
LEGAL NOTICE NO. 44

THE AGRICULTURE ACT

(Cap. 318)

IN EXERCISE of the powers conferred by section 192 (4) of the Agriculture Act, the Minister for Agriculture, makes the following Order:—

THE KENYA TEA DEVELOPMENT AUTHORITY
(REVOCATION) ORDER, 1999

1. This Order may be cited as the Kenya Tea Development Authority (Revocation) Order, 1999 and shall come into force on 1st January, 2000.

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 paragraph 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.

3. (1) Kenya Tea Development Authority shall incorporate a limited liability company under the provisions of the Companies Act 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.

4. (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 subparagraph (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.

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 defending any legal proceedings or an application to any authority, for ascertaining, perfecting or enforcing that right, liability or obligation as if it had at all times been a right, liability or obligation of the company;
- (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 shall on and after the appointed day be held by and belong to the company.

7. (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 judgement 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.

8. (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 subparagraph (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 this Order.

11. The Kenya Tea Development Authority Order, 1997, the Kenya Tea Development Authority (Tea Cultivation) Order, 1997, the Kenya

L.N. 110/1997. Tea Development Authority (Imposition of Levy) Order, 1997, and the
L.N. 111/1997. Kenya Tea Development Authority (Sun-Dried Tea) Order, 1997, are
L.N. 112/1997. revoked.

Made on the 22nd March, 1999.

MUSALIA MUDAVADI,
Minister for Agriculture.