

## CHAPTER 333 – Coffee Act

- *Coffee*

**An Act of Parliament to provide for the regulation of the coffee industry and the control of the production, marketing and export of coffee; and for purposes incidental thereto and connected therewith**

### Part I – PRELIMINARY

Short title

1. This Act may be cited as the Coffee Act.

Interpretation.

L.N.622/1963, 21 of 1966, 1st Sch., 13 of 1971, s.2

2. In this Act, except where the context otherwise requires—

"Advisory Committee" means the Coffee Licensing Advisory Committee established by section 9;

"the Board" means the Coffee Board at Kenya established by section 3;

"broker" means a person employed to negotiate sales of coffee between two other persons;

"buni" means coffee dried in the fruit or cherry but does not include hulled buni;

"coffee" means the fruit or any part of the fruit of Coffee species, and includes that known as clean coffee, parchment coffee and bum, and roasted berries and ground berries;

"commission agent" means a person employed by a planter as his agent for dealings in coffee;

"conference" means a meeting of delegates of planters in accordance with, and for any purpose specified in, section 12;

"co-operative society" means a co-operative society registered, or deemed to be registered, under the Co-operative Societies Act;

"dealer" means a person who purchases coffee either for himself or on behalf of a principal residing outside the East African Territories, whether or not for the purpose of resale;

"Director" means the Director of Agriculture;

"East African Territories" means Kenya, Uganda and Tanzania collectively;

"inspector" means a police officer of or above the rank of Inspector, an officer of the Department of Agriculture of or above the rank of Technical Assistant or a person appointed in writing by the Director to be an inspector for the purposes of this Act;

"Joint Committee" means the Standing Joint Committee established by section 10;

"member", in relation to the Board, does not include a person co-opted to serve on the Board;

"mill" means hull, husk or grade;

"plantation" includes any area of land or group of contiguous areas of land under the same ownership on which coffee plants are grown for sale or for the production of coffee;

"plantation interests" means the interests of persons who own severally not less than 50 acres of planted coffee;

"planter" means the holder of a current planter's licence and any person who is deemed to be the holder of such a licence;

"planter's licence" means a licence issued under section 17;

"pulping station" means any factory or place where coffee is pulped, fermented or otherwise treated for the preparation of coffee in parchment;

"warehouseman" means a person who conducts a warehouse where coffee is handled and stored for reward.

## **Part II - BOARD AND OTHER BODIES**

### **Establishment and constitution of Board 13 of 1971. s. 13.**

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

(a) three persons appointed by the Minister to represent plantation interests other than co-operative societies;

(b) three persons appointed by the Minister to represent co-operative societies and smallholders who are producers of coffee;

(c) not more than three persons, appointed by the Minister, having experience in the marketing of coffee;

(d) the Permanent Secretary in the Ministry of Agriculture or an officer of that Ministry designated by the Permanent Secretary in writing;

(e) one person appointed by the Coffee Research Foundation;

(f) one person, being an officer of the Department of Agriculture, appointed by the Director,

(g) one person, being an officer of the Department of Co-operative Development, appointed by the Commissioner of Co-operative Development;

(h) the Permanent Secretary to the Treasury or an officer of the Treasury designated by the Permanent Secretary in writing.

**(2)** The members of the Board appointed by the Minister shall—

- (a) be appointed from a panel of names submitted by a conference: and
- (b) hold office for such period, not exceeding three years as the Minister may specify; and
- (c) be eligible for reappointment.

(3) The Minister may terminate the appointment of any member of the Board appointed by him if such member absents himself from three or more consecutive meetings of the Board without the permission of the Board.

(4) The Board may co-opt, for such period as it may think fit, any person or persons whose assistance or advice may be required by the Board or any committee thereof, but a person so co-opted shall not be entitled to vote at any meeting of the Board or committee or be counted as a member for the purposes of forming a quorum.

#### Functions of the Board 13 of 1971,s.4

4.(1) The Board shall be responsible for the promotion of the coffee industry including the marketing and processing of coffee, the licensing and control of producers and processors of coffee, and research connected with the industry.

(2) The Board shall, if the Minister so directs, be the agent of the Government in respect of all matters pertaining to international agreements are or to be made in relation to coffee.

#### Provisions as to meetings of Board 13 of 197, L.N.622/1963, ss.5,14

5.The following provisions shall have effect in relation to meetings of the Board—

(a) the Minister shall appoint one of the members of the Board appointed under paragraph (a) or (b) of subsection (1) of section 3 to be the chairman of the Board;

(aa) the Board shall elect one of its members appointed under the said paragraphs to be the vice-chairman of the Board;

(b) in the absence of the chairman and the vice-chairman from any meeting, a chairman for that meeting shall be chosen by the members present;

(c) the chairman of a meeting shall have a deliberative vote, and, in the case of equality of votes, also a casting vote;

(d) the Board shall fix the number of members required for a quorum;

(e) the Board shall meet not less than once in every three months;

(f) the chairman, or, in his absence from Kenya, the vice-chairman, may, in his discretion, at any time convene a special meeting of the Board, and shall, upon receipt of a written request signed by not less than three members of the Board, convene a special meeting of the Board within two weeks after the receipt of the request;

(g) the Board may make standing orders for regulating the conduct of business and the procedure at meetings.

Board. powers of 45 of 1963.s.4, 13 of 1971,s.6.

**6.(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 purpose of performing its functions under this Act.

(2) The Minister, after consultation with the Minister for the time being responsible for finance, may authorize the Board to raise or borrow such sums of money for the aforesaid purposes as it may in its discretion think fit, and the Board may secure the repayment of or raise any such sums by charge or lien upon any coffee which has been purchased, or which ay be purchased, by the Board under the provisions of this Act.

(3) 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.

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

(5) The Board may authorize any member or members thereof, or any officer employed by it, to exercise on its behalf, t any time when it is not meeting, such of its powers as it may from time to time specify.

(6) The exercise of powers under subsection (5) shall, to the extent required by the Board, be reported without unreasonable delay to a meeting of the Board.

(7) 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.

#### Delegation of powers of Board 13 of 1971 ,ss.7, 14.

**7.**The Board may. by resolution, delegate any of the lowers conferred on it by this Act to any of its members. officers or servants or to any committee, whether constituted wholly of members of the Board or of members of the Board jointly with members of any body established in any other country and having responsibilities for the marketing of coffee grown there similar to the responsibilities of the Board.

#### Liability of members Board

**8.**No member of the Board or person co-opted to serve on 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.

#### Establishment and constitution of the advisory Committee 13 of 1971, s. 14

**9.(1)** There is hereby established a committee known as the Coffee Licensing Advisory Committee consisting of—

(a) one person appointed by the Board, who shall be chairman;

(b) three persons appointed annually by the Board; and

(c) three persons holding licences under section 13, elected annually, of whom two shall be elected by the Mild Coffee Trade Association of Eastern Africa and one by the Hard Coffee Trade Association of Eastern Africa.

(2) The function of the Advisory Committee shall be to advise the Board upon the issue of licences under section 13.

(3) Four members of the Advisory Committee shall form a quorum.

(4) The Advisory Committee may make standing orders for regulating: the conduct of business and the procedure at this meetings.

Establishment and constitution of the Joint Committee  
13 of 1971, s.14

**10.**(1) There is hereby established a committee known as the Standing Joint Committee, consisting of—

(a) a chairman appointed annually by the Minister;

(b) three members elected annually by the Board; and

(c) three members elected annually by the Mild Coffee Trade Association of Eastern Africa.

(2) The function of the Joint Committee shall to consider all rules and regulations of the Mild Coffee Trade Association of Eastern Africa relating to conditions of trading in coffee on the Nairobi market.

(3) If the chairman of the Joint Committee is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, the Minister shall appoint some fit person to be a deputy to act for him during his incapacity, and any deputy shall, while so acting, have all the powers and authority of the chairman.

(4) The chairman of the Joint Committee shall have no deliberative vote. but shall have a casting vote which shall be exercisable only in the event of the votes of the other members of the Joint Committee being equal; a decision of the majority of members present and voting at the meeting (including, in that expression, the chairman where he is entitled to vote) shall be deemed to be the decision of the Joint Committee.

(5) Five members of the Joint Committee, together with the chairman or his deputy appointed under subsection (4), shall form a quorum.

(6) The chairman of the Joint Committee may at any time convene a meeting thereof, and shall, upon receipt of a written request signed by not less than two members of the Joint Committee, convene a meeting thereof within one week of the date of such written request.

(7) The Joint Committee may make standing orders for the regulations of the conduct of business and the procedure at its meetings.

Establishment and constitution of the advisory Panel  
13 of 1971, s. 14

**11.**(1) There is hereby established a panel known as the Advisory Panel, consisting of—

- (a) two dealers;
- (b) two commission agents;
- (c) one miller; and
- (d) one other person.

all elected by the Mild Coffee Trade Association of Eastern Africa.

(2) Two members of the Advisory Panel shall retire in every year by rotation, but shall be eligible for re-election:

Provided that in the case of members who were last elected on the same date, the order of retirement shall be determined by the Advisory Panel by ballot.

(3) The function of the Advisory Panel shall be to advise the Board on matters relating to the sale of coffee by the Board, and the Advisory Panel shall attend any meeting of the Board which it is required by the chairman of the Board to attend.

(4) Where the chairman of the Board requires the Advisory Panel to attend a meeting of the Board, he shall, within a reasonable time before the meeting, cause every member of the Advisory Panel to be notified of such requirement and of the date of the meeting.

(5) Any two or more members of the Advisory Panel may, by notice in writing signed by them, require the chairman of the Board to convene a special meeting of the Board for the purpose of hearing the advice of the Advisory Panel, and the chairman shall convene a meeting accordingly within a reasonable time thereafter.

(6) At any meeting of the Advisory Panel, four members of the Panel shall form a quorum.

(7) The members of the Advisory Panel present at any meeting thereof shall elect a chairman from among their number, who shall preside at that meeting of the Panel.

(8) If any member of the Advisory Panel is incapacitated by illness, absence or other sufficient cause from performing his duties as a member of the Advisory Panel, the chairman of the Mild Coffee Trade Association of Eastern Africa may appoint some fit person to act in his place during his incapacity, and such person shall have all the authority of the member of the Advisory Panel for whom he is acting.

Conference 13 of 1971, s.8  
L.N. 200/1974

**12.**(1) The Board shall, at least once in every year, convene a conference of delegates of planters for the purposes of selecting names for submission to the Minister for the purposes of subsection (2) of section 3, of considering the reports and accounts mentioned in subsection (3) of section 31, and of transacting such other business of which notice has been given.

(2) The Board may convene conferences, in addition to that mentioned in subsection (1), for such purposes and at such times as it may think fit.

(3) Subject to this Act and any rules made thereunder, the Board may make standing orders for the regulation of the conduct of business and the procedure at conferences.

## Part III - LICENSING AND REGISTRATION

### Prohibition of certain without licence

13.(1) Subject to subsection (2), no person shall—

(a) buy, sell, export, mill, warehouse or otherwise deal in or transact any business in coffee unless he is the holder of a current licence thereto authorizing him, issued, in its discretion, by the Board;

(b) transport or have in his possession any coffee unless he is licensed to do any of the things specified in paragraph (a) of this subsection or is acting in the course of his employment as the servant or agent of such person.

(2) This section shall not apply to—

(a) the purchase of clean coffee by a wholesale or retail seller of provisions from a dealer who holds a current dealer's licence and the onward sale by such wholesale or retail seller where—

(i) he keeps a register of all purchases so made by him; and

(ii) such purchase and onward sale are made in the course of his normal business;

(b) the purchase of coffee by any person from a dealer who holds a current dealer's licence or a planter who holds a current planter's licence where such coffee is required for the purchaser's own consumption or for planting on his own land;

(c) the milling by a planter of coffee produced by him;

(d) the warehousing of coffee by Kenya Railways or by the Kenya Ports Authority.

(3) Any person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of any licence granted thereunder shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding ten years with or without corporal punishment

(4) Where a person is convicted of an offence under this section the court shall order that any coffee and any vehicle, vessel or other conveyance in relation to which the offence has been committed shall be forfeited to the Government unless, in the case of a vehicle, vessel or other conveyance, the court sees good reason, to be recorded by it in writing, not to do so.

(5) Where a person is charged with an offence under this section the onus shall be upon the person charged to prove that he was at the material time the holder of a licence authorizing him to do the things with which he is charged or that he was acting in the course of his employment as the servant or agent of such person, as the case may be.

### Kinds of licences

14. Licences under section 13 shall be of the following Kinds —

(a) a dealer's "A" licence, authorizing the holder to deal in and export coffee of any country of origin;

(b) a dealer's "B" licence, authorizing the holder to deal in Kenya in coffee of any country of origin, but not to export coffee;

- (c) a dealer's "C" licence, authorizing the holder to deal in and export coffee grown outside Kenya;
- (d) a buni dealer's licence, authorizing the holder to deal in and export buni of any country of origin;
- (e) a broker's licence, authorizing the holder to conduct the business of a broker; to conduct the business of a commission agent;
- (g) a miller's licence, authorizing the holder to conduct the business of a miller;
- (h) a warehouseman's licence, authorizing the holder to conduct the business of a warehouseman.

Issue of licence and licence fees  
13 of 1971, s.9

**15.(1)** Before issuing a licence under section 13, the issue of Board shall consult the Advisory Committee, licences and licence fees.

(2) The Board shall not issue such a licence to any person unless—

- (a) it is of the opinion that the person is a fit and proper person to hold such a licence; and
- (b) in the case of a dealer's "A" licence the Advisory Committee is satisfied that the person has sufficient knowledge or experience properly to conduct the business or employs on the staff of the business a person with such knowledge or experience.

(3) Every licence shall specify the premises upon which the business specified in the licence may be carried on. (4) Licences issued under section 13 shall remain in force until the 30th day of June next following the date of issue, unless earlier cancelled.

(4) Licences issued under section 13 shall remain in force until the 30th day of June next following the date of issue, unless earlier cancelled.

(5) There shall be payable for the issue of licences such fees as the Minister may from time to time prescribe.

Duties of licence holders

**16.(1)** The holder of a licence under section 13 shall—

(a) at all times keep on the premises specified therein a register in English or Kiswahili of all purchases and sales of coffee made under the authority of his licence, and within forty-eight hours after each purchase or sale enter in the register the name and address of the vendor or purchaser, as the case may be, the quantity purchased or sold and the date of the transaction:

Provided that if the method of dealing is otherwise than by purchase or sale the licensee shall enter in the register the manner and particulars of the dealing and the date thereof;

(b) at all times keep exhibited over the outer door of his shop or place of business, in English characters not less than three inches in size, his name and the words "Licensed Coffee Dealer" in English or Kiswahili;

(c) submit such returns at such times and to such persons as may be prescribed;



(d) on demand by an inspector, allow the inspector to enter upon his premises and inspect all coffee therein. and produce for his inspection at his request his licence and the register kept under this section.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence.

Planters licences  
13 of 1971, ss.10,14.

**17.**(1) No person shall plant coffee plants or maintain any plantation except under and in accordance with the terms and conditions of a current licence issued in respect thereof by the Board after consultation with the Director.

(2) Where a planter's licence is issued to a co-operative society, then all the members of the co-operative society shall be deemed to have been issued with such a licence for the purposes of this Act and any rules made thereunder.

(3) There shall be payable in respect of every licence issued under this section such fee as the Minister may from time to time prescribe:

Provided that no such fee shall be payable in respect of any plantation not exceeding one acre in extent which has been approved by the Director in consultation with the Board as a bona fide experimental plantation.

(4) Every licence under this section shall be issued annually and shall expire on the 30th day of June next following the date on which it was issued.

(5) The Board may, after consultation with the Director, cancel, or suspend for any specified period, a planter's licence.

(6) In the case of a planter's licence issued to a co-operative society, the Board may, after consultation with the Director, cancel, or suspend for any specified period, such licence in respect of a named member of such society.

(7) Any person who contravenes the provisions of subsection (1) or of any term or condition of his licence shall be guilty of an offence.

Pulping station licences  
13 of 1971,s.14

**18.**(1) No person shall operate a pulping station unless Pulping slat he is the holder of a current licence issued in respect thereof by the Board after consultation with the Director.

(2) A pulping station licence may be issued in the form of an endorsement to a planter's licence.

(3) Where the holder of a planter's licence operates more than one pulping station, a list giving the location of each such station shall be endorsed thereon.

(4) Pulping station licences shall expire on the 30th day of June next following the date of issue.

(5) The Board may, after consultation with the Director, cancel or suspend a licence issued under this section in respect of any specified pulping station.

(6) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

Application for renewal of licences  
13 of 1971,s.11.

**18A.**Every application for a dealer's licence under Application section 13 which is in continuation of an existing licence shall be made so as to be received by the Board not later than the 1st day of the month of June in which the existing licence is due to expire, and any application received after such date shall not be considered by the Board unless a late application fee of one hundred and fifty shillings has been paid by the applicant to the Board.

Registration and duties of coffee millers  
13 of 1971,s.14.

**19.**(1) No person shall conduct the business of a coffee miller unless he is registered as a coffee miller by the Board, nor at any other premises than those specified in the register.

(2) The register of coffee millers shall be kept by the secretary of the Board, who shall not register any therein without the approval of the Board.

(3) On registration of a coffee miller, the secretary shall issue to him a certificate of registration specifying the premises at which milling may be carried on.

(4) No fee shall be charged in respect of any registration or certificate of registration made or given under this section

(5) Every coffee miller registered under this section shall submit such returns at such times and to such persons as may be prescribed.

(6) Any person who contravenes the provisions of sub section (1) or subsection (5) shall be guilty of an offence.

Registration of distinguishing mark  
13 of 1971,s.14.

**20.**(1) No person offering for sale or exporting coffee shall use any distinguishing mark to mark and identify, as operative society unless the mark is registered as the distinguishing mark of such person or such society by the secretary of the Board in a register kept for that purpose.

(2) A person who desires to use, or a co-operative society who desires its members to be able to use, such a mark shall make application for registration thereof to the secretary of the Board, who may register the same, or may require the applicant to submit another mark to him for his consideration or may, without assigning any reason, refuse to register the same. If the applicant, under this section, he shall issue a certificate of registration thereof to the applicant. section (1) shall be guilty of an offence.

**Part IV - PROVISIONS RELATING TO THE EXPORT, MARKETING AND CURING OF COFFEE**

Restriction of export and sale of coffee  
13 of 1971, s.14, 13 of 1978, Sch.

**21.**(1) Subject to the provisions of this Act—

- (a) no planter shall export any coffee;
- (b) no planter shall sell any coffee to any person other than the Board;
- (c) no planter shall roast any coffee for sale;
- (d) no person other than the Board shall purchase coffee from any coffee planter:

Provided that the Board may, by order in writing exempt any person from any of the provisions of this section

for such purposes, in respect of such coffee, to such extent and subject to such conditions, as the Board may think fit.

(2) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years with or without corporal punishment.

(3) Where a person is convicted of an offence under this section the court shall order that any coffee and any vehicle, vessel or other conveyance in relation to which the offence has been committed shall be forfeited to the Government unless, in the case of a vehicle, vessel or other conveyance, the court sees good reason, to be recorded by it in writing, not to do so.

Marketing of coffee by the Board  
13 of 1971,s.14.

**22.**The Board may, in its discretion, purchase and sell any coffee which has been produced in the East African Territories or the Republic of Zaire, and for that purpose may make such contracts as it may think fit.

Power of the Board to require coffee to be cured  
13 of 1971,s.14

**23.**(1) The Board may from time to time, by order in the Gazette, require planters within a specified time to cure the whole or any part of any coffee which is in their possession or to send it to a coffee miller registered under section 19 for curing.

(2) Any planter who fails to comply with an order made under subsection (1) shall be guilty of an offence.

Statement of coffee cured and sample to be sent to the Board  
13 of 1971,s.14.

**24.**(1) Every miller to whom any coffee is sent for curing, and every planter who cures any coffee, shall, within forty-eight hours of the coffee being cured, send to the Board—

- (a) a statement in the prescribed form of the coffee cured; and
- (b) a half-pound sample of each grade of the cured coffee.

(2) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence.

Classification of samples by the Board 13 of 1971,s. 12

25.(1) Where a sample of coffee has been sent to the Board under section 24, the Board shall classify the coffee of which it is a sample in accordance with the sample, and shall within seven days after such classification, notify the planter to whom the sample belongs, or his agent, of the class in which the coffee has been classified.

(2) Any planter who is aggrieved by the classification of his coffee under subsection (1) may, within twenty-one days of his notification under the said subsection, appeal in writing against such classification to an Appeal Board constituted in such manner as shall be prescribed.

Board to purchase all coffee sampled  
13 of 1971,s.14

26. Subject to the provisions of this Act, the Board shall purchase all coffee which has been classified under section 25, on terms fixed by the Board from time to time, and such coffee shall be delivered to the Board in such manner as may be prescribed.

**Part V – FINANCE**

Levies  
13 of 1971, ss.12, 14

27.(1) The Minister may from time to time, on the recommendation of the Board, by order published in the Gazette, impose either or both of the following levies, that is to say—

(a) a levy, hereinafter referred to as an export levy, on all coffee, other than buni, produced in Kenya and exported:

Provided that—

(i) the amount of such levy shall not exceed one shilling per hundredweight or part of a hundredweight of coffee;

(ii) trade samples not exceeding ten pounds in weight shall not be liable to levy;

(iii) no such levy shall become operative until the expiration of a period of two months from the date of the order imposing it, but without prejudice to the validity during such period of any levy previously imposed;

(b) a levy, hereinafter referred to as a planter's levy, for a specified period not exceeding three years on all coffee sold to the Board under the provisions of this Act:

Provided that the amount of such a levy shall not, in the case of any planter, exceed three per centum of the payments due to him from the Board for coffee purchased from him by the Board.

(2) All moneys due on account of an export levy shall be a debt due to the Board from the person exporting the coffee, and may be collected by the Commissioner of Customs and Excise on behalf of the Board.

(3) No coffee produced in Kenya shall be exported unless the export levy payable in respect thereof has been paid, and any person who exports or attempts to export any such coffee in respect of which any money is owing in respect of export levy shall be guilty of an offence.

(4) All moneys due on account of a planter's levy shall be a debt due to the Board from the planter concerned, and the Board may recover such moneys by way of deduction from any moneys which are due to the planter from the Board.

Coffee levy fund  
L.N.365/1964, 13 OF 1971,S.14.

**28.**(1) There is hereby established a fund known as the coffee levy fund, which shall consist of all moneys collected in respect of the levies imposed under section 27 and the fees for licences issued under this Act, and such sums as Parliament may from time to time provide for the purpose.

(2) The coffee levy fund shall be in the custody of the Board, and the Commissioner of Customs and Excise shall, as soon as practicable after the last day of each month, pay such amounts as have been collected by him on account of any export levy into an account opened in the name of the Board with a bank approved by the, Minister.

(3) The Board shall apply the coffee levy fund as follows—

(a) in payment of the expenses, commission and other charges incurred by the Board or for which the Board may become liable in the course of its business;

(b) to the cost of advertising the merits of Kenya coffee and of endeavouring to increase its sale by extending existing markets and exploiting new markets, and of matters incidental thereto;

(c) to the cost of research and experimentation;

(d) to the remuneration of and the payment of travelling and out-of-pocket expenses to individual members of the Board and persons appointed to serve on the Board at rates approved by the Minister;

(e) to the employment of such staff as the Board may consider necessary for the carrying out of its functions;

(f) to any other purpose which in the opinion of the Board is calculated to promote the welfare of the coffee industry or the more economic production or preparation of coffee:

Provided that the Board shall not, without the prior approval of the Minister, apply any part of the coffee levy fund to any service under this paragraph if money has during the preceding twelve months been provided by the Parliament to the coffee levy fund.

(4) The Board may lend any moneys for the time being in the coffee levy fund to the Government, to any public body or to any bank licensed under the Banking Act. on interest, or may invest in such securities as it may think fit any such moneys which are not immediately required for any of the purposes set out in subsection (3).

coffee pool  
13 of 1971,s.14

**29.**(1) There is hereby established a pool known as the coffee pool. which shall consist of all moneys derived from—

- (a) the sale of coffee by the Board;
  - (b) payments made to the Marketing Board under the provisions of this Act or of any rules made there under;
  - (c) any other source approved by the Minister in that behalf.
- (2) The coffee pool shall be in the custody of the Board, who shall apply the moneys therein to all or any of the following purposes—
- (a) the remuneration of the officers, servants and agents employed by the Board;
  - (b) the payment of such remuneration to individual members of the Board as may be approved by the Minister;
  - (c) the payment of travelling and out-of-pocket expenses of individual members of the Board at rates approved by the Minister;
  - (d) the payment of insurance, transport, storage, brokerage, commission and any other charges incurred in carrying out the provisions of this Act;
  - (e) paying for coffee purchased by the Board;
  - (f) the creation of reserve funds for such purposes as the Board may think fit;
  - (g) any other purpose approved by the Minister.

## **Part VI - AUDIT AND REPORT**

Accounts and audit  
13 of 1971, s.14, 2 of 1977, s.46.

**30.**(1) Each Board shall cause to be kept such books of account and other books in relation thereto and to all its 2 of 1977, s, 46. undertakings, funds, activities and property as the Minister may from time to time require; and shall, within a period of four months after the end of its financial year, or within such longer period as the Minister may approve, cause to be prepared, signed and transmitted to the auditor-

- (a) a balance sheet showing in detail the assets and liabilities of the Board; and
  - (b) such other statements of account as the Minister may require.
- (2) The accounts of the Board shall be examined, audited and reported upon annually by the Controller and Auditor-General or by such other person as the Minister may appoint, being a person who holds a practising certificate issued pursuant to section 21 of the Accountants Act. ^P- 53L
- (3) The Board shall produce and lay before the auditor 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 auditor shall be entitled to require from all members, officers, employees and agents of the Board such information and explanation as he may consider to be necessary for the performance of his duties as auditor.

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

#### Appeals. 13 of

**31.**(1) The Board shall, within a period of seven Annual report months after the end of its financial year or within such longer period as the Minister may approve, submit to the Minister a report of its operations during such year, and the yearly balance sheet and such other statements of account as the Minister shall require together with the auditor's report thereon; and the Board shall, if the Minister so requires, publish them in such manner as the Minister may specify.

(2) The Minister shall lay the Board's report and the auditor's report, together with the balance sheet and such other statements of accounts as he may have required, on the table of the National Assembly within fourteen days of receipt of the reports and statements by trim, or, if the National Assembly is not sitting, within fourteen days of the commencement of the next sitting.

(3) The Board shall submit its report and the auditor's report, together with the balance sheet and such other statements of account as the Minister may have required, to the conference next convened after the same have been submitted to the Minister, being in each case the conference convened for the election of members to the Board.

### **Part VII – GENERAL**

#### Appeals 13 of 1971,s.14

**32.**Any person aggrieved by the refusal of the Board, Appeals. or of any person authorized by the Board in that behalf, to issue any licence under this Act, or by the cancellation or suspension of any such licence, or by any decision of the Board under the proviso to subsection (1) of section 21, may, within thirty days after being notified of such refusal, cancellation, suspension or 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.

#### Service of notices

**33.**Where any notice is required by or under this Act or any rules made thereunder to be served on any person, service thereof may be effected either personally on such person or by registered post; and, where the person to be served is a body corporate or a society or other body

of persons/service of any such notice may be effected by serving it personally on any secretary, director or other officer thereof or on any person concerned or acting in the management thereof, or by leaving it or sending it by registered post addressed to the body corporate, society or body of persons at its registered office, or, where there is no registered office, at any place where it carries on business.

#### Powers of inspectors

**34.**(1) An inspector may require the person in charge, or appearing to be in charge, of the premises of a planter or retail seller of provisions to allow him free ingress to the premises and to produce to him for his inspection any licence issued, and any register kept, in relation thereto under this Act.

(2) Any person who refuses entry to an inspector acting under this section or obstructs him in making entry or in making an inspection thereunder, or who, without reasonable excuse, fails to produce any licence or register production of which is required of him under this section, shall be guilty of an offence.

Powers of search and seizure  
13 of 1978, Sch.

**34A.**(1) An officer of the Ministry of Agriculture or of the Board, authorized in writing by or on behalf of the Director or the Board, as the case may be, upon production of his authority on demand, and any police officer or administration police officer may—

(a) enter and search any premises upon which he has reason to believe there is coffee in respect of which an offence under section 13 or 21 is being or has been committed, and seize and remove any coffee found thereon which he has reasonable cause to believe may provide evidence of that offence:

Provided that, before removing any coffee under this paragraph, the person removing it shall furnish the person in whose custody or possession the coffee is at the time of removal with a written receipt therefor;

(b) stop, search and detain any vehicle, vessel or other conveyance which he has reason to believe is being or has been used for conveying any coffee- in respect of which an offence under section 13 or 21 is being or has been committed.

(2) Every seizure under subsection (1) (a) shall be reported without unnecessary delay to a subordinate court, and where any vehicle, vessel or other conveyance has been stopped and detained under subsection (1) (6) the person so stopping and detaining shall forthwith take it or cause it to be taken together with its contents, or report the fact of its detention. to the nearest police station and the officer in charge of the police station may thereupon order that the vehicle, vessel or other conveyance, together with any coffee found therein, be seized.

(3) Any person who hinders or obstructs a person acting in the exercise of his powers under this section shall be guilty of an offence.

offences by corporations, societies, etc.

**35.**Where any offence under this Act or under any rules made thereunder is committed by any company or other body corporate, or by any society, association or body of persons, every person charged with, or concerned or acting in, the control or management of the affairs or activities of such company, body corporate, society, association or body of persons shall be guilty of that offence and liable to be punished accordingly, unless it is proved by such person that, through no act or omission on his part, he was not aware that the offence was being or was intended or about to be committed or that he took all reasonable steps to prevent its commission.

Penalty

**36.**Any person who is guilty of an offence under this Act for which no penalty is specially provided shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Additional penalty for certain offences.  
Cap.63. Cap.75.



**37.(1)** Where the holder of a licence under section 13. or any person registered under section 19, of this Act is convicted of an offence under Chapter XXXI of the Penal Code in respect of coffee, the court convicting him may, in addition to imposing any other penalty, order that his licence or certificate of registration, as the case may be, be cancelled with effect from such date as the court considers will enable him to dispose of his existing stock of coffee, and that he be debarred thereafter from obtaining such a licence or from being so registered for such period as the court thinks fit.

(2) A person whose licence or certificate of registration has been ordered, under subsection (1), to be cancelled may, notwithstanding the provisions of section 348 of the Criminal Procedure Code, appeal against the order to the High Court in accordance with the provisions of Part XI of that Code-

Rules  
13 of 1971,ss.14.

**38.(1)** The Minister may, after consultation with the Board, make rules for prescribing anything which by this Act is required to be prescribed and generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), rules thereunder may provide for all or any of the following matters—

(a) prescribing the manner of electing the members of the Board, the Advisory Committee, the Joint Committee and the Advisory Panel who are required by this Act to be elected, and the manner in which lists of candidates for election shall be published:

(b) prescribing the manner in which delegates to represent planters for the purposes of section 12 shall be elected;

(c) prescribing the forms of licences issued under this Act, and the forms and manner of application therefor;

(d) prescribing the forms and manner of application for registration under section 19 or section 20;

(e) prescribing the forms of certificate to be issued under this Act;

(f) prescribing the returns, and the forms thereof, to be made by persons holding licences under section 13 and millers registered under section 19;

(g) prescribing the areas in which coffee may be planted, and regulating and controlling the variety, the cultural conditions, the method of production and the quality of coffee, and providing for the control of pests and diseases;

(h) empowering the Board or the Director to give directions to any planter as to the method of sowing, planting, cultivation, harvesting, collection, movement, pulping, drying or storage of coffee, and to delegate the like powers to any person;

(i) prescribing the forms of registers required by this Act to be kept, and the matters to be entered therein.

(j) controlling and regulating the purchase and sale of coffee by the Board;

(k) providing for and regulating deliveries of coffee to the Board;

(l) prescribing the services which the Board may render to planters for payment, and the charges to be made therefor;

(m) providing for the submission of returns to the Board relating to the acreages of coffee which are under cultivation, and the quantities of coffee available for sale to the Board;

(n) prescribing the forms and procedure for appeals under this Act;  
under this Act;

(p) prescribing the fees which may be charged for any thing to be done under this Act.