

CHAPTER 361 - Pig Industry Act

An Act of Parliament to provide for the advancement and control of the pig industry

Short title

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

Interpretation Cap. 364

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

"bacon factory" means any building, structure or other place where pigs are slaughtered, dressed or cured for the manufacture of bacon or ham for sale or export;

"Board" means the Pig Industry Board established by section 3;

"butcher" means a person who slaughters pigs;

"licensed butcher" means a butcher who holds a current licence from the Board to slaughter pigs;

"pig producer" means any person, licensed so to do under the Animal Diseases Act or any rules made thereunder, who owns or keeps pigs, other than in his capacity as a butcher or licensee of a bacon factory.

Establishment of Board

3.(1) There is hereby established a Board, to be known as the Pig Industry Board, which shall consist of—

(a) a chairman to be appointed by the Minister;

(b) the Director of Veterinary Services or a person deputed by him in writing for the purposes of this Act;

(c) two members to be appointed by the Minister, on the recommendation of the Uplands Pig Suppliers Association, to represent pig producers;

(d) not more than three additional members appointed by the Minister by reason of their special knowledge, ability, business experience or other qualifications or experience likely to be of benefit to the Board.

(2) A member of the Board appointed under paragraph(a), paragraph(c) or paragraph(d) of subsection (1) shall hold office for a period of three years and shall then retire, but shall be eligible for reappointment.

(3) An appointed member of the Board shall cease to hold office if—

(a) he delivers to the Minister a written resignation of his office; or

(b) he is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors; or

(c) the Board declares by resolution that he has been absent from three consecutive meetings of the Board without the leave of the Board; or

(d) he is sentenced by a court to a term of not exceeding six months imprisonment; or

(e) he accepts office as a member of the staff of the Board; or

(f) the Minister removes him from office on being satisfied that he is incapacitated by physical or mental illness or is otherwise unable or unfit to discharge the functions of a member or is unsuitable to continue as a member.

(4) Every appointment to the Board shall be notified in the Gazette.

Board to comply with Minister's directions

4. 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 specific directions as may be given to it by the Minister.

Board to be body corporate with power to employ staff and establish pensions schemes

5.(1) The Board shall be a body corporate having perpetual succession and a common seal, with power to sue and to be sued and to purchase, hold, manage and dispose of land and other property, and to enter into such contracts as it may consider necessary or expedient in the performance of its functions under this Act.

(2) The common seal of the Board shall be authenticated by the signature of the chairman of the Board or of some other member authorized by the Board to act in that behalf, together with the signature of the secretary or some other person authorized by the Board to act in that behalf, and such seal shall be officially and judicially noted.

(3) 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 the secretary or some other person authorized by the Board to act in that behalf.

(4) The Board may appoint and employ, on such terms and conditions as it may from time to time determine, such officers and servants as it may consider necessary for the proper and efficient administration of the work of the Board.

(5) The Board may establish and make contributions to a pension or superannuation fund and a medical fund, for the benefit of its officers and servants, and may require such officers and servants to contribute thereto.

(6) The Board may appoint and employ, on such terms and conditions as it may from time to time determine, agents to carry out any of its functions under this Act.

(7) The Board may authorize any member or members thereof, or any officer employed by it, to exercise on its behalf such of its powers as it may from time to time specify, but the exercise of such powers shall, to the extent required by the Board, be reported without unreasonable delay to a meeting of the Board.

Meetings of Board

6.(1) The Board shall meet not less than twice in each year, and not more than six months shall elapse between one meeting of the Board and the next.

(2) At every meeting of the Board three members shall form a quorum.

(3) In the absence of the chairman from any meeting of the Board, the members present shall elect one of their members to preside, and such member shall, as regards that meeting, have all the powers and attributes of the chairman under this Act.

(4) At every meeting of the Board the member presiding shall have a casting as well as a deliberative vote.

(5) Subject to this Act, the Board shall regulate its own procedure

Accounts and annual report 13 of 1988, Sch. Cap. 524.

7.(1) The financial year of the Board shall be the period of twelve months ending on the 30th June or such other period of twelve months as the Board, with the approval of the Minister, may determine.

(2) The Board shall cause to be kept proper books of account and other books in relation thereto and to all its undertakings, funds, activities and property, and shall prepare such other accounts as the Minister may require, and in addition shall prepare yearly balance sheets made up to the end of its financial year showing in detail the assets and liabilities of the Board.

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

(4) 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 employees of the Board such information and explanation as may be necessary for the performance of their duties as auditors.

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

(6) The Board shall, within a period of six 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, together with the yearly balance sheet, and the auditor's report thereon and such other statements of accounts as the Minister shall require, and the Board shall, if the Minister so requires, publish them in such manner as the Minister may specify.

(7) The Minister shall lay a copy of the Board's report and of the auditor's report, together with copies of the balance sheet and such other statements of account as he may have required, before the National Assembly as soon as practicable.

Power to raise or borrow money

8.The Board may, after consultation with the Minister, from time to time raise or borrow, whether by way of mortgage, charge, overdraft on a bank or in such other way as may be convenient, such sums of money as it may consider necessary for or in connexion with the exercise of its powers or the performance of its functions and duties.

Protection of members, officers, etc., of Board

9. No member, agent, officer or servant of the Board shall be personally liable for an 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.

Functions of Board

10. The functions of the Board shall be—

- (a) the licensing of butchers and bacon factories;
- (b) advising the Minister on any matter affecting the pig industry; and
- (c) the promotion and advancement of the pig industry.

Licensing of butchers

11.(1) No person shall carry on business as a butcher unless he holds a current licence from the Board to slaughter pigs and any person who contravenes this subsection shall be guilty of an offence.

(2) Application for a licence to slaughter pigs shall be made to the Board in the prescribed form.

(3) Upon receipt of an application for such a licence, the Board shall have power either to grant the licence or to refuse the application.

(4) A licence to slaughter pigs shall be in the prescribed form and shall have endorsed thereon such terms and conditions, including the area in which the licensee may sell pig meat, bacon or any other pig product, as the Board may think fit.

(5) The Board may, at any time, by notification in writing sent by registered post to the licensee, vary the terms and conditions of a licence to slaughter pigs.

Licensing of bacon factories

12.(1) No person shall carry on the business of a bacon factory unless he holds a current bacon factory licence and complies with the conditions thereof and any person who contravenes this subsection shall be guilty of an offence

(2) Application for a bacon factory licence shall be made to the Board in the prescribed form.

(3) Upon receipt of an application for such a licence, the Board shall have power either to grant the licence or to refuse the application:

Provided that no application shall be refused in respect of any premises where the business of a bacon factory was being carried on at the commencement of this Act.

(4) A bacon factory licence shall be in the prescribed form and shall have endorsed thereon such terms and conditions, including the maximum number of pig carcasses which may be cured during any prescribed period, as the Board may think fit.

(5) The Board may, at any time, by notification in writing sent by registered post to the licensee, vary the terms and conditions of a bacon factory licence.

Control of purchasing and selling

13.(1) No person shall purchase for resale or accept for sale from any person, other than the holder of a current licence issued under section 11 or section 12, any pig meat, bacon or either pig product.

(2) No person shall sell any pig to any person, other than a licensed butcher, a licensee of a bacon factory or a pig producer.

(3) Any person who contravenes subsection (1) or subsection (2) shall be guilty of an offence

Records of bacon factories and butcheries

14.(1) Every licensee of a bacon factory and every licensed butcher shall keep annual records, in such form as may be prescribed, of the number of pigs slaughtered on each day of the year in his bacon factory or butchery, as the case may be, and every such record shall be preserved until the expiration of a period of two years from the end of the year in respect of which such record was made.

(2) Any licensee of a bacon factory or licensed butcher who fails to keep annual records as required by subsection (1) shall be guilty of an offence.

Powers of entry and examination of records

15.(1) Any person authorized in writing by the Board in that behalf may—

(a) require any licensee of a bacon factory or any licensed butcher or any retailer of pig meat, bacon or any other pig product, to furnish verbally or in writing and in such form as may be required, any information in relation to his business;

(b) examine any books, records, accounts or other documents relating to such business, and require a copy of any such book, record, accounts or other document to be deposited at the office of the Board for examination;

(c) enter and inspect any premises which are being used as a bacon factory or for the slaughter of pigs, or for retailing pig meat, bacon or any other pig product.

(2) Any person who obstructs or hinders any duly authorized person acting in pursuance of subsection (1), or who on any requisition under paragraph (a) of subsection (1) wilfully withholds any information or gives any information knowing or having reason to believe it to be false or misleading shall be guilty of an offence:

Provided that no person may be required to answer any question the answer to which may tend to expose him to any criminal charge, penalty or forfeiture.

Transfers and termination of licence

16.(1) Every licence issued under this Act shall be personal to the licensee and shall not be capable of transfer to any other person.

(2) The Board may cancel any such licence without notice in the event of the licensee committing any offence under this Act or any breach of the conditions of such licence.

(3) The Board may cancel any such licence after giving the holder not less than three months notice of its intention to cancel the licence on the ground that cancellation is desirable in the interests of the pig industry or the public.

Duration of licence

17.(1) Every licence issued under this Act shall remain in force until the death or winding up of the licensee, or until it is surrendered or cancelled under section 16.

(2) Upon the issue of every such licence and annually thereafter, there shall be paid to the Board by the licensee such fee in respect thereof as shall be prescribed.

Appeals

Cap. 318

18.Any person aggrieved by any decision of the Board made under this Act may, within one month after being notified of such decision, appeal to the Agricultural Appeals Tribunal established under Part XV of the Agriculture Act, and the provisions of that Part shall, *mutatis mutandis*, apply in relation to every such appeal.

Imposition of cess

19.The Minister may, on the recommendation of the Board, by notice published in the Gazette, impose a cess on pigs slaughtered by licensed butchers or licensees of bacon factories.

Funds of Board

20.The funds of the Board shall be derived from licence fees imposed under this Act, and from any cess which may be imposed under section 19.

Application of funds of Board

21.The Board may apply its funds for all or any of the following purposes—

- (a) experiment, investigation and research in connexion with the pig industry;
- (b) the cost of advertising the merits of Kenya pigs, pig meat, bacon and other pig products and increasing the sales thereof by extending existing markets and exploiting new markets, and any matters incidental thereto;
- (c) the establishment of pig-breeding centres for the distribution of approved breeding stock to pig producers, and the purchase of equipment and facilities ancillary thereto;
- (d) the remuneration of non-official members of the Board at rates to be approved by the Minister;
- (e) the payment of travelling and out-of-pocket expenses of members of the Board at rates to be approved by the Minister,
- (f) the employment of agents and of staff, and the purchase of such equipment as the Board may consider necessary for the purpose of carrying out its functions under this Act;
- (g) the investment in such securities as the Board may think fit;
- (h) the meeting of obligations incurred by the Board in carrying on its operations under this Act;

(i) with the approval of the Minister, any other purpose which, in the opinion of the Board, is calculated to promote the welfare of the pig industry.

Regulations

22. The Minister may, after consultation with or on the advice of the Board, make regulations for the regulation and control of the pig industry, and, without prejudice to the generality of the foregoing, for all or any of the following matters—

(a) providing for the submission of returns by pig producers relating to the breeding, keeping or feeding of pigs;

(b) prescribing the conditions subject to which bacon factories may be erected and operated;

(c) controlling and regulating the manufacture and curing by butchers and licensees of bacon factories of pig meat, bacon and other pig products;

(d) controlling and regulating the export and sale as ships stores or aircraft provisions of pig meat, bacon and other products;

(e) prescribing the procedure for the levying and the manner of payment of any cess that may be imposed under section 19;

(f) prescribing anything required to be prescribed by this Act;

(g) generally for the better carrying out of the provisions of this Act.

Penalties

23.(1) Any person who is guilty of an offence under this Act shall be liable, for a first offence, to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both and for a second or subsequent offence to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

(2) In addition to any other penalty, a court may, on the conviction of a person for any offence under this Act, whether a first or subsequent offence, order that any licence granted to the offender under this Act be cancelled.

Offences by companies etc.

24. Where any offence under this Act is committed by a partnership, company, association or co-operative society, or by any other corporation or association of individuals, every person who at the time when the offence was committed was a director, partner or officer thereof shall severally be liable to be prosecuted and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions as a director, partner, officer or person concerned as aforesaid and to all the circumstances.