

CHAPTER 251

THE SUGAR INDUSTRY ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 251

THE SUGAR INDUSTRY ACT

An Act to make provisions for the establishment of the Sugar Board of Tanzania and the National Sugar Institute, to provide for the improvement, development, regulation of the Sugar Industry and matters related thereto.

[1st July, 2002]

[GN. No. 329 of 2002]

Acts Nos.
26 of 2001
20 of 2009
2 of 2017
3 of 2020

PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Sugar Industry Act.

Interpretation

Acts Nos.

20 of 2009 s. 88

2 of 2017 s. 30

3 of 2020 s. 85

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

“blending” means the process of mixing additive with industrial sugar to produce sugar for consumption purposes;

“Board” means the Sugar Board of Tanzania established under section 3;

“Board of Directors” means the Board of Directors established under section 3;

“contract farming” means farming under an agreement between sugar cane growers, farmers or producers on the one part and financiers such as sugar cane buyers, processors, investors or bankers on the other part;

“Corporation” means the Sugar Development Corporation also known by its acronym as SUDECO established by an order made under section 3 of the Public Corporations Act;

“Director General” means the Chief Executive Officer of the Sugar Board of Tanzania;

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- “Director” means an officer-in-charge of the department in the Ministry responsible for crop development and technical services;
- “the Director for Research and Development” means an officer-in-charge of the department of research and development in the Ministry;
- “export” means export of sugar or sugar by-products outside Mainland Tanzania;
- “grower” means any person who grows sugar cane for sale to a processing factory and is so registered by the Board;
- “import” means import of sugar or sugar by-products into Mainland Tanzania;
- “input” means planting materials agrochemicals, fertilizers, farm implements and packaging materials;
- “industrial user of sugar” means a person who uses sugar as a raw material for an industrial manufacturing process in the production of a new product, different from the raw material used, but does not include blending process, and the sugar intended for industrial use may be referred to as “industrial sugar”;
- “input distributor” means a seller or stockist of agricultural inputs used in sugar cane production;
- “Institute” means the National Sugar Institute established under section 6;
- “local government authority” means a district authority, or an urban authority established under the Local Government (District Authorities) Act or the Local Government (Urban Authorities) Act;
- “manufacturer” means a person registered and licensed by the Board to manufacture sugar or sugar by-products;
- “Minister” means the Minister responsible for Agriculture;
- “Ministry” means the Ministry of Agriculture;
- “regulatory function” means public function and includes quality control and licencing, data collection, analysis and dissemination, market information, enforcement of law and order, making and enforcing rules and regulations

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for proper production, processing, marketing, setting indicative prices, importation and storage of sugar cane and sugar inputs and products and all functions financed exclusively by the Government;

“shared functions” means joint functions to be undertaken by all sugar stakeholders as agreed and it includes research, extension, inputs supply, crop development training, promotion and promotion of fair trade and competition;

“stakeholder” means a dealer in the cane and sugar industry and includes the Central Government, local government authorities, co-operative societies, the Board, all private traders and any other person with a vested interest in the sugar industry;

“stakeholders meeting” means the meeting of all stakeholders to be held at least once a year to agree on the funding and implementation or otherwise of the shared functions and other matters of common interest to the stakeholders;

“sugar” means and includes all types and forms of sucrose (saccharose), maltose, glucose (dextrose), fructose (levulose), aspartame, cyclamates and all such natural and artificial sweeteners that may be used as a substitute for, or a supplement to, or a complement to crystalline sucrose, the product of sugar cane or sugar beet;

“sugar exporter” means a person registered and licensed by the Board to export sugar or sugar by-products outside Mainland Tanzania;

“sugar by-products” means molasses, briquettes, bagasse and such other by-products as may be derived from sugar;

“sugar distributor” means a person registered by the Board to distribute sugar or sugar by-products in accordance with the provisions of this Act; and

“sugar importer” means a person registered and licensed by the Board to import sugar or sugar by-products into Mainland Tanzania;

PART II

THE SUGAR BOARD OF TANZANIA AND THE NATIONAL SUGAR INSTITUTE

Establishment of
Sugar Board of
Tanzania

3.—(1) There is hereby established a body corporate to be known as the Sugar Board of Tanzania, which shall-

- (a) have perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued; and
- (c) be capable of purchasing or acquiring in any manner and alienating any movable and immovable property.

(2) The provisions of the First Schedule shall have effect as to the constitution, tenure of office, and proceedings of and other matters relating to the Board of Directors of the Board.

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

Functions of
Board
Acts Nos.
20 of 2009 s. 89
2 of 2017 s. 31
3 of 2020 s. 86

4.—(1) The Board shall carry out regulatory functions and such other activities necessary, advantageous or proper for the benefit of the sugar industry and shall include, to-

- (a) promote the development and expansion of sugar cane cultivation, production and marketing of sugar and the use of by-products;
- (b) advise the Government on the policies and strategies for promotion and development of the sugar industry;
- (c) promote the development of small-holder sugar cane growers;
- (d) monitor and oversee the implementation of development and expansion plan of manufacturers;
- (e) create and promote a competitive environment conducive to fair play among stakeholders in the sugar industry;
- (f) regulate and recommend measures for prescription and enforcement for the control of sugar cane pests and diseases;
- (g) recommend and regulate measures and procedures for the importation of sugar cane planting materials;

- (h) promote and assist in the research or investigation into any matter relating to the sugar industry;
- (i) prescribe and enforce the quality standards for sugar cane, sugar, sugar by-products and any materials from which sugar can be manufactured;
- (j) advise and oversee the execution of sugar trade agreements or contracts between the Government and other parties;
- (k) promote the training and improvement of skills in technological advancement in the sugar industry;
- (l) promote, develop and facilitate the formation of associations or other bodies of stakeholders within the sugar sector which shall form a consultative forum with the Board and monitor their activities provided that the objectives of such associations shall not involve arrangement for price fixing or doing anything that is contrary to the Fair Competition Act;
- (m) provide a conducive environment for discussions and negotiations among various categories of stakeholders in the sugar sector;
- (n) monitor the execution of contracts and marketing arrangements between sugar cane out growers and sugar manufacturers or other bodies related to the sugar sector and reconcile the parties, when disputes arise;
- (o) collect, refine, maintain and disseminate data and information relating to the sugar industry;
- (p) collect any levy on behalf of any fund established under this Act;
- (q) promote and co-ordinate the development of large, medium and small scale sugar plants;
- (r) monitor the implementation of the provisions of the agreements governing sale of privatised sugar factories and submit the report to the Minister;
- (s) represent the Government in international fora relating to or dealing with the sugar industry;

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- (t) monitor trends for local sugar production, sugar export and import requirements; and
 - (u) promote diversification to bio-ethanol and co-generation.
- (2) Without prejudice to the generality of the provisions of subsection (1), the Board shall have power to-
- (a) issue licences for export or importation of sugar from or into Tanzania;
 - (b) register or licence sugar cane growers, manufacturers of sugar and by-products, sugar importers and exporters, and industrial users of sugar, sugar plants and sugar distributors;
 - (c) issue licences for the importation of sugar cane varieties upon the advice of the Director;
 - (d) appoint inspectors for the inspection of sugar cane fields, sugar processing facilities, sugar warehouses and any other facility that may be inspected for the better carrying out of any of the provisions of this Act;
 - (e) monitor the basis or method of pricing, selling and purchase of sugar cane, sugar, sugar by-products and matters related thereto; and
 - (f) make rules relating to the sugar industry.
- (3) It shall be the duty of the Board in the exercise of its powers and in the performance of its functions under this Act to act in such manner as appears to it proper to promote the efficiency and competitiveness of the sugar industry in Tanzania and internationally.

Minister may give directions and take disciplinary measures

5.-(1) The Minister may give the Board directions of a general or specific character as to the exercise or performance by the Board of any of its functions under the Act, and the Board shall give effect to every such directions.

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

Establishment of
National Sugar
Institute
Acts Nos.
20 of 2009 s. 90
3 of 2020 s. 87

6.—(1) There is hereby established a body corporate to be known as the National Sugar Institute, which shall—

- (a) have perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued; and
- (c) be capable of purchasing or acquiring any movable and immovable property.

(2) The provisions of the Second Schedule shall have effect as to the constitution, tenure of office, management and proceedings of and other matters relating to the Council of the Institute.

(3) The power to carry out the operations and management of the Institute shall vest in the Council.

(4) The Institute shall have the main function of carrying out training in the development of the sugar industry, but without prejudice to the generality of the foregoing, the Institute shall have the following objects and functions to—

- (a) provide central training for the sugar industry;
- (b) train persons as may be approved by the Council in such skills as may be required by the sugar industry, including sugar cane production, harvesting, processing and quality control, factory engineering, farm machinery and equipment engineering, basic crafts, general management and finance;
- (c) continuously assess the training needs of the sugar industry with a view to developing appropriate training programmes and to upgrade human resources skills in order to improve productivity;
- (d) carry out studies or investigations relating to work performance including job specifications and work standards, with the aim of improving productivity;
- (e) carry out studies or research in sugar technology, chinery and equipment and information systems to be used by the sugar industry;
- (f) provide technical consultancy services;

- (g) provide such other training outside the sugar industry on commercial basis as may be approved by the Council from time to time; and
 - (h) do all such things which in the opinion of the Council, are beneficial and necessary for the development of human resources in the sugar industry.
- (5) The Minister may, by order published in the *Gazette*, add or replace any of the functions of the Institute.
- (6) The funds and resources of the Institute shall consist of the following:
- (a) such sums of money as may be appropriated by the Parliament for the purpose;
 - (b) any contributions by stakeholders including sugar manufacturers, cane growers, sugar importers and exporters;
 - (c) fees charged by the Institute for training and other services rendered; and
 - (d) any monies raised by way of loans, donations and grants provided by the Government, persons and institutions within and outside the United Republic.

PART III

CULTIVATION OF SUGAR CANE

Power to register
sugar cane
outgrowers

7. (1) The Board shall have power to register all sugar cane outgrowers in the country directly or through agents.

(2) A person shall not grow sugar cane for the purpose of sale to sugar manufacturers, for the manufacture of sugar unless he has been registered by the Board.

(3) It shall be an offence for any sugar manufacturer to procure or buy sugar cane from a sugar cane grower, who is not registered by the Board.

Sugar cane
outgrowers
organisations
Act No.
2 of 2017 s. 32
Cap. 211

8.—(1) The sugar cane outgrowers shall, for effective management of sugar cane farming husbandry, organise themselves as cooperative societies registered under the Cooperative Societies Act.

(2) The sugar cane outgrowers shall, within six months from the date of coming into operation of this section, register themselves in a manner provided for under subsection (1).

(3) The Board may extend the period of registration provided for under subsection (2) for another period of six months.

(4) The Board shall, in consultation with the outgrowers and the manufacturer, prescribe daily ratable deliveries of sugar cane by each cooperative society under this section.

[s. 7A]

Consultative
forum
Act No.
2 of 2017 s. 32

9.—(1) There shall be a forum to be known as Sugar Cane Growers Consultative Forum which shall be responsible for all matters pertaining to sugar cane husbandry.

(2) The Board shall prescribe the composition, qualification, tenure and the manner of operation of the Forum.

[s. 7B]

Director to
prescribe varieties
of sugar cane to
be grown

10.—(1) The Director of the Ministry will approve varieties of sugar cane to be grown for commercial purposes in Tanzania.

(2) It shall be an offence for any person to grow any sugar cane variety for commercial purposes which has not been approved by the Director.

[s. 8]

Restriction
on importa-
tion, breeding,
multiplication
of sugar cane
cuttings,
seedlings etc.
Act No.
3 of 2020 s. 88

11.—(1) A person shall not import, breed or modify by genetic engineering sugar cane or seed (fuzz), cuttings and seedlings without the approval of the relevant authority.

(2) A person shall not import for commercial purposes sugar cane varieties, seed (fuzz), cuttings or seedlings or other related planting materials without the written authority of the Board.

(3) A person who contravenes the provisions of this section commits an offence and on conviction shall be liable to a fine not exceeding ten million shillings or to an imprisonment for a term not exceeding two years or to both and such plant material shall be destroyed by the Board at the cost of the defendant.

[s. 9]

Director to determine protocol for research, etc.

12. The Director shall, in consultation with the Board, determine the protocol, format and procedures for the conduct of sugar cane research in Tanzania.

[s. 10]

Board to make farming husbandry regulations

13. The Board shall, subject to the approval of the Minister, make rules and regulations for better farming husbandry of sugar cane.

[s. 11]

Indicative price for sugar cane, sugar or sugar by-products
Acts Nos.
2 of 2017 s. 33
3 of 2020 s. 89

14.—(1) The Board shall, in consultation with the stakeholders and the Minister and by order published in the *Gazette*, prescribe-

- (a) the minimum price to be paid by manufacturers for cane produced by growers; and
- (b) the maximum price of sugar and sugar by-products produced by manufacturers.

(2) Before prescribing the indicative price under subsection (1), the Board shall, in consultation with manufacturers and cane growers, establish production cost which shall form basis for the minimum or maximum price.

(3) For the purpose of facilitating prescription of indicative price under this section, cane growers and manufacturers shall avail all information necessary as the Board may require for establishing production costs.

[s. 11A]

PART IV

REGISTRATION, LICENSING AND INSPECTION

Registration of
mills or facilities
Act No.
3 of 2020 s. 90

15.—(1) A person who intends to install a mill or facility to manufacture sugar shall apply for registration to the Board in a manner prescribed in the regulations.

(2) The Board may refuse to register a person to install and operate a mill or facility stated in subsection (1) for the reasons that—

- (a) in the vicinity of the place the mill or facility is to be located there already exists an operating mill or facility and the surrounding land suitable for sugarcane is not sufficient to produce enough sugarcane to operate two mills or facilities economically;
- (b) important resources such as water are not sufficient to support two mills or facilities on suitable basis; and
- (c) the mill or facility to be installed shall adversely impact the environment, the society or the economic viability of sugar industry in general.

(3) The Board shall, before refusing registration on grounds stated in subsection (2)(a), ensure that the existing mill or facility is being operated efficiently and the miller has the capacity or is willing to provide the capacity to mill all the cane which may be produced, from the said lands.

[s. 11B]

Power to issue
licence for sugar
manufactures
and small plant
operators

16.—(1) The Board shall, on application, issue licence to sugar manufacturers and small-scale sugar plant operators upon such terms and conditions as the Board thinks fit.

(2) Where the Board, refuses to issue such a licence on any grounds which may appear to the Board to be sufficient, the Board shall inform the applicant the reasons for refusal.

(3) A person shall not manufacture sugar for sale without a licence issued by the Board.

(4) The Board may, where the terms and conditions of licence have not been complied with, cancel, vary or suspend any licence issued under this section.

(5) A person aggrieved by the decision of the Board pursuant to this section may within sixty days after the date of decision appeal to the Minister.

[s. 12]

Power to register exporters, importers and industrial users of sugar, etc.

17. The Board shall have the power to register sugar exporters, importers and industrial users of sugar and users of sugar by-products.

[s. 13]

Power to issue sugar import licences
Acts Nos.
20 of 2009 s. 91
3 of 2020 s. 91

18.-(1) The Board shall have power to issue sugar import licences and prescribe procedures and regulations for sugar imports.

(2) The sugar import licences issued by the Board shall be subject to such terms and conditions as the Board may impose.

(3) Notwithstanding the provisions of subsection (1), the Board shall not issue sugar import licence unless it is satisfied that-

- (a) the local sugar production is below the level of sugar requirement at a particular time;
- (b) in the case of importation of sugar for domestic consumption, the applicant for the licence is a manufacturer and-
 - (i) is registered by the Board as sugar importer;
 - (ii) has submitted to the Board a viable annual implementation plan of sugar production in accordance with the provisions of section 23;
 - (iii) has implemented at least eighty percent of the annual implementation plan for the previous production season;
 - (iv) has capacity to produce not less than ten thousand metric tons per year; and
 - (v) in the case of an applicant who was previously issued with similar licence, has a good track record

for compliance with the terms and conditions for importation of sugar.

(4) Notwithstanding the provisions of subsection (2)(b), the amount of sugar to be imported per licence shall be proportional to the amount of sugar produced by the manufacturer.

[s. 14]

Power to issue export licences
Act No.
20 of 2009 s. 92

19. The Board shall have power to issue export licences subject to such terms and conditions as the Board may, by regulation impose.

[s. 15]

Penalty for importation or exportation of sugar without licence
Act No.
3 of 2020 s. 92

20. A person who imports or exports sugar without a licence issued by the Board or in contravention of any provision of this Act, commits an offence and on conviction shall be liable-

- (a) in the case of a sugar manufacturer or importer, to a fine of not less than thirty million shillings but not exceeding five hundred million shillings or to imprisonment for a term not less than three years but not exceeding seven years or to both;
- (b) in case of sugar distributor or wholesaler, to a fine of not less than ten million shillings but not exceeding one hundred million shillings or to imprisonment for a term not less than two years but not exceeding five years or to both;
- (c) in case of sugar retailer, to a fine of not less than two hundred thousand shillings but not exceeding ten million shillings or to imprisonment for a term of not less than six months but not exceeding three years or to both; and
- (d) in the case of a person who is not covered under paragraphs (a), (b) or (c), to a fine of not less than one hundred thousand shillings but not exceeding five million shillings or to imprisonment for a term of not less than three months but not exceeding twelve months or to both.

[s. 16]

Performance
contract
Act No.
3 of 2020 s. 93

21.–(1) The Board shall, for the purpose of ensuring sustainable development and expansion of sugar production and within-

- (a) sixty days from the date of issuance of licence in the case of a new sugar import licence holder; or
- (b) thirty days from the date of coming into force of this provision in case of existing sugar import licence holders,

sign with every manufacturer a performance contract for sugar production.

(2) The performance contract signed pursuant to subsection (1) shall be for a term of five years and shall contain expansion targets, performance indicators towards the set targets and any other terms as may be agreed upon by the parties.

[s. 16A]

Conditions of
licenses
Act No.
20 of 2009 s. 93

22.–(1) All licences granted under the provisions of this Act shall be-

- (a) in the prescribed form set out in the regulations to the Act;
- (b) valid for a specified period; and
- (c) issued subject to such terms and conditions as may be provided.

(2) All registrations under the provisions of this Act shall be made upon such terms and conditions as prescribed by the regulations.

[s. 17]

Duty to submit
development and
expansion plan
Acts Nos.
2 of 2017 s. 34
3 of 2020 s. 94

23.–(1) For the purpose of enabling the Board to monitor performance of the contract referred to under section 21, a licensed manufacturer shall, at the beginning of a production season calendar year, submit to the Board an annual implementation plan of the performance contract.

(2) The annual implementation plan submitted under this section shall consist of the following:

- (a) expansion of plantations to increase sugar cane production;

- (b) introduction of new technology for the purpose of increasing yields and new sugar cane varieties;
- (c) investment initiative to expand the capacity of the domestic processing sector; and
- (d) any other information that may be required by the Board.

(3) The Board shall, where the manufacturer fails to comply with the requirement of this section, issue the notice requiring the manufacturer to show cause for non-compliance within the period prescribed in the notice.

(4) Upon receipt of the notice under subsection (3), the manufacturer shall make representation in writing to the Board on the matter.

(5) Where the manufacturer fails to comply with the requirement of the notice within the period prescribed or has not made a representation satisfactory to the Board, the Board shall impose a fine of not less than thirty million shillings but not exceeding one hundred million shillings.

(6) A person aggrieved by the decision of the Board under subsection (5) may, within forty five days upon receipt of such decision, appeal to the Minister.

(7) A person aggrieved by the decision of the Minister may apply to the High Court for redress.

[s. 17A]

Power of entry
and inspection

24.—(1) A sugar inspector or a person duly authorised in writing in that behalf by the Board may, at all reasonable times and upon production of relevant authority, enter upon buildings, premises, warehouses or land occupied by a person whose activity or activities relate to sugar industry under the provisions of this Act, and make such inspection and inquiries as he thinks fit and proper in the implementation of this Act.

(2) A person who obstructs a sugar inspector or any other person authorised on that behalf in the exercise of the power conferred upon him by this section or who neglects or refuses to produce to the inspector any goods, book or record which

the inspector may request to be produced for his inspection commits an offence.

[s. 18]

PART V

ADMINISTRATION AND FINANCIAL PROVISIONS

Appointment of
Director General
and other staff

25.—(1) The Minister shall, upon recommendations of the Board of Directors, appoint the Director General who shall be the Chief Executive of the Board.

(2) The Board may appoint at such salaries and upon such terms and conditions as it may think fit, such officers and employees as it may deem necessary for the proper and efficient conduct of the business and activities of the Board.

[s. 19]

Termination of
employment
of some of
employees, etc.

26.—(1) Subject to subsection (2) immediately after the effective date, all employees or officers of the Corporation whose services are not required by the Board are by virtue of this Act terminated and every such employee or officer so terminated shall be entitled to terminal benefits in accordance with the terms and conditions of the contract of employment with the Corporation.

(2) The Board may absorb in its service some employees or officers of the Corporation whose services are required by the Board upon such terms and conditions as may be determined by the Board.

[s. 20]

Seal of Board

27.—(1) There shall be a Common Seal of the Board which shall be of such shape, size and form as the Board may determine.

(2) All deeds, contracts or agreements, to which the seal is affixed shall be authenticated either by the Director-General or his delegate and one Board member or by any two Board members as the Board may determine.

[s. 21]

Appointment
of agents and
contractors

28. The Board may, appoint and employ upon such terms and conditions agents and contractors as it may deem necessary for the better carrying out the functions of this Act.

[s. 22]

Assets and
liabilities to vest
in Board

29.—(1) Subject to directions of the Minister, in consultation with the Minister for finance, the assets and liabilities of the Corporation shall by virtue of this Act and without further assurance, vest in the Board.

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(2) Subject to the provisions of section 65 of the Public Corporation Act on transfer of liabilities, all liabilities of the Corporation incurred in respect to subsidiary companies shall by virtue of this Act be transferred to the respective subsidiary companies.

(3) For avoidance of doubt, all the Corporation's contracts, guarantees, agreements, bonds, authorities, mortgages charges, bills of exchange, promissory notes, bank draft, bank cheques, letters of credit or any other security instruments shall be transferred to the Board and any reference to the Corporation shall be deemed to be reference to the Board.

[s. 23]

Funds and
resources of
Board
Act No.
20 of 2009 s. 94

30. The funds and resources of the Board shall consist of-

- (a) such sums of money as may be provided by the Parliament;
- (b) monies raised by way of loans, donations or grants made within and outside the United Republic;
- (c) loan or subsidy granted to the Board by the Government or any other person; and
- (d) such sums of money or property which may become payable to or vested in the Board under this Act or any other written law or in respect of any matter incidental to the carrying out of its functions.

[s. 24]

Liability of members, etc.

31. A matter or thing done or omitted to be done by any member, officer, servant or agent of the Board shall not, if the matter or thing is done or omitted to be done in good faith for the purpose of carrying out the provisions of this Act or of any order or regulations made thereunder, subject any person as aforesaid to any action, liability, claim or demand whatsoever.

[s. 25]

Power to impose and payment of levy
Act No.
20 of 2009 s. 95

32.—(1) There shall be raised, collected and paid in respect of all sugar manufactured in and imported into Tanzania, sugar levies at such rates as the Minister on consultation with the Minister responsible for finance, may on the recommendation of the Board impose by notice in the *Gazette*.

(2) The levies raised shall be computed, collected and paid in such manner as may be prescribed by regulations made under this Act.

(3) Any levies imposed under the provisions of this section shall be paid by all sugar importers and such levies shall be expended as prescribed by the rules and regulations made by the Board under the provisions of this Act.

(4) The regulations made in relation to levy shall provide for it to be an offence for any person who fails to pay any levy or part thereof.

[s. 26]

Financing of shared functions
Act No.
20 of 2009 s. 96

33. For the purpose of financing shared functions, stakeholders may put in place a mechanism for the management and for the mode of contribution.

[s. 27]

Books of account and audit
Act No.
20 of 2009 s. 97

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

- (a) all sums of money received and expended by the Board and matters in respect of which the receipt and expenditure take place;
- (b) all the assets and liabilities of the Board; and
- (c) the income and expenditure statement of the Board.

(2) The financial year of the Board shall end on 30th June of each year.

(3) The books of accounts of the Board shall be audited at the end of each financial year by the Controller and Auditor-General.

(4) The report of the Controller and Auditor-General shall state-

- (a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;
- (b) whether, in his opinion, proper books of accounts have been kept by the Board as it appears from examination of those books;
- (c) whether in his opinion and to the best of his information and according to the explanations given to him, the income and expenditure account gives a true and fair view of the income and expenditure for the year and the balance sheet gives a true and fair view of the state of affairs of the Board at the end of the financial year.

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

(6) The Minister shall, within a period of six months or such longer period as the National Assembly may by resolution appoint after the accounts have been audited, lay the audited accounts and audit report before the National Assembly.

[s. 28]

PART VI

MISCELLANEOUS PROVISIONS

35.-(1) The Minister may, in consultation with the Board, make rules and regulations-

- (a) governing the manufacture, importation and exportation of sugar;

- (b) prescribing the forms and particulars to be included in any return, information or statistics to be submitted by the cane growers, small scale sugar plants, sugar manufacturers, exporters and importers under the provisions of this Act;
- (c) providing for the grading and definitions of grades, fixed in respect of sugar cane and sugar whether locally manufactured or imported;
- (d) providing for the inspection of sugar whether locally manufactured or imported and for the appointment of sugar inspectors and prescribing their duties;
- (e) providing for the procedures for sampling, inspection, weighing and determination of quality of sugar cane and sugar;
- (f) providing for information, data and records to be maintained and supplied by the sugar cane growers, small scale sugar plants, manufacturers, exporters, importers of sugar and industrial users of sugar; and
- (g) prescribing for matters which are required to be prescribed under this Act.

(2) Where the Minister discharges any function under subsection (1) which relates to or has a bearing on marketing research or promotion, he shall consult with the Minister for the time being responsible for marketing.

(3) The rules and regulations made under the provisions of this section shall be published in the *Gazette*.

[s. 29]

Forfeiture

36.—(1) Where any court convicts a person of an offence under this Act or under any subsidiary legislation made under it, the court may order in addition to any penalty it may impose, that the property seized in respect of which the offence has been committed be forfeited to the Government.

(2) A property so forfeited under this section shall be delivered to the Government in which it shall vest free of any mortgage, charge, lien or other encumbrance of any kind.

(3) Notwithstanding the provisions of subsections (1) and (2), if the court is of opinion that the property so forfeited is likely to be damaged or become unfit for human consumption, the court may direct that the property be sold and the proceeds be kept by the Government.

[s. 30]

Where offence
committed by
body corporate

37. Where an offence under this Act or subsidiary legislation made under it is committed by a body corporate then, as well as the body corporate, any person who, at the time of the commission of the offence was concerned, as a director or an officer, together with the management of the affairs of the body corporate, commits an offence and shall be liable to be proceeded against and punished accordingly.

[s. 31]

Liability of
employee or
principal

38. Where an offence under this Act or any subsidiary legislation made under it is committed by a person as an agent or employee then, as well as the agent or employee, the principal or employer, commits an offence and shall be liable to be proceeded against and punished accordingly.

[s. 32]

Notification
of order and
directions

39. Where any order or direction made or given by the Minister or the Board under this Act is not required to be published in the *Gazette*, the order or direction shall be brought to the notice of person affected or likely to be affected thereby in a manner determined by the Minister or the Board.

[s. 33]

Burden of proof

40. In a proceeding for an offence under this Act, the burden to prove that the order, direction or requirement, the contravention of which constitutes the offence with which the accused is charged, shall not apply to the accused or, in the case of an order, direction or requirement not published in the *Gazette*, that he had no notice of the contents of the order, direction, requirement, shall lie on the accused.

[s. 34]

Blending process
Act No.
2 of 2017 s. 35

41.—(1) Notwithstanding the provisions of any other written laws, a person shall not blend sugar after six months from the date of coming into operation of this section.

(2) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine of not less than one hundred million shillings or to pay the amount equivalent to the value of the blended sugar whichever is greater or to imprisonment for a term of not less than two years but not exceeding five years.

(3) In addition to penalties provided for under this section, the Board may suspend or cancel the licence of the person convicted.

[s. 34A]

Restriction to re-
pack sugar
Act No.
3 of 2020 s. 96

42.—(1) Without prejudice to any other written law, a person shall not re-pack sugar into any size, material or brand different from its original packaging for the purpose of rebranding unless such person is a manufacturer registered by the Board for that purpose.

(2) Packages of imported sugar, whether re-packed or in original packaging, shall carry, in bold print, the name and contact details of the manufacturer and a country of origin.

(3) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine of not less than ten million shillings but not exceeding one hundred million shillings or to imprisonment for a term of not less than one year but not exceeding three years.

[s. 34B]

General penalty
Act No.
3 of 2020 s. 97

43. A person, who commits any offence against the provision of this Act shall be liable on conviction for every such offence, except where in any other section a special penalty is provided, to a fine of not less than one hundred thousand shillings but not exceeding ten million shillings or to imprisonment for a term of not less than six months but not exceeding two years or to both.

[s. 35]

Compounding of
offences
Act No.
3 of 2020 s. 98

44.—(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act or any other sector legislation, the Director General or an inspector authorised by the Director General in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction, compound such offence and order such person to pay a sum of money not exceeding one half of the amount of fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where the person fails to comply with the compounding order issued under this section within the prescribed period, the Director General or a person authorised by the Director General may, in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations.

(3) Where the person fails to comply with subsection (2), the Director General may enforce the compounding order and interest accrued thereof in the same manner as a decree of a court.

(4) The Director General shall submit quarterly reports of all compounded offences under this section to the Director of Public Prosecutions.

(5) Forms and manner of compounding of offences shall be as prescribed in the regulations made under this Act.

[s. 35A]

Appeals
Act No.
20 of 2009 s. 99

45. A person aggrieved by the decision of the Board on matters which are regulatory in nature, may within sixty days after the date of the decision, appeal in writing to the Minister.

[s. 36]

Contract farming
Act No.
20 of 2009 s. 99

46.—(1) A registered farmer may, for the purpose of facilitating farming activities, enter into contract farming with financier, cane and sugar buyers, processor, investors or banker.

(2) The contract farming entered into under subsection (1) shall be in the prescribed standard form and contain-

- (a) names, address and status of the registered farmer;
- (b) name, address and status of the financier;
- (c) obligations of the parties;
- (d) type or kind of facilitation to be granted to the farmer;
- (e) terms and conditions imposed on the farm; and
- (f) such other information as may be necessary for the purpose of the contract farming.

(3) A contract farming entered into under this section shall be submitted to the Board for perusal and registration.

(4) The Board shall monitor the implementation of contract farming in order to protect rights of both parties.

(5) A person being a cane buyer, sugar buyer, processor, investor or banker shall not facilitate a registered farmer in any manner without a contract as required under this section.

(6) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not less than five million shillings or to imprisonment for a term of not less than six months but not more than two years or to both.

[s. 37]

Stakeholders
meeting
Act No.
20 of 2009 s. 99

47.-(1) For the purpose of promoting the development of the sugar industry, there shall be a stakeholder's forum which shall be responsible for-

- (a) advising on mechanisms for the management and funding of the shared functions;
- (b) making procedures for conducting stakeholder's meetings;
- (c) determining modalities for financing its activities and meetings;
- (d) establishing stakeholders' secretariat and other organs for better carrying out the shared functions; and
- (e) discussion of the matters of common interests.

(2) The stakeholders meeting shall be held at least once a year to agree on the funding and implementation of the shared functions and other matters of common interest.

[s. 38]

Power to make
by-laws
Act No.
20 of 2009 s. 99

48. The local government authorities may, in consultation with the Minister, make by-laws for the better carrying out of the shared functions agreed upon by stakeholders.

[s. 39]

FIRST SCHEDULE

(Made under section 3(2))

CONSTITUTION, FUNCTIONS AND PROCEEDINGS OF THE BOARD OF DIRECTORS

Constitution
of Board of
Directors
Act No.
20 of 2009 s. 100

1.—(1) The Board of Directors shall consist of nine members as follows:

- (a) a Chairman who shall be appointed by the President upon advice of the Minister;
- (b) one member representing consumers;
- (c) two members from not less than three and not more than five recommended names by apex organisation of sugar processors;
- (d) two members from three recommended names by apex organisation of sugar cane growers;
- (e) one member representing the Ministry; and
- (f) two members from amongst persons who in the opinion of the Minister possess the knowledge and experience beneficial to the sugar industry.

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

Disqualification
of Board member

2. A person who has been adjudged or otherwise declared insolvent or bankrupt and has not been discharged within the period of five years preceding his appointment, or has been sentenced to a term of imprisonment of or exceeding six months imposed without the option of a fine and has not received a free pardon, is disqualified from being appointed a Board member.

Tenure of office

3.—(1) The members of the Board of Directors shall hold office for a period of three years from the date of appointment and be eligible for re-appointment.

(2) In the case of a Board member, who is a member by virtue of his holding some office he shall cease to be a member upon his ceasing to hold that office.

(3) A member of the Board may, at any time, resign from the Board by giving notice in writing to the Minister and from the date specified in the notice, or if no date is so specified, from the date of receipt of the notice by the Minister, he shall cease to be a member.

Meetings of
Board

4.-(1) The Board of Directors shall meet at least four times a year and at such other times as may be necessary or expedient for the transactions of business.

(2) Meetings shall be chaired by the Chairman and in his absence the members of the Board of Directors shall appoint an interim Chairman for that meeting.

(3) Meetings of the Board shall be convened by the Chairman and in his absence the management shall convene the meeting in consultation with the Board members.

(4) The Chairman shall convene a special meeting of the Board upon a request in writing signed by not less than four members of the Board for such a meeting and shall cause such a meeting to be held within twenty one days of receiving such request.

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

Director to
declare interest

5. A director who is in any way directly or indirectly interested in a contract or proposed contract or any matter being deliberated by the Board shall declare the nature of his interest to the fellow directors.

Circular
resolutions

6. A circular resolution in writing signed by all the directors for the time being in Tanzania shall be as effectual as a decision made at a meeting provided that a member may require that notwithstanding the Directors' signature the matter be brought at the following Board meeting.

Board members
to be paid
allowances

7. Members of the Board shall be entitled to receive such remuneration, allowances and other benefits as the Minister may direct.

Alternate
members

8. Where a Board member is unable for any reason to attend the meeting of the Board or the Committee as the case may be, he may in writing nominate another person in his place for the purpose of that meeting.

Power to regulate
its procedures

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

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| Quorum | <p>10.—(1) Four of the members of the Board shall constitute a quorum at a meeting and all acts, matters and things to be done by the Board shall be decided by a simple majority of the members present.</p> <p>(2) Each member of the Board shall have one vote and in the event of equality of votes the Chairman of the meeting shall have a second or casting vote in addition to his normal vote.</p> |
| Minister may appoint member | <p>11. Where a person ceases to be a Board member for any reason before the expiration of his term of office, the Minister shall appoint another person in his place and the person so appointed shall hold office for the remainder term of office of his predecessor.</p> |
| Minutes | <p>12. Minutes in proper form of each meeting of the Board shall be kept and confirmed by the Board at its next meeting and signed by the Chairman of the meeting.</p> |
| Defects in appointment not to invalidate proceedings | <p>13. Subject to the provisions of paragraph 10 relating to quorum, the Board of Directors may act notwithstanding any vacancy in the members thereof and an act or proceedings of the Board shall not be invalid by reason only of some defect in the appointment of a person who purports to be a member thereof.</p> |

SECOND SCHEDULE

(Made under section 6(2))

CONSTITUTION, FUNCTIONS AND MANAGEMENT OF THE INSTITUTE

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| Management of Institute | <p>1. The power to carry out the functions and management of the business affairs of the Institute shall be vested in the Governing Council (hereinafter referred to as the “Council”).</p> |
| Constitution of Council | <p>2.—(1) The Council of the Institute shall consist of seven members—</p> <ul style="list-style-type: none"> (a) a Chairman who shall be appointed by the Minister on recommendation of the Board. (b) Upon the recommendation of the Board the Minister shall appoint members from the following institutions: <ul style="list-style-type: none"> (i) three members representing the Tanzania Sugar Producers Association; (ii) one member from the Tanzania Sugar Cane Growers Association; (iii) one member from a technical training institute; and (iv) one member representing the Board. |

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| Term of Council members | 3. Members of the Council shall hold office for a period of three years and shall be eligible for re-appointment. |
| Quorum | 4. —(1) Four members of the Council shall constitute a quorum at any meeting and all acts, matters and things to be done by the Council shall be decided by a simple majority of the members present. (2) Each member of the Council shall have one vote and in the event of equality of votes the Chairman of the meeting shall have a second or casting vote in addition to his deliberative vote. |
| Minutes of Council | 5. Minutes in proper form of each meeting of the Council shall be properly kept and confirmed by the Council at its next sitting and signed by the Chairman to the meeting. |
| Council to regulate its procedures | 6. The Council shall have power to regulate its procedures in respect of meetings and proper conduct of its business. |
| Minister may vary functions of Institute | 7. The Minister may, upon the advise of the Board, by order published in the <i>Gazette</i> , add or replace any of the functions of the Institute. |
| Appointment of Institutes' Principal | 8. The Council, shall in consultation with the Board, appoint the Principal of the Institute who shall be the Chief Executive of the Institute. |
| Council may appoint employees of Institute | 9. The Council may, appoint at such salaries and upon such terms and conditions such officers and employees for the proper and efficient performance of the Institute's functions and it may grant pensions, gratuities and allowances to any officer or employee and appoint or employ agents and contractors as it may deem necessary. |
| Seal of Institute | 10. —(1) There shall be a Common Seal of the Institute which shall be of such shape, size and form as the Council may determine. (2) The Seal of the Institute shall not be affixed to any instrument except in the presence of the Principal and one Council member. |
| Accounts and audit | 11. —(1) The Institute shall keep and maintain proper books of accounts and records relating to its transactions in accordance with acceptable accounting standards. (2) The financial year of the Institute shall end on 30 th June of each year. (3) The books of accounts shall be audited at the end of each financial year by the Controller and Auditor-General under the Public Audit Act. (4) The accounts and report of the Controller and Auditor-General shall be submitted to the Council not later than four months after the end of each financial year, and the Council shall submit a copy of the audit report to the Board within two months after they have been audited. |

(5) The Board shall submit a copy of the Institute's audit report to the Minister together with the Board's audited accounts as specified in this Act.

Council to make
rules of code of
conduct

12. The Council with the approval of the Board shall make rules and regulations regarding code of conduct and discipline in respect of academic staff, students and other employees.

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