

## **CHAPTER 341 - Sisal Industry Act**

*Commencement Date: 1/1/1946*

### **An Act of Parliament to amend and consolidate the law relating to the sisal industry**

#### **Part I – PRELIMINARY**

##### **Short title**

**1.** This Act may be cited as the Sisal Industry Act.

##### **Interpretation**

77 of 1948, s.2, 15 of 1961, Sch., 28 of 1961, Sch., 6 of 1965, s.2.

**2.** In this Act, unless the context otherwise requires—

"agent" means any agent appointed by the Board under section 7;

"Association" means the Kenya Sisal Growers Association Limited;

"Board" means the Sisal Board established by section 3;

"factory" means any fixed premises for the processing of sisal leaf (involving the instantaneous washing during decortications) or sisal fibre;

"field decorticator" means any portable or mobile machine used for the processing of sisal leaf or sisal fibre;

"plantation grower" means any person with more than forty hectares under sisal, and for the purposes of this Act a co-operative society whose members have, in the aggregate, more than forty hectares under sisal shall be deemed to be a plantation grower;

"sisal" means the plant *Agave sisalana* or other species of *Agave* or its hybrids or seeds thereof;

"sisal fibre" means processed, machined or carded fibre and tow and any other substance or by-product derived therefrom;

"smallholder grower" means a person with less than forty hectares under sisal or a co-operative

#### **Part II - SISAL BOARD**

##### **Establishment and constitution of Sisal Board**

6 of 1965. s. 3.

**3.(i)** There is hereby established a Board, to be known as the Sisal Board, which shall consist of—

(a) a chairman appointed by the Minister;

(b) three smallholder growers appointed by the Minister from a panel of not less than five names submitted by the Central Agricultural Board;

(c) three plantation growers appointed by the Minister from a panel of not less than five names submitted by the Association;

(d) three persons appointed by the Minister who possess qualities likely to be of benefit to the Board;

(e) the Director of Agriculture or a person deputed by him in writing for the purposes of this Act.

(2) The chairman shall hold office for two years and shall then retire, but shall be eligible for reappointment.

(3) The following provisions shall apply in respect of the members of the Board appointed under paragraphs (b), (c) and (d) of subsection (1)—

(a) one of the members appointed under each paragraph shall retire annually but shall be eligible for reappointment;

(b) the order of retirement shall be by rotation but in the case of members whose past appointment to the Board was on the same date the order of their retirement shall be determined by the Board by ballot.

(4) If any member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, the Board may appoint some fit person to be a deputy to act for that member, and such deputy shall have all the powers and authority of the member for whom he is so acting.

(5) The Board shall elect a vice-chairman annually from among its members.

#### Incorporation of Board, and powers of borrowing

4.(1) The Board shall be a body corporate having perpetual succession and a common seal, and may in its corporate name sue and be sued, and may purchase, hold, manage and dispose of land and other property for the purposes of this Act.

(2) The Board may raise or borrow such sums of money for the purposes of this Act as they may in their discretion think fit, and may secure the repayment of or raise any such sums by mortgage or charge upon the whole or any part of the property of the Board.

#### Meetings of Board 28 of 1961, Sch

5.(1) The Board shall meet at such times as the chairman of the Board shall decide.

(2) In the absence of the chairman of the Board from any meeting of the Board, a chairman for such meeting shall be chosen by the members present.

(3) The chairman of the meeting shall have a deliberative vote, and in the case of equality of votes shall also have a casting vote; and a decision of the majority of members present and voting at the meeting shall be deemed to be the decision of the Board.

(4) Subject to this section, the Board may, with the approval of the Minister, make standing orders for the regulation of the conduct of business and the procedure at their meetings, and shall fix the number of members required to form a quorum.

(5) Every authorization or recommendation given by the Board in pursuance of the provisions of this Act shall be signified under the hand of the chairman of the Board:

Provided that, if the chairman is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, the Board may appoint some fit person to be a deputy to act for him, and such deputy shall have all the powers and authority of the chairman for whom he is so acting.

#### Appointment of officers and servants

6. The Board may appoint and employ, on such terms and conditions as they may from time to time determine, such officers and servants as they may deem necessary for the proper and efficient administration of the Board, and may appoint agents to carry out any of the duties imposed upon them by this Act on such terms and conditions as they may from time to time determine.

#### Appointment of agents 77 of 1948, s. 3, 6 of 1965, s. 4.

7.(1) The Board may from time to time appoint persons to be agents for the Board for the purposes of the receipt and sale or other disposal of sisal and sisal fibre produced in Kenya.

(2) An agent appointed under subsection (1) shall not act as such unless he is in receipt of a licence duly issued by the Board under the hand of the chairman of the Board, authorizing such agent to act under subsection (1).

(3) The Board may, for the purposes of this section, delegate all or any of its powers to a Marketing Committee, which shall consist of such members of the Board as the Board in its discretion may appoint.

(4) The Marketing Committee appointed under subsection (3) may co-opt as members of such committee any persons who are not members of the Board, and the Board may, by resolution passed by the majority of its members present and voting at any meeting, prescribe the powers and functions of any member of such committee so co-opted.

#### Functions of Board 77 of 1948, s. 4, 28 of 1951. s. 1, L.N.1720/1955, L.N.1721/1955, L.N.172/1960, L.N.173/1960, 28 of 1961, Sch., 45 of 1963, s. 8. 6 of 1965. s.5.

8. (1) The functions of the Board shall be-

(a) subject to this Act, to promote the advancement and welfare of the sisal industry;

(b) (Deleted by 6 of 1965, s. 5.)

(c) to consider and advise the Minister upon measures for the promotion and protection of the sisal industry;

(d) to promote and undertake technical and scientific research in connexion with the sisal industry;

- (e) to approve contracts, providing for standard conditions for the sale and purchase of sisal or sisal fibre;
- (f) to control exports of sisal and sisal fibre;
- (g) to render to persons engaged in the production and sale of sisal or sisal fibre such services as may be prescribed, upon payment of such fees or other charges as may be prescribed;
- (h) to co-operate with all persons interested in the production and sale of sisal or sisal fibre;
- (i) to administer any moneys which may be placed at their disposal by this Act or otherwise for all or any of the following purposes—
  - (i) remuneration of the officers, servants or agents employed by the Board and the purchase of such equipment as the Board may consider necessary for the purpose of carrying out its functions under this Act;
  - (ii) experiment, investigation and research in connexion with the sisal industry;
  - (iii) the collection of statistics and other information relating to fibres, and to their production, distribution and consumption;
  - (iv) the formation of a library or information centre, and the preparation and publication of information concerning matters relating to the sisal industry; (v) the promotion of exhibitions for the display of sisal and sisal processes, and the uses of sisal and sisal fibre;
  - (vi) the establishment of laboratories, experimental stations, workshops and factories and the provision of facilities ancillary thereto;
  - (vii) the endowment of scholarships and bursaries for the instruction of students engaged in research or experiment or in the study of the sisal industry, whether in the laboratories, experimental stations, factories and workshops of the Board or elsewhere;
  - (viii) the employment and remuneration of such technical advisers, instructors and staff as the Board may deem necessary for the purpose of carrying out any of its functions under this Act;
  - (ix) the payment of such fees, travelling and out-of-pocket expenses to members of the Board and of committees approved by the Board;
  - (x) with the approval of the Minister, any other purpose which in the opinion of the Board is calculated to promote the welfare of the sisal industry.

(2) In the exercise of its powers and in the performance of its functions under this Act, the Board shall act in accordance with any general or special directions that may be given to it by the Minister.

**9.**The Board may invest any funds which may from time to time be standing to the credit of the Board and which are not immediately required for any of the purposes of this Act in any investments for the time being authorized by any law in force for the investment of trust moneys.

Audit of accounts  
6 of 1965, s. 6. Cap.524. 13 of 1988, Sch.

**10.**(1) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General (Corporations).

(2) The Board shall produce and lay before the auditors all books and accounts of the Board, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditors shall be entitled to require from all members, officers, agents and servants of the Board such information and explanation as may be necessary for the performance of their duties as auditors.

(3) The expenses of and incidental to the audit shall be paid by the Board.

(4) The Board shall, within a period of seven months after the end of its financial year or such longer period as the Minister may approve, submit to the Minister a report of its operations during such year, and the auditor's report, together with the yearly statement of income and expenditure, balance sheet and such other statements of accounts as the Minister may require; and in addition the Board shall publish such reports and accounts in such manner as the Minister may specify.

Protection of members of Board

**11.**No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith and without negligence in the course of the operations of the Board.

Board may appoint committees and delegate powers

**12.**The Board may appoint, whether from amongst their own number or otherwise, committees and may, by resolution, delegate any powers conferred upon them by this Act to any such committees or to any member, officer or servant of the Board.

Licences  
6 of 1965, s. 7.

**13.**(1) No person shall operate a factory otherwise than under and in accordance with the terms and conditions of a current licence issued in respect of that factory by the Board.

(2) Licences under subsection (1) shall be valid for such period as may be determined by the Board with the approval of the Minister, and shall be of the following kinds—

(a) an "A" licence authorizing the holder to process his own leaf exclusively;

(b) a "B" licence authorizing the holder to process the leaf of other growers as well as his own;

(c) a "C" licence authorizing the holder to process bought fibre only.

(3) The Board may in its discretion grant or refuse an application for a licence under this section; and when the Board refuses such an application it shall forthwith notify the applicant in writing of such refusal and of the grounds therefor, and the applicant may, within thirty days after the date of such

notification, appeal in writing to the Minister, whose decision shall be final and shall not be questioned in any court,

(4) No person shall lend, nor shall any person, except with the consent of the Board (which consent shall be endorsed on the licence), transfer or assign, a licence issued under this section to any person.

(5) Any person who contravenes subsection (1) or the conditions of any fence granted thereunder, or subsection (4) shall be guilty of an offence, and the court may, in addition to imposing a penalty direct that any sisal of any sisal fibre in respect of which the offence was committed shall be forfeited.

Registration of plantation growers  
6 of 1965, s.7.

**13A.**(1) Every plantation grower and smallholder grower shall, within one month of beginning to grow sisal, register with the Board supplying such particulars as may be prescribed.

(2) Every plantation grower and smallholder grower who is registered under this subsection shall, within one month of any change occurring in the particulars supplied by him for registration, notify the Board in writing of the details of such change.

Inspectors  
6 of 1965, s.7.

**13B.**(1) The Board may, by notice in the Gazette, appoint such persons as it may think fit to exercise the powers and perform the duties of inspectors under this Act, and may assign to any inspector a specified district or area.

(2) Every inspector may—

(a) inspect any sisal plantation which is registered under any rules made under section 14;

(b) at all reasonable times enter any factory, shop, store or other premises wherever he has reasonable cause to believe sisal or sisal fibre is stored, processed or handled, and—

(i) examine such premises and any machinery therein;

(ii) require the production of and examine such sisal or sisal fibre;

(iii) open for the purposes of inspection any package which contains or is reasonably thought to contain sisal or sisal fibre;

(iv) take samples of such sisal or sisal fibre;

(v) require the production of and examine all books, accounts and documents relating to or reasonably thought to relate to sisal or sisal fibre;

(c) if he has reasonable grounds for suspecting that evidence of an offence under this Act or under any rules made thereunder is to be found on any vehicle or vessel, other than a train or ship under the control or management of the Kenya Railway's Corporation or the Kenya Port's Authority, or on any pack animal, stop and detain such vehicle, vessel or animal and after notification of his authority and purpose examine any goods thereon, and require the person in charge of the vehicle, vessel or animal and any person accompanying it to inform him of the source and destination of any sisal or sisal fibre found thereon.

(3) An inspector stopping or detaining a vehicle, vessel or a pack animal under subsection (2) (c) may, if it appears to him after such stoppage or detention that there is evidence of an offence having been committed under this Act or under any rules made thereunder, seize the vehicle, vessel or animal, and may remove it or cause it to be removed, or may order the person having charge thereof to remove it, to such place of security as such inspector may deem convenient.

(4) Any person who obstructs or hinders an inspector, acting in pursuance of this section, or who gives any information to an inspector knowing or having reason to believe it to be false or misleading, shall be guilty of an offence.

### **Part III - POWERS OF REGULATION AND CONTROL**

#### **Power to make rules**

77 of 1948, s. 5, 11 of 1955, s. 5, 39 of 1956, Sch., 6 of 1965, s. 8.

**14.** The Minister, on the advice of the Board, may make rules for any of the following purposes—

(a) requiring the compulsory registration of all sisal plantations and the compulsory registration and compulsory use of plantation marks;

(b) prescribing the persons by whom and the circumstances in which the registration of a plantation mark may be refused;

(c) limiting the number of plantation marks to be used in respect of each registered sisal plantation;

(d) prescribing the fees payable on application for registration of plantations or plantation marks;

(e) prohibiting the use of any plantation mark in respect of a registered sisal plantation other than that registered in respect thereof;

(f) prescribing the manner and the form in which the register of sisal plantations and plantation marks shall be kept;

(g) requiring the submission by prescribed persons of periodical returns of—

(i) areas under sisal cultivation, with such particulars as may be prescribed;

(ii) particulars of the numbers of labourers employed on registered sisal plantations, and the nature of the work performed by them, classified as follows—

(a) those employed under contracts in writing,

(b) those employed under contracts not in writing, and

(c) those working for contractors, or in such other manner as may be prescribed;

(iii) stocks of sisal fibre on registered sisal plantations and in transit, or in customs or other premises, classified as follows—

(a) those sold for export,

- (b) those sold for local consumption, or
- (c) those unsold;
- (iv) actual production of baled sisal fibre in grades and tons;
- (v) particulars of machinery, transportation and other equipment on registered sisal plantations;
- (ga) regulating and controlling the use of field decorticators;
- (h) prescribing the conditions to be fulfilled in respect of grading, conditioning, baling, packing and marking sisal fibre for export;
- (i) providing for the inspection, weighing and measuring of sisal fibre for export and or anything to be prescribed under this Part;
- (j) prescribing the records to be kept and the forms to be used for the submission of returns;
- (k) prescribing the services which the Board may render for payment to persons engaged in the production or sale of sisal or sisal fibre, and the fees or other charges to be paid therefor; (l) providing for superannuation, pension or provident funds for the officers and servants of the Board;
- (m) requiring returns to be submitted by plantation growers;
- (n) providing for the levying and collection of the cess imposed under section 18;
- (o) regulating and controlling the sale of all sisal and sisal fibre, grown or produced in Kenya, through agents of the Board duly licensed under section 7 and for controlling the sale and disposal by such agents of any such sisal or sisal fibre;
- (p) prescribing penalties which may be imposed for contravention of any rules made under this section, but no such penalty shall exceed the penalty provided by section 21;
- (q) generally for the better carrying into effect of the provisions of this Act.

#### Board to be registration authority

**15.** The Board shall be the registration authority for the purpose of any registration required by rules made under section 14, and shall keep a register of sisal plantations and plantation marks in such manner and such form as may be prescribed.

Official secrecy  
11 of 1955,s.6, 28 of 1961,Sch

**17.(1)** Except as provided in subsection (2) every person having any official duty or being employed in the administration of this Part shall regard and deal with all documents and returns and copies thereof and all information which he receives in the course of such duty or employment as secret and confidential.

(2) Every person having possession of or control over any such documents or returns or copies thereof or being possessed of such information, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns or copies to any person—



(a) other than the person to whom he is required in the course of his duty or employment to communicate it or to any person approved by the Minister; or

(b) otherwise than for the purposes of this Act, shall be guilty of an offence.

#### **Part IV – CESS**

Power to impose cess  
28 of 1961, Sch.

**18.**(1) The Minister may, upon application made in that behalf by the Board, by order impose a cess to be levied on all sisal fibre produced in Kenya at such rate as may be specified in the order; and the moneys received from the collection of such cess shall be placed at the disposal of the Board.

(2) The Minister may, upon the advice of the Board, at any time by order, alter the rate of such cess, and such altered rate shall come into force on such date, not being less than two months from the date of the order, as may be specified in the order.

(3) Any cess imposed under this section shall be levied and collected in the manner prescribed.

Cess to be Paid before export  
11 of 1955, s. 7, 6 of 1965, s.10.

**19.**(1) No sisal fibre shall be exported unless the amount due thereon in respect of any cess levied under this Part has been paid.

(2) (Deleted by 6 of 1965, s.70.)

Failure to pay cess  
6 of 1965, s.10.

**19A.** Any person who fails to pay the amount due in respect of any cess imposed under this Part shall be guilty of an offence

#### **Part V – GENERAL**

Penalties.  
11 of 1955, s.8

**21.** Any person who is guilty of an offence under this Act shall, on conviction by a subordinate court of the first or second class, be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both.

Offences recognizable  
6 of 1965, s. 12.

**22.** Offences under this Act shall be cognizable to the police.