

CHAPTER 340 - Pyrethrum Act

Commencement Date: 9/15/1964

An Act of Parliament to provide for the reorganization and regulation of the pyrethrum industry and the control of the growing, processing and marketing of pyrethrum, for scientific and agronomic research and for connected purposes

Part I – PRELIMINARY

Short title

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

Interpretation

21 of 1966, Sch., 5 of 1977, ss. 2 and 3

2. In this Act, unless context otherwise requires—

"Board" means the Pyrethrum Board of Kenya established under section 4;

"licence" means a licence granted under section 13;

"licensed grower" means the holder of a licence;

"loan stock" means stock issued by the Board under section 25;

"pool year" means the year ending at the end of September or such other month as the Board with the approval of the Minister may by notice in the Gazette from time to time declare;

"pyrethrum" means any plant or part of a plant of the species known botanically *aschrysanthemum cinerariaefolium*, or of any interspecific hybrid involving this species or of any progeny of such hybrid;

"pyrethrum grower" means any person who grows or cultivates any pyrethrum in Kenya, or any person who manages, controls or cultivates land in Kenya upon which pyrethrum is grown;

"pyrethrum product" means any product, extract or substance obtained or derived from pyrethrum by any treatment or process;

"stock" means any stock issued by the Board under section 21 or section 22;

"stockholder" means a person for the time being registered as the holder of stock or loan stock.

Directions of Minister

5 of 1977, s. 4

3. In fulfilling its respective functions under this Act, the Board shall comply with such general or special directions as the Minister may from time to time issue.

Part II - PYRETHRUM BOARD

Establishment and constitution of Pyrethrum Board of Kenya
5 of 1977,s.6, 11 of 1983,Sch.

4.(1) There is hereby established a Board to be known as the Pyrethrum Board of Kenya.

(2) The Board shall consist of the following members—

(a) a chairman who shall be appointed by the Minister;

(b) not more than six members, appointed by the Minister from panels of names submitted by pyrethrum growers in accordance with arrangements made by the Minister, and who shall be persons who, in the opinion of the Minister, are representative on a basis, as near as is practical, that is proportionate to the production figures of the main pyrethrum producing provinces;

(c) four members appointed by the minister who, in his opinion, possess qualities likely to be of benefit to the Board;

(d) the Permanent Secretary of the Ministry for the time being responsible for agriculture, or a person deputed by him in writing to exercise his functions as a member of the Board;

(e) the Director of Agriculture, or a person deputed by him in writing to exercise his functions as a member of the Board;

(f) the Commissioner for Co-operative Development, or a person deputed by him in writing to exercise his functions as a member of the Board.

(3) The chairman, or, in his absence, a member elected to act as chairman at a particular meeting of the Board, shall preside at each meeting of the Board and the person presiding at any meeting shall have a casting as well as a deliberative vote.

(4) The quorum of the Board shall be seven.

(5) The Minister may at any time revoke the appointment of the chairman and of any other member appointed by him under paragraph (b) or paragraph (c) of subsection (2) and, subject to such power of revocation, all such members shall hold office for a period of two years from the date of their appointment but on the expiration of such period shall be eligible for reappointment.

Powers of Board
5 of 1977.s. 2.

5.(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 and may for that purpose enter into such contracts as it may consider to be necessary or expedient.

(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 executive officer or the secretary, or some other person authorized by the Board to act in the behalf, and the seal shall be officially and judicially noticed.

(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 executive officer or the secretary, or any member of the Board authorized 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, whenever it considers it necessary or desirable, create or take part in the creation or otherwise become a member of or associated with corporations or other commercial bodies or associations designed to assist or promote the marketing of pyrethrum products in any part of the world.

(6) 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.

(7) 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.

(8) 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.

Functions of Board

5 of 1977, s. 7.

6.(1) It shall be the duty of the Board in the exercise of its powers and in the performance of its functions to act in such manner as appears to it best calculated to promote the pyrethrum industry.

(2) The functions of the Board shall include—

(a) the determination for each pool year of the quota of pyrethrum flowers which may be produced in Kenya;

(b) the licensing of pyrethrum growers in accordance with the annual quota determined by the Board under paragraph (a);

(c) investigation and research into all matters connected with the agronomy of the pyrethrum industry;

(d) the negotiation for the transfer of any of the functions mentioned in paragraph (c) to an East African organization approved for the purpose by the Minister;

(e) the purchasing and taking delivery of all pyrethrum grown in or imported into Kenya, and of products derived therefrom, save that the Board shall have power to refuse to purchase or take delivery of any pyrethrum grown in Kenya in excess of the quota determined under paragraph (a);

(f) the sorting, grading or examination of any pyrethrum or pyrethrum product;

(g) the processing of pyrethrum and, with the approval of the Minister, the appointment of contractors for the processing of pyrethrum and the negotiation of fees therefor;

- (h) the sale, export, marketing and regulation of the import of pyrethrum or pyrethrum products;
- (i) the division of proceeds in accordance with section 18;
- (j) investigation and research into all matters relating to the processing and marketing of pyrethrum and pyrethrum products; and
- (k) the negotiation of sales and contracts concerning any pyrethrum or pyrethrum products on behalf of any person and receipt of payment therefor.

Meetings of Board
5 of 1977, s. 8.

- 7.(1) The Board shall hold ordinary meetings as and when necessary, but not less than one in every three months.
- (2) Ordinary meetings shall be convened by the chairman at such times and at such places as he may in his discretion deem fit.
- (3) The chairman shall convene a special meeting of the Board at any time upon receipt of a requisition signed by not less than four members calling upon him so to do, and such special meeting shall be held not later than twenty-one days after the receipt of the requisition.

Part III - CONTROL OF PYRETHRUM

Control of pyrethrum growers

- 12.(1) No person shall grow or cultivate pyrethrum upon any land unless the proprietor, lessee or occupier of that land has been issued with or had transferred to him a valid licence.
- (2) No person shall wilfully grow or cultivate pyrethrum in excess of the acreage, or in excess of the quantity, or otherwise than in accordance with the terms and conditions, specified in his licence.
- (3) If any provision of subsection (1) or subsection (2) is contravened, each of the proprietors, lessees and occupiers of the land upon which the pyrethrum is grown, and, where the person by whom the provision is contravened is not a proprietor, lessee or occupier of that land that person also, shall be guilty of an offence:

Provided that it shall be a defence for a person charged only by reason of his being a proprietor, lessee or occupier of land to prove that the offence was committed without his knowledge.

Licensing of pyrethrum growers
5 of 1977,ss. 2 and 10. Cap.486.

- 13.(1) (a) Any proprietor, lessee or occupier of land desiring to obtain a licence to grow pyrethrum shall apply in writing to the Board.
- (b) The Board may in its discretion grant or refuse such application and in granting it may impose such conditions as in its discretion it thinks fit.
- (c)(Deleted by 5 of 1977, s. 10.)

(d) Upon the Board granting such application, and upon payment of the prescribed licence fee, a licence shall be issued to the applicant.

(e) Every licence issued under this section shall be signed by the Board, or an officer thereto authorized by the Board, and shall be in the prescribed form.

(2) Every licence shall specify—

(a) the location of the land to which it relates; and

(b) the proprietor, lessee or occupier of the land to whom it relates; and

(c) the maximum quantity of pyrethrum which may be grown on that land and delivered to the Board;

and may, in addition, show the maximum acreage of that land upon which pyrethrum may be grown or cultivated.

(3) The Board may, at any time, vary any term or condition specified in any licence, including the maximum acreage of land upon which pyrethrum may be grown or cultivated, and the maximum quantity of pyrethrum which may be grown or cultivated on that land and delivered to the Board :

Provided that no variation shall be made to reduce such maximum acreage or maximum quantity of pyrethrum without the written concurrence of the licensed grower.

(4) Every licence shall, unless otherwise cancelled, varied or withdrawn, remain valid until the end of the pool year for which it was issued.

(5) (a) Where the proprietor, lessee or occupier of land is a partnership, the licence shall be issued in the name of the partnership.

(b) Where the proprietor, lessee or occupier of land is a company registered under the Companies Act, the licence shall be issued in the name of the company.

(c) Where the proprietors, lessees or occupiers of land are members of an association or co-operative society, the licence may be issued in the name of the association or co-operative society.

(6) The Board may, upon a application in writing by a licensee and on payment by the grower of the prescribed fee, by written endorsement on the licence transfer it to any other person.

(7) The Board may, upon breach of any term or condition specified in a licence being established to its satisfaction, cancel or withdraw the licence, but without prejudice to the issue of a new licence to the same person upon such terms and conditions as the Board may in its discretion think fit.

Deliveries inconsistent with licence
5 of 1977, s. 2.

14.(1) Where in any pool year a licensed grower delivers to the Board a quantity of pyrethrum which exceeds the maximum quantity permitted to be grown in terms of his licence, the Board may, without prejudice to the provisions of subsections (2) and (3) of section 12, pay to the licensee such price, if any, as it may think fit in respect of the excess.

(2) Where in any pool year a licensed grower delivers to the Board a quantity of pyrethrum which falls short of the maximum quantity permitted to be grown in terms of his licence, the Board may, in

calculating the amount payable for the pyrethrum so delivered, deduct a sum which shall not exceed ten per centum of the final pool price in respect of each kilogramme of pyrethrum flowers by which the quantity delivered falls short of the maximum quantity.

(3) For the purposes of subsection (2), "final pool price" means, with reference to any grade of pyrethrum, the amount representing in terms of price the final amount paid for that grade under section 18.

Appeal against refusal of licence or transfer. 5 of 1977, s. 2.
Cap.318.

15.(1) Where the Board refuses to grant an application for, or refuses an application to transfer, a licence or refuses any such application in part, the Board shall, within fourteen days of the refusal, notify the applicant in writing of that refusal or part refusal, and of the reasons therefor.

(2) Any person whose application has been refused, or partly refused, may within thirty days of notification to such effect, appeal in writing 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 appeal.

(3) The appeals of any persons under this section may by consent of the individual growers concerned be consolidated and any appeal so consolidated shall in all other respects be treated as if it were an individual appeal.

Control of transactions in pyrethrum
5 of 1977, s. 2.

16.(1) No pyrethrum grower shall deliver pyrethrum or pyrethrum products to any person other than the Board.

(2) No person other than the Board shall, without the permission of the Board, take delivery of any pyrethrum or pyrethrum products from a pyrethrum grower or other person in possession of pyrethrum or pyrethrum products whether by import into East Africa or otherwise:

Provided that this subsection shall not, unless the Minister otherwise prescribes, apply to—

(a) preparations bona fide imported into or manufactured in Kenya for the purpose of sale to the public;

(b) bona fide experimental or research operations.

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

Provided that it shall not be an offence for a pyrethrum grower to deliver, or for a person to take delivery of, pyrethrum or pyrethrum products in compliance with an order or direction of the Board, or for the purpose of drying, storage or transportation.

Delivery of pyrethrum and pyrethrum products to Board
5 of 1977, s. 2.

17.(1) Subject to any rules made under this Act, the Board shall take delivery of all pyrethrum and pyrethrum products which are —

(a) grown or produced by a licensed grower in accordance with the terms and conditions of a valid licence; and

(b) suitable for the preparation of an insecticide.

(2) All pyrethrum delivered to the Board in accordance with subsection (1) shall upon delivery be deemed to have become the property of the Board.

Part IV – FINANCES

Division of proceeds
5 of 1977, s. 11

18. The total amount of money realized from the operation of the Board in respect of each pool year, and proceeds of licensing fees, after deducting therefrom the cost of administering the Board and any other expenses incurred by the Board under or by virtue of the provisions of this Act, and after taking into account the value, as ascertained by the Board, of the respective stocks in hand at the beginning and end of the pool year shall, subject, where there are in existence in relation to the Board any Government loans or guarantees, to the approval of the Minister, be divided as soon as may be after the end of the pool year amongst the pyrethrum growers in proportion to the weights and grades of pyrethrum and pyrethrum products accepted by the Board from each grower, subject to the deduction of any advance payments made to the respective growers in respect of that pool year.

Imposition of levy

19. On the recommendation of the Board the Minister may from time to time, by notice in the Gazette, impose a levy on all pyrethrum grown or cultivated in Kenya.

Payment of levy
5 of 1977, ss.2 and 12

20.(1) Any levy imposed under section 19 shall be payable by the licensed grower to the Board at the time when the Board takes delivery of his pyrethrum or pyrethrum product, and may be recovered by the Board from moneys owing by it to the grower in respect of such deliveries, and shall also be a civil debt recoverable summarily.

(2) *(Deleted by 5 of 1977, s.12.)*

Issue of stock in return for levy paid
21 of 1966, Sch., 5 of 1977, s. 2.

21.(1) The Board shall issue one unit of stock to each licensed grower in respect of every amount of twenty shillings paid to it by him by way of levy :

Provided that the obligation imposed upon the Board by this section shall determine upon the expiry of a period of three years from the end of the pool year during which such levy was paid if during that period it has not proved possible after due inquiry to issue such stock to the licensed grower thereunto entitled.

(2) Stock shall be issued in units each of the value of twenty shillings.

(3) Where the initial payment of levy is less than twenty shillings or where, after the issuing of stock to a licensed grower under this section, an amount of less than twenty shillings is left over, then such

initial payment or such sum left over, as the case may be, shall be credited towards the next unit of stock to be issued to the licensed grower :

Provided that if any person ceases to be a licensed grower he shall forfeit all his right and interest in respect of any such initial payment or amount left over, as the case may be.

(4) The stock issued under this section shall not be sold or transferred to any person except with the consent of the Board.

Provisions as to stock
5 of 1977, s. 2

22.(1) The Board shall pay to each stockholder interest at a rate to be determined by the Board at the end of each pool year :

Provided that such interest shall not be less than four per centum per annum.

(2) Stock shall be redeemable in such manner as the Board shall, with the consent of the Minister, from time to time determine.

(3) The Board shall keep a register of every person to whom stock has been issued, and shall note in the register every transaction, sale, transfer or other dealing relating to or connected with such stock.

Imposition of cess
5 of 1977, s. 2.

23.On the recommendation of the Board the Minister may from time to time, for the purpose of raising money to establish any fund other than the capital fund provided for in section 28 (1), by notice in the Gazette, impose a cess on all pyrethrum delivered to the Board.

Payment of cess
5 of 1977, s. 2

24.The cess imposed under this Act shall be payable by the licensed grower to the Board at the time when the Board takes delivery of his pyrethrum or pyrethrum product and may be recovered by the Board from moneys owing to the grower by the Board in respect of such deliveries, and shall also be a civil debt recoverable summarily.

Issue of loan stock in return for cess
21 of 1966, Sch. 5 of 1977, s. 2.

25.(1) The Board may in its discretion issue one unit of stock to each licensed grower in respect of every amount of twenty shillings paid to it by the licensed grower by way of cess.

(2) Loan stock shall be issued by the Board in units each of the value of twenty shillings.

(3) Where the initial payment of cess is less than twenty shillings or where, after the issuing of loan stock to a licensed grower under this section, an amount of less than twenty shillings is left over, then such initial payment or such sum left over, as the case may be, shall be credited towards the next unit of loan stock to be issued to the licensed grower :

Provided that if any person ceases to be a licensed grower he shall forfeit all his right and interest in respect of any such initial payment or amount left over, as the case may be.

Provisions as to loan stock
5 of 1977, s. 2

26.(1) The Board shall pay to each holder of loan stock interest at a rate to be determined by the Board at the end of each pool year :

Provided that such interest shall not be less than four per centum per annum.

(2) Stock shall be redeemable in such manner as the Board may, with the consent of the Minister, from time to time determine.

(3) The Board shall keep a register of every person to whom stock has been issued, and shall note in the register every transaction, sale, transfer or other dealing relating to or connected with such stock.

Banking account
5 of 1977, s. 2

27.The Board shall open a banking account or banking accounts into which all moneys received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be effected.

Capital and other funds
5 of 1977, s. 2.

28.(1) The Board may establish a capital fund and may establish such other funds as it may deem necessary.

(2) The Board shall pay into its capital fund such sums as the Board may from time to time receive by way of a levy imposed under section 19.

(3) The Board shall pay into its capital fund such sums as the Board may from time to time receive by way of the sale of any of its property, whether movable or immovable, except pyrethrum and pyrethrum products, or on the sale of any investments or other assets of the Board.

(4) The capital fund shall be used for one or more of the following purposes only, that is to say—

(a) placing it or any part thereof in a deposit account in the Board's name with a bank;

(b) the purchase of property, whether movable or immovable, except pyrethrum or pyrethrum products;

(c) the purchase of investments and any other assets;

(d) the repayment of moneys borrowed for the purpose of making any purchase in accordance with paragraph (b) of this subsection;

(e) the redemption of stock.

Power to raise or to borrow money
5 of 1977, s. 2

29.The Board may, after consultation with the Minister, from time to time raise or borrow, whether by way of mortgage, charge, overdraft from 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 performance of its functions and duties.

Power to invest
5 of 1977, s. 2. Cap.167.

30.The Board may, from time to time, and subject to this Act, invest any sums standing to the credit of the Board, whether in any fund established by it or not, in securities or any form of property in which trustees are authorized to invest by the Trustee Act, and in such other securities or property as may be approved for the purpose by the Minister for the time being responsible for finance.

Accounts and audit
5 of 1977. s. 2. 13 of 1988,Sch.

31.(1) The Board shall cause to be kept such books of account and other books in relation thereto and to all its undertakings, funds, activities and property as the Minister may from time to time approve and shall, within a period of four months after the end of the pool 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 approve.

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

(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 necessary for the performance of his duties as auditor, and the expenses of and incidental to the audit shall be paid by the Board.

Annual report and publication thereof
5 of 1977, ss. 2 and 13.

32.(1) The Board shall, within a period of seven months after the end of the pool 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 approve, 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 account as he may have approved, on the table of the National Assembly within fourteen days of the receipt of the reports and statements by him, or, if the National Assembly is not sitting, within fourteen days of the commencement of its next sitting.

Part V – GENERAL

Protection of members, etc., of Boards
5 of 1977, s. 2.

33. No member, officer or agent 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.

Returns
5 of 1977, s. 2.

34.(1) The Board may, by notice in writing, require any licensed grower, or any secretary, manager or other officer of a limited company, association or co-operative society, to render, within a time to be specified in such notice, to the Board a return in the prescribed form giving details of all pyrethrum grown or to be grown and the land and acreage used or to be used in the cultivation thereof.

(2) Any person who, having been required pursuant to subsection (1) to render a return to the Board, fails to do so within the time specified in the notice requiring such return shall be guilty of an offence and liable to a fine not exceeding three hundred shillings.

Winding-up
5 of 1977, s. 14

35.(1) The Minister may, by notice in the Gazette, order the Board to be wound up at any time, and may by the same or any further notice provide for the regulation and procedure of such winding up.

(2) If the Board is wound up, all moneys received on the sale or disposal of its property and assets shall, subject to the prior satisfaction therefrom of any liabilities of the Board, be distributed to the pyrethrum growers licensed at the time of the making of the notice

Provided that the individual entitlement of each licensed grower in such distribution shall be calculated by reference to his aggregate entitlement in the growers' pool for the period of five years immediately preceding the date of the making of the notice, including the year in which the notice is made.

Rules
5 of 1977, s. 15

36.(1) The Minister may, after consultation with the Board, make rules generally for the better carrying out of the purposes and provisions of this Act and for prescribing anything which under this Act may be prescribed.

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

(a) the qualification and disqualification of Board members;

(b) the procedure to be followed at meetings of the Board;

(c) the remuneration of members of the Board;

(d) the forms to be used in making returns;

(e) the rights of stockholders and the procedure for the issue and transfer of stock or loan stock, and other dealings in stock and loan stock;

(f) the control and regulation of schemes for the marketing of pyrethrum and pyrethrum products;

(g) prescribing any fee which may be charged for anything done under this Act or under such rules.

Penalties

37.(1) Any person who is guilty of an offence under this Act or under any rule made thereunder for which no special penalty is provided shall be liable—

(a) for the first offence, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both;

(b) 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) Where any offence under this Act or under any rules made thereunder 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.