scheme;
 - “**scheme**” means any sugar settlement scheme prescribed as such under rule 1; and
 - “**Trustees**” means the Settlement Fund Trustees appointed under section 167 of the Act.
3. There are hereby established settlement schemes to be known as sugar settlement schemes specified in the first column of the First Schedule comprising the area described in the second column of that Schedule.
4. No person may reside in, carry on business in, or occupy any part of a scheme or graze any stock thereon, unless he is the holder of a valid licence or a letter of allotment granted to him by the Commissioner of Lands or is the authorized dependant of that licensee or letter of allotment holder.
5. The schemes shall be under the control of the Trustees who in order to exercise this control, shall appoint an Executive Controller and such other staff as they deem necessary.
6. The Executive Controller and such other officers as may be appointed under rule 5 shall at all times have full and free access to any land in a scheme in order that they may implement the policy of the Trustees and exercise their powers under these Rules.
7. There is hereby established a board to be known as the Sugar Settlement Organization Board who shall be responsible for advising the Trustees on the general administration of the schemes.
 - (1) The Board shall consist of the following members—
 - (a) a chairman appointed by the Trustees by notice in the *Gazette*;
 - (b) the executive controller appointed by the Trustees under rule 5, who shall be the secretary of the Board;
 - (c) the Director of Agriculture;
 - (d) the Director of Settlement;
 - (e) the Commissioner for Co-operative Development;

Agriculture Act

[Subsidiary]

- (f) the Senior Sugar Officer of the Ministry of Agriculture;
- (g) seven voting members, who shall consist of one representative elected by the committee of each of the co-operative societies specified in the Second Schedule from among its members:

Provided that election of a representative as a member of the Board shall be valid for a period of one year only, but may be renewed by the committee indefinitely subject to tenure of office as a member for a period of one year at a time as aforesaid;

- (h) two non-voting members elected by the seven members elected under paragraph (g) from among the members of the co-operative societies specified in the Second Schedule.

(2) In the absence of the chairman the Minister may in writing appoint any person to act temporarily as chairman.

(3) In the absence of both the chairman and any person appointed by the Minister in writing to act temporarily in his place the member present at any meeting shall elect any one of their number to act as chairman.

(4) Any person appointed or elected to act as chairman under subrule (2) or (3) shall have all the powers and privileges of the chairman at and in respect of any meeting at which he presides.

(5) If any member appointed under subrule (1)(b), (1)(c), (1)(d), (1)(e) or (1)(f) is for any reason unable to attend any meeting or meetings of the Board, he may in writing appoint any person to represent him at the meeting or meetings, and that person shall thereupon be deemed to be a duly appointed member for all purposes connected with the meeting or meetings.

(6) Every written instrument of appointment under subrule (2), (3) or (5), shall be preserved in the records of the Board.

9. The chairman appointed under rule 8(1)(a) shall hold office for a period of two years but shall be eligible for re-appointment.

10. Notwithstanding anything to the contrary in these Rules, a person shall cease to be a member of the Board—

- (a) upon receipt by the Minister of his resignation in writing; or
- (b) upon his death; or
- (c) if he is certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Kenya; or
- (d) if the Minister declares him to be physically or otherwise incapable of discharging his duties as a member; or
- (e) if he is absent, without the permission of the Board from three consecutive meetings of the Board; or
- (f) if he is adjudged or otherwise declared bankrupt under any law in force in Kenya; or
- (g) if he is sentenced by a court to imprisonment for a term of six months or more.

11. Every member of the Board who is, or is likely to be concerned in, or who participates in, or is likely to participate in, the profits of any contract with or work done for the Trustees otherwise than in his capacity as a member of the Board shall, on the matter coming before the Board for consideration, immediately declare his interest therein, and shall in any case abstain from voting on the matter.

12. The Board shall meet not less than four times in each year, and each meeting shall be convened by means of a notice in writing issued by the secretary of the Board to each member of the Board.

13. A quorum of the Board shall be nine members thereof.

(1) Every decision of the Board shall be by a simple majority of the members present and voting, but the chairman or in his absence any person temporarily appointed or elected to act in his place shall have a casting as well as a deliberative vote.

(2) Subject to these Rules the Board shall regulate its meetings and the procedure thereat.

15. All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman of the Board, or of any member of the Board authorized by the Board in that behalf.

16. The Trustees, after consultation with the Minister for Agriculture, shall lay down the policy with regard to the planting, growing, harvesting and disposal, whether by milling, or use as planting material, or otherwise, of all cane, and all growers shall comply with the instructions of the Trustees pertaining to these operations.

17. The Trustees or their authorized agents shall carry out the following operations unless they grant permission in writing to a grower to carry out the operations himself—

- (a) clear the land and prepare it for cultivation;
- (b) cultivate by machinery and by hand;
- (c) plant cane;
- (d) treat cane in any way to protect it from pests, diseases or damage of any kind;
- (e) harvest cane;
- (f) transport cane;
- (g) burn cane;
- (h) destroy cane; and
- (i) any other operation which the Trustees consider necessary for the production of cane from land in a scheme.

18. A grower shall comply with all instructions given by the Trustees with regard to the preservation of the fertility of the soil, the prevention of soil erosion and the planting, felling, stumping and clearing of trees and vegetation.

19. A grower shall cultivate or establish crops on his holding strictly in accordance with the crop rotation laid down by the Trustees after consultation with the Minister for Agriculture.

20. A grower shall not use any seed-cane, fertilizers or other materials required for production of cane by him, except those as may be supplied from sources authorized by the Trustees.

21. A grower shall not hire or cause to be hired or employ machinery for cane cultivation, harvesting or transport operations without the prior approval in writing of the Trustees.

22. Every grower shall, at his own expense—

- (a) maintain in good order the boundaries of all his holdings and all ditches, water courses, drainage ways and river banks thereon;
- (b) keep his cane free from weeds at all times;

[Subsidiary]

- (c) apply fertilizer to his cane in accordance with the policy of the Trustees; and
- (d) carry out any operation considered necessary by the Trustees for the establishing, maintaining, protecting, harvesting and marketing of cane grown on his holding.

23. In the event of a grower failing to carry out the requirements of rule 22, the Executive Controller shall serve a notice on him in writing requiring him to comply with the requirements within the period specified in the notice. If the grower fails to comply with the notice within the specified period, the Executive Controller shall arrange without further notice to the grower for the work to be performed, and the cost of the work shall be charged in full to the grower together with a further charge for supervision to be assessed by the Executive Controller at not more than the cost of the performance of the work in question.

24. The Trustees may employ an agent for the implementation of, any of the operations specified in rule 17 at such remuneration as may be agreed in each case between the Trustees and the agent; and details of any such agreement shall be furnished to the Board as soon as possible after its execution, and wherever possible the Trustees shall discuss the draft agreement with the Board prior to the execution of the work.

25. The Trustees may delegate the control of any scheme subject to their being satisfied that efficient and economic management will be maintained.

26. All cane grown on a scheme shall be marketed through the Trustees who shall, subject to rules 27, 28 and 29, make payment to a grower for the cane as soon as possible after delivery.

27. The Trustees may adjust the payments to a grower for his cane in order to ensure that his income from the cane is received by him at a steady rate regardless of fluctuations in the rate of his sales of cane.

28. The Trustees may make deductions from payments for cane made to growers in order to create a fund for the purpose of guaranteeing a minimum return for the growing of cane.

(1) The Trustees shall deduct from the sale process due to be paid to each grower in respect of cane grown by him on the scheme the following—

- (a) expenditure incurred or committed on his behalf by the Trustees in making provisions for—
 - (i) the preparation of land for the planting of cane;
 - (ii) the establishment of cane;
 - (iii) the purchase and application of fertilizers and manure;
 - (iv) the purchase and application of insecticides, weedicides and other chemicals;
 - (v) the harvesting of cane; and
 - (vi) the maintenance of roads;
- (b) provision to cover—
 - (i) the general financing of the organisation;
 - (ii) the creation of reserve funds;
 - (iii) the purchase of shares in the equity of the East African Sugar Industries Company Limited;
 - (iv) the repayment of any loan made by the Trustees to a grower;
 - (v) the equalization of a grower's annual income;
 - (vi) the cost of work and supervision charges made under rule 23; and

- (vii) any other purpose, which may be provided by the Trustees after consultation with the Board.

(2) The rates of deductions provided for in subrule (1) shall be reviewed by the Trustees in the light of audited accounts.

30. The Trustees shall maintain a separate account for each grower and, not more than one month after the date of delivery of his cane, shall furnish each grower with a statement of account showing the position, as at that date, in respect of all credits, deductions, retentions and payments made to him.

31. If, in any year, the operations of the Sugar Settlement Organization result in a surplus after all expenses and charges have been met and provisions for reserve funds have been made, that surplus shall be utilised in such manner as the Trustees, in consultation with the Board, may determine.

32. Any person who contravenes or fails to comply with any of these Rules or the requirements of a notice served under rule 23, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

FIRST SCHEDULE

[Rule 1.]

Settlement Scheme	Description of Land
Muhoroni Sugar Settlement Scheme.	All that area of land comprising— L.R. Nos. 4231/R (part), 10188 (part), 1630, 1632/2, 10950 (part) 7575 (part), 7575/3, 11257 (part), 641 (part), 6431/R, 42/1, 642/2, 644/2, 644/3, 644/5, 644/7, 644/8, 644/9, 644/10, 644/11, 644/12, 644/13, 644/14, 644/15, 644/16, 644/17, 644/18, 644/19, 644/20, 644/21, 644/22.
Tamu Sugar Settlement Scheme.	All that area of land comprising— L.R. Nos. 10188 (part), 10951 (part), 10959 (part), 4231/R (part), 1590/1 (part), 1580/2.
God Abuoro Sugar Settlement Scheme.	All that area of land comprising— L.R. Nos. 1580/1 (part), 1613, 1615 (part), 1616 (part), 1617/2 (part), 10188 (part).
Songhor Sugar Settlement Scheme.	All that area of land comprising— L.R. Nos. 1615 (part), 1616 (part), 1617/2 (part), 1622, 1623, 1624, 3066, 3067, 3070, 3071, 3068 (part), 3103, 3104, 6073, 10188 (part), 10950 (part), 10951 (part), 10952.
Koru Sugar Settlement Scheme.	All that area of land comprising— L.R. Nos. 640/2, 641 (part), 639/2, 2957, 4788, 11257 (part), 4117 (part), 5433 (part), 4193/7 (part), 5432 (part) 1635, 4193/6/R, 4492, 9519, 7575/2 (part).
Fort Ternan Sugar Settlement Scheme.	All that area of land comprising— L.R. Nos. 7550, 7498, 3767, 633, 1445/R, 1445/2/1, 3113, 1639, 11089, 634, 637/1, 11076, 636/1.
Oduwo Sugar Settlement Scheme.	All that area of land comprising— L.R. No. 3102.

[Subsidiary]

SECOND SCHEDULE

[Rule 8(1)(g).]

REGISTERED SUGAR CO-OPERATIVES

Muhoroni Farmers Co-operative Society Ltd.

Tamu Farmers Co-operative Society Ltd.

God Abuoro Farmers Co-operative Society Ltd.

Songhor Farmers Co-operative Society Ltd.

Koru Farmers Co-operative Society Ltd.

Fort Ternan Farmers Co-operative Society Ltd.

Oduwo Farmers Co-operative Society Ltd.

WHEAT DEVELOPMENT AUTHORITY ORDER, 1968

[L.N. 168/1968, L.N. 9/1969.]

1. This Order may be cited as the Wheat Development Authority Order, 1968.

(1) There is hereby established an authority, to be known as the Wheat Development Authority (hereinafter referred to as the Authority) for promoting and fostering the development of wheat for the areas specified in the Schedule.

(2) The Authority shall consist of not more than nine members appointed by the Minister by notice in the *Gazette* one of whom shall be appointed chairman.

(3) In the absence of the chairman, the members present at any meeting may appoint any one of their number to act as chairman at such meeting.

(4) A quorum of the Authority shall be a majority of the members of the Authority.

(5) Every decision of the Authority shall be by a simple majority of the members present and voting but the chairman, or in his absence the person appointed to act as chairman under section 2(3), shall have a casting as well as a deliberative vote.

(6) Subject to this Order, the Authority shall regulate its own proceedings.

(1) The Authority shall set up Wheat Committees for the areas specified in the Schedule to advise the Authority in carrying out its functions.

(2) The Authority may delegate any of its powers to the Wheat Committees set up under section 3(1) and may co-opt into the committees any person or persons, for such period as the Authority may decide, who in the opinion of the Authority will assist in furthering the purpose of this Order.

4. The Authority shall set up an advisory committee for the areas specified in the Schedule, and shall co-opt into the committee two persons nominated by the Minister to represent growers of wheat for the areas concerned.

5. The financial year of the Authority shall be from the 1st May in each year to the 30th April in the year following; subject, however, that the accounts for the 30th April 1969 shall include any expenditure or revenue which is relevant to the 1968 year planting season although such expenditure or revenue may have been or received prior to the 30th April 1968.

(1) The Authority shall cause to be kept such books of account and other books in relation thereto pertaining to all its undertakings, funds, activities and property as the Minister may from time to time require or approve.

(2) The accounts of the Authority shall be examined, audited and reported upon annually by such person or persons as the Minister may appoint for that purpose.

7. Any levy imposed by the Authority under this Order shall be payable to the Authority or its agents by the person on whom it is imposed in such manner and within such time as the Authority may direct and shall be a civil debt due from that person to the Authority.

8. The purpose of the Authority shall be to develop wheat growing in the most efficient and economical manner and shall utilize wheat growing as the prime mover in the development of agricultural practices which impinge on the efficiency of wheat growing, for which purpose the Authority shall be empowered to do the following things—

- (a) control, supervise and regulate the type and quality of cultivations by growers or undertake cultivations itself;
- (b) control, supervise and regulate the purchase, transportation and planting of seed and fertilizers and regulate the quality, varieties and quantities of seeds planted on any piece of land or carry out any such purchase and planting itself;

Agriculture Act

[Subsidiary]

- (c) control, supervise and regulate any necessary pesticidal measures or carry out such measures itself;
- (d) control, supervise and regulate harvesting procedures or carry out harvesting procedures itself;
- (e) control, supervise and regulate any necessary purchase, transportation or sale of the crop or carry out such activities itself;
- (f) control, supervise and regulate the storage of the crops (within the areas scheduled in this Order), seeds, fertilizers, packing materials and pesticides or carry out such work itself;
- (g) regulate, control and decide on which pieces of land wheat will or will not be grown;
- (h) build or cause to be built any fences, storage facilities, roads, bridges or any other structures which in the opinion of the Authority will assist in the protection, transportation and control of the crop;
- (i) appoint officers (other than the Chief Executive Officer who shall be designated by the Minister by order published in the *Gazette*) and agents for the implementation or performance of any function of the Authority under this Order;
- (j) with the approval of the Minister, after consultation with the Treasury, borrow such moneys as may be necessary for the implementation or performance of any function of the Authority under this Order;
- (k) engage in any trading, training or operational activities which in the opinion of the Authority shall further the implementation or performance of any function of the Authority under this Order;
- (l) purchase, hire or by gift acquire such machinery and other assets as in the opinion of the Authority is most expedient for the implementation or performance of any function of the Authority under this Order;
- (m) make loans for the purpose of developing wheat or make any investment or make any grant which in the opinion of the Authority is conducive to the performance of any function of the Authority under this Order;
- (n) control, supervise and regulate any soil conservation measures and agricultural practices which impinge on and are related to the efficiency of wheat growing on land within which wheat has been grown or is being grown under this Order and which in the opinion of the Authority, with the approval of the Minister, it is necessary to control, supervise and regulate in furtherance of the implementation or performance of any function of the Authority under this Order;
- (o) with the approval of the Minister, by order published in the *Gazette*—
 - (i) impose such levy or levies on growers including levies at different rates in respect of any growers or sections of growers for the purpose of recovering the costs of the implementation or performance of any function of the Authority under this Order;
 - (ii) establish a fund out of the moneys accruing to it by way of levy, trading profits or otherwise for the purpose of extending development of wheat or in the implementation or performance of any function of the Authority under this Order;
 - (iii) provide for any other matter which is approved by the Minister as being in furtherance of the development of wheat or incidental or conducive to the exercise of any of the powers of the Authority:

Provided that the Authority shall carry out its functions subject to the general or specific directions of the Minister.

9. Any person who contravenes any order of the Authority made under paragraph 8 shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month.

SCHEDULE

[Para. 2.]

AREAS OF OPERATION OF THE AUTHORITY

Narok District.

Kajiado District.

Kiambu District.

Nyeri District.

Meru District.

KENYA SUGAR AUTHORITY ORDER, 1973

[L.N. 32/1973, L.N. 320/1974, L.N. 225/1977, L.N. 208/1992, L.N. 156/1995.]

1. This Order may be cited as the Kenya Sugar Authority Order, 1973.
2. There is hereby established an authority to be known as the Kenya Sugar Authority (hereinafter called the Authority) for promoting and fostering the effective and efficient development of sugar-cane for the production of white sugar, in any area of Kenya.
 - (1) The Authority shall consist of the following members—
 - (a) a chairman appointed by the Minister;
 - (b) not more than four members appointed by the Minister from panels of names submitted by sugar-cane growers in accordance with arrangements made by the Minister, and who shall be persons who, in the opinion of the Minister, are representative on a basis, as near as is practical, that is proportionate to the production figures of the main sugar-cane producing provinces;
 - (c) not more than four members to represent millers appointed by the Minister;
 - (d) one member appointed by the Minister by reason of his knowledge of banking or financial matters;
 - (e) the Permanent Secretary of the Ministry the agriculture or his representative;
 - (f) the Permanent Secretary of the Ministry of finance and planning or his representative;
 - (g) the Permanent Secretary of the Ministry of commerce and Industry or his representative;
 - (h) the Director of Agriculture or his representative;
 - (i) the Commissioner for Co-operative Development or his representative;
 - (j) the Director of Settlement or his representative.
 - (2) In the absence of the chairman from any meeting of the Authority the members present shall elect one of their number to preside at that meeting.
 - (3) At every meeting of the Authority the chairman or other member presiding shall have a casting as well as a deliberative vote.
 - (1) Any member of the Authority appointed by the Minister may with the prior written approval of the Minister nominate an alternate member to act in his place during his absence or inability to act as such member.
 - (2) An alternate member shall be subject in all respects (except as regards the right to appoint an alternate) to the provisions of this Order applicable to members and shall discharge all the duties of the member whom he shall represent until his nomination is withdrawn by the member whom he represents or until the Minister withdraws his approval, whichever first shall happen.
 - (3) An alternate member shall cease to be an alternate member whenever his appointer ceases for any reason to be a member.
 - (1) This paragraph shall apply to the chairman and other members of the Authority who are appointed by the Minister.

Agriculture Act

[Subsidiary]

(2) Subject as hereinafter provided the chairman and other members to whom this paragraph applies shall hold office for such period not exceeding three years as may be specified in the instruments respectively appointing them but shall be eligible for reappointment.

(3) The chairman and any other member to whom this paragraph applies may at any time, by a notice in writing addressed to the Minister, resign his office.

(4) If the Minister is satisfied that the chairman or any other member to whom this paragraph applies—

- (a) has been absent from three consecutive meetings of the Authority without the permission of the Authority; or
- (b) has become bankrupt or made an arrangement with his creditors; or
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of his office; or
- (e) is otherwise no longer likely to be of benefit to the Authority,

the Minister may declare his office as chairman or member of the Authority, as the case may be, to be vacant, and shall notify the fact in such manner as the Minister thinks fit; and thereupon the office shall become vacant.

6. The Authority may co-opt to serve on it for such length of time as it thinks fit any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Authority or be counted as a member for the purpose of forming a quorum.

7. The chairman of the Authority shall convene meetings of the Authority whenever it may be necessary or expedient for the transaction of its business, and in any event not less than once in every period of three months; and a special meeting of the Authority may be called to deal with any special or urgent matters thereof.

(1) A quorum of the Authority at any meeting shall be constituted by not less than five members.

(2) All acts, matters and things authorised to be done by the Authority shall be decided by a resolution at a meeting of the Authority at which a quorum is present.

(3) Notwithstanding subsection (2), where the chairman so directs, a decision may be made by the Authority without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any majority of members may require that a decision shall be deferred for consideration at a meeting of the Authority.

9. In case any irregularity shall occur in the convening or holding of any meeting of the Authority, or in any other proceedings taking place at or prior to any such meeting, all proceedings of the meeting shall be of the same force and validity as if no irregularity had occurred but, if any irregularity shall be publicly noticed and objected to, the chairman shall decide thereon and his decision shall be final.

10. Minutes in proper form of each meeting of the Authority shall be kept, and shall be signed by the chairman of that or the next succeeding meeting.

11. Subject to any directions given by the Minister and to the provisions of this Order, the Authority may regulate its own procedure.

12. The Authority may appoint such committees, whether wholly or partly of its own members or otherwise, and with such advisory or executive functions, as the Authority may consider necessary.

(1) Subject to the provisions of this paragraph, the Authority may borrow money required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Authority to borrow shall be exercisable with only the approval of the Minister given with the consent of the Minister for the time being responsible for finance, as to the amount, as to the powers of the borrowing and as to the terms on which the borrowing may be effected, and any such approval may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

(1) The Authority shall keep proper accounts and other records in relation to the business of the Authority, and shall prepare in respect of each financial year a statement of accounts in such form as the Minister with the approval of the Minister for the time being responsible for finance may direct.

(2) The accounts of the Authority shall be audited annually by the Controller and Auditor-General.

(3) The Authority shall produce and lay before the Controller and Auditor-General all books and accounts of the Authority, with all vouchers and other documents in its possession or control relating thereto, and the Controller and Auditor-General shall be entitled to require from all members, officers, agents and employees of the Authority all such information and explanation as may be necessary for the performance of his duties as auditor.

(4) The expenses of and incidental to the audit shall be paid by the Authority.

(1) The Authority shall, as soon as possible after the end of each financial year, send to the Minister—

- (a) a copy of the statement of their accounts together with a copy of any report made by the Controller and Auditor-General on that statement or on the accounts of the Authority;
- (b) a report on the exercise and performance by the Authority of its functions during that year and on its policy and programmes.

(2) The report of the Authority for any year shall set out any direction given by the Minister to the Authority during that year, unless the Minister has notified the Authority of his opinion that it is against the public interest to do so.

(1) The Authority may pay to each member thereof (other than a member who is a public officer in receipt of a salary), in respect of his office as such, such remuneration as may be determined by the Minister and may pay to the chairman thereof, in respect of his office as such, such additional remuneration as he may determine.

(2) The Authority may pay to each member of any committee of the Authority (other than a member who is a public officer in receipt of a salary), in respect of his office as such, such remuneration as may be determined in accordance with the provisions of subsection (1).

(3) The Authority may in its discretion pay such travelling and other expenses as may be reasonably incurred by any member of the Authority or of any committee thereof by reason of the duties of their office.

(1) The Authority may employ such officer, servants or agents as may appear to it to be necessary for the efficient discharge of its functions.

(2) The Authority may—

- (a) pay to its officers, servants and agents such remuneration as may be determined by the Authority with the approval of the Minister; and

[Subsidiary]

- (b) as regards any officers, servants or agents in whose case it may be determined by the Authority with the approval of the Minister to make provision for the payment of pensions, gratuities or other like benefits on their death, injury or retirement, pay or provide for the payment to them or to others by reference to their service, of such pensions, gratuities or other like benefits, as may be so determined.

(3) Provision for pensions, gratuities or other like benefits under the foregoing subsection may be made either by contributory or by non-contributory arrangements or partly by one and partly by the other.

(1) The fixing of the Common Seal of the Authority shall be authenticated by the signatures of—

- (a) the chairman of the Authority, or some other member thereof authorised either generally or specially by the Authority to act in his stead for that purpose; and
- (b) some other person authorized by the Authority, either generally or specially, to act for that purpose.

(2) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority for that purpose.

(1) The Authority may, and upon the request of the Minister shall, tender its advice to the Minister upon any matter falling within the scope of its functions.

(2) The Authority shall exercise its functions in accordance with the general or special directions that may from time to time be given to it by the Minister.

20. The Authority shall, in respect of the development of sugar-cane—

- (a) advise on the effective and efficient development of sugar-cane production for the manufacturing of white sugar;
- (b) advise on price of cane to growers;
- (c) advise on rules and regulations necessary to enable the effective and efficient functioning and development of the sugar-cane industry;
- (d) advise on all aspects of sugar-cane research services;
- (e) develop and implement upon approval by Minister a cane testing service and a sugar-cane quality control system;
- (f) advise on all aspects of sugar-cane processing;
- (g) register all sugar-cane producers within sugar factory zones;
- (h) ensure the availability of adequate statistical information relating to all aspects of the sugar-cane industry;
- (i) advise on the utilization of sugar by-products;
- (j) with the approval of the Minister, by order in the *Gazette*, impose a levy or levies on growers for the purpose of financing the operations of the Authority and for such other purposes as the Minister may approve;
- (k) with the approval of the Minister make an Order published in the *Gazette* regulating the manufacture, distribution, storage and marketing of sugar and sugar by-products, and also the quantity and quality of locally produced and imported sugar.

[L.N. 208/1992, s. 2, L.N. 156/1995, s. 2.]

**AGRICULTURE (GUARANTEED MINIMUM
RETURN ADVANCES) (INTEREST) RULES, 1975**

[L.N. 30/1975.]

These Rules are not included in the Laws of Kenya, being of transitory effect.

**AGRICULTURE (GUARANTEED MINIMUM
RETURN ADVANCES) RULES, 1977**

[L.N. 12/1977.]

1. These Rules may be cited as the Agriculture (Guaranteed Minimum Return Advances) Rules, 1977.
2. The amount per acre of any advance made under section 116 of the Act against the guaranteed minimum return in respect of any of the essential crops specified in the first column of the Schedule shall not exceed the amount specified in the second column of the Schedule:

SCHEDULE

[Rule 2.]

	Sh.	cts.
Wheat	500	00
Maize	500	00

AGRICULTURE (GUARANTEED MINIMUM RETURN) ORDER, 1977

[L.N. 13/1977.]

1. This Order may be cited as the Agriculture (Guaranteed minimum Return) Order, 1977.
2. The minimum return of money guaranteed by the Government for every acre of land appropriated for planting with an essential crop in compliance with the terms of a production approval or production order shall be that in the Schedule.

SCHEDULE

ESSENTIAL CROP	Guaranteed Minimum Return per Acre					
	Where crop is harvested		Where crop is not harvested		Premium per acre	
	Sh.	cts.	Sh.	cts.	Sh.	cts.
Wheat	500	00	425	00	5	00
Hybrid Maize	500	00	425	00	5	00

**REVOCATION OF THE AGRICULTURE
(SUGAR-CANE MARKETING) RULES, 1984**

[L.N. 138/1984.]

In exercise of the powers conferred by section 21 of the Agriculture Act, the Minister for Agriculture and Livestock Development, after consultation with the Central Agricultural Board, revokes the Agriculture (Sugar-Cane Marketing) Rules.

**HORTICULTURAL CROPS DEVELOPMENT AUTHORITY (MARKETING
OF HORTICULTURAL PRODUCE) (REVOCATION) ORDER, 1990**

[L.N. 196/1990.]

1. This Order may be cited as the Horticultural Crops Development Authority (Marketing of Horticultural Produce) (Revocation) Order, 1990.
 2. The Horticultural Crops Development Authority (Marketing of Horticultural Produce) Order, 1990 is revoked.
-

AGRICULTURE (TOBACCO GROWING) RULES, 1991

[L.N. 495/1991.]

1. These Rules may be cited as the Agriculture (Tobacco Growing) Rules, 1991.
2. In these Rules—
 - “**farmer**” means a farmer who grows tobacco for the purpose of sale;
 - “**region**” means the tobacco growing region set out in the Schedule.
3. The tobacco growing periods specified in the Schedule are hereby declared to be the earliest and the latest growing dates for the regions to which they apply.
 - (1) The closed seasons specified in the Schedule are hereby declared to be closed seasons for the regions to which they apply.
 - (2) No farmer in any region shall grow tobacco during the closed season.
5. A farmer shall adhere strictly to the specified growing periods and closed seasons applicable to his region.
6. A registered company involved in promoting the growing of tobacco shall ensure that farmers contracted by it adhere to sound production programmes designed to allow for the periods set out in the Schedule.
7. Any person who contravenes any of these Rules shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

SCHEDULE
TOBACCO GROWING PERIODS

Province	Region/District	Earliest Tobacco Growing Date (Opening Seedbeds)	Latest Tobacco Growing Date (Uprooting of Crop Residues in the Field)	Closed Season
Nyanza	SiNyanza	15th November	31st July	1st August to 14th November
	Siaya	15th November	31st August	1st September to 14th November
Western	Bungoma	15th November	31st August	1st September to 14th November
	Busia	15th November	31st August	1st September to 14th November
Central	Kirinyaga	15th July	31st May	1st June to 14th July
	Murang'a	15th July	31st May	1st June to 14th July
Eastern	Meru	15th July	31st May	1st June to 14th July
	Embu	15th July	31st May	1st June to 14th July
	Kitui	15th July	31st June	16th June to 14th July

**HORTICULTURAL CROPS DEVELOPMENT AUTHORITY
(CONTROL OF MANGOES) AND CROPS DEVELOPMENT
AUTHORITY (ONION MARKETING) (REVOCATION) ORDER, 1992**

[L.N. 269/1992.]

IN EXERCISE of the powers conferred by paragraph 14(f) of the Horticultural Crops Development Authority Order, the Horticultural Crops Development Authority, with the approval of the Minister for Agriculture, revokes the following Orders—

1. The Horticultural Crops Development Authority (Control of Mangoes) Order.
 2. The Horticultural Crops Development Authority (Onion Marketing) Order.
-

**PINEAPPLES DEVELOPMENT AUTHORITY (CONTROL OF
MOVEMENT OF PINEAPPLES) (REVOCATION) ORDER, 1992**

[L.N. 270/1992.]

1. This Order may be cited as the Pineapple Development Authority (Control of Movement of Pineapples) (Revocation) Order, 1992.
 2. The Pineapple Development Authority (Control of Movement of Pineapples) Order (Sub. Leg.) is revoked.
-

KENYA SUGAR AUTHORITY (IMPOSITION OF LEVY) ORDER, 1994

[L.N. 149/1994, L.N. 329/1995, L.N. 104/1998, L.N. 7/1999, L.N. 17/1999, L.N. 42/2000, L.N. 78/2000, Corr. No. 43/2000.]

1. This Order may be cited as the Kenya Sugar Authority (Imposition of Levy) Order, 1994, and shall come into operation on the 1st May, 1994.

(1) A levy of seven per cent of the ex-factory price of sugar or seven per cent of the landed Mombasa price for imported sugar is imposed on sugar produced in or imported into the country.

(2) Refined sugar having a polarimeter reading of 99.8 degrees or more colour in solution ICUMSA units (max.) 60, invert sugar content, % mm. (max.) 0.04 and moisture, % mm. (max.) 0.07, imported by the following industrial users shall be allowed fifty (50%) per cent exemption from the forty (40%) per cent Sugar Development Levy—

Anspar Beverages
Athi River Foods Limited
Atlantic Products Limited
Cadbury (K) Limited
Castle Breweries
Centrofoods Industries Limited
Coca Cola Limited
Cosmos Limited
Crown Foods Limited
Dawa Pharmaceuticals
Delmonte Kenya Limited
Excel Chemicals Limited
Glaxo Welcome Limited
House of Manji
Jambo Biscuits Limited
Jetlak Foods Limited
Kabazi Cannery Limited
Kenafic Industries Limited
Kenya Orchards Limited
Kenya Wine Agencies Limited
Kevian Kenya Limited
Kuguru Food Complex Limited
Mac 's Pharmaceuticals Limited
MIBISCO Limited
Mill Creek Investment
Nestle Food (K) Limited
Premier Foods Industries
Procter & Gamble
Razco Foods Limited

Agriculture Act

[Subsidiary]

Sheena Foods Limited
SmithKline Beecham International
Swan Industries Limited
The Wrigley Company (E.A.) Limited
Trufoods Limited.

[L.N. 329/1995, s. 2, L.N. 104/1998, s. 2, L.N. 7/1999, s. 2,
L.N. 42/2000, s. 2, L.N. 78/2000, s. 2, Corr. No. 43/2000.]

(1) The levy on imported sugar shall be collected directly by the Kenya Sugar Authority or by its authorised agent.

(2) The Authority may, by written notice addressed to any person (in this subsection called the agent), appoint him to be the agent of another person (in this subsection called the principal), for the purposes of collection the levy due under this Order from the principal where the Authority is satisfied that the agent—

- (a) owes or is about to pay money to the principal;
- (b) holds money for or on account of the principal;
- (c) holds money on account of some other person for payment to the principal;
- (d) has authority from some other person to pay money to the principal;
- (e) holds sugar belonging to the principal which is liable to levy and on which levy has not been paid,

and shall in the notice specify the amount of levy to be collected by the agent, which amount shall not exceed the amount, or value of the levy, held or owing by the agent for or to the principal.

(3) The Authority may, by notice in writing, require any person to furnish it within a reasonable time, not being less than thirty (30) days from the date of service of the notice, with a return showing details of any moneys or sugar which may be held by that person from whom a levy is due under this Order.

(4) This Order shall apply to an agent appointed under subsection (2) as though he were a duly authorised agent acting on behalf of the owner.

(5) An agent who is appointed under subsection (2) and who claims to be, or to have become unable to comply with the notice for any reason whatsoever shall, as soon as may be practicable, notify the Authority accordingly in writing stating the reasons for his inability, and the Authority may accept and cancel, amend or reject the notification as it may think fit.

(6) Notwithstanding the provisions of subsection (5), an agent shall be presumed to be holding sufficient money for the payment of the levy specified in the notice unless his notification under that subsection is accepted or amended, and in any proceedings for the collection of that levy he shall be stopped from asserting the lack of those moneys.

(7) Where an agent fails to remit any amount of levy specified in the notice addressed to him within thirty (30) days of the date of service of the notice on him, or, of the date on which the moneys came into his hands for, or become due to him to, his principal, whichever is the later and he has not complied with subsection (5), then the provisions of this Order relating to the collection and recovery of levy shall apply as if it were levy due and payable to him from the date when such levy should have been paid to the Sugar Development Fund.

(8) An agent who has made payment of the levy under this subsection shall for all purposes be deemed to have acted therein with the authority of his principal and of all

other persons concerned and shall be indemnified in respect of that payment against any proceedings civil or criminal and all process judicial or extra judicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

(9) A person who, in giving a notification under subsection (5), wilfully makes any false or misleading statement, or wilfully conceals any material fact, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term of not more than six months, or both.

[L.N. 7/1999, s. 3.]

4. Any sugar imported into the country or which was in bonded warehouse before 21st January, 1999, shall not be subject to the exemption of fifty per cent (50%) provided for under this Order.

[L.N. 17/1999, s. 2.]

5. The levy shall be a civil debt due from the person on whom it is imposed to the Authority and shall be recovered summarily under the Debts (Summary Recovery) Act (Cap. 42).

6. The Kenya Sugar Authority (Imposition of Levy) Order, 1993 (L.N. 68/1993), is revoked.

**AGRICULTURE (DECLARATION OF SPECIAL CROPS)
(REVOCATION) ORDER, 1998**

[L.N. 131/1998.]

1. This Order may be cited as the Agriculture (Declaration of Special Crops) (Revocation) Order, 1998 and shall be deemed to have come into operation on the 28th August, 1998.
 2. The Agriculture (Declaration of Special Crops) Order, 1997 (L.N. 28/1997) is revoked.
-

KENYA TEA DEVELOPMENT AUTHORITY (REVOCATION) ORDER, 1999

[L.N. 44/1999, L.N. 185/1999.]

1. This Order may be cited as the Kenya Tea Development Authority (Revocation) Order, 1999, and shall come into force on 1st July, 2000.

[L.N. 185/1999, s. 2.]

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

“**appointed day**” means the date of commencement of this Order;

“**Company**” means the Kenya Tea Development Agency Limited;

“**Kenya Tea Development Agency Limited**” means the limited liability company incorporated pursuant to the provisions of section 3;

“**undertaking**” in relation to the Kenya Tea Development Authority means its existing business, assets and property vested in or held by it and all liabilities to which it is subject in respect of its business immediately before the appointed day.

(1) Kenya Tea Development Authority shall incorporate a limited liability company under the provisions of the Companies Act (Cap. 486) for the purpose of bringing the provisions of this Order into operation.

(2) The Company shall be the successor of the Kenya Tea Development Authority, and, subject to this Order, all rights, duties, obligations, assets and liabilities of the Kenya Tea Development Authority existing on the appointed day shall be automatically and fully transferred to the Kenya Tea Development Agency Limited and any reference to the Kenya Tea Development Authority in any contract or document shall, for all purposes, be deemed to be reference to the Company.

(1) Any property or right vested in the Company by virtue of this Order which immediately before the appointed day, vested in the Kenya Tea Development Authority either alone or jointly with any other person—

- (a) as trustee or custodian trustee under any trust deed, settlement, covenant or under any other instrument; or
- (b) as executor or trustee of any person; or
- (c) as judicial trustee appointed by order of any court; or
- (d) in any other fiduciary capacity,

shall, on the appointed day, vest in the Company alone or jointly with such other person, upon the same trusts and subject to the same powers, provisions, liabilities and obligations.

(2) Any existing instrument or order, of any court under or by virtue of which any property or right vested in the Kenya Tea Development Authority in any capacity specified in subsection (1), including in the case of a will, any grant of probate thereof, and any provision herein or any existing contract or arrangement for the payment or retention by the Kenya Tea Development Authority or of remuneration for its services in any such capacity shall, on and after the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to the Kenya Tea Development Authority, there were substituted a reference to the Company.

[Subsidiary]

5. Any existing contracts, agreements, conveyances, deeds, leases, licences, permits, exemptions, powers of attorney, undertakings, securities and other instruments, whether analogous to the foregoing or not, entered into by, made with or granted or addressed to the Kenya Tea Development Authority whether alone or with any other person and whether as principal or agent shall, as from the appointed day, be binding and be of full force and effect in every respect against or in favour of the Company as if, instead of the Kenya Tea Development Authority, the Company had been a party thereto, bound thereby or entitled to the benefit thereof and as if any reference, express or implied, to any member, officer, or employee of the Kenya Tea Development Authority as respects anything to be done on or after the appointed day, were substituted a reference to the member, officer or employee of the Company who most nearly corresponds thereto.

6. Without prejudice to the provisions of any other paragraph herein, the following provisions shall have effect in relation to the business of the Kenya Tea Development Authority vested in the Company by virtue of this order—

- (a) any account between the Kenya Tea development Authority and a customer shall, on and after the appointed day, become an account between the Company and the customer, with the same rights and subject to the same obligations and incidents, including the rights of set-off as theretofore, and the account shall be deemed to be a single continuing account:

Provided that nothing in this paragraph shall affect any right of the Company or of the customer to vary the conditions or incidents subject to which the account is kept;

- (b) any existing instruction, direction, mandate, power of attorney, authority or consent given to or by the Kenya Tea Development Authority shall have effect, on and after the appointed day, as if given to or by the Company;
- (c) any security held by the Kenya Tea Development Authority for the payment of debts or liabilities, whether present or future, actual or contingent, of any person, which is transferred to the company shall, on and after the appointed day, be held by and be available to the Company as security for the payment of such debts and liabilities to the company, and where the moneys secured by the security include future advances or liabilities of such person, the security shall, as from that day, be held by and be available to the company as security for future advances to the person by and future liabilities of, that person to the Company to the same extent to which the same was held by or available to the Kenya Tea Development Authority immediately before the appointed day as security for future advances or future liabilities;
- (d) the company shall, in relation to any security transferred or deemed to have been transferred to it and to the moneys thereby secured, be entitled to the same rights and priorities, and be subject to the same obligations and incidents, as the Kenya Tea Development Authority would have been entitled and subject to as if the same had continued to be held by the Kenya Tea Development Authority;
- (e) any negotiable instrument or order for payment of money whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn by or on, given by or to, or accepted or endorsed by the Kenya Tea Development Authority shall on or after the appointed day have effect as if it had been drawn by or on, or given by or to, or accepted or endorsed by the Company;
- (f) where, by the operation of the provisions of this Order, any right, liability or obligation becomes a right, liability, or obligation of the Company, all other persons shall, on and after the appointed day, have the same rights, powers and remedies, and, in particular, the same rights and powers as to taking or

- (g) the custody of any documents, goods or other property held by the Kenya Tea Development Authority as bailee for any other person shall be transferred to the Company on the appointed day and the rights and obligations of the Kenya Tea Development Authority under any contract of bailment relating to such documents, goods or other property shall be transferred or deemed to be transferred to the Company on that day; and
- (h) any bank or other accounts, books of accounts, revenue accounts, balance sheets, audited accounts, profit and loss accounts, actuarial or other valuation, accounting records, or any other accountable documents held by or belonging to the Kenya Tea Development Authority immediately before the appointed day be held by and belong to the company.

(1) No existing legal or arbitration proceedings or application to any authority by or against the Kenya Tea Development Authority shall abate, be discontinued or be in any way prejudiced by reason only of the provisions of this Order, but the same may be prosecuted or continued by or against the Company and any judgment or award obtained by or against the Kenya Tea Development Authority and not fully satisfied before the appointed day shall thereafter be enforceable by or against the company.

(2) In any legal or arbitration proceedings concerning any right or liability transferred to or vested in the Company by this Order, a certificate under the hand of the Manager of a branch of the Company that such right or liability has been so transferred to or vested in the company shall be *prima facie* evidence of that transfer or vesting.

(1) Any person who is employed by the Kenya Tea Development Authority immediately before the appointed day shall on the appointed day become an employee of the Company on the same terms and conditions of service as his existing terms and conditions and subject to any subsisting notice of termination, resignation or variation, and such employment with the Kenya Tea Development Authority and the Company shall be deemed to be continuous.

(2) Any reference to the Kenya Tea Development Authority in any trust deed or rules constituting or relating to any Pension Scheme or Provident or Superannuation Fund of which persons employed by the Kenya Tea Development Authority are members shall on and after the appointed day, be construed and have effect as if the same were a reference to the Company but so that, for the purpose of ascertaining and calculating any right to benefits under such scheme or fund, service with the Kenya Tea Development Authority up to the appointed day shall be taken into account as if it were service with the Company.

(3) The operation of any of the provisions of this paragraph shall not in itself give rise to any claim by any person to benefit under any scheme or fund referred to in subsection (2).

9. On and after the appointed day, all documents, records and admissions which would, before the appointed day, have been evidence in respect of any matter for or against the Kenya Tea Development Authority shall be admissible evidence for or against the Company.

10. Every public officer having the power or duty to effect or amend any entry in any register relating to property or to issue or amend any certificate or other document effecting or evidencing title to property shall, upon request made by or on behalf of the Company or the owner of such property, and without making any charge or receiving any fee or other payment therefor, do all such things as are by law necessary to complete the transfer of any property effected by the Order.

Agriculture Act

[Subsidiary]

11. The Kenya Tea Development Authority Order, 1997 (L.N. 109/1997), the Kenya Tea Development Authority (Tea Cultivation) Order, 1997 (L.N. 110/1997), the Kenya Tea Development Authority (Imposition of Levy) Order, 1997 (L.N. 111/1997), and the Kenya Tea Development Authority (Sun-dried Tea) Order, 1997 (L.N. 112/1997), are revoked.

Agriculture Act

[Subsidiary]

SCHEDULE—continued

Common Names	Botanical Names
Marrowseed	<i>Cucurbita pepo</i> L.
Bottle gourd seed	<i>Lagenaria siceraria</i> (Molina) Standl.
Smooth Loofah seed	<i>Luffa cylindrica</i> (L.) M. J. Roem.
Tamarind/Tamarind seed	<i>Tamarindus indica</i> L.
Cashew nut/kernel/shell	<i>Anacardium occidentale</i> L.
Avocado/avocado flesh/seed	<i>Persea americana</i> Mill.
Olive fruit	<i>Olea europea</i> L.
Tomato/Tomato seed	<i>Lycopersion esculentum</i> Mill.
Babasu palm	<i>Orbignya Speciosa</i> Barb.
Borneo talow	
Chinese Vegetable talow	<i>Stillingia Sebitera</i> Michx.
Cocoa	<i>Theobroma cacao</i> L.
Cohune palm	<i>Attalea cohune</i> Mart.
Cramble (Abbyssinian Kale/Cabbage)	<i>Cramble abyssinica</i> Hoschst ex R.E. Fries.
German Sesame/flaxe flax	<i>Cameirna sativa</i> (L.) Crantz.
Illipe	<i>Madhuca latifolia</i> Macb.
	<i>Madhuca longifolia</i> (Koenig) Mab.
Neem	<i>Azadirachta indica</i> Juss.
	<i>Melia azadirachta</i> L.
Oiticica	<i>Lacenia rigida</i> Benth.
Grape	<i>Vitis vinifera</i> L.
Physic nut	<i>Jatropha Curcae</i> L.
Shea nut	<i>Butyrospermum parkii</i> (Don.).
	<i>Kotschy.</i>
Tea	<i>Camellia sasanqua</i> Thumb.
Kapok	<i>Bombax malabaricum</i> DC.
	<i>Eriodendron anfractuosum</i> DC.
Rice	<i>Oryza sativa</i> L.
Perilla/Green perilla	<i>Perilla frutescens</i> Britt., <i>Perilla ocymoides</i> L.
Tobaccoseed	<i>Nicotiana tabacum</i> L.
Ethiopia Mahogany	<i>Trinchilia emetica</i> Vahl.
Ethiopia Mahogany	<i>Trichilia roka</i> (Forsk.) Chiov.

KENYA OILCROPS DEVELOPMENT AUTHORITY ORDER, 2002

ARRANGEMENT OF ORDERS

Order

1. Citation.
 2. Interpretation.
 3. Establishment of Kenya Oilcrops Development Authority.
 4. Establishment of Oilseeds Development Council.
 5. Termination of office.
 6. Meetings of the Council.
 7. Quorum.
 8. Declaration of interest.
 9. Voting.
 10. Co-opted members.
 11. Procedure.
 12. Number of meetings.
 13. Minutes.
 14. Officers of the Council.
 15. Delegation of powers.
 16. Borrowing of money.
 17. Accounts and audit of the Authority.
 18. Remuneration of members.
 19. Seal of the Authority.
 20. Signification of documents.
 21. Financial year.
 22. Accounts and audit of the Council.
 23. Establishment of Oilseeds Development Fund.
 24. Powers of the Authority.
 25. Orders.
-

[Subsidiary]

KENYA OILCROPS DEVELOPMENT AUTHORITY ORDER, 2001

[L.N. 81/2001.]

1. Citation

This Order may be cited as the Kenya Oilcrops Development Authority Order, 2001.

2. Interpretation

In this Order, unless the context otherwise requires—

“**association**” means an association under section 4(2)(f) or (g);

“**Authority**” means the Kenya Oilcrops Development Authority established under section 3;

“**oilcrops**” means the oilcrops specified in the Schedule;

“**oilseeds**” means the oilseeds being the produce of the oilcrops specified in the Schedule;

“**Oilseeds Development Council**” means the Oilseeds Development Council established under section 4(1);

“**oilshed**” means the geographical area served by a processing plant;

“**processing plant**” means a plant or processing plant or factory processing oilseeds or refining vegetable oils;

“**vegetable oil**” means vegetable oil obtainable from plants, fruits or oilseeds and includes edible and non-edible vegetable oils, whether vegetable fat, drying, semi-drying or liquid vegetable oil, by any method of processing or refining.

3. Establishment of Kenya Oilcrops Development Authority

(1) There is hereby established an authority to be known as the Kenya Oilcrops Development Authority (hereinafter referred to as “the Authority”) for promoting and fostering the effective development of oilcrops for the production of oilseeds and vegetable oil, in any suitable area of Kenya.

(2) The Authority shall be a body corporate having perpetual succession and a common seal, and may in its corporate name sue and be sued, and, for and in connection with the purpose of this Order, may purchase, sell, lease or otherwise acquire or dispose of, hold and manage movable and immovable property, and may enter into such contracts as may be necessary or expedient.

4. Establishment of Oilseeds Development Council

(1) There is hereby established a council to be known as the Oilseeds Development Council (hereinafter referred to as “the Council”) to co-ordinate the functions of the Authority and advise the Government on the development of oilcrops and their oilseeds in Kenya.

(2) The Council shall consist of the following members—

- (a) a chairman appointed by the Minister;
- (b) the Permanent Secretary for the time being responsible for Agriculture;
- (c) the Permanent Secretary to the Treasury;
- (d) the Director, Kenya Agricultural Research Institute;
- (e) the Director of Agriculture;

- (f) seven members representing the seven oilcrops growing provinces nominated by the Minister or elected by the association of oilseed growers recognized by the Minister, as the representative of the oilcrops growers;
- (g) four members of the oilseed processing and vegetable oil refining industry nominated by the Minister or elected by the oilseed and vegetable oil processors association recognized by the Government, as the representative of the oilseed processing and vegetable oil refining industry;
- (h) the Chief Executive of the Authority who shall be hired by the Council and shall be the Secretary to the Council;
- (i) two members appointed by the Minister to represent special interest groups in the oilseed industry.

(3) The Chairman and members of the Council shall be gazetted by the Minister.

(4) The members of the Council other than *ex officio* members shall hold office for a period of three years and shall be eligible for re-appointment.

5. Termination of office

Notwithstanding anything to the contrary in this Order, a person shall cease to be a member of the Council—

- (a) upon receipt by the Minister of his resignation in writing; or
- (b) upon his death; or
- (c) if he is certified to be of unsound mind, temporarily or permanently incapacitated by illness or is otherwise prevented from performing his duties as a member of the Council; or
- (d) if he is absent; without permission of the chairman from three consecutive meetings of the Council; or
- (e) if he is adjudged bankrupt; or
- (f) if he is sentenced by a court of law to imprisonment for a term of six months or more without the option of a fine.

6. Meetings of the Council

(1) The chairman shall convene the meetings of the Council whenever it may be necessary or expedient for the transaction of its business and in any event not less than once in every period of three months.

(2) A special meeting of the Council may be convened to deal with any special or urgent matter.

(3) In the absence of the chairman, the members present at the meeting may appoint any one of the members present to act as chairman at such meeting.

(4) Any person appointed to act as chairman under subsection (3) shall have all the powers and privileges of the chairman at and in respect of any such meeting.

7. Quorum

(1) The quorum of the Council at any meeting shall be nine members.

(2) All acts, matters and things authorized to be done by the Authority shall be decided by a resolution at a meeting of the Council at which a quorum is present.

(3) Notwithstanding subsection (2), where the chairman so directs, a decision may be made by the Council without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any majority of members may require that a decision shall be deferred for consideration at a meeting of the Council.

[Subsidiary]

8. Declaration of interest

Every member of the Council who is or is likely to be concerned in or who participates in the profits of any contract with or work done for the Authority, otherwise than in his capacity as a member of the Council shall on the matter coming before the Council for consideration, immediately declare his interest therein, and shall in any case abstain from voting in the matter.

9. Voting

Every decision of the Council shall be by a simple majority of the members present and voting, but the chairman shall have a casting as well as a deliberative vote.

10. Co-opted members

The Council may co-opt to serve on it for such length of time as it thinks fit any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Council or be counted as a member for the purpose of forming a quorum.

11. Procedure

Subject to any directions given by the Minister and to the provisions of this Order, the Council may regulate its own procedure.

12. Number of meetings

The Council shall meet not less than four times in each financial year.

13. Minutes

Minutes in proper form of each meeting of the Council shall be kept, and shall be signed by the chairman of that or the next succeeding meeting.

14. Officers of the Council

(1) The Council may appoint such other officers as it deems necessary to enable it to co-ordinate the functions of the Authority.

(2) The terms and conditions of service of officers appointed by the Authority shall be determined by the Council.

(3) The Council may appoint such committees, whether wholly or partly of its own members or otherwise, and with such advisory or executive functions, as the Council may consider necessary.

(4) The Chief Executive and other officers appointed by the Council shall be paid by the Council such remuneration as the Council shall determine.

15. Delegation of powers

The Council may delegate any of its powers to any committee of the Council or to the Chief Executive.

16. Borrowing of money

(1) Subject to the provisions of this paragraph, the Authority may borrow money required by it for meeting any of its obligations, or discharging any of its functions.

(2) The power of the Authority to borrow shall be exercisable only with the approval of the Minister after the consent of the Minister for the time being responsible for Finance, as to the amount, as to the powers of the Council to borrow and as to the terms on which the

borrowing may be effected, and any such approval may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

17. Accounts and audit of the Authority

(1) The Authority shall keep proper accounts and other records in relation to the business of the Authority, and shall prepare in respect of each financial year a statement of accounts in such form as the Minister, with the approval of the Minister for the time being responsible for Finance, may direct.

(2) The accounts of the Authority shall be examined, audited and reported upon annually by the Controller and Auditor-General (State Corporations).

18. Remuneration of members

Members of the Council and other co-opted members shall receive such remuneration and allowances as the council may approve.

19. Seal of the Authority

(1) The seal of the Authority shall be authenticated by the signature of the Chairman and of the Chief Executive, or by either the Chairman or the Chief Executive, together with one member of the Authority authorised in writing by the Council in that behalf.

(2) The Authority may, by writing under its seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute bids on its behalf in any place not situated in Kenya, and a deed signed by such attorney on behalf of the Authority shall have the same effect as if it were under the seal of the Authority.

20. Signification of documents

Any document, other than a document which is required by any other law to be under seal, made by and any decision of the Council, may be signified under the hand of the Chairman, or of the Chief Executive, or any other member of the Council or any other person authorized in writing by the Council in that behalf.

21. Financial year

The financial year of the Authority shall be from 1st July in each year to 30th June in the year following.

22. Accounts and audit of the Council

(1) The Council shall cause to be kept such books of accounts and other books in relation thereto and to all its undertakings, funds and activities as the Minister, may from time to time require or approve and shall, within a period of four months after the end of its financial year or within such longer period as the Minister may approve, cause to be prepared, signed and transmitted to the auditor—

- (a) a balance sheet showing in detail the assets and liabilities of the Authority; and
- (b) such other statement of accounts as the Minister may require.

(2) The expenses of and incidental to the audit shall be paid by the Authority.

(3) The Authority shall within a period of seven months after the end of its financial year, or within such longer period as the Minister may approve, submit to the Minister a report of its operations during that year, and the year's balance sheet and such other statement of accounts as the Minister shall require together with the auditor's report thereon, and the Authority shall, if the Minister so requires, publish them in such manner as the Minister may specify.

[Subsidiary]

(4) The Minister shall lay the Authority's report and the auditor's report, together with the balance sheet and such other statement of accounts as he may have required before the National Assembly as soon as practicable.

23. Establishment of Oilseeds Development Fund

(1) There is established a fund to be known as the Oilseeds Development Fund which shall be administered by the Authority.

(2) There shall be paid into the Fund any moneys realized by the Authority from any levy or levies imposed by authority.

(3) Any levy imposed by the Authority under this Order shall be payable to the Authority or its agents by the person on whom it is imposed in such manner and within such time as the Council may direct and shall be a civil debt due from such person to the Authority.

(4) The moneys in the Fund shall be used by the Authority for the development of the oilseeds subsector.

24. Powers of the Authority

The Authority shall have all such powers as are necessary for the performance of its functions under this Order and without prejudice to the generality of the foregoing, the Authority shall have power—

- (a) to collect and collate information and statistics on production, processing and marketing of edible oils, oilseeds and oil meals;
- (b) to monitor imports and local availability of edible and non-edible oils, oilseeds and oil meals for the efficient management of the oilseed industry;
- (c) to register processing plants and designate oilsheds in respect thereto;
- (d) to concurrently monitor the implementation of the approved policies and take steps necessary to remove any difficulties and help the Government in reformulating the policies whenever considered necessary and expedient to do so;
- (e) to formulate in conjunction with the Government a national plan for oilseed development and assist in its implementation;
- (f) with the approval of the Minister by Order of the *Gazette*, impose a levy or levies for the purpose of financing the operations of the Authority and for such other purposes as the Minister may approve;
- (g) with the approval of the Minister, by notice in the *Gazette*, charge a cess on the processing of locally produced and processed oilseeds to augment the Fund;
- (h) to finance applied research and development and extension services for the production and processing of edible oils and the increase of oilseed production;
- (i) to identify ways and means of funding the implementation of the oilseeds plans through public and private sector initiatives, food aid and multilateral and bilateral funding;
- (j) to recommend to the Government the appropriate duties to be charged on imported edible oils, oil meals and oilseeds and monitor the imports to ensure that the collection of import duties matches the expected levels;
- (k) in case there are difficulties in monitoring imports, and the duties collected do not reach the expected levels, encourage the associations to co-ordinate and canalise imports;

- (l) where the associations are unable to co-ordinate and canalise imports, undertake these activities until it is possible for the associations to be effective;
- (m) to encourage contract farming of oilseeds, and where necessary mediate between the growers and the processors to ensure the implementation of fair contractual agreements;
- (n) to review and encourage formulation and proper implementation of standards of quality labelling and packaging for marketing edible oils to create a level playing field and to protect the consumers;
- (o) to oversee the functioning of the dynamic concept of an oilshed and oilseed subsector;
- (p) whenever necessary, to arrange for market intervention operations to ensure that the oilseeds producer prices do not go below remunerative levels for the growers and that edible oil prices do not go beyond reasonable levels for the consumers;
- (q) to do any other thing that is provided in this Order to promote or foster the oilseeds subsector.

25. Orders

The Council may, with the approval of the Minister, make Orders for the better carrying out of its functions and without prejudice of the foregoing, the Orders may make provision—

- (a) requiring the processors to report their inputs and throughput along with prices so as to ensure transparency and to assist the planning of future processing capacities;
 - (b) prescribing the proper hygienic standards to be observed in processing plants;
 - (c) prescribing proper standards for the processing of oils, oilseeds and oil meals to protect consumer interest;
 - (d) prescribing the demarcations of oilsheds for every processing plant to ensure that every plant gets the natural advantage of nurturing its oilshed;
 - (e) prescribing the contractual arrangements between growers and processors for entering into contract farming and collecting oilseeds from the oilsheds;
 - (f) prescribing the physical locations of the oilseed processing plants;
 - (g) ensuring that once an oilshed has been designated to a plant during its registration, the concept of an oilshed shall become dynamic in nature and consistent with the operations of a free market economy;
 - (h) prescribing anything which under this Order may be prescribed, to promote the development of the oilseeds industry.
-

AGRICULTURE (DECLARATION OF SPECIAL CROPS) ORDER, 2001

[L.N. 82/2001.]

1. This Order may be cited as the Agriculture (Declaration of Special Crops) Order, 2001.
2. The crops specified in the schedule are hereby declared to be special crops.

SCHEDULE

Common Names	Botanical Names
Cashew/cashewseed/Banka	<i>Ricinus communis</i> L.
Coconut/copra/Nazi	<i>Cocos nucifera</i> L.
Cotton/cottonseed/Pamba	<i>Gossypium hirsutum</i> L.
Japota/hobaba	<i>Simmondsia chinensis</i>
Linseed/flaxseed	<i>Linum usitatissimum</i> L.
Milke/corn/malcegem/mahindi	<i>Zea mays</i> L.
Niger/niger seed	<i>Guizotia abyssinica</i> (L. F.) Cass.
Oilpalm/Palm kernels	<i>Elaeis guineensis</i> Jacq.
Indian Mustard/mustard seed	<i>Brassica juncea</i> (L.) Czern. & Coss.
Black mustard/mustard seed	<i>Brassica nigra</i> (L.) Koch.
Field Mustard/mustard seed	<i>Brassica campestris</i> L.
Groundnut/peanut/soya karanga	<i>Arachis hypogaea</i> L.
Earthnut/monkey nut	<i>Voandzeia subterranea</i> (L.) Thou.
Banbara groundnut	<i>Brassica napus</i> L.
Rapeseed/droize	<i>Brassica alba</i> (L.) Flaberb.
Whitemustard/mustard seed	<i>Carthamus tinctorius</i> L.
Safflower/safflower seed	<i>Sesamum indicum</i> L.
Sesame/simsim seed	<i>Sesame orientale</i> L.
Soyabean/Soyabean/soya seed	<i>Glycine max</i> (L.) Merr.
Sunflower/Sunflower seed	<i>Glycine Soja</i> Sieb. and Zucc.
Passionfruit/passionfruit seed	<i>Helianthus annuus</i> L.
Nutmeg/nutmeg seed	CATEGORY "B"
Macadamia/nut/kernel/shell	<i>Passiflora edulis</i> Sims.
Kapakapok seed	<i>Myrtilla fragrans</i> Houtf.
Tung/Tung seed	<i>Macadamia integrifolia</i> L. F. Muell.
Watermelon/Watermelon seed	<i>Macadamia tetrapetala</i> L. Johnson.
Melon/melon seed	<i>Celtis Pentlandia</i> (L.) Gaertn.
Cucumber/cucumber seed	<i>Aleurites montana</i> (Lour.) Wils.
Marrow seed	<i>Aleurites fordii</i> Hemsl.
Bottle gourd seed	<i>Citrullus lanatus</i> (Thunb.) Mansf.
	<i>Cucumis melo</i> L.
	<i>Cucumis sativus</i> L.
	<i>Cucurbita pepo</i> L.
	<i>Lagenaria siceraria</i> (Molina) Standl.

Agriculture Act

[Subsidiary]

SCHEDULE—continued

Common Names	Botanical Names
Smooth Looftah seed	<i>Luffa cylindrica</i> (L.) M. J. Roem.
Tamarind/Tamarind seed	<i>Tamarindus indica</i> L.
Cashew nut/kernels/shell	<i>Anacardium occidentale</i> L.
Avocado/avocado flesh/seed	<i>Persea americana</i> Mill.
Olive fruit	<i>Olea europaea</i> L.
Tomato/Tomato seed	<i>Lycopersion esculentum</i> Mill.
Babau palm	<i>Orbignya speciosa</i> Barb.
Bororo talow	<i>Stillingia sebifera</i> Michx.
Chinese Vegetable talow	<i>Thecadora caeca</i> L.
Cocoa	<i>Attalea cohune</i> Mart.
Cohune palm	<i>Crambe abyssinica</i> Hochst ex R.E. Fries.
Cramble (Abyssinian Kale/Cabbage)	<i>Camelina sativa</i> (L.) Greut.
German Sesame/taise fax	<i>Machuca latifolia</i> Mach.
Illipe	<i>Machuca longifolia</i> (Koenig) Macb.
Neem	<i>Azadirachta indica</i> Juss.
Olicia	<i>Melia azadirachta</i> .
Grape	<i>Lacenia rigida</i> Benth.
Physic nut	<i>Vitis vinifera</i> L.
Shea nut	<i>Jatropha curcas</i> L.
Tea	<i>Stylosanthes parisi</i> (Don.) Kotschy.
Kapok	<i>Cassia sasanqua</i> Thunb.
Rice	<i>Bombax melibanicum</i> DC.
Perilla/Green perilla	<i>Eriodendron anfractuosum</i> DC.
Tobaccoseed	<i>Oryza sativa</i> L.
Ethiopia Mahogany	<i>Perilla frutescens</i> Britt., <i>Perilla ocymoides</i> L.
Ethiopia Mahogany	<i>Nicotiana tabacum</i> L.
	<i>Trichilia eremita</i> Vahl.
	<i>Trichilia roka</i> (Forst.) Chiov.

**HORTICULTURAL CROPS DEVELOPMENT AUTHORITY
(CONTROL OF MANGOES) (REVOCATION) ORDER, 2005**

[L.N. 60/2005.]

1. This Order may be cited as the Horticultural Crops Development Authority (Control of Mangoes) (Revocation) Order, 2005.
 2. The Horticultural Crops Development Authority (Control of Mangoes) Order (L.N. 200/1969) is revoked.
-

**HORTICULTURAL CROPS DEVELOPMENT
AUTHORITY (EXPORT) (REVOCATION) ORDER, 2005**

[L.N. 61/2005.]

1. This Order may be cited as the Horticultural Crops Development Authority (Export) (Revocation) Order, 2005.
 2. The Horticultural Crops Development Authority (Export) Order is revoked.
-

**HORTICULTURAL CROPS DEVELOPMENT AUTHORITY
(ONION MARKETING) (REVOCATION) ORDER, 2005**

[L.N. 62/2005.]

1. This Order may be cited as the Horticultural Crops Development Authority (Onion Marketing) (Revocation) Order, 2005.
 2. The Horticultural Crops Development Authority (Onion Marketing) Order (L.N. 192/1976) is revoked.
-

THE AGRICULTURE (PROHIBITION OF EXPORTATION OF RAW NUTS) ORDER, 2009

[L.N. 109/2009.]

1. This Order may be cited as the Agriculture (Prohibition of Exportation of Raw Nuts) Order, 2009.
2. The exportation of raw nuts of the crops specified in the Schedule is prohibited.

SCHEDULE

Common Name
Macadamia Nut
Cashew Nut
Bixa

Botanic Name
Macadernia sp.
Anacardium occidentale.
Bixa orellana.

AGRICULTURE (FARM FORESTRY) RULES, 2009

ARRANGEMENT OF RULES

PART I – PRELIMINARY

Rule

1. Citation.
2. Application.
3. Interpretation.
4. Objectives and purpose of the Rules.
5. Compulsory establishment of farm forestry.

PART II – FARM FORESTRY INSPECTION AND ENFORCEMENT

6. Maintenance of 10 per cent tree cover.
7. Farm Forestry Development Notices.
8. Protection of land prone to degradation.
9. Seed production plans.
10. Harvesting.
11. Farm forestry compensation.
12. Maintenance of registers.
13. General penalty.

SCHEDULE

–

FORMS

AGRICULTURE (FARM FORESTRY) RULES, 2009

[L.N. 166/2009.]

PART I – PRELIMINARY

1. Citation

These Rules may be cited as the Agriculture (Farm Forestry) Rules, 2009.

2. Application

These Rules shall apply for the purposes of promoting and maintaining farm forest cover of at least 10 per cent of every agricultural land holding and to preserve and sustain the environment in combating climate change and global warming.

3. Interpretation

In these Rules, unless the context otherwise requires—

“**compliant certificate**” means a certificate issued by the District Agricultural Committee in accordance with rule 6(3)(ii);

“**farm forestry**” means the practice of managing trees on farms whether singly, in rows, lines, boundaries or in woodlots or private forests;

“**inspector**” means the District Agricultural officer.

4. Objectives and purpose of the Rules

The objective and purpose of these Rules is to promote the establishment and sustainable management of farm forestry for the purposes of—

maintaining a compulsory farm tree cover of at least 10 per cent of any agricultural land holding;

conserving water, soil and biodiversity;

protecting riverbanks, shorelines, riparian and wetland areas;

sustainable production of wood, charcoal and non-wood products;

providing fruits and fodder; and

carbon sequestration and other environmental services.

(1) Every person who owns or occupies agricultural land shall establish and maintain a minimum of 10 per cent of the land under farm forestry which may include trees on soil conservation structures or rangeland and cropland in any suitable configurations;

Provided that the species of trees or varieties planted shall not have adverse effects on water sources, crops, livestock, soil fertility and the neighbourhood and should not be of invasive nature.

(2) No agricultural landowner or occupier shall grow or maintain any Eucalyptus species in wetlands and riparian areas.

PART II – FARM FORESTRY INSPECTION AND ENFORCEMENT

6. Maintenance of 10 per cent tree cover

(1) An inspector may at any reasonable time enter upon any agricultural land or commercial nursery situated in an area in respect of which he is authorized to be an inspector for the purpose of ascertaining whether the farm owner or occupier has complied with 10 per cent farm forestry or nursery requirement.

(2) If an inspector ascertains that an owner or occupier has not complied with paragraph (1), he shall issue a farm forest establishment notice in Form FF1 as set out in the schedule to these Rules, requiring the owner or occupier to institute measures to comply with the requirement within such period as may be specified in the notice.

(3) An inspector shall re-enter an agricultural land or nursery to ascertain compliance with the requirements of the notice issued under paragraph (2) and shall—

notify the owner or occupier of his intention to report the non-compliance to the District Agricultural Committee where the owner or occupier has not complied at the expiry of the period specified in the notice or issue a compliance certificate in Form CFF1 as set out in the schedule to these Rules, signed by the Chairman of the District Agricultural Committee where such owner or occupier has complied.

(4) An inspector shall report to the District Agricultural Committee any occupier or owner of agricultural land who fails to comply with the provisions of the notice.

(5) A person who obstructs or hinders an inspector in the exercise of his duties under these Rules shall be guilty of an offence.

7. Farm Forestry Development Notices

(1) The District Agricultural Committee in consultation with the District Environment Committee if satisfied with respect to any agricultural land that—

a land owner or occupier was issued with a farm forestry establishment notice under rule 6(2) but did not comply with the notice at the expiry of the required period;

a land owner or occupier had, but has not continued to maintain a minimum of 10 per cent of the land under farm forestry;

having regard to the ecological characteristics of the land and the principles of good land management and good husbandry, the land has tree cover but is not reasonably covered with adequate forest cover to reach 10 per cent without the addition thereto of more trees;

it is in the interests of proper environmental protection and development of the land for agricultural purposes that more trees should be added on the farm;

a land owner or occupier is unwilling to comply to either establish or maintain a minimum of 10 per cent of the land under farm forestry cover,

shall issue a farm forestry establishment and maintenance notice in Form FF2 as set out in the Schedule to these Rules, requiring the owner or occupier to institute measures to comply with the requirement within the period as shall be specified in the notice.

(2) Where the land owner or occupier has not complied with paragraph (1), the District Agricultural Committee shall issue a farm forestry establishment and maintenance order in Form FF3 as set out in the Schedule to these Rules.

(3) The Order shall require acts or things to be performed or done or prohibit acts or things from being performed or done to the satisfaction of the District Agricultural Committee, imposing conditions upon such requirements and describing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions of establishing and maintaining farm forestry.

(4) A land owner or occupier to whom the Order is given under paragraph (2) may, within thirty (30) days after service thereof on him, contest the Order in writing to the District Agricultural Committee giving reasons for non-compliance.

[Subsidiary]

(5) The District Agricultural Committee may, upon consideration of such contestation either—

- withdraw or vary the order;
- direct that the Order be implemented *mutatis mutandis*.

(6) A land owner or occupier who is not satisfied with the decision of the District Agricultural Committee under this rule may, within thirty (30) days after receiving the decision of the District Agricultural Committee, appeal to the Agricultural Appeals Tribunal.

(7) Where no appeal is lodged with the Agricultural Appeals Tribunal, the District Agricultural Committee shall apply to Agricultural Appeals Tribunal to be allowed to plant and maintain the farm forest cover of 10 per cent and this shall be a civil debt on the land owner or occupier.

(8) In the event of change of user of land from agricultural use to any other use, the new user shall maintain a 10 per cent farm forest cover.

8. Protection of land prone to degradation

(1) Every District Agricultural Committee shall identify land under its area of jurisdiction which is at the risk of land degradation and institute measures necessary for ensuring its conservation including planting of trees.

(2) Where land is at the risk of degradation, the land owner or occupier shall be required to implement farm forestry measures as outlined in paragraph (1).

(3) Every District Agricultural Committee shall undertake measures to plant trees in any areas specified under paragraph (1) by—

- encouraging voluntary self-help tree planting activities;
- undertaking farm forestry activities financed through devolved and any other funds.

(4) The Agriculture (Basic Land Usage) Rules shall apply to sloping lands.

9. Seed production plans

(1) The District Agricultural Committees shall prepare and oversee the implementation of annual seedling production plan for provision of appropriate and adequate seedlings to land owners or occupiers in the district.

(2) The District Agricultural Committee shall monitor the implementation of the plan in paragraph (1) and submit quarterly District reports to Central Agricultural Board and make copies to the relevant line Ministries.

10. Harvesting

(1) Every land owner or occupier shall ensure that harvesting of trees shall be done in such a manner as to maintain a 10 per cent tree cover at all times, with large scale harvesting requiring a harvesting plan as governed by the provisions of the Forest Act (No. 7 of 2005).

(2) The District Agricultural Committee shall establish mechanisms to facilitate the process of notification and approval for ease of harvesting by land owners or occupiers.

(3) A person shall not harvest trees from a farm forest without notification and approval as provided for in paragraph (2)

(4) Harvesting, processing and movement of farm forest products for commercial purposes shall be governed by the provisions of the Forest Act (No. 7 of 2005).

11. Farm forestry compensation

(1) A land owner or occupier who suffers damage to his farm forest trees may seek to be assisted by District Agricultural Committee in valuation of his damaged trees.

(2) The District Agricultural Committee shall establish procedures for damage assessment.

(3) The Central Agricultural Board shall prepare and publish farm tree compensation guidelines for use in assessing compensation rates.

(4) The Central Agricultural Board shall review the farm tree compensation guidelines for use in assessing compensation rates after every five years from the date of its publication.

(5) Where damage occurs due to undertaking of public utility service, the District Agricultural Committee may upon request carry out damage assessment and forward its report to the requesting party.

(6) Any person who interferes with the assessment exercise commits an offence.

12. Maintenance of registers

(1) Every inspector shall keep a register containing copies of farm forest establishment notice and certificate of compliance.

(2) Every District Agricultural Committee shall keep a register containing copies of Farm Forest Establishment and Maintenance Notice, Certificate of compliance and Farm Forestry Establishment and Maintenance Order.

13. General penalty

(1) A person who contravenes any of the provisions of these Rules commits an offence.

(2) A person who commits an offence for which no specific penalty has been provided shall be liable upon conviction to a fine of six thousand shillings or imprisonment for six months or both.

SCHEDULE

FORM FF1 (r. 6(2))

FARM FORESTRY ESTABLISHMENT NOTICE

To

Farm

Address

You are hereby ordered to carry out the following farm forestry activities in the farm described in the Schedule to this Order:

(a)

(b)

(c)

(d)

Agriculture Act

[Subsidiary]

SCHEDULE, FORM FF1—continued

You are hereby prohibited from doing any of the following things in the farm described in the Schedule to this Order:

- (a)
- (b)
- (c)
- (d)

Date Inspector

Copy to: The Chairman, District Agricultural Committee District.

DESCRIPTION OF FARM AFFECTED
Farm No. whose
at whose
area is approximately hectares, and known
as and situated near

FORM FF2 (r. 7(1))
FARM FORESTRY ESTABLISHMENT AND MAINTENANCE NOTICE

The District Agricultural Committee makes the following Notice:—

To
Farm

Address
You are hereby ordered to carry out the following farm forestry activities in the farm described in the Schedule to this Notice:

- (a)
- (b)
- (c)
- (d)

You are hereby prohibited from doing any of the following things in the farm described in the Schedule to this Notice:

- (a)
- (b)
- (c)
- (d)

Should you be in doubt as to the provisions of this Notice, or the farm affected, you should consult an Inspector.

Date Chairman
District Agricultural Committee

Copy to:
The Chief Executive Officer, Central Agricultural Board.
The Chairman, Provincial Agricultural Board.
The Inspector.

Agriculture Act

[Subsidiary]

SCHEDULE, FORM FF2—continued

DESCRIPTION OF FARM AFFECTED

Farm No.
 at whose area
 is approximately hectares, and
 known as and situated near

FORM FF3 (r. 7(2))

FARM FORESTRY ESTABLISHMENT AND MAINTENANCE ORDER

To
 Farm
 Address

You are hereby ordered to carry out the following farm forestry activities in the farm described in the Schedule to this Order:

(a)
 (b)
 (c)
 (d)

You are hereby prohibited from doing any of the following things in the farm described in the Schedule to this Order:

(a)
 (b)
 (c)
 (d)

Date

Chairman
 District Agricultural Committee

Copy to:
 The Inspector

DESCRIPTION OF FARM AFFECTED

Farm No.
 at whose area
 is approximately hectares, and
 known as and situated near

FORM CFF1 (r. 6(3)(ii))

CERTIFICATE OF COMPLIANCE

Farm
 Address

This is to certify that the following Farm Forestry activities have been undertaken in the farm described in the Schedule as per Order No. dated

(a)
 (b)

Agriculture Act

[Subsidiary]

SCHEDULE, FORM CFF1—*continued*

(c)
(d)
Date
..... Chairman
District Agricultural Committee
Copy to:
The Inspector
DESCRIPTION OF FARM AFFECTED
Farm No. whose area
is approximately hectares, and
known as and situated near

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY ORDER, 2011

ARRANGEMENT OF ORDERS

PART I – PRELIMINARY

Order

1. Citation.
2. Interpretation.

PART II – ESTABLISHMENT OF THE HORTICULTURAL
CROPS DEVELOPMENT AUTHORITY

3. Establishment of the Authority.
4. Composition of the Board of the Authority.
5. Cessation of membership.
6. Functions and powers of the Board.
7. Meetings of the Board.
8. Managing Director.
9. Remuneration of Board members.
10. Appointment of staff.
11. Delegation of powers.
12. Execution of Documents.
13. Inspectors.
14. Financial year.
15. Accounts and audit.
16. Horticultural Research Fund.

PART III – QUALITY ASSURANCE IN PRODUCTION AND MARKETING

17. Establishment of the Horticultural Crop Nursery Committee.
18. Registration of nursery and mother blocks.
19. Conditions before registration.
20. Certificate not transferable.
21. Revocation of certificate of registration.
22. Inspectorate Service.
23. Approved source of planting materials.
24. Certification and recertification of planting material.
25. Nursery records.
26. Offences.
27. Production, produce handling and packhouses.
28. Safe use of pesticides.
29. Registration for produce dealers.
30. Restrictions on registration.
31. General provisions on conformity for produce.
32. Penalty.
33. Imposition of levies.

Agriculture Act

[Subsidiary]

Order

34. Submission of returns.
35. General penalty.
36. Revocation of L.N. 228/1995, L.N. 229/1995, L.N. 230/1995, L.N. 231/1995, L.N. 232/1995.

SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE

-

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY INDUSTRY LOGO

THIRD SCHEDULE

-

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY FIELD HANDLING AND GRADING MINIMUM REQUIREMENTS

FOURTH SCHEDULE

-

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY MINIMUM CONDITIONS APPLICABLE TO PACKHOUSES PRODUCE HANDLING FACILITY

FIFTH SCHEDULE

-

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY PACKAGING, TRANSPORTATION AND STORAGE MINIMUM REQUIREMENTS

SIXTH SCHEDULE

-

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY HORTICULTURAL CROPS LEVY (PROCESSING)

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY ORDER, 2011

[L.N. 190/2011.]

PART I – PRELIMINARY

1. Citation

This Order may be cited as the Horticultural Crops Development Authority Order, 2011.

2. Interpretation

In this Order, unless the context otherwise requires—

“**agent**” means a person appointed in writing by the Authority to collect levies, charges, fees and remit it to the Authority and includes a market superintendent in a specified market;

“**Authority**” means the Horticultural Crops Development Authority established under paragraph 3;

“**Board**” means the Board of the Authority established under paragraph 4;

“**Committee**” means the Horticultural Crop Nursery Committee established under paragraph 17;

“**dealer**” means a person, a company or a firm engaged in buying horticultural produce for resale in the local or export market and includes a ship chandler, an exporter, an importer, a processor or a marketing agent;

“**Minister**” means the minister for the time being responsible for agriculture;

“**mother block**” means selected plants established for the purpose of obtaining clean grafting or budding material;

“**rootstock**” means the part of a plant which forms the root system of the plant, and into which a *scion cultivar* is grafted or budded;

“**scion**” means a detached shoot or bud used in vegetative propagation in the process of grafting or budding;

“**ship chandler**” means a person registered and authorized by the Authority to supply horticultural produce to a ship or an aircraft.

PART II – ESTABLISHMENT OF THE HORTICULTURAL
CROPS DEVELOPMENT AUTHORITY**3. Establishment of the Authority**

(1) There is established an Authority to be known as the Horticultural Crops Development Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding and disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and

[Subsidiary]

- (e) doing or performing all such other things or acts necessary for the proper discharge of its functions under this Order, which may be lawfully done or performed by a body corporate.

4. Composition of the Board of the Authority

(1) There shall be a Board of the Authority consisting of the following members—

- (a) a Chairman appointed by the President;
- (b) the Permanent Secretary in the ministry for the time being responsible for agriculture;
- (c) the Permanent Secretary in the ministry for the time being responsible for finance;
- (d) the Agriculture Secretary;
- (e) the Managing Director;
- (f) six members appointed by the Minister one member representing—
 - (i) fruit growers;
 - (ii) flower growers;
 - (iii) vegetable growers;
 - (iv) horticultural nursery operators;
 - (v) horticultural produce processors;
 - (vi) horticultural exporters associations, who shall possess a degree or other relevant qualification or experience.

(2) The members appointed under paragraph 4(f) shall serve for a three year term, renewable once.

5. Cessation of membership

A member of the Board shall cease to be a member if the member—

- (a) resigns his office in writing to the Minister;
- (b) is, without reasonable cause, absent from three consecutive meetings of the Board;
- (c) is adjudged bankrupt;
- (d) is incapacitated by prolonged physical or mental illness;
- (e) ceases to represent the interest in respect of which he was nominated to the Board;
- (f) is convicted of criminal offence and is sentenced to imprisonment for a term exceeding six months or to a fine exceeding two thousand shillings; or
- (g) is otherwise unable or unfit to discharge the functions of the office.

6. Functions and powers of the Board

The Board shall have the powers to promote, coordinate and facilitate the development of the industry but without prejudice to the generality of the foregoing, the Board may—

- (a) advice the Government and the industry on matters related to horticulture production and marketing;
- (b) collect and collate data, maintain a database and disseminate information on horticultural activities for planning purposes;
- (c) provide specialized horticulture extension services;

- (d) appoint agents for the implementation or performance of any function of the Authority under this Order;
- (e) directly or indirectly support the establishment of fruit tree mother blocks;
- (f) regulate the horticulture nurseries, production, post-harvest handling and marketing of horticultural crops and produce;
- (g) promote development and adoption of standards for labeling, packaging, grading, transporting and storing horticultural produce in compliance with local and international standards;
- (h) impose levies, fees or charges on producers, dealers and nursery operators as the Minister may approve;
- (i) promote the establishment and use of production, processing and marketing infrastructure for horticultural crops;
- (j) facilitate marketing of horticultural products in the local and international markets; and
- (k) provide for any other matter in furtherance of the development of horticultural crops or conducive to the exercise of any of its powers under this Order.

7. Meetings of the Board

(1) The Chairman shall preside at all meetings and in the absence of the Chairman, the members present at the meeting shall appoint one of the members to act as chairman at that meeting.

(2) The quorum at a meeting of the Board shall be two thirds of all the members.

(3) The Board may co-opt for a period as it may think fit, not more than five persons whose expertise or advice it may require.

(4) The persons co-opted under sub paragraph (3) shall not be counted as members for the purposes of forming a quorum.

(5) The matters of the Board shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.

(6) Subject to this Order, the Board may regulate its own procedure.

8. Managing Director

(1) There shall be a Managing Director who shall be competitively recruited by the Board and appointed by the Minister on such terms as the Minister shall, in consultation with the Board, determine.

(2) The Managing Director shall be the chief executive officer and Secretary to the Board.

(3) The Managing Director shall be an *ex officio* member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Managing Director shall possess a first degree and a postgraduate qualification.

9. Remuneration of Board members

The Board shall pay its members remuneration or allowances as it may, with the approval of the minister for the time being responsible for matters relating to finance, determine.

[Subsidiary]

10. Appointment of staff

The Authority may employ, on terms and conditions as it considers fit, such other officers, staff or agents necessary for the discharge of its functions or duties under this Order.

11. Delegation of powers

Subject to this Order, the Board may, by resolution either generally or in any particular case, delegate to any committee of the Board or to any member or an agent of the Board, the exercise of any of its functions or powers.

12. Execution of Documents

(1) The seal of the Authority shall be authenticated by the signature of the Chairman and the Managing Director, or by either the Chairman or the Managing Director, together with one member other than an *ex officio* member of the Authority authorized in writing by the Authority in that behalf.

(2) Any document, other than a document which is required by any other law to be under seal, made and any decision of the Authority, may be given under the hand of the Chairman, or the Managing Director or any other member of the Authority authorized in writing by the Authority in that behalf.

13. Inspectors

(1) The Board shall appoint inspectors to carry out inspections under this Order.

(2) No suit, prosecution or other legal proceedings shall lie against an inspector for anything done in good faith and without negligence under this Order.

14. Financial year

The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

15. Accounts and audit

(1) The Board shall cause to be kept all proper books of accounts and other records of accounts of the income, expenditure and assets of the Authority.

(2) The accounts of the Authority shall be audited and reported upon in accordance with the Public Audit Act (No. 12 of 2003).

16. Horticultural Research Fund

(1) There is established a fund to be known as the Horticultural Research Fund, which shall be administered by the Authority.

(2) The Fund shall consist of—

- (a) levies imposed on dealers under paragraph 33;
- (b) funds provided by bilateral or multilateral donors for the purposes of the Fund;
- (c) funds from any other source approved by the Authority.

(3) The Fund shall be used for the purpose of undertaking research on horticulture.

PART III – QUALITY ASSURANCE IN PRODUCTION AND MARKETING

17. Establishment of the Horticultural Crop Nursery Committee

(1) There shall be a Horticultural Crop Nursery Committee composed of—

- (a) the Agriculture Secretary;

- (b) the Managing Director of the Authority;
- (c) the Director, Kenya Agricultural Research Institute;
- (d) the Managing Director, Kenya Plant Health Inspectorate Service;
- (e) a duly appointed representative of the Commissioner of Prisons;
- (f) the Centre Director, National Horticultural Research Centre, Thika;
- (g) one representative of registered private sector nursery operators.

(2) The Committee shall from time to time prescribe the minimum requirements for establishing and operating an horticultural crop nursery.

(3) The Agriculture Secretary shall chair the Committee.

(4) The Committee may co-opt for such period as it may think fit, any person whose assistance or advice it may require.

18. Registration of nursery and mother blocks

(1) A person shall not establish or operate a horticultural crop nursery or a mother block in any area unless that crop nursery or mother block is registered by the Authority.

(2) A person who intends to operate a nursery or a mother block shall make an application for registration to the Authority in the prescribed form accompanied by a non-refundable fee of five hundred shillings.

(3) Subject to paragraph 19, the Authority shall issue a certificate of registration to any successful applicant.

(4) The certificate of registration for a nursery or a mother block shall be as set out in Form A of the First Schedule, renewable annually and shall only be applicable to the site inspected.

19. Conditions before registration

A person shall not be issued with a certificate of registration as a nursery or a mother block operator unless an inspector—

- (a) has visited and inspected the site and confirmed it as suitable for a horticultural crop nursery; and
- (b) is satisfied that the operator or his agent has adequate knowledge of nursery management and horticultural techniques in respect of horticultural crops to be grown.

20. Certificate not transferable

(1) A person to whom a certificate of registration is issued shall not sell, lend, transfer or otherwise dispose the certificate without the prior written permission from the Authority.

(2) An operator of an horticultural crop nursery shall display the certificate of registration for inspection at all times.

21. Revocation of certificate of registration

(1) The Authority may revoke a certificate of registration issued to a nursery or a mother block operator if that operator contravenes the provisions of paragraph 18, 20, 22, 23, 24 and 25.

(2) The operator of an horticultural crops nursery or mother block whose certificate of registration is revoked under subparagraph (1) may re-apply for registration after a period of two years.

[Subsidiary]

22. Inspectorate Service

A person shall not transfer or distribute horticultural planting materials from one part of the country to another unless that person has Restriction on transfer or distribution of an accompanying plant health certificate from Kenya Plant Health planting material.

23. Approved source of planting materials

A nursery operator shall not procure rootstock, scion, or seed planting material from sources not approved by the Committee.

24. Certification and recertification of planting material

A nursery operator who has in his nursery certified planting material which has not been distributed during the certification season shall ensure that the undistributed planting material is re-certified after every six months.

25. Nursery records

(1) A nursery operator shall keep accurate records of distributed planting materials indicating the buyer's name, district, location, sub location and postal address, varieties purchased and shall produce such records on demand for the purposes of inspection.

(2) A nursery operator shall submit annual records to the Authority in the prescribed manner.

26. Offences

(1) A person who contravenes the provisions of paragraphs 18, 20, 22, 23, 24 and 25 commits an offence.

27. Production, produce handling and packhouses

Unless otherwise provided for in this Order—

- (a) the production sites, produce traceability, produce handling, the minimum conditions applicable to pack houses and waste disposal shall be done in accordance with the Kenya Bureau of Standards on Horticulture Industry Code of Practice (KS 1758 2004) and any other national horticulture standards in force from time to time;
- (b) the minimum conditions applicable to pack houses shall in addition to subparagraph (a), be as set out in the Third Schedule.

28. Safe use of pesticides

All procurement, distribution, safe storage, usage and disposal of agro-chemicals shall be in accordance with the provisions of the Pest Control Products Act.

29. Registration for produce dealers

(1) A dealer shall not process, import, export, or act as a marketing agent of horticultural produce unless that dealer is registered by the Authority.

(2) An application for a registration certificate shall be prescribed by the Authority from time to time and shall be accompanied by the prescribed fee.

(3) A registration certificate issued under this paragraph shall be as set out in Form B of the First Schedule.

(4) The registration certificate shall remain valid for a period of one calendar year.

(5) The Authority may revoke the certificate of registration if a person contravenes the provisions of paragraphs 30 and 31.

30. Restrictions on registration

(1) A registered dealer shall not—

- (a) sponsor the growing of horticultural crops for trading without informing the Authority in writing and any production schemes so sponsored shall be regulated by a contract;
- (b) collect produce from sponsored production schemes unless authorized in writing to do so by the sponsoring firm; or
- (c) return produce collected from the farmers or suppliers contrary to the contract agreement.

(2) A registered dealer shall—

- (a) ensure conformity to food safety and quality standards as prescribed by the Kenya Bureau of Standards from time to time;
- (b) sign a contract with the producer and register the contract with the Authority;
- (c) indicate in the contract the produce price, quantity and quality requirements;
- (d) strive to attain the highest produce quality standards and ensure that all produce for market shall be pre-cooled;
- (e) adopt and use the specified national horticulture logo prescribed by the Authority on packaging as set out in the Second Schedule;
- (f) notify the Authority of any dealer who contravenes any contract or order within thirty days after the date of default;
- (g) furnish the Authority with quarterly production and marketing data by fifteenth of the month following the end of the quarter as shall be prescribed; and
- (h) allow an inspector at all reasonable times to enter to premises where horticultural produce are under cultivation, processing, warehousing, storage, collection or transportation.

31. General provisions on conformity for produce

Horticultural produce shall be harvested, sorted, graded, packaged, transported, and stored in accordance with guidelines as set out in the Third, Fourth, and Fifth Schedules and the specific national horticulture produce standards.

32. Penalty

A person who contravenes the provisions of paragraphs 30 and 31 commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding six months or both.

33. Imposition of levies

(1) A levy is hereby imposed on all the horticultural crops destined for export other than those canned, bottled, preserved, dehydrated or delivered to operators for canning and processing factories payable on volumes dealt with at the rate of thirty cents per kilogram.

(2) A levy is hereby imposed on all the horticultural crops delivered for canning and processing to all canning and processing factories at the rate specified in the Sixth Schedule.

Agriculture Act

[Subsidiary]

(3) The levy due under subparagraph (2) shall be remitted to the Authority not later than the tenth day of the month following the month during which the levy was due.

(4) The Authority shall remit thirty per cent of the levies collected under this paragraph to the Horticultural Research Fund.

(5) Any levy imposed by the Authority under this Order, unless the manner of remitting is specifically provided for, shall be payable to the Authority or its agents by a dealer on whom it is imposed in such a manner and within such time as the Authority may direct, and shall be a civil debt due from the dealer to the Authority.

34. Submission of returns

A dealer shall maintain accurate records of transactions relating to horticulture and shall submit quarterly returns to the Authority in a manner as the Authority may prescribe.

35. General penalty

A person who contravenes the provisions of this Order for which no specific penalty is provided for, commits an offence and is liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding three months or both.

36. Revocation of L.N. 228/1995, L.N. 229/1995, L.N. 230/1995, L.N. 231/1995, L.N. 232/1995

The Horticultural Crops Development Authority (imposition of Fees and charges) Order, 1995, the Horticultural Crops Development Authority (Imposition of Levy) Order, 1995, the Horticultural Crops Development Authority Order, 1995, the Horticultural Crops Development Authority (Export) Order, 1995 and the Horticultural Crops Development Authority (Fruit Tree Nurseries) Order, 1995, are revoked.

FIRST SCHEDULE

FORM A (para. 14(4))

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY

Certificate of Registration of (Crops Nursery/Mother Block)

Messrs Telephone No.

of P.O. Box sitters registered to operate a Horticultural crop nursery for the year 20

located at sub location

LR No.

The following planting materials will be produced

Crop/varieties Number of seedlings

.....

.....

Registration No.

Signed
(Managing Director)
Horticultural Crops Development Authority

Date:

FIRST SCHEDULE, FORM A—continued

- CONDITIONS
1. This certificate is valid for 1 year from date of issue.
 2. This certificate is not transferable to any other person, or nursery site.
 3. All seed and scion must be from approved sources.
 4. No sale of planting material before final inspection and certification.
 5. All certified planting materials which are not distributed during the certification's period will be subject to certification after six (6) months.
- The application for renewal of this certificate shall be made to the Managing Director, HCDA, P.O. Box 42601-00100, NAIROBI. Fax: 020-627264 so as to reach at least 3 months before expiry date.

FORM B (para. 29(3))
 HORTICULTURAL CROPS DEVELOPMENT AUTHORITY CERTIFICATE OF
 REGISTRATION OF HORTICULTURAL PRODUCE DEALER

Registration No.
 Name Tel. No.
 Address:
 L.R. No.
 Street

is hereby registered as a dealer of horticultural produce.
 The registration expires on
 Date of registration
 Signed
 Name

*Managing Director
 Horticultural Crops Development Authority*

SECOND SCHEDULE

[Paragraph 30(2)(e).]

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY INDUSTRY LOGO

THIRD SCHEDULE

[Paragraphs 27(b) and 31.]

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY
FIELD HANDLING AND GRADING MINIMUM REQUIREMENTS

1. High standards of field hygiene shall be maintained during harvesting operations.
2. All harvested produce SHALL be at the right stage of maturity for intended use.

[Subsidiary]

3. Produce shall be harvested during the cool part of the day and kept cool preferably under shade.
4. Harvested produce shall be protected from adverse weather conditions and where necessary pre-cooled and a cold chain maintained.
5. Appropriate harvesting equipment shall be used for each crop.
6. Produce unfit for marketing shall be separated from marketable produce at the field level.

7. All produce shall be sorted and graded as appropriate.
8. Physical handling of produce shall be minimized at all stages.
9. A collection shed shall be constructed for receiving produce at field level.
10. The collection shed shall—
 - (a) be accessible to both buyers and farmers;
 - (b) be designed to allow for a store, an office, working area and an appropriate cooling facility;
 - (c) have floors, doors, wall surfaces made of impervious, nontoxic, washable materials, which are easy to clean and disinfect;
 - (d) be constructed to allow for adequate ventilation, lighting, effective produce inspection and made of acceptable materials;
 - (e) have potable water and adequate toilet facilities;
 - (f) have waste disposal facilities; and
 - (g) have clear documentation procedures and document control systems.

FOURTH SCHEDULE

[Paragraph 31.]

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY MINIMUM CONDITIONS APPLICABLE TO PACKHOUSES PRODUCE HANDLING FACILITY

1. All processing and packaging must be carried out in a clean, hygienic and safe conditions as set out under the provisions of the Public Health Act and the Occupational Safety and Health Act, 2007 (Cap. 242).
2. The working areas and premises shall be kept free of waste materials.
3. Any person in the produce handling facility shall wear protective clothing at all times.
4. All hand used equipment and grading tables shall be rust proof and easily cleaned.
5. The floor layout shall allow for smooth flow of produce with adequate separation of raw materials and finished products.
6. The floors, doors and wall surfaces shall be made of impervious, non-absorbent, non-toxic washable materials which are easy to clean and disinfect.
7. The produce handling facility shall have adequate ventilation, temperature control and lighting.
8. All machinery used in the produce handling facility shall conform to the provisions of Occupational Safety and Health Act, 2007.
9. The produce handling facility shall be designed and constructed to prevent entry of domestic animals, rodents, insects, birds, dust and any other unwanted animals.
10. Prominent signs shall be displayed forbidding smoking, eating or drinking within the facility.
11. All packaging materials shall be kept off the floor in clean dry storage areas free from risk of contamination.
12. All produce shall move through the facility operation in the order that it is received, First in First out.
13. The traceability of all produce shall be documented throughout the process chain.

[Subsidiary]

FIFTH SCHEDULE

[Paragraph 31.]

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY PACKAGING,
TRANSPORTATION AND STORAGE MINIMUM REQUIREMENTS

1. The packaging shall protect the produce from mechanical and physiological damages to minimize loss of quality.
 2. The packaging shall be designed to suit the transport handling system and have capacity to meet market requirements.
 3. The packaging material used shall be able to contain the produce, enabling the required quantity to be handled as one unit.
 4. Horticultural produce shall during storage and transport be kept at the prescribed temperature and humidity levels for each produce.
 5. Horticultural produce and products shall not be stored or transported together with other produce, which may contaminate them or otherwise adversely affect their quality.
 6. Vehicles for transport shall be built and equipped to ensure maintenance of optimal temperatures to prevent damage and spoilage of produce.
 7. Persons handling the produce must be healthy, protected and trained on produce handling.
-

SIXTH SCHEDULE

[Paragraph 33(2).]

HORTICULTURAL CROPS DEVELOPMENT AUTHORITY
HORTICULTURAL CROPS LEVY (PROCESSING)

	<i>Crop Rate per metric tonne</i>	<i>KSh</i>
Pineapples		10
Other fruits		30
Vegetables		15
