

SMALLHOLDER SUGAR AUTHORITY ORDER

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SMALLHOLDER SUGAR AUTHORITY ORDER

under s. 4

G.N. 30/1978

PART I

PRELIMINARY

1. Citation

This Order may be cited as the Smallholder Sugar Authority Order.

2. Interpretation

In this Order, unless the context otherwise requires—

“Authority” means the Smallholder Sugar Authority established under paragraph 4;

“holding” means the sub-division of the settlement area allocated to a smallholder;

“licence to grow and sell” means a certificate to grow and sell sugar-cane on lands held under a sublease from the Dwangwa Sugar Corporation Limited to the Authority and allocated to a smallholder;

“Management” means the Managing Agents or the Project Manager appointed under paragraph 8;

“Managing Agents” mean the body corporate, firm or any organization employed by the Authority from time to time under paragraph 10 (1);

“settlement area” means the lands held under a sublease from the Dwangwa Sugar Corporation Limited to the Smallholder Sugar Authority and allocated to smallholders,

“smallholder” means a person who has been granted a right of occupancy or a tenancy under the Special Crops (Sugar-cane) (Licensing) Regulations;

“training farms” mean estates run by the Management for training selected persons for up to two years prior to their becoming smallholders;

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

Save as is otherwise expressly provided by this Order, the provisions of the Special Crops (Licensing) Regulations shall not apply to smallholders licensed to grow sugar-cane on lands held under a sublease from the Dwangwa Sugar Corporation Limited to the Authority.

PART II

THE AUTHORITY

4. Establishment of Authority

There is hereby established an Authority to be known as the Smallholder Sugar Authority for promoting and fostering the development of sugar-cane grown by smallholders in such areas as the Minister shall declare.

5. Composition

(1) The Minister shall, by notice published in the Gazette, appoint the members of the Authority other than the ex officio members.

(2) The Authority shall consist of—

- (a) one member designated as Chairman by the Minister;
- (b) one member designated as Vice-Chairman by the Minister;
- (c) the Secretary for Agriculture and Natural Resources, ex officio;
- (d) the Secretary to the Treasury, ex officio;
- (e) two members representing the Dwangwa Sugar Corporation Limited, nominated by the said Corporation;

(f) one member representing the Commonwealth Development Corporation, nominated by the said Corporation;

(g) one member representing the smallholders, appointed from a panel of three individuals nominated by the said small-holders;

(h) two ordinary members;

(i) the Project Manager.

(3) Any of the following members may appoint any person to be his alternate at any meeting of the Authority by causing a letter of appointment signed by him to be delivered to the Chairman before or at that meeting—

(a) the holder of any of the public offices specified in subparagraph (1);

(b) the representatives of the Dwangwa Sugar Corporation Limited and the Commonwealth Development Corporation.

6. Tenure of office of members

(1) Members of the Authority, other than ex officio members, shall, subject to this paragraph, hold office for such period, being not less than three years, as may be specified in their respective instruments of appointment.

(2) Ex officio Members of the Authority shall hold office as such so long as they hold the public offices by virtue of which they are members pursuant to paragraph 5.

(3) The office of a member, other than an ex officio member, shall be vacated—

(a) upon the expiry of the period specified in his instrument of appointment;

(b) upon his death;

(c) if he is adjudged bankrupt;

(d) if he is sentenced for an offence against any written law to a term of imprisonment of, or exceeding, six months, otherwise than as an alternative to, or in default of, the payment of a fine;

(e) if he is convicted of an offence involving fraud or dishonesty;

(f) in the case of a member other than the Chairman, if he is absent, without the permission of the Chairman, from three successive meetings of the Authority of which he has notice;

(g) upon the expiry of one month's notice in writing of his intention to resign his said office given by him to the Minister;

(h) upon his being given notice by the Minister of the termination of his appointment;

(i) if, in the opinion of the Minister, he becomes, by reason of mental or physical infirmity, incapable of performing his duties as a member of the Authority;

(j) if the Minister, or the authority by which he is nominated, is satisfied that the private interests of the member conflict or are liable to conflict with his duties as a member and that consequently it is inexpedient for him to continue to hold office as a member.

(4) Upon the expiry of the period for which a member of the Authority, who is not a member ex officio, is appointed he shall continue to hold office until his successor has been appointed, but in no case shall such further period exceed three months.

(5) A retiring appointed member shall be eligible for re-appointment if not disqualified under subparagraph (3).

(6) Where the office of any member of the Authority appointed under paragraphs 5 (2) (e), 5 (2) (g) or 5 (2) (h) is vacated pursuant to subparagraph (3), the Minister shall require the relevant body to submit to him a panel of three names for the purposes of appointment of a new member.

7. Meetings of the Authority

(1) The Authority may meet at such places and times as the Chairman may determine.

(2) Meetings of the Authority shall be convened by at least fourteen days' notice thereof in writing being given to the members by the Chairman.

(3) The Chairman shall preside at meetings of the Authority or, in his absence from any meeting, the Vice-Chairman, who, for the purposes of that meeting, shall exercise all of the powers and perform all of the duties of the Chairman.

(4) The Chairman or, in his absence, the Vice-Chairman together with four other members shall form a quorum:

Provided that a quorum shall not be constituted unless the Secretary for Agriculture and Natural Resources and the Secretary to the Treasury or their respective alternates are present.

(5) For the purposes of this paragraph, an alternate shall be deemed to be a member for the purposes of forming a quorum.

8. Project Manager

(1) The Authority shall appoint a Project Manager and such other staff as it deems meet.

(2) The terms and conditions of service of persons employed by the Authority shall be determined by the Authority subject to the general or special directions of the Minister.

(3) The power to dismiss, discipline and control persons in the employment of the Authority shall be vested in the Authority, subject to a right of appeal to the Minister in the case of senior staff of the rank of technical officer or its equivalent and above:

Provided that where the Authority has appointed Managing Agents under paragraph 10 (1), such Managing Agents shall, with the approval of the Authority, determine the terms and conditions of service of persons so employed and exercise the powers to dismiss, discipline and control any such persons subject to a right of appeal to the Minister in the case of senior staff of the rank of technical officer or its equivalent and above.

9. Local Committees

(1) The Authority may establish local committees for specified areas to advise on any problems arising between the smallholders and the management in that area.

(2) Any local committee established under subparagraph (1) shall consist of—

- (a) the Project Manager;
- (b) a representative of the smallholders appointed by the Minister;
- (c) a chief appointed by the Minister; and
- (d) a Member of Parliament for that area.

PART III

POWERS AND OBJECTS OF THE AUTHORITY

10. Powers of the Authority

The Authority shall have the following powers—

(1) to employ Managing Agents for the implementation of any scheme or for the performance of any function of the Authority under this Order, on such terms as may be agreed with the approval of the Minister;

(2) subject to the Finance and Audit Act to raise moneys by way of loan or bank overdraft;

(3) to invest and deal with any of its moneys not immediately required in securities, and, in such manner as it may think fit, to vary or realize such investments;

(4) to purchase, take on lease or in exchange, hire, or otherwise acquire any real or personal, moveable or immoveable property, and any rights or privileges in or over any such property, which it considers necessary for the purpose of performing its functions;

(5) to give credit to smallholders for financing any crops grown in the settlement area and to deduct amounts in respect of capital contributions or to make provisions for taxation on trading profit

and any outstanding debts incurred by the smallholders from any moneys payable to such smallholders from time to time under this Order;

(6) to levy appropriate charges, at rates approved by the Minister, for the provision of irrigation water, management and accounting expenses, the amortisation of the capital cost of the scheme and such other services as are provided under the direction of the Minister;

(7) to operate accounts for smallholders in respect of any transactions made under the Order on which interest may be paid or charged;

(8) to arrange for the sale of sugar-cane to the factory or to make such arrangements through the Managing Agents, as the case may be;

(9) to receive the proceeds of sale of the sugar-cane from the factory on behalf of the smallholders in accordance with such agreement as may, from time to time, be in force;

(10) to make regulations, with the prior approval of the Minister—

(a) to control the relationship between the smallholders and the management;

(b) to do all things incidental or conducive to the performance of its powers or functions under this Order.

11. Functions of the Authority

The Authority shall have the following functions—

(1) to prepare and carry out sugar development schemes including—

(a) the establishment of training farms;

(b) the provision of a central agricultural machinery and transport pool for hire to smallholders;

(c) the provision of a central purchasing and selling agency for use by the smallholders;

(d) the provision of a central accounting agency for the benefit of the smallholders;

(e) the development of new farms for smallholders;

(f) the provision of an estate management service and of a cane cutting service for the benefit of smallholders; and

(g) the provision of any other essential service;

(2) to deduct from any moneys payable to a smallholder from time to time under this Order such amount or amounts in respect of any levies or fees for services or materials, rendered or provided,

as the case may be, capital contributions and provisions for taxation on the trading profit, or, for any other expense incurred by the Authority on behalf of any such smallholder.

PART IV

FINANCIAL PROVISIONS

12. Funds of the Authority

The funds of the Authority shall consist of—

(a) such sums as may be payable to the Authority from moneys appropriated by Parliament for the purpose;

(b) such moneys or other assets as may accrue to or vest in the Authority whether in the course of the exercise of its functions or powers, or otherwise;

(c) such moneys or other assets as may accrue to or vest in the Authority by way of grants, subsidies, bequests, donations, gifts, subscriptions, rents, interest or royalties, from the Government or any other person;

(d) such sums as are derived from the sale of any property, real or personal, by or on behalf of the Authority;

(e) such moneys or other assets as may be donated to the Authority by any foreign government, international agency or other overseas body.

13. Books, accounts, audit and reports

(1) The Authority shall cause to be kept proper books of account and other books in relation thereto.

(2) The accounts of the Authority shall be audited annually by professional auditors appointed by the Authority with the approval of the Minister. The expenses of the audit and incidental thereto shall be paid from the funds of the Authority.

(3) The Authority shall, as soon as is practicable, but not later than six months after the end of each financial year, submit to the Minister an annual report upon its work and operations.

(4) Such report shall include a balance sheet, an income and expenditure account and the annual report of the auditors, and shall be laid by the Minister before the National Assembly pursuant to section 32F of the Finance and Audit Act. Cap. 37:01

14. Allowances

(1) Any member of the Authority who is not an officer in the public service shall be paid by the Authority such remuneration and allowances, if any, as the Minister may in his case determine.

(2) Any member of the Authority who is an officer in the public service shall be paid from the funds of the Authority allowances at the appropriate relevant rate payable in accordance with the Malawi Public Service Commission Regulations:

Provided that such member shall not be paid any allowances from the funds of the Authority if he has been paid such allowances from public funds.

15. Fees for services

Fees for services rendered for which a charge is levied, shall be deducted from moneys due and payable to smallholders under this Order and any such deductions shall be made in such manner as the Authority deems fit

PART V

MISCELLANEOUS

16. Common seal

(1) The common seal of the Authority shall not be affixed to any instrument except in pursuance of a resolution of the majority of the members of the Authority present at any meeting.

(2) The common seal shall be affixed—

(a) in the presence of the Chairman and Project Manager; or

(b) in the presence of the Chairman or the Project Manager together with one duly authorized member of the Authority.

(3) Every instrument to which such seal is affixed shall be signed by the two persons in whose presence the seal is so affixed.

(4) Where no Project Manager has been appointed, the Chairman may appoint two members in whose presence the common seal may be affixed to any instrument, and such instrument shall be signed by both such members.

SPECIAL CROPS (LICENSING) REGULATIONS

under s. 6

G.N. 211/1963

212/1965

118/1985

6/1986