

CHAPTER 343 - Tea Act

Commencement Date: 5/9/1961

An act of parliament to make provision for regulating and controlling the production, manufacture and export of tea, and for connected purposes

Part I – PRELIMINARY

Short title

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

Interpretation
9 of 1967, Sch., 13 of 1978, Sch.

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

"Board" means the Tea Board of Kenya established by section 3;

"buyer" means a person, company or firm engaged in buying made tea for resale in the local or export market;

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

"Director" means the Director of Agriculture, and any person authorized by him to carry out the duties of Director under this Act;

"established agency" means Kenya Tea Packers Limited or such other body as the Minister may, by notice in the Gazette, appoint;

"green tea leaf" means leaf detached from tea plants but not dried or processed in any way;

"grower" means any person who is cultivating tea in any area or who intends to plant and cultivate tea in any area;

"licensee" means the holder of a planting licence;

"made tea" means the derivative from green tea leaf through a manufacturing process;

"management agent" means any person, co-operative society, marketing board or company established under any written law, that is appointed through a specific management contract or agreement by another person or company to perform or offer professional services in specific;

"planting licence" means a planting licence issued under section 8;

"producer" means a producer of tea and includes a smallholder or a plantation tea grower or his representative;

"registration" means registration of any person dealing in tea under this Act;

"smallholder" means a grower cultivating tea in a small piece or pieces of land who does not possess his own tea processing factory;

"sun-drying" means the manufacture of green leaf into made tea by using direct heat of the sun;

"tea" means the plant known botanically as *Camellia Sinensis* and includes its seed, tea plants and the leaf, whether on the plant or detached therefrom, and, in the latter case, whether green tea or manufactured tea.

"tea factory" means a factory to process green tea leaf into made tea;

"tea manufacture" means the mechanical or chemical processing and conversion of green tea leaf into made tea or other tea products.

Part II - THE TEA BOARD OF KENYA

Establishment of Board 9 of 1967, Sch.

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

(a) a chairman, who shall be appointed by the Minister either from among the members of the Board or from elsewhere;

(b) the Permanent Secretary in the Ministry for the time being responsible for matters relating to agriculture or a person deputed by him in writing;

(c) the Director of Agriculture or a person deputed by him in writing;

(d) one member nominated by tea trade organisations registered under the provisions of any written law at a meeting of the directors of the organisations convened by the Minister, to represent the interests of the tea trade;

(2) (*Repealed by 6 of 1999*)

(3) The Board may co-opt to serve on it for such length of time as it thinks fit any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Board or be counted as a member for the purpose of forming a quorum.

(4) The Board shall elect a deputy chairman annually from amongst its members.

(5) (*Repealed by 6 of 1999*)

Tenure of office 9 of 1967, Sch.

3A.(1) This section shall apply to the chairman and other members of the Board who are appointed by the Minister.

(2) The appointment of the chairman and every member of the Board to whom the section applies, shall be by name and by notice in the Gazette.

(3) The chairman and the members of the Board to whom this section applies shall hold office for a period of three years but shall be eligible for reappointment.

(4) The chairman and any other member to whom this section applies may at any time, by a notice in writing under his hand addressed to the Minister, resign his office as such.

(5) If the Minister is satisfied that the chairman or any other member to whom this section applies—

(a) has been absent from three consecutive meetings of the Board without the permission of the Board; or

(b) has become bankrupt or made an arrangement with his creditors; or

(c) is incapacitated by physical or mental illness;

(d) has ceased to represent the interests in respect of which he is appointed;

(e) is otherwise unable or unfit to discharge the functions of his office.

the Minister may declare his office as chairman or a member of the Board, as the case may be, to be vacant, and shall notify The fact in such manner as the Minister thinks fit; and there- upon the office shall become vacant.

Powers and functions of board
45 of 1963, s. 9. 6 of 1999

4.(1) It shall be the duty of the Board in 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 tea industry in Kenya.

(1A) 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.

(2) The functions of the Board shall include the carrying on of such activities and the doing of such things as are necessary. advantageous, proper or for the benefit of tea growers and the tea industry, and, in particular, but without prejudice to the generality of the foregoing, shall include—

(a) (*Repealed by*6 of 1999)

(b) the licensing of tea factories;

(c) the regulation, control and improvement of the cultivation and processing of tea;

(d) the control of pests and diseases;

(e) monitoring trade in tea through registration of any person dealing in tea under this Act;

(f) investigation of, research into, and co-ordination of training in all matters relating to the tea industry.

(3) The Board may authorize the Managing Director or any of its members, or any officer employed by it, to exercise on its behalf, at any time when it is not meeting, such of its powers as it may from time to time resolve.

(4) The exercise of powers under subsection (3) shall, unless and so far as the Board may otherwise require, be reported without unreasonable delay to a meeting of the Board.

incorporation of board
9 of 1967. Sch.

5.(1) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of -

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) borrowing or lending money; or

(d) doing or performing all other thing or acts for the furtherance of the provisions of this Act which may lawfully be performed by a body corporate.

(2) The seal of the Board shall be authenticated by the signature of the chairman or one member of the Board, authorized by the Board to act in that behalf, and of the secretary of the Board.

(3) All documents, other those required by the law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman or any member of the Board authorized in that behalf, or the secretary of the Board.

Procedure and meetings of board
9 of 1967, Sch., 7 of 1975, Sch., 13 of 1978.,sch

6.(1) The Board shall meet at such times and places as may be necessary or expedient for the transaction of business and such meetings shall be held at such place and time and on such days as the Board may decide.

(2) The chairman may at any time call a special meeting of the Board, and shall call a special meeting within seven days after a requisition therefor addressed to him by any two members of the Board.

(3) The chairman, or in his absence the deputy chairman, or in the absence of both a member elected by the Board, shall preside at all meetings of the Board, and the deputy chairman or person presiding at any meeting shall with respect to such meeting or any business transacted thereat have all the powers of the chairman under this Act.

(4) The quorum for the conduct of the business of the Board shall be eight members including the chairman or person presiding.

(5) The chairman, deputy chairman or other person presiding at any meeting shall have a casting vote as well a deliberative vote, and subject thereto the decision of the majority of the members present and voting at any meeting of the Board shall be deemed to be the decision of the Board.

(6) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairman, deputy chairman or other person presiding at the next succeeding meeting.

(7) (*Deleted by 9 of 1967, Sch.*)

(8) Subject to this section, the Board shall have power to regulate its own proceedings, and may delegate to any member, committee of members or officer employed by the Board the power and authority to carry out on behalf of the Board such duties as it may determine.

Part III - GROWING OF TEA

Registration of tea growers

8. (1) Every tea grower shall, upon the commencement of this section, register with the tea factory to which he delivers green leaf, by supplying such particulars as the Board may, in regulations, prescribe.

(2) Upon the commencement of this section, every tea grower licensed by the Board or its agent shall be deemed to be a registered tea grower:

Provided that where the particulars supplied to the Board by such grower for purposes of licensing do not meet the requirements of any regulations prescribed under subsection (1), the grower shall comply with such requirements.

(3) Where a person starts growing tea at any time after the commencement of this section, such person shall, within six months register with a tea factory in accordance with subsection (1).

(4) Any change in the particulars supplied by a grower for purposes of registration in accordance with subsection (1) shall be notified to the Board or the tea factory in writing, without undue delay.

(5) The tea factory shall maintain a register for the purposes of this Part and shall record therein the particulars supplied in accordance with this section.

(6) Where the tea factory has reasonable cause to believe that a person whose particulars are so recorded has ceased to be grower, it may, after giving that person written notification by registered post of its intention to do so, remove the name of such person from the register.

(7) The register referred to in subsection (5) shall be *prima facie* proof of the fact that a person is a registered tea grower and the factory shall furnish the Board with particulars of all registered tea growers in such manner as the Board may prescribe.

(8) After the commencement of this section, any grower who carried on business as such without being registered in accordance with this section or knowingly or recklessly supplies false particulars, shall be guilty of an offence.

Application for planting licences

9. Every application to the Board for a planting licence shall be made in writing in the prescribed form:

Provided that the Board may in any particular case require the applicant to supply any further particulars which it may require for the determination of the application.

Planting licence may be cancelled, etc.

10. The Board may, after consultation with the Director, cancel, suspend for any specified period or vary the terms and conditions of any planting licence, whether issued by or on behalf of the Board:

Provided that the Board shall not be required to consult the Director if such cancellation, suspension or variation is made at the request of the licensee holding the licence to which it relates.

Board may require licensee to remove tea planted without licence or in breach of licence

12.(1) If any person is convicted of an offence under section 8, the Board may, by notice in writing, require such person to uproot and remove to such place as the Board may specify any tea so planted, within such reasonable time as the Board may specify in the notice.

(2) If any person fails to comply with any requirement of the Board under subsection (1). any person duly authorized in writing in that behalf by the Board may, upon production of his authority to any person requiring the same, enter upon the land occupied by such person and uproot and remove any tea which the Board required to be uprooted and removed and the Board may recover the cost of so doing as a civil debt from the person so failing to comply.

Uprooting of tea prohibited
6 of 1999

12A.(1) No person shall uproot tea except with the written authority of the Board.

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

Part IV - MANUFACTURE OF TEA

No manufacture of tea without licence

13.(1) No person shall manufacture tea for sale, whether by sun drying or otherwise, except under and in accordance with a licence issued by the board.

(2) The Board may, after consultation with the Minister issue a manufacturing licence, in accordance with and under this Act thinks fit, or may, after such consultation, refuse to issue a manufacturing licence on any ground which may appear to the Board to be sufficient.

(3) The Board may, after consultation with the Minister, cancel, vary or suspend any licence issued under this section, or suspend any such licence in respect of a specified factory only if in the findings.

(4) Every application for a licence under this section shall be made in writing in the prescribed form.

Illegal manufacture, possession, etc
13 of 1978, Sch., 6 of 1979, Sch. Act 4/99

13A.(1) Any person who—

(a) manufactures tea for sale in contravention of section 13;

(b) buys, sells, exposes for sale, transports or has in his possession any tea which to his knowledge or belief—

(i) has been grown, manufactured or dried otherwise than in accordance with this Act;

shall be guilty of an offence and liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding not exceeding ten years, or to both.

(2) Where a person has in his possession or under his control any tea for which he is unable to account to the satisfaction of a person authorized under section 14 or 14A, such tea shall be deemed to have been grown, manufactured or dried otherwise than in accordance with this Act until the contrary is proved.

(3) Where a person is convicted of an offence under this section the court shall order that any tea and any vehicle, vessel or other conveyance in relation to which an 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.

Part V - ENTRY AND INSPECTION

Entry and inspection Act 4/99

14.(1) Any person duly authorized in writing in that behalf by the Board may, at all reasonable times and upon production of such authority to any person so requesting, enter any land or buildings occupied by the holder of a manufacturing licence issued under section 13 or a person registered under this Act and make such inspection and enquiries as he may think fit for ascertaining whether the provisions of this Act, or any regulations made thereunder or the terms and conditions of the respective registration or licence are being complied with and may require any person found thereon to give such information as he may require.

(2) Any person who hinders or obstructs any person duly exercising or attempting to exercise any of the powers conferred by subsection (1) or who fails to give to the best of his ability any information reasonably required of him under that subsection shall be guilty of an offence.

Powers of search and seizure 13 of 1978, Sch.

14A.(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 tea in respect of which an offence under section 13A is being or has been committed, and seize and remove any tea found thereon which he has reasonable cause to believe may provide evidence of that offence:

Provided that, before removing any tea under this paragraph, the person removing it shall furnish the person in whose custody or possession the tea 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 conveyance of tea in respect of which an offence under section 13A 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) (b) 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 tea 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.

Part VI - EXPORT OF TEA

Penalty for exporting manufactured tea without permit

16. Any person who exports manufactured tea in contravention of an order made under subsection (1) of section 15 shall be guilty of an offence.

No export of tea seed or plants without permission

17. Any person who, except with the permission in writing of the Board, exports any tea seed, or any living tea plants, or any living parts of tea plants which are capable of use for the propagation of tea, shall be guilty of an offence.

Part VII - FINANCIAL PROVISIONS

Cess
14 of 1971, Sch

18.(1) The Minister may from time to time, on the recommendation of the Board, by notice in the Gazette, impose either or both of—

(a) a cess on all tea manufactured in Kenya;

(b) Deleted- 6/97

(2) A cess imposed by notice under subsection (1) shall be at such rate, shall be payable to the Board by such persons at such times (being not earlier than one month after the date of publication of the notice) and in such manner, as are specified in the notice, shall be recoverable by the Board as a civil debt due to it from the person by whom it is payable.

Application of moneys of Board
Act 4/99

19. The proceeds of any cess imposed under section 18, and any other moneys accruing to the Board, may be used for all or any of the following purposes—

(a) the remuneration of members of the staff and technical advisers of the Board;

(b) the provision of offices, and of houses for members of the staff of the Board, and of furniture and equipment therefore, as the Board may deem necessary;

(c) the payment of such remuneration, fees, travelling and other expenses and subsistence allowances

to members of the Board on such scale and subject to such conditions as may be approved by the Minister;

- (d) experiments, investigation and research in connexion with the tea industry;
- (e) the collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption;
- (f) the promotion of exhibitions for the display of tea and the processes for manufacture thereof, and matters incidental thereto;
- (g) the establishment of libraries, laboratories, experimental stations, workshops and factories, and the provisions of facilities ancillary thereto;
- (h) advertising the merits of Kenya tea and increasing its sale by efforts to extend existing markets and exploiting new markets, and matters incidental thereto;
- (i) the payment of expenses and other charges incurred by the Board or for which the Board may become liable in the course of its operations;
- (j) making contributions to the finances of the Tea Foundation of Kenya.
- (k) assisting the tea industry of Kenya in such manner as the Board may think fit.

Investment of funds and borrowing powers

20.(1) The Board may, with the approval of the Minister, invest any funds which may from time to time be standing to its credit, and which are not immediately required for any of the purposes specified in section 19, in such investments as the Minister may approve.

(2) The Board may, with the approval of the Minister, raise or borrow sums of money for the purposes of discharging its functions under this Act, and may, for that purpose, mortgage or charge the whole or any part of its property.

Audit of accounts 2 of 1977. s, 46, 12 of 1985, Sch.

21.(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 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 Auditor-General (Corporations), or by such other person as the Minister may appoint, being a person who is the holder of a practising certificate issued pursuant to section 21 of the Accountants Act.

(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; and the expenses of and incidental to the audit shall be paid by the Board.

Report and accounts to be submitted to Minister
L.N.365/1964, 9 of 1967, Sch.

22.(1) The Board shall, within a period of seven 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 may 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 account as he may have required, before the National Assembly within thirty days after receipt of the reports and statements by him, or, if the National Assembly is not then sitting, within fourteen days after the commencement of the next sitting.

Part VIII - GENERAL PROVISIONS

Penalties

23.Every person who is guilty of an offence under this Act in respect of which no penalty is specially provided shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months or to both.

Offences by corporations, societies, etc

24.Where any offence under this Act or under any regulations 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.

Regulations

9 of 1967, Sch., 13 of 1978, Sch .Act 4/97. Act 4/97

25.(1) The Minister may, after consultation with the Board, make regulations for the protection and promotion of the tea industry of Kenya, and generally for the better carrying out of the provisions of this Act.

(2) Regulations made under this section may, without prejudice to the generality of the power conferred by subsection (1), provide for—

(a) prescribing the areas outside which tea may not be planted, and regulating and controlling the variety, the cultural conditions, the method of production and manufacture of tea and the grading of manufactured tea, and providing for the control of pests and diseases (including requiring the treatment or destruction of diseased or infested tea and empowering the Board in default of such treatment or destruction to effect such treatment or destruction and to recover from the person in default the cost of so doing);

- (b) regulating and controlling the methods of blending and packing manufactured tea for sale;
- (c) empowering the Board or the Director to give directions to any planter as to the method of sowing, planting and cultivation of tea and the harvesting, collection, movement, processing and storage of tea leaf, and to delegate the like powers to any servant of the Board or public officer;
- (d) requiring the submission of returns, reports and estimates by the holders of licences and permits under his Act and others;
- (e) prescribing the periods for which licences shall be issued;
- (f) prescribing the fees to be paid for anything to be done under this Act;
- (g) prescribing the forms which may be used under this Act;
- (h) prescribing anything which under this Act may be prescribed;
- (i) requiring the registration or deregistration of buyers, brokers, packers, management agents and any other persons dealing in tea;
- (j) requiring that the rules and regulations of any organization dealing or involved in tea trade do in conformity with the provisions of this Act;
- (k) prescribing the regulations which shall govern the elections of the Board members to represent respective tea areas and interests.

Appeals
Cap. 318.

26. Any person grieved by the refusal of the Board, or of any person having authority in that behalf to issue any licence or permit under this Act, or by the cancellation or suspension of any such licence or permit, or by the terms and conditions subject to which the licence or permit is issued, or by any variation thereof, may, within thirty days after being notified of such refusal, cancellation, suspension, issue or variation, as the case may be, appeal to the Agricultural Appeals Tribunal established by Part XV of the Agriculture Act, and the provisions of that Part shall, *mutatis mutandis*, apply in relation to every such appeal.

LEGAL NOTICE No. 9 THE TEA ACT (Cap. 343)

IMPOSITION OF CESS IN EXERCISE of the powers conferred by section 18 of the Tea Act, the minister for agriculture, on the recommendation of the tea board of Kenya, imposes a cess on all tea manufactured in Kenya at the rate of eighteen shillings per hundred kilograms or part thereof (net weight) of the manufactured tea. The cess shall be payable at the aforesaid rate as from the first day immediately following one month after the publication of this notice in the Gazette and thereupon the rate of cess on manufactured tea fixed by Legal Notice No. 58 of 1985 shall cease to be effective.

Made on the 2nd January, 1990.

MAINA WANJIGI, Minister for Agriculture.