

KASUNGU FLUE-CURED TOBACCO AUTHORITY LICENSING REGULATIONS

under s. 6

G.N. 123/1978

1. Citation and application

These Regulations may be cited as the Special Crops Kasungu Flue-Cured Tobacco Authority Licensing Regulations and shall apply within every Flue-Cured Tobacco Development Area, in relation to every holding within such Area.

2. Interpretation

In these Regulations, unless the context otherwise requires— Cap. 65:01, sub. leg. p. 10

“Authority” means the Kasungu Flue-Cured Tobacco Authority established under the Kasungu Flue-Cured Tobacco Authority Order, hereinafter referred to as the “Order”;

“Flue-Cured Tobacco Development Area” means any area of land described in the Schedule to the Order;

“grower” means the holder of a grower’s licence issued pursuant to subregulation (1) of regulation 4;

“holder” means any person to whom a holding has been allotted by the Authority;

“holding” means any subdivision of any Flue-Cured Tobacco Development Area allotted to any person by the Authority and used or intended to be used by such person for the primary purpose of growing flue-cured tobacco;

“licence” means a grower’s licence issued pursuant to subregulation (1) of regulation 4.

3. Non-application of Cap. 65:01 sub. leg. p. 31

The provisions of the Special Crops (Licensing) Regulations shall not apply in relation to the growing, buying, bartering or selling of flue-cured tobacco by any holder within any Flue-Cured Tobacco Development Area.

4. Grower's licence

(1) The Authority may, on application by any holder, issue to such holder a grower's licence in respect of his holding.

(2) Every application for a grower's licence shall be in Form I set out in the Schedule. Schedule Form I

(3) Every grower's licence shall be in Form II set out in the Schedule. Schedule Form II

5. Conditions of licence

It shall be a condition of every licence that the grower shall—

(a) purchase from the Authority all seeds, fertilizer and stores required from time to time for the growing of flue-cured tobacco on his holding;

(b) during the duration of his licence, except with the consent of the Authority, not sell or otherwise dispose of any draught animal, of any equipment or other goods or materials purchased by him from, or supplied to him by, the Authority under these Regulations;

(c) employ such number of labourers on his holding upon such terms and conditions of service as the Authority may from time to time require and approve;

(d) market solely through the agency of the Authority any flue-cured tobacco grown on his holding;

(e) authorize the Authority to retain all proceeds of sale of such flue-cured tobacco until all such crop is sold and to deduct from such proceeds any amount outstanding and due by him to the Authority pursuant to these Regulations;

(f) conform to such accounting methods and procedure as may from time to time be laid down by the Authority;

(g) accumulate, on deposit with the Authority and in such amounts as the Authority may from time to time deem necessary, a sum of money sufficient to—

(i) provide for periodic contributions towards the fixed and working capital of the Authority, such contributions to be determined from time to time by the Authority in accordance with a rate to be made applicable in common to all growers in any one scheme specified by the Authority;

(ii) provide for the purchase by him, at such price as the Authority may determine, of such draught animals, equipment or other goods as are supplied to him from time to time by the Authority for exclusive use on his holding; and

(h) do or perform, or refrain from doing or performing, all such acts or things as the Authority may, in lawful exercise of any power conferred upon it by the Order, require of him to do or perform or to refrain from doing or performing.

6. Food crops

Any grower may, with the consent of the Authority and subject to such conditions as the Authority may impose, use such portion of his holding as shall be agreed with the Authority for the purpose of growing such food crops as may be necessary for his subsistence and for that of his immediate family living with him.

7. Duration and termination of licence

(1) Subject to subregulations (2) and (3), every licence shall remain in force for the period specified therein and may be renewed from time to time.

(2) If the Authority is satisfied that the licensee under any licence—

(a) is unable to pay his debts to the Authority when due and payable or to pay, when due and payable, any other moneys that he may be lawfully required to pay to the Authority under these Regulations or otherwise;

(b) fails to look after his flue-cured tobacco crop or has, for any reason, become incapable of looking after such crop;

(c) is in breach of any provision of these Regulations or conditions of such licence,

the authority may, by giving to the licensee thirty days written notice thereof, terminate the licence issued to such licensee.

(3) Any licensee may terminate his licence by giving the Authority not less than six months written notice of termination of such licence with effect from the 31st day of July next following the expiry of such notice.

8. Consequences upon termination of a licence

(1) Upon notice of termination of any licence being issued or received by the Authority—

(a) the Authority, unless the Minister otherwise directs, may seize and sell the licensee's flue-cured tobacco crop for the purpose of realizing such sums of money as may be outstanding or owing by the licensee to the Authority under these Regulations;

(b) the licensee shall, if so required by the Authority, refund to the Authority such sum of money as the Authority may require in respect of costs incurred by the Authority in training him as a tobacco farmer, but so, however, that no licensee shall be required to make such refund if his licence was terminated by mutual agreement of the Authority and the licensee or on grounds of the licensee's ill health or mental or physical disability.

(2) Whenever the Authority has exercised the power of sale given to it by paragraph (a) of subregulation (1), the Authority shall, upon termination of the licence, pay to the licensee at such time or times as the Authority may determine—

(a) such balance as may be standing to the credit of the licensee in any account with the Authority;

(b) an amount equivalent to the value, as assessed by the Authority, of all permanent fixtures attached to the holding by such licensee with the consent of the Authority.

9. Licensee's right of appeal

(1) If any licensee is aggrieved by any decision of the Authority or by any act done by the Authority in exercise of its powers pursuant to these Regulations he may, within fourteen days after receipt by him of notice in writing of such decision or of the doing of such act, or within such longer period as the Minister may allow, appeal to the Minister by notice in writing stating the subject matter and grounds of such appeal.

(2) Upon receipt of any notice of appeal pursuant to subregulation (1), the Minister shall consider the appeal and may allow or dismiss it or make such other ruling thereon as he considers appropriate.

(3) For the purposes of the consideration of any such appeal the Minister may call upon the licensee or the Authority to adduce such further or other evidence on the matter, as he considers necessary to enable him to determine the appeal.

10. Duplicate licences

(1) Where the Authority is satisfied that any licence has been lost, stolen, defaced or destroyed it may cancel such licence and issue to the licensee thereunder a duplicate licence in its stead.

(2) Every duplicate licence issued pursuant to subregulation (1) shall bear the words "Duplicate Licence" conspicuously printed or written thereon and shall be so issued on payment of a fee of one Kwacha.

11. Register

The Authority shall keep a register of all applications received under these Regulations and shall retain a true copy of each licence and duplicate licence issued and such register and copy licences shall be kept at the principal office of the Authority in Malawi and may be inspected—

- (a) by any public officer acting in the course of his official duties;
- (b) by any licensee, solely in respect of his licence; and
- (c) by any applicant, solely in respect of his application.

12. Right of entry

For the purposes of ascertaining that these Regulations are being complied with, any person duly authorized in writing in that behalf by the Minister or by the Authority may enter upon any land, building, vehicle, aircraft or vessel within any Flue-Cured Tobacco Development Area where any flue-cured tobacco is, or is reasonably believed to be, grown, purchased, sold, stored or transported.

13. Licences to be available for inspection

Every licence shall, on the demand of any person duly authorized in that behalf by the Minister or by the Authority, be produced by the holder thereof for inspection by such authorized person for any of the purposes of these Regulations.

14. Offences

(1) Any person who—

- (a) in any application made under these Regulations, knowingly or recklessly, makes any statement which is false or misleading in any material fact;
- (b) not being duly authorized in that behalf, alters any licence or any particular shown thereon;
- (c) wrongfully purports to lend, transfer or assign any licence issued to him or to any other person; or
- (d) without reasonable cause or excuse, fails or refuses to comply with any demand lawfully made upon him pursuant to regulation 13,

shall be guilty of an offence.

(2) Any person who is guilty of an offence under subregulation (1) shall—

- (a) in the case of a first offence, be liable to a fine of forty Kwacha or to imprisonment for a term of one month; and
- (b) in the case of any second or subsequent offence, be liable to a fine of one hundred Kwacha or to imprisonment for a term of three months.

SCHEDULE

FORM I

FORM OF APPLICATION FOR A GROWER'S LICENCE

SPECIAL CROPS ACT reg. 4 (2)

SPECIAL CROPS (KASUNGU FLUE-CURED TOBACCO AUTHORITY) LICENSING REGULATIONS

APPLICATION FOR A GROWER'S LICENCE

NOTE: This application may be made only by persons who have been licensed to occupy a holding in a Flue-Cured Tobacco Development Area, and must be submitted, in duplicate, to the Chairman, Kasungu Flue-Cured Tobacco Authority, Private Bag 12, Lilongwe.

I (name in full):

.....

of (postal address):

..... and (home village

address, if any):

.....

Village: Chief District having been licensed to occupy Holding No. situate at Scheme in the Flue-Cured Tobacco Development Area, hereby apply for a grower's licence in respect of the flue-cured tobacco season 20/ 20 under which licence I intend to grow

hectares of flue-cured tobacco.

I hereby confirm that I am not the holder of any other licence to grow tobacco of any kind for the tobacco growing season

20/ 20 and I further undertake not to apply for any such licence.

Date

Signature of applicant or his duly

authorized agent

FORM II

SPECIAL CROPS ACT reg. 4 (3)

CAP. 65:01

SPECIAL CROPS (KASUNGU FLUE-CURED TOBACCO AUTHORITY) LICENSING REGULATIONS

GROWER'S LICENCE

Licence Number:

Name of grower (in full):

Address of grower—

(a) Postal address:

.....

.....

(b) Home village address:

Village:

Chief:

District:

Holding No.: or Farm

Block No.: Management Section

Scheme:

The said (name of grower)

having been licensed to occupy Holding No.in the

(name of area) Flue-Cured Tobacco

Area, is hereby licensed to grow approximately hectares of flue-cured tobacco on such holding during the growing season ending on 31st July, 20 subject to the provisions of the Special Crops (Kasungu Flue-Cured Tobacco Authority) Licensing Regulations. Issued by the Authority this day of, 20

Signed:

for and on behalf of the Authority

RENEWALS

Renewed for a further flue-cured tobacco growing season—

(1) 20 / 20

Signed

for and on behalf of the Authority

Date:

(2) 20 / 20

Signed

for and on behalf of the Authority

Date:

(3) 20 / 20

Signed

for and on behalf of the Authority

Date: