



MINISTRY OF AGRICULTURE AND LIVESTOCK

Statutory functions and compositions of Government Portfolio

Subjects

- Agriculture Credit
- Agriculture Development
- Agriculture Marketing Policy
- Agriculture Research and Specialist Services
- Agriculture Veterinary and Fisheries Training
- Agriculture and Co-operative Policy
- Agriculture Extension
- Animal Health
- Animal Identification
- Co-operatives development
- Dairy Industry Development
- Field Services
- Fisheries Management and Development
- Food Security
- Irrigation Development
- Livestock Development
- Seeds, Standards and Grades
- Veterinary and Tsetse Control Services

Statutory Bodies/Institutions

- Agriculture Colleges and Training Institutions
- Animal Disease Control Fund
- Cotton Board
- Credit Unions Savings Associations
- Dairy Industry Development Board
- Food Reserve Agency
- Nitrogen Chemicals of Zambia
- Plant Quarantine and Phytosanitary Services
- Seed Control and Certification Institute
- Tobacco Board of Zambia
- Warehouse Licensing Authority
- Zambia Agriculture Research Institute
- Zambia Coffee Board

Legislation

 [Click to view Legislation](#)

Agriculture Credits	Act No. 35 of 2010	Fisheries	Act No. 22 of 2011
Agriculture (Fertilizers and Feed)	Cap. 226	Noxious Weeds	Cap. 231
Agriculture Products Levy	Cap. 232	Pig Industry	Cap. 251
Agriculture Statistics	Cap. 229	Plant Breeder's Rights	Act No. 18 of 2007
Animal Identification	Act No. 27 of 2010	Plants, Pests and Diseases	Cap. 233
Coffee	Cap. 228	Plant Variety Seeds	Cap. 236
Co-operative Societies	Act No. 20 of 1998	Prevention of Cruelty to Animals	Cap. 245
Control of Dogs	Cap. 247	Tobacco Levy	Cap. 238
Cotton	Act No. 21 of 2005	Tobacco	Cap. 237
Dairy Industry Development	Act No. 22 of 2010	Veterinary and Veterinary Para-Professionals	Act No. 45 of 2010
Dairy Produce Marketing and Levy	Cap. 234		
Extermination of Mosquitoes	Cap. 312		
Fencing	Cap. 190		



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REPUBLIC OF ZAMBIA

THE AGRICULTURAL CREDITS ACT

CHAPTER 224 OF THE LAWS OF ZAMBIA

CHAPTER 224 THE AGRICULTURAL CREDITS ACTCHAPTER 224

THE AGRICULTURAL CREDITS ACT

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CHAPTER 224

*Act No.
23 of 1995*

AGRICULTURAL CREDITS

An act to facilitate the borrowing of money on the security of charges created upon farming stock, additional assets or other agricultural assets; to provide for the registration of such charges; and to provide for matters incidental to or connected with the foregoing.

[13th September, 1995]

PART I

PRELIMINARY

1. This Act may be cited as the Agricultural Credits Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"additional assets" means any tangible assets, excluding land, that belong to a farmer, trader or related business, pertaining directly or indirectly to agricultural production, processing or trade, all accounts receivable, chattel paper, warehouse receipts, both negotiable and non-negotiable, promissory notes and includes savings accounts on deposit with any bank, credit union, savings institution or other similar organisation;

"agricultural charge" means a charge, lien or assignment created under section *three*;

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"agricultural commodity" means anything derived directly or indirectly from cultivation;

"cultivation" means crop production, animal husbandry, game ranching, aquaculture, horticulture or forestry;

"farmer" means any person who, as owner or tenant of land uses such land for cultivation, whether for profit or subsistence;

"farming stock" means all agricultural commodities, whether future growing or severed from the land, and after severance whether subjected to any treatment or manufacture and includes-

- (a) livestock, poultry and bees, and the produce and progeny thereof;
- (b) wild animals in captivity;
- (c) fish stocks;
- (d) timber both standing or cut;
- (e) seeds and manures;
- (f) fertilisers, insecticides, oils, and fuels;
- (g) agricultural vehicles, trucks and truck spares, machinery, and other plant; or
- (h) any agricultural fixture that a tenant, or any person legally occupying land, may by law be authorised to remove;

"holder" means a person in whose favour an agricultural charge is created, and includes the executors, administrators and assignees of that person;

"other agricultural assets" means any right of a tenant, including any right to compensation for improvements;

"Registrar" means the Registrar of Agricultural Charges or any person appointed to perform the functions of Registrar;

"related business" means an individual, a company, a cooperative, a partnership, an association and any group of persons acting in concert, whether or not incorporated, who or which, as the case may be, gives loans to farmers for the purchase of inputs or other items required for cultivation;

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"trader" means any person who, as a broker, dealer, or otherwise, acquires from a farmer or any other person, through purchase or otherwise, for the purpose of resale, or processing, any agricultural commodity.

PART II

AGRICULTURAL CHARGES

3. (1) An agricultural charge may be fixed or floating, or both.

Agricultural charges on
farming stock and assets

(2) An agricultural charge may be in form and made upon such conditions as the parties to the charge may agree; and any surety may be made a party to the charge.

(3) A farmer, may, individually or in association, create in favour of any person a charge on any farming stock, additional asset or other agricultural asset security for-

- (a) inputs or other items required for cultivation;
- (b) sums advanced or to be advanced to the farmer; or
- (c) sums paid or to be paid on the farmer's behalf under any guarantee;

and such security may also cover interest, commission and charges thereon.

(4) Notwithstanding any other provision of this Act, a related business or a trader may create in favour of any person an agricultural charge on all or any portion of the agricultural commodities the related business or trader purchases or intends to purchase from a farmer; and such security may also charge interest, commission and charges thereon.

(5) The property affected by a fixed charge shall be such property forming part of the farming stock, additional assets, or other agricultural assets, and belonging to the farmer, trader or related business at the date of the charge and as may be specified in the charge.

(6) The principal sum secured by an agricultural charge may be-

- (a) a specific amount advanced in one sum or in instalments; or

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- (b) a fluctuating amount advanced on a current account not exceeding at any one time such amount, if any, as may be specified in the charge:

Provided that any charge for securing a current account or any further advances shall continue to be effective against the farmer, trader or related business and against the holder of any subsequent interest in the agricultural commodities charged, notwithstanding the fluctuation or temporary extinction of the indebtedness and notwithstanding that the lender may have had notice of the subsequent interest.

4. (1) A fixed charge shall confer on the holder the following rights:

Effect of fixed charge

- (a) a right, upon the happening of any event specified in the charge as being an event authorising the seizure of property subject to the charge to take possession of any property so subject; and
- (b) where possession of any property has been taken, a right, after an interval of fourteen days or such shorter period as may be specified by the charge, to sell the property.

(2) Where a holder exercises the power of sale under paragraph (b) of subsection (1), the holder shall apply the proceeds of sale in or towards the discharge of the moneys and liabilities secured by the fixed charge, and the costs of seizure and sale, and to pay the surplus, if any, of the proceeds to the farmer.

- (3) A fixed charge shall impose on the farmer, trader or related business, the following obligations:

- (a) an obligation whenever the farmer, trader or related business sells any of the property, or receives any money in respect of any asset, comprised in the charge, forthwith to pay to the holder the amount of the proceeds of the sale or the money so received, except to such extent as the charge otherwise provides or the holder otherwise allows, and any sum so paid shall be applied, except so far as otherwise agreed by the holder, in or towards the discharge of moneys and liabilities secured by the charge:

Provided that if the holder is a related business, the farmer or trader shall not sell, except as provided under this section, the commodity for which he received loans or advances of inputs or other items required for cultivation but shall deliver to the holder the agricultural commodity in the amount agreed in the charge;

- (b) an obligation, in the event of the farmer, trader or related business receiving any money under any policy of insurance on any of the property comprised in the charge, forthwith to pay the amount of the sum so received to the holder, except to such extent as the charge otherwise provides or the holder otherwise allows, and any sum so paid shall be applied, except so far as is otherwise agreed by the holder, in or towards the discharge of moneys and liabilities secured by the charge.

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(4) Where any money is due to a farmer, trader or related business, as the case may be, under any policy of insurance on any of the property comprised in a fixed charge, the insurer may, notwithstanding anything contained in the insurance policy, pay such money to the holder of the charge to the extent of the said charge, and any such payment shall be a valid discharge of the liability of the insurer to the farmer, trader or related business, as the case may be, to the extent of the amount so paid, and the provisions of paragraph (b) of subsection (2) shall apply to the amount so paid as if it had been paid to the holder by the farmer, trader or related business, as the case may be.

(5) Subject to compliance with the obligations imposed by subsection (3) a fixed charge shall not prevent the farmer, related business or trader selling any of the property subject to the charge.

(6) Where the proceeds of a sale made under subsection (2), are paid to any person other than a person contemplated by or under that subsection, the holder shall have a right to recover the proceeds from such person if the holder proves that such person knew that the proceeds were paid to him in breach of the farmer's, related business's or trader's obligations.

5. An agricultural charge creating a floating charge shall have the like effect as if the charge had been created by a registered debenture issued by a company: Effect of floating charge

Provided that-

- (a) the charge shall become a fixed charge on the property upon-
- (i) a receiving order in bankruptcy being made against the farmer, trader or related business;
 - (ii) the death of the farmer or trader;
 - (iii) the dissolution of partnership in the case where the property charged is partnership property; or
 - (iv) notice in writing to that effect being given by the holder on the happening of any event which, by virtue of the charge, confers upon the holder the right to give such notice; and
- (b) the farmer, trader or related business, while the agricultural charge remains a floating charge, shall be subject to the like obligation as in the case of a fixed charge to pay over to the holder the amount received by him by way of proceeds of sale, in respect of other agricultural assets or additional assets under policies of insurance, or by way of compensation:

Provided that it shall not be necessary for farmer, trader or related business to comply with such obligations if and so far as the amount so received is expended in the purchase of farming stock which, on purchase, becomes subject to the charge.

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6. (1) Notwithstanding sections *three, four and five*, any farmer, trader or related business shall, when selling or causing to be sold, any farming stock or additional asset which is subject to an agricultural charge, give to the person buying, or the person effecting the sale of, the farming stock or additional asset, before payment of the purchase price, a written notice which shall be acknowledged by the purchasers or the person effecting the sale signing the original and a copy of the notice, containing the following information:

Notice of agricultural charge

- (a) the name and address of all persons holding an agricultural charge over the farming stock or additional assets to be sold;
- (b) the priority of the agricultural charges; and
- (c) the amount secured by each agricultural charge.

(2) When a farmer, trader or related business gives written notice to any person under subsection (1), the written notice shall constitute written notice, in respect of any subsequent sale of any agricultural commodity which is the subject of the charge, given to that person within a period of twelve months from the date of the written notice:

Provided that the farmer, trader or related business, before making, or causing to be made, any subsequent sale, shall notify that person of any agricultural charge, which affects the agricultural commodity, created by the farmer, trader or related business after the date of the written notice; and such notice shall state the name and address of the holder of the charge, the priority of the charge and the amount secured by the charge.

(3) A notice given under the proviso to subsection (2) shall, for the purposes of this section, be treated as forming part of the written notice given under subsection (1) by the farmer, trader or related business to the buyer or person effecting a sale on behalf of the farmer, trader or related business, as the case may be.

(4) Any person who receives a written notice under subsection (1) shall pay the proceeds of the sale to the holders of the agricultural charges in accordance with the written notice and having regard to the priority and amounts stated in the written notice and shall pay the surplus, if any, remaining after making the payments, to the farmer, trader or related business.

(5) Any person who contravenes subsection (4) shall be guilty of an offence and shall be liable, on conviction, to the full value of the agricultural charge as specified in the notice.

(6) Any moneys paid out in accordance with subsection (4) shall reduce the liability of the farmer, trader or related business under the agricultural charges created by the farmer, trader or related business, in order of their priority, and the amount of each agricultural charge shall be reduced by the amount so paid.

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(7) Any payment made in accordance with subsection (4) shall discharge the buyer or person effecting the sale on behalf of the farmer, trader, or related business, as the case may be, from any claim, howsoever arising, in respect of the proceeds of the sale.

(8) Any farmer, trader or related business who fails to give written notice in accordance with this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten per cent of the outstanding loan.

7. (1) An agricultural charge shall have effect notwithstanding anything contained in the Bills of Sale Acts, 1878 and 1882, of the United Kingdom; and an agricultural charge shall not be deemed to be a bill of sale within the meaning of those Acts.

Supplementary provisions
as to agricultural charges

(2) Agricultural charges shall, in relation to one another, have priority in accordance with the times at which they are respectively registered under this Act:

Provided that any agricultural charge created solely to secure the payment of insurance premiums upon farming stock shall have priority over any other agricultural charge not created for such purpose.

(3) When an agricultural charge creating a floating charge has been created, an agricultural charge purporting to create a fixed charge on any of the property comprised in the floating charge shall, as respects the property subject to such floating charge, be of no effect so long as the floating charge remains in force.

(4) After the commencement of this Act, where a farmer, trader or related business mortgages interest in land, and such farmer, trader or related business creates an agricultural charge which includes growing crops, the rights of the holder under such charge shall have priority over those of the mortgagee, whether in possession or not, and irrespective of the dates of the mortgage and the charge.

(5) Farming stock which is subject to an agricultural charge shall not, for the purpose of the Bankruptcy Act, be considered as deemed to be goods in the possession, order or disposition of the farmer, trader or related business in his trade or business, by the consent and permission of the true owner thereof, under such circumstances that he is the reputed owner thereof.

Cap. 82

(6) An agricultural charge shall not protect property which, but for such charge, would have been liable to distress for rent or rates.

8. (1) Every agricultural charge shall be registered within thirty days after its execution and if not so registered, shall be void as against any person other than the farmer:

Registration of agricultural
charges

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Provided that the Registrar may, in proof that omission to register within such time as aforesaid was accidental or due to inadvertence, extend the time for registration on such terms as he thinks fit.

(2) An agricultural charge shall be effected by sending by post or delivering to the Registrar's office located in the district, or, where no such office exists, to such other office as the Minister shall, by statutory notice, specify, a memorandum of the instrument creating the charge and such particulars of the charge as may be prescribed, together with the prescribed fee; and upon receipt thereof the Registrar shall enter the particulars in the register and file the memorandum.

(3) The register kept and the memoranda filed under this section shall, at all reasonable times, be open to inspection by any person on payment of the prescribed fee, and any person inspecting the register or any memorandum may, on payment of the prescribed fee, make copies or extracts therefrom.

(4) Any person may, on payment of the prescribed fee, require to be furnished with a copy of any entry in the register or memorandum certified to be a true copy by the Registrar.

(5) Registration of an agricultural charge may be proved by the production of a certified copy of the entry in the register relating to the charge, and a copy of any such entry purporting to be certified as a true copy by the Registrar shall, in all legal proceedings, be evidence of the matters stated therein without proof of the signature or authority of the person signing it unless the contrary is proved.

(6) The Registrar shall not be liable to any action or proceeding for or in respect of any act or matter done or omitted to be done, in good faith, in the exercise or purported exercise of the powers conferred on the Registrar under this Act.

(7) Any person aggrieved by any decision of the Registrar may appeal to the High Court within thirty days of such decision.

(8) Registration of an agricultural charge under this section shall, from the date of registration, be deemed to constitute actual notice of the charge and of the fact of such registration to all persons and for all purposes connected with the property comprised in the charge:

Provided that-

- (a) where an agricultural charge is expressly made for securing a current account or further advances, the holder, in relation to making further advances under the charge, shall not be deemed to have notice of another agricultural charge by reason only that it is so registered if it was not so registered at the time when the first-mentioned charge was created or when the last search, if any, by or on behalf of the holder was made, whichever was the later;

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(b) registration shall not be deemed to constitute actual notice to a purchaser for the purposes of section six.

(9) The Minister may, by statutory notice, exempt any person from the payment of any fee required under this section.

9. (1) Except as otherwise provided under this Act, a person shall not print for publication or publish any list of agricultural charges or of the name of any farmer, trader or related business who have created agricultural charges.

Restriction on publication of agricultural charges

(2) A person who contravenes the provisions of sub-section (1), shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one thousand penalty units.

(3) A prosecution for an offence under this section shall not be commenced without the consent of the Director of Public Prosecutions.

10. (1) Any farmer, trader or related business who has created an agricultural charge and who, with intent to defraud-

Frauds

(a) fails to comply with the obligations imposed by this Act as to the payment to the holder of any sums received by the farmer, trader or related business by way of proceeds of sale, or in respect of other agricultural assets, or under a policy of insurance or by way of compensation; or

(b) removes or suffers to be removed any property subject to the charge;

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(2) Where any related business, with intent to defraud, misrepresents its rights and obligations under this Act or in any way deprives a farmer of his rights under this Act, the directors and managers of the business committing such violation shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three years, or to both, unless they show that the offence was committed without their knowledge or consent.

PART III

VALIDITY OF CONTRACTS FOR ADVANCES ON INPUTS AND OTHER ITEMS

11. (1) A contract for the advancement to a farmer of inputs or other items required for cultivation shall state-

Validity of contracts

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- (a) the value of the inputs or other items at the time the inputs or items are advanced to the farmer;
- (b) the interest rate to be charged, expressed at an annual percentage rate; and
- (c) any charges, fees or penalties the farmer will be required to pay if the farmer does not pay or deliver the produce at the price agreed on, as stipulated in the contract, unless subsection (1) of section *six* applies.

(2) Any trader or related business advancing any inputs or other items required for cultivation shall furnish the farmer, at the time each input or item is advanced, a written statement showing the value and cost to the farmer of the input or item, the interest rate, and any charges, fees or penalties, as provided under this section.

(3) Direct or indirect compounding of interest shall not be allowed as part of the contract specified under subsection (1).

(4) Notwithstanding any other law, any person who advances inputs or other items required for cultivation to a farmer and fails to fully disclose to the farmer the cost of the input or item, the interest to be paid by the farmer, and any charges, fees or penalties, as required under this section shall be ineligible to register, under this Act, a charge created by the farmer on the basis of an agreement or contract, and such charge shall be void.

12. Any person who advances inputs or other items required for cultivation to a farmer and fails to fully disclose to the farmer the cost of any input or item, the interest to be paid by the farmer, and any charges, fees or penalties, as required under section *eleven*, shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one thousand penalty units.

Failing to make full disclosure of cost of inputs or other items and interest; etc.

PART IV

GENERAL

13. The Arbitration Act shall apply to the settlement of any dispute arising as a result of the interpretation or application of the provisions of this Act.

Arbitration
Cap. 41

Arbitration



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14. The Minister may, by statutory instrument, make regulations prescribing anything which under this Act is required or permitted to be prescribed, and, without prejudice to the generality of the foregoing may make regulations prescribing-

Regulations

- (a) the manner in which a register is to be kept;
- (b) for the filling of memoranda and agricultural charges;
- (c) for the removal of entries from the register on proof of discharge;
- (d) the rectification of the register; and
- (e) for the form of a written notice or agricultural charge to be issued under this Act.

15. (1) Subject to subsection (2), the Agriculture Credits Act, 1962, is hereby repealed.

Repeal of Cap. 349 of the 1971 edition

(2) Notwithstanding the repeal of the Agriculture Credits Act-

- (a) any agreement executed under that Act shall continue in force as if made under this Act;
- (b) any registration done, any other right or benefit accruing or any liabilities suffered under that Act shall, unless contrary to this Act, continue in accordance with this Act;
- (c) any regulations made or directions given under that Act shall, unless contrary to this Act, continue in force until revoked, as if made or given under this Act.

SUBSIDIARY LEGISLATION

SECTION 14-THE AGRICULTURAL CREDITS
(REGISTRATION) REGULATIONS

Statutory Instrument
91 of 1996

Regulations by the Minister

1. These Regulations may be cited as the Agricultural Credits (Registration) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"the register" means the register directed to be kept under the Act;

"Registrar" means the person appointed as such in each District Agricultural Office under section *eight* of the Act.

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3. (1) The register shall contain the following particulars:

Form of and particulars in register

- (a) the date of the instrument creating a charge;
- (b) the surname, Christian names, and National Registration Card number of the farmer whose farming stock and other agricultural assets are affected by a charge;
- (c) the amount or commodity secured by a charge;
- (d) whether a charge is a fixed or floating charge, or both;
- (e) in the case of a fixed charge, details of the nature of the property affected by such charge, as given in the memorandum accompanying an application for the registration of a charge;
- (f) the name and address of the holder of the charge;
- (g) the number assigned to the memorandum and the time and date of the reception of such memorandum.

(2) The register shall-

- (a) be in the form set out in Form 1 of the First Schedule; and
- (b) bear the surnames in alphabetical order of farmers who have created an agricultural charge.

4. Any person who requires a certificate of the result of an official search of the register may obtain the same by sending by post or delivering to the Registrar a requisition in the form set out in Form 2 of the First Schedule, and upon receipt of such requisition, the Registrar shall, on payment of the fees set out in the Third Schedule, furnish a certificate in the form set out in Form 2 of the First Schedule.

Procedure for certificate of result of official search of register

5. An application for the registration of a charge, certified copies of, or extracts from, the register or memoranda filed as are open to public inspection, shall-

Application for registration of charge

- (a) be made on the appropriate forms as set out in the Second Schedule; and
- (b) furnish the particulars required in the forms.

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| <p>6. An application for registration of a charge shall be accompanied by a memorandum and the prescribed fee.</p> | <p>Memorandum and fee to accompany application for registration</p> |
| <p>7. Upon receipt of an application for registration of a charge as specified in regulation 6, the Registrar shall-</p> <p>(a) assign a number to the memorandum; and</p> <p>(b) note thereon the date and time of its reception.</p> | <p>Duties of Registrar on receipt of application for registration</p> |
| <p>8. (1) An application for the noting of a discharge in the register shall-</p> <p>(a) be made in Form 6 as set out in the Second Schedule;</p> <p>(b) furnish the particulars required in the forms.</p> <p>(2) On receipt of an application under sub-regulation (1), the Registrar may require the applicant to produce such evidence as the Registrar may consider necessary to prove that the charge has been discharged.</p> <p>(3) When the Registrar is satisfied that a charge has been discharged, the Registrar-</p> <p>(a) shall enter the fact of such discharge in the register; and</p> <p>(b) may destroy the memorandum filed in respect of such charge after the lapse of a period of twelve months from the date of such discharge.</p> <p>(4) Upon receipt of an application in Form 7 as set out in the Second Schedule, the Registrar shall furnish a certificate that the discharge of a charge has been entered in the register.</p> | <p>Application for noting of discharges in register</p> |
| <p>9. The office of the Registrar shall be open to the public for the transaction of business on weekdays, only, from 0900 hours until 1200 hours.</p> | <p>Hours of business</p> |
| <p>10. For any registration or for any matter or thing done or prescribed under the Act or these Regulations there shall be paid the fees set out in the Third Schedule.</p> | <p>Prescribed fees</p> |
| <p>11. The Agricultural Credits (Registration) Rules, 1962 are hereby revoked.</p> | <p>Revocation of Government Notice 33 of 1962</p> |



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ACT NO. 35 OF 2010

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FIRST SCHEDULE

FORM 1

AGRICULTURAL CHARGES REGISTER

Date of instrument of change	Name of farmer (surname and full Christian name)	National Registration Card Number	Amount Secured	Nature of charge (fixed, floating or both) and of property affected thereby	Name and address of holder of charge	Memorandum number	Ti re



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FORM 2

The Agricultural Credits Act

REQUISITION FOR AN OFFICIAL SEARCH

I/We hereby require an official search to be made in the Agricultural Charges Register for any subsisting entries therein against the persons whose below.

Signature of applicant.....
 CERTIFICATE OF OFFICIAL SEARCH: REQUISITION NO.

Date of instrument of change	Name of farmer (surname and full Christian name)	National Registration Card Number	Amount Secured	Nature of charge (fixed, floating or both) and of property affected thereby	Name and address of holder of charge	M

Fee paid

Receipt No.....

.....
 Registrar



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SECOND SCHEDULE

FORM 3

APPLICATION FOR REGISTRATION OF CHARGE

I/We.....
of.....
hereby apply for the registration of the Memorandum of an Instrument in writing creating an Agricultural Charge under the Agricultural Credits Act. Short particulars of the said Instrument are given in the Memorandum below.
Signature of applicant
(on behalf of)
Address
Date

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FORM 4

MEMORANDUM OF CHARGE

Particulars

1. Date of Instrument
2. Name and address of the farmer who created the charge:
Surname
- Christian name(s)
- Address
- National Registration Card No.
3. Amount secured by charge, K
4. The charge is a charge. (in the case of a fixed charge, insert below details of the nature of the property affected by the charge, and if a future or growing crop, details of the nature of such crop and the crop year, e.g. maize 1996/97).
.....
.....
.....
5. Name and address of the holder:
Name
- Address

I hereby concur in the above application.
Signature of farmer(s)

Date and time of reception
Receipt No

This form should be varied by the insertion of further details of names and addresses in paragraph 2 of the Memorandum of Charge when the charge is created by two or more farmers in partnership or as a group or association.



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FORM 5

APPLICATION FOR A CERTIFIED COPY OF THE MEMORANDUM FILED IN THE REGISTRY
UNDER THE ACT

I/We hereby apply for a certified copy of the Memorandum of Charge attached to the Application for Registration of Charge filed in the Registry under the above Act against

the following name on the day of

19....., under Memorandum No

Surname of farmer

Christian name(s)

Signature of applicant or his solicitors/advocates

Address

Date

Receipt No.



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FORM 6

NOTIFICATION OF DISCHARGE IN THE REGISTER ON PROOF OF DISCHARGE

I hereby apply for the noting in the register against the entry of the Agricultural Charge registered against the following name or names on the day of, 19....., under Registered No. that the charge has been discharged.

Surname of farmer

Christian name(s)

Signature of applicant or his solicitors/advocates

Address

Date

I, the undersigned, being the holder/person authorised to agree on behalf of the holder, hereby agree to the noting of the discharge of the above charge which has been satisfied.

Signature of holder/person signing on behalf of the holder

Address

Date

Receipt No.



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FORM 7

APPLICATION FOR A CERTIFICATE THAT THE DISCHARGE OF A CHARGE HAS BEEN ENTERED IN THE REGISTER

I hereby apply for a certificate that an entry has been made in the register to the effect that an Agricultural Charge which was registered under Register No.
..... against the following name or names was discharged on
the day of, 19.....
Surname of farmer
Christian name(s)
Signature of applicant or his solicitors/advocates
Address
Date

It is hereby certified that the above entry has been made in the register.

Date
..... Registrar

Receipt No.



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THIRD SCHEDULE

(Regulation 10)

PRESCRIBED FEES

	<i>Fee units</i>
Registration pursuant to provisions of section 8 (2)	11
Inspection pursuant to provisions of section 8 (3)	6
Taking copies pursuant to provisions of section 8 (4)	6
Certificate of official search	11
Certificate of copy of an entry in the register	6

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REPUBLIC OF ZAMBIA

THE AGRICULTURE (FERTILISERS AND FEED) ACT

CHAPTER 226 OF THE LAWS OF ZAMBIA

CHAPTER 226 THE AGRICULTURE (FERTILISERS AND FEED) ACTCHAPTER 226

THE AGRICULTURE (FERTILISERS AND FEED) ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

REGISTRATION, RENEWAL AND CANCELLATION
OF REGISTRATION



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3. Appointment of Registering Officer
4. Register
5. Application for registration of plant and owner and registration thereof
6. Registration in cases of partnership or joint ownership of plant
7. Inspection on application for registration
8. Provisional registration of plant before inspection
9. Certificate of provisional registration of plant and owner
10. Certificate of registration of plant and owner
11. Renewal of registration
12. Devolution and transfer of registered plant
13. Cancellation of registration of plant, etc.
14. Reasons for refusal to register, etc.: when to be furnished
15. Appeal to Minister
16. Alteration of registration of plant
17. Registration fees

PART III

ANALYSTS AND LABORATORIES

18. Analysts, approval of
 19. Laboratories, approval by Minister
 20. Rolls of approved analysts and laboratories
- Section*
21. Reports, certificates, etc., of approved laboratories
 22. Prohibition against testing of farming requisites in non approved laboratory

PART IV

INSPECTORS: SEARCHES AND SEIZURES

23. Inspectors of farming requisites
24. Duly authorised officers
25. Powers of inspectors and duly authorised officers to search plant and seize machinery, farming requisites, books, etc.
26. Prohibition against obstruction, etc., of inspectors and duly authorised officers

PART V

MANUFACTURE, PROCESSING AND SALE OF
FARMING REQUISITES

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27. Prohibition against production of farming requisites or sterilising of bone, etc., in non-registered plant
28. Prohibition against sale of farming requisites not in bulk without prescribed statement
29. Prohibition against sale of farming requisites in bulk without prescribed statement of analysis of bulk material
30. Ingredients of farming requisites sold under trade name, etc., to be disclosed
31. Warranties as to fertilisers and farm feed
32. Conditions for the manufacture or sale of fertiliser or farm feed containing animal substance
33. Prohibition against offering for sale or advertising bone, etc., for farming requisites before sterilisation
34. Certificate of sterilisation of bone, etc., by whom issued
35. Statement required of intended purchaser of non-sterilised bone, etc.
36. Prohibition against sale of non-sterilised bone, etc.
37. Certificate of sterilisation of bone, etc., to be produced for inspection

PART VI

IMPORTATION OF FARMING REQUISITES

Section

38. Power of Minister to prohibit importation of farming requisites
39. Prohibition against importation of farming requisites
40. Conditions for importation of fertilisers and farm feed containing animal substance, bone, etc.
41. Seizure and disposal of unlawfully imported farming requisites

PART VII

MISCELLANEOUS

42. Disposal of sub-standard farming requisites
43. Failure to comply with Act or regulations an offence
44. Prohibition against tampering with samples
45. Prohibition against altering, defacing or removing official records, etc.
46. Prohibition against altering, etc., documents and marks

PART VIII

PROCEEDINGS AND PENALTY

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47. Certificate or report *prima facie* evidence of facts certified
48. Penalty
49. Secrecy
50. Protection of secret processes, etc., against disclosure
51. Inspection of registers and rolls

PART IX REGULATIONS AND RULES

52. Regulations
53. Rules of court

FIRST SCHEDULE-Registration fees

SECOND SCHEDULE-Transfer fees

CHAPTER 226

AGRICULTURE (FERTILISERS AND FEED)

Act No.
51 of 1966
13 of 1994

An Act to provide for the regulation and control of the manufacture, processing, importation and sale of agricultural fertilisers and farm feed; to provide for minimum standards of effectiveness and purity of such fertilisers and feed; and to provide for matters incidental to or connected with the foregoing.

[1st January, 1970]

PART I

PRELIMINARY

- 1 This Act may be cited as the Agriculture (Fertilisers and Feed) Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

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"aggrieved party" means any person whose application for registration under this Act has been refused or made subject to any condition by the Registering Officer; or any person who had been registered as registered owner of a registered plant and whose registration as such registered owner or the registration of such registered plant has been cancelled by the Registering Officer;

"approved analyst" means a person who has been approved as an analyst under and for the purposes of this Act;

"approved laboratory" means any laboratory which has been approved as a laboratory under and for the purposes of this Act;

"brand" means the impression or representation of any letter, number, geometrical figure, mark, sign or symbol, and includes any combination of such impressions or representations;

"compost" means vegetable matter or mixed vegetable and animal matter so decomposed as to form an organic manure;

"court" means a subordinate court, save where otherwise appears;

"farm feed" means any vegetable, animal, chemical or mineral substance, whether in its natural state or which has been artificially prepared, which is alleged to possess nutritive properties and is intended, or offered for sale, or sold, for use in the feeding of livestock; but does not include straw, chaff, unground hay, silage, cereal in the grain, or any substance which falls within this definition but which has been crushed, gristed or ground for a farmer in accordance with his directions for his own use, unless by regulation such substance has been prescribed to be a farm feed for the purpose of this Act;

"farmer" means a person who is engaged in farming in Zambia, either exclusively or together with some profession, business or other occupation;

"farming requisite" means any fertiliser or farm feed, or any substance used in the manufacture of a fertiliser or farm feed;

"fertiliser" means any substance or compound of substances, which is intended or offered for sale, or sold, for use in the improvement or maintenance of the growth of plants or of the productivity of the soil; but does not include farmyard or stable manure; kraal manure, compost, wood ash, town refuse or night soil, when sold in its original conditions and under its name;

"inspector" means a person appointed an inspector under this Act;

"laboratory" means any premises used for scientific work or research and suitably equipped for scientific analysis;

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"livestock" means any horse, mare, gelding, ass, jennet, mule, bull, cow, ox, heifer, steer, calf, sheep, lamb, hog, pig, sow, goat, fowl, ostrich, dog, cat or any other domestic animal, fowl or bird;

"owner" includes any absolute owner, lessee, tenant or licensee of any premises used as a plant, and any agent resident in Zambia of any non-resident owner;

"plant" means any premises used for the purpose of manufacturing, compounding or producing any fertiliser or farm feed, and shall include any sterilising plant;

"registered owner" means the person registered in the register of plant as the owner of any plant registered under the provisions of this Act;

"registered plant" means any plant registered in the register of plant under the provisions of this Act;

"Registering Officer" means the person appointed as such in pursuance of the provisions of section *three*;

"sell" includes to exchange or to barter or to offer, keep, expose, transmit, convey, or deliver for sale, exchange or barter; and cognate words shall be construed accordingly;

"sterilising plant" means any premises used for the sterilising of bone or any other substance derived from animal carcass.

PART II

REGISTRATION, RENEWAL AND CANCELLATION OF REGISTRATION

3. (1) There shall be a Registering Officer for the purpose of this Act, who shall be a public officer, and who shall be responsible for the administration of this Act. Appointment of Registering Officer

(2) The Registering Officer may, subject to the general or special directions of the Minister, delegate any of his powers or functions under this Act to any officer of the public service.

4. The Registering Officer shall cause to be kept a register of plant which shall contain- Register

- (a) particulars of the location of all plant registered under this Act;
- (b) particulars of the purposes for which such plant is approved and registered;
- (c) the names and addresses of the owners of such plant;
- (d) such other particulars as may be prescribed.

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5. (1) Application for the registration of plant shall be made to the Registering Officer in the prescribed form and shall be accompanied by the prescribed registration fee.

Application for registration of plant and owner and registration thereof

(2) As soon as practicable after the receipt of such application the Registering Officer shall-

- (a) if he is satisfied that the plant in question complies with the prescribed requirements, register such plant in the register of plant and shall enter therein the name and address of the owner thereof as registered owner;
- (b) if he is not satisfied that the said plant complies with the prescribed requirements, refuse to register such plant and owner.

(3) Any registration under this section shall be valid until cancelled under the provisions of this Act, or until and including the 31st March following the date of such registration, whichever is the earlier.

(4) The Registering Officer may impose such conditions with regard to any registration under this section as he may deem to be necessary in order to ensure that the plant or the owner thereof, or both such plant and owner, comply with the provisions of this Act or with the prescribed requirements.

(5) The refusal of an application under this section for the registration of plant shall not prevent the making, under this section, of a fresh application for the registration of the same plant at any subsequent time.

(6) Any person who, having obtained registration of such plant, or of the owner thereof, or of both such plant and owner, subject to any condition imposed under subsection (4) or as amended by the Minister under section *fifteen*, fails to comply with such condition, shall be guilty of an offence.

6. (1) Where an application is made under this Act for registration of any plant which is owned by two or more persons, whether as partners, or jointly, or as tenants in common, or otherwise, the said partners or joint owners, as the case may be, shall nominate one person among them who, upon registration of the said plant, shall be registered as registered owner.

Registration in cases of partnership or joint ownership of plant

(2) Registration of any person as registered owner in pursuance of the provisions of this section shall not be construed as affecting or limiting in any way any liability present or future existing or arising between such partners or joint owners, or between them and any third person.

7. Upon an application being made under this Act for first registration of any plant, the Registering Officer shall cause such plant to be inspected by an inspector.

Inspection on application for registration

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8. Upon application being made under this Act for first registration of any plant, the Registering Officer may, if he so thinks fit, register such plant in the register before it has been inspected in pursuance of section *seven*, and, when the Registering Officer so registers any such plant, the following provisions shall have effect, that is to say:

- (a) such registration shall be provisional only and is in this Act referred to as provisional registration;
- (b) such registration shall not relieve the Registering Officer from the obligation to cause such plant to be inspected by an inspector, save that such inspection may take place after such registration;
- (c) such registration shall not prejudice or affect the power of the Registering Officer to grant or refuse the said application for registration of the said plant;
- (d) if and when the Registering Officer grants the said application, the said provisional registration shall cease to be provisional;
- (e) if and when the Registering Officer refuses the said application, the said provisional registration shall be cancelled;
- (f) when, and so long as, any plant is provisionally registered in the register, such plant shall, subject to the foregoing provisions of this section, be deemed for all of the purposes of this Act to be a registered plant, and the person who is so registered as owner of the said plant shall, subject as aforesaid, be deemed for the said purposes to be the registered owner of the said plant.

Provisional registration of
plant before inspection

9. (1) Upon the provisional registration of any plant under the provisions of section *eight*, the Registering Officer shall issue a certificate of provisional registration of such plant in the form prescribed, and shall furnish such certificate to the person registered under such registration as provisional registered owner, or his agent.

Certificate of provisional
registration of plant and
owner

(2) The person so provisionally registered as owner shall cause the said certificate to be displayed in a prominent place within the said plant so registered, and shall keep the same so displayed during the continuance of such provisional registration.

(3) Any person who fails to comply with the provisions of subsection (2) shall be guilty of an offence.

10. (1) Upon the registration of any plant under this Act, the Registering Officer shall issue a certificate of registration of plant and owner in the prescribed form, and shall furnish such certificate to the person registered as owner of such plant, or his agent.

Certificate of registration
of plant and owner

(2) The registered owner shall cause the said certificate to be displayed in a prominent place within the plant so registered, and shall keep the same so displayed during the continuance of such registration.

(3) Any person who fails to comply with the provisions of subsection (2) shall be guilty of an offence.

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11. (1) Any person registered under this Act as registered owner of a registered plant may apply to the Registering Officer, on the form prescribed, for a renewal of the registration of the said plant. Renewal of registration

(2) Any application for renewal of any registration under this Act must be made to the Registering Officer not more than three months and not less than one month before the expiry of such registration. The Registering Officer may, at any time, extend the time herein prescribed for making any such application for renewal of registration.

(3) Any such application for renewal of registration shall be accompanied by the fee prescribed.

(4) The provisions of section *seven* as to inspection of plant shall not apply to an application for renewal of registration of such plant under this section:

Provided, however, that the Registering Officer may, in his absolute discretion, require such inspection as he deems fit to be made prior to his granting of any such renewal application.

(5) In the event of the death of the person registered under this Act as registered owner of registered plant within six months of the date of expiry of such registration, the Registering Officer shall extend the time herein prescribed for making an application for renewal of such registration to a date not more than six months from the date of the death of the person so registered.

(6) In the event of an extension of time for the making of an application for renewal having been granted by the Registering Officer under any provision of this section and the time granted extends beyond the date of expiry of the registration, the said registration shall be deemed for all of the purposes of this Act to have been extended to the date to which the said extension of time extends:

Provided, however, that upon renewal of such registration being granted, the renewed registration shall relate back to the date of the expiry of the former registration, and the duration of the renewed registration shall be calculated from that date.

12. (1) Where a registered owner dies, the following provisions shall have effect, that is to say: Devolution and transfer of registered plant

(a) the death of the said registered owner shall not of itself render unlawful by virtue of this Act, during the period of six months from such death, the carrying on, in the registered plant of which the deceased was registered owner, of the business theretofore carried on in such registered plant;

(b) the personal representative of the said deceased registered owner (not registered in pursuance of the provisions of section *six*), or with the assent of such personal representative, any other person, shall (subject to the provisions of this section) be entitled, on application to the Registering Officer, in the form and manner prescribed, to be registered as the registered owner of the said registered plant;

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- (c) where the deceased registered owner has been registered in pursuance of the provisions of section *six*, the surviving partner or joint owner or the nominee of the surviving partners or joint owners, as the case may be, shall (subject to the provisions of this section) be entitled, on application to the Registering Officer, in the form and manner prescribed, to be registered as the registered owner of the said registered plant for the purposes of this Act:

Provided, however, that such registration under this paragraph shall be provisional only, until such time as the Registering Officer is satisfied as to the identity of the person, or persons, actually entitled, in the events which have happened, to the ownership of the said registered plant; whereupon, the Registering Officer may-

- (i) confirm the said provisional registration as full registration, if the person so provisionally registered is entitled to such full registration under this Act; or
- (ii) cancel the said provisional registration and register *in lieu* thereof the person entitled to be registered under this Act as registered owner in respect of the said registered plant;
- (d) from the death of the said deceased registered owner, until the registration of another person as registered owner, the person actually carrying on the business in the said registered plant shall be deemed to be the registered owner of the said registered plant for the purposes of this Act as relates to things to be done on the said plant, or to be done in the course of carrying on the said business; and for the purposes of notices required by this Act to be given to the registered owner and the service of such notices.

(2) Where the registered owner of a registered plant (in this subsection referred to as the transferor) transfers, on sale or otherwise, the said plant and the business carried on therein to another person (in this subsection referred to as the transferee) the following provisions shall have effect, that is to say:

- (a) the transferee shall (subject to the provisions of this section) be entitled, on application to the Registering Officer, in the form and manner prescribed, and on satisfying the Registering Officer that he has become the proprietor of the said registered plant, to be registered as the registered owner of the said registered plant;
- (b) until the transferee is so registered as the registered owner, the transferor shall, notwithstanding the said transfer, continue to be, for all of the purposes of this Act, the registered owner of the said registered plant.

(3) Where an application is made under this section to the Registering Officer for the registration of a person (in this subsection referred to as the applicant) as the registered owner of a registered plant, the following provisions shall apply and have effect, that is to say:

- (a) where the applicant is the personal representative of a deceased registered owner and is applying under subsection (1) for registration solely in his capacity as such personal representative, and the application is duly made in accordance with the said subsection, the Registering Officer shall not refuse the application;



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- (b) in every other case it shall be lawful for the Registering Officer, if he so thinks proper, to refuse the application on the ground that the applicant was previously a registered owner of another plant and while he was so registered the said registration was cancelled by the Registering Officer under this Act; and it shall further be lawful for the Registering Officer to refuse such application upon any other ground which he deems to be a reasonable ground for refusal to register a person as registered owner upon application for first registration of any plant under this Act.

13. If the Registering Officer is satisfied-

- (a) that any plant registered under this Act does not comply with any provision of this Act or with any condition or requirement imposed or prescribed under this Act; or
- (b) that any plant is not being used for the purposes for which it has been registered under this Act; or
- (c) that the product of such plant does not conform to the standards prescribed for such product under this Act; or
- (d) that the registered owner of any such plant has been convicted of an offence under this Act;

Cancellation of
registration of plant, etc.

he may cancel the registration of such plant and of the registered owner thereof:

Provided that nothing shall be construed to oblige or impose a duty upon the said Registering Officer at any time to exercise the powers by this section conferred upon him.

- 14.** (1) Any aggrieved party may, in writing, request the Registering Officer to furnish his reasons for refusing, imposing conditions upon or cancelling any registration under this Act.

Reasons for refusal to
register, etc.: when to be
furnished

(2) Within seven days after the receipt of such request, the Registering Officer shall furnish, in writing, to the aggrieved party the reasons-

- (a) why he refused the registration applied for; or
- (b) why he imposed conditions on such registration; or
- (c) why he cancelled such registration.

- 15.** (1) Any aggrieved party may appeal to the Minister against the decision of the Registering Officer.

Appeal to Minister

(2) Such appeal must be in writing.

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(3) In determining such appeal the Minister may consult with the Registering Officer, and may uphold the decision of the Registering Officer, or may make an order instructing the Registering Officer-

- (a) to register the plant, or person, as applied for in the application for registration; or
- (b) to strike out all or any of the conditions imposed by the Registering Officer, or to amend such conditions in such manner as the Minister may direct; or
- (c) to restore the registration;

and the Registering Officer shall comply with such order.

(4) Upon the written request of an unsuccessful appellant, the Minister shall furnish to him, in writing, the reasons for his decision.

(5) No appeal shall lie to any court from the decision of the Minister.

16. (1) The Registering Office may, at any time, alter the registration under this Act of any plant, upon application by the registered owner or by the personal representative of a deceased registered owner, or, in the case of an incorporated body being the registered owner, by the managing director or liquidator of such registered owner.

Alteration of registration
of plant

(2) The Registering Officer may, at any time, without any such application as aforesaid, alter the registration of any plant in any respect in which such registration appears to him to be erroneous or misleading.

(3) The following provisions shall apply and have effect in relation to the alteration under subsection (2) of the registration of any plant under this Act, that is to say:

- (a) the Registering Officer shall not make any such alteration unless he has given to the registered owner or his personal representative, or its managing director or its liquidator, as the case may be, at least fourteen days' notice in writing that the Registering Officer has under his consideration the making of such alteration and stating the grounds on which such alteration is so under consideration;
- (b) the Registering Officer shall consider any representations, in relation to such alteration, made to him before the expiration of the said notice by any person interested;
- (c) the Registering Officer may, if he thinks fit, cause an inquiry to be held in relation to such alteration;

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- (d) such alteration, if made at all, shall be made within three months after the expiration of the said notice.

17. (1) Subject to the provisions of this section, there shall be payable to the Registering Officer by any person- Registration fees

- (a) who is the owner of any plant, on any provisional registration of the said plant and owner under this Act;

- (b) who is the owner of any plant, on first registration of the said plant and owner as registered plant and registered owner thereof, respectively;

(c) on the annual renewal of any registration of any plant and owner under this Act;
the respective registration fees prescribed in the First Schedule.

(2) Subject to the provisions of this section, there shall be payable to the Registering Officer by any transferee from or successor in interest to any registered owner-

- (a) on any provisional registration of such transferee or successor in interest as registered owner;

(b) on any full registration of such transferee or successor in interest as registered owner;
the respective registration fees prescribed in the Second Schedule.

(3) Where the personal representative of a deceased registered owner of any plant is registered as registered owner of such plant under the provisions of paragraph (b) of subsection (1) of section *twelve*, solely in his capacity as such personal representative, no registration fee shall be charged for such registration.

(4) Where a surviving or nominated joint owner or partner of a deceased registered owner of any plant is registered provisionally as such registered owner under the provisions of paragraph (c) of subsection (1) of section *twelve*, no registration fee shall be charged for such provisional registration.

PART III

ANALYSTS AND LABORATORIES

18. (1) Subject to the qualifications and other requirements prescribed, the Minister may Analysts, approval of
approve persons as analysts for the purposes of this Act.

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(2) An approval granted by the Minister under this section may be withdrawn by the Minister at any time.

19. (1) Subject to the standards and other requirements prescribed, the Minister may, for the purposes of this Act, approve any laboratory as an approved laboratory for any or all of the following purposes:

Laboratories, approval by
Minister

- (a) the testing of fertilisers; or
- (b) the testing of farm feed; or
- (c) the testing of bone or other substance derived from animal carcass.

(2) Any approval granted under this section may be withdrawn by the Minister at any time.

20. The Registering Officer shall cause the following rolls to be kept:

Rolls of approved
analysts and laboratories

- (a) a roll of approved analysts, which shall contain-
 - (i) the name and address of each analyst approved by the Minister under section *eighteen*;
 - (ii) the date of such approval;
 - (iii) particulars of the purposes for which such analyst is approved;
 - (iv) if such approval is withdrawn, the date of such withdrawal;
 - (v) such other particulars as may be prescribed;
- (b) a roll of approved laboratories, which shall contain-
 - (i) the name and address of each laboratory approved by the Minister under section *nineteen*;
 - (ii) the name and address of the owner of each such laboratory;
 - (iii) the name and address of each approved analyst attached to each such laboratory;
 - (iv) particulars of the purposes for which such laboratory is approved;

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- (v) if such approval is withdrawn, the date of such withdrawal;
- (iv) such other particulars as may be prescribed.

21. Any reports, certificates or other documents issued or furnished by an approved laboratory for the purposes of this Act shall be in the forms prescribed. Reports, certificates, etc., of approved laboratories

22. (1) Any person who by any process in any laboratory, not being an approved laboratory under this Act, purports to test, for the purposes of this Act, any farming requisite shall be guilty of an offence. Prohibition against testing of farming requisites in non-approved laboratory

(2) Upon conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any machinery, equipment or chemicals and any such farming requisite found in such laboratory, to be forfeited, or order them to be destroyed, without compensation; or may both declare them to be so forfeited and order them to be so destroyed, without compensation.

PART IV

INSPECTORS: SEARCHES AND SEIZURES

23. There shall be inspectors of farming requisites who shall be inspectors for the purposes of this Act. Inspectors of farming requisites

24. (1) The Minister may, from time to time, and as often as he deems it necessary, authorise any public officer (herein referred to as a duly authorised officer) to exercise the powers of an inspector of farming requisites under this Act. Duly authorised officers

(2) An authorisation made under this section may be-

- (a) general, whereby the duly authorised officer shall be empowered to exercise all of the powers of an inspector of farming requisites anywhere in Zambia; or
- (b) limited, either-
 - (i) as to the specific powers exercisable by the duly authorised officer; or
 - (ii) as to the place or district in which such powers are exercisable by him; or
 - (iii) as to both sub-paragraphs (i) and (ii).

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(3) An authorisation made under the provisions of this section shall be in writing.

25. (1) An inspector, or any duly authorised officer may, for any of the purposes of this Act, and at all reasonable times-

Powers of inspectors and duly authorised officers to search plant and seize machinery, farming requisites, books, etc.

- (a) enter upon any plant, whether registered under this Act or not, and inspect the same and any machinery and equipment to be found therein, which he has reasonable cause to believe are being used in the manufacture, processing or preparation of any farming requisite; and, in the manner prescribed, take, without payment, for testing, samples of any farming requisite found therein, and the owner thereof shall, on demand, furnish to the person taking such samples a statement in writing containing such particulars with respect thereto as are prescribed; and if the plant is not registered under this Act, and he has reasonable cause to believe that this Act is being contravened, he may seize and remove therefrom and detain, any machinery, equipment, farming requisite or any books, records or documents found therein, which would afford evidence of a contravention of this Act; and if the plant is a registered plant, and he has reasonable cause to believe that this Act is being contravened, he may seize and remove therefrom any farming requisite which would afford evidence of a contravention of this Act; and if he has reasonable cause to believe that any of the machinery or equipment is, because of a mechanical or operational defect, contributing to the production of any farming requisite that does not conform to the requirements prescribed therefor, he may, by notice in writing, require the registered owner to rectify the said machinery or equipment within seven days of receipt of such notice, and, in the event of the registered owner failing to comply with the said notice, the inspector or duly authorised officer shall notify the Registering Officer of such failure to comply;
- (b) enter upon any building, place or vehicle at, or in which, he has reasonable cause to believe that any farming requisite is kept, sold or exposed for sale, or is being transported or stored for purposes of sale in contravention of this Act; and, in the manner prescribed, and without payment, take, for testing, a sample of any farming requisite found therein; and inspect any books, records or documents found therein; and he further may seize and remove and detain any such vehicle, and seize and remove from any such building, place or vehicle, and detain, any farming requisite, or any books, records, or documents, which would afford evidence of a contravention of this Act.

(2) Any duly authorised officer shall, on demand by the owner, or by the person having custody of such plant, building, place or vehicle, produce his authority to enter upon such plant, building, place or vehicle.

(3) Any such inspector or duly authorised officer who, under the provisions of subsection (1), seizes and detains any vehicle, machinery, equipment, farming requisite, or any books, records or documents, shall give to the person from whom they were seized a receipt, signed by such inspector or officer, for such vehicle, machinery, equipment, farming requisite, books, records and documents so seized.

(4) In the event of-

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(a) the Registering Officer being advised in writing by the Director of Public Prosecutions that no prosecution consequent upon any such inspection made under subsection (1) should be instituted under this Act; or

(b) any such prosecution having been finally concluded;

then, in either such event, any vehicle, machinery, equipment, farming requisite, books, records and documents seized during the course of such inspection and detained under the provisions of subsection (1) shall be returned to the owner thereof, or to the person from whose custody they were taken; and shall be so returned within ten days from the date of the receipt by the Registering Officer of such advice that no prosecution should be instituted, or from the date any such prosecution has been finally concluded, as the case may be:

Provided that any such vehicle, machinery, equipment or farming requisite shall not be returnable under this subsection if they have been declared by the court to be forfeited, or ordered to be destroyed, under any provision of this Act.

26. Any person who-

- (a) obstructs or impedes an inspector, or a duly authorised officer, in the exercise of any of the powers conferred upon him by or under this Act; or
- (b) refuses to furnish to an inspector, or a duly authorised officer, on request, any particulars or information to which the said inspector or duly authorised officer is entitled by or under this Act; or
- (c) wilfully or recklessly gives to an inspector, or a duly authorised officer, any false or misleading particular or information with respect to any fact or particular to which the said inspector or duly authorised officer is entitled by or under this Act;

Prohibition against obstruction etc., of inspectors and duly authorised officers

shall be guilty of an offence.

PART V

MANUFACTURE, PROCESSING AND SALE OF FARMING REQUISITES

27. (1) Any person who, by any process, in any plant not registered under this Act, purports-

Prohibition against production of farming requisites or sterilising of bone, etc., in non-registered plant

(a) to produce, manufacture, compound or process any farming requisite; or

(b) to sterilise, for the purpose of this Act, any bone or other substance derived from animal carcass, for use by any person in the manufacture or processing of, or as an ingredient in, any farming requisite;

shall be guilty of an offence.



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(2) Upon conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any machinery, equipment, or chemicals, or any farming requisite or bone or other substance derived from animal carcass, found in such plant, to be forfeited, or may order them to be destroyed, without compensation; or may both declare them to be so forfeited and order them to be so destroyed, without compensation.

28. Any person who sells any farming requisite in sacks, bags or other containers and who at the time of delivery fails to furnish to the purchaser a statement of the prescribed analysis, in the form prescribed for use on such sale of such farming requisite, shall be guilty of an offence.

Prohibition against sale of farming requisites not in bulk without prescribed statement

29. Any person who sells any farming requisite in bulk and who at the time of delivery fails to furnish to the purchaser a statement of the prescribed analysis of the said bulk material, in the form prescribed for use on such sale of such farming requisite, shall be guilty of an offence.

Prohibition against sale of farming requisites in bulk without prescribed statement of analysis of bulk material

30. (1) Where any farming requisite is sold in containers or packages, under any trade name, trade mark, trade label or trade brand which is the property of, or exclusive to, the packer thereof, whether he is the manufacturer, processor, compounder or mixer of the said farming requisite, or otherwise, or whether the said trade name is in common use in the trade as a general description of a compound or mixture of certain chemical or other ingredients, there shall appear in legible letters and figures on the outside surface of each such container or package, or on a label attached thereto, a statement disclosing the prescribed analysis of the said farming requisite.

Ingredients of farming requisites sold under trade name, etc., to be disclosed

(2) Any person who sells any farming requisite in a container or package under any trade name, trade mark, trade label or trade brand and who fails to comply with the provisions of this section shall be guilty of an offence.

31. (1) Where any person sells for use as a fertiliser any article which has been subjected to any artificial process in Zambia, or which has been imported into Zambia, and furnishes the purchaser with the statement of the prescribed analysis, in the form prescribed for use on the sale of such farming requisite, the said statement shall have effect as a warranty by the seller that on analysis the said fertiliser does not vary beyond the limits of variation of analysis prescribed for such fertiliser.

Warranties as to fertilisers and farm feed

(2) Where any person sells for use as farm feed for livestock any article which has been artificially prepared, and furnishes the purchaser with the statement prescribed, the said statement shall have effect as a warranty that the said farm feed does not vary beyond the limits of variation of analysis prescribed for such farm feed.

(3) On the sale of any article for use as farm feed for livestock, or for any particular class of livestock, there shall be implied a warranty by the seller that the article is suitable to be used as such.

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(4) Any statement by the seller as to the percentages of the chemical or other substances contained in any article sold for use as a fertiliser, or as to the nutritive qualities or substances possessed by, or contained in, any article sold for use as farm feed, made after the commencement of this Act in an invoice of such article, or in any document, circular or advertisement descriptive of such article, shall have effect as a warranty by the seller.

32. (1) No person shall manufacture, process, compound or sell or offer or expose for sale any fertiliser or farm feed containing bone or any other substance derived from animal carcass unless such bone or other substance has been sterilised in the manner prescribed, and is certified in the manner prescribed as having been so sterilised.

Conditions for the manufacture or sale of fertiliser or farm feed containing animal substance

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

33. (1) Any person who, being the owner of any bone or other substance derived from animal carcass, intends to offer or advertise the same for sale for use in the manufacture or processing of, or as an ingredient in, any farming requisite, shall, prior to the making of such offer or the publication of such advertisement, have the said bone or other substance sterilised at or by a registered sterilising plant.

Prohibition against offering or sale or advertising bone, etc., for farming requisites before sterilisation

(2) At the request of the said owner, and upon payment of the fee prescribed, the registered owner of the said registered sterilising plant shall cause the said bone or other substance to be sterilised in the manner prescribed, and shall issue and furnish to the owner thereof a certificate of sterilisation in the form prescribed.

(3) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

34. (1) The registered owner of any registered sterilising plant, upon sterilising in the manner prescribed any bone or other substance derived from animal carcass, shall issue, in the form prescribed and to the persons prescribed, a certificate of sterilisation of the said bone or other substance.

Statement required of intended purchaser of non-sterilised bone, etc.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

35. (1) Any person who, for any purpose, intends to buy any bone or other substance derived from animal carcass which has not been sterilised as prescribed, shall furnish to the intended seller a statement in writing, signed by such person or his agent, stating the purpose or purposes for which the said bone or other substance is intended to be used.

Prohibition against sale of non-sterilised bone, etc.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence

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36. (1) No person shall sell any bone or other substance derived from animal carcass which has not been sterilised as prescribed, if the statement provided for under the provisions of section *thirty-five* has not been furnished as prescribed, or, if furnished, it shows that the said bone or other substance is intended for use in the manufacture or processing of, or as an ingredient in, any farming requisite:

Certificate of sterilisation of bone, etc., to be produced for inspection

Provided that this section shall not apply if at the time of such sale, the purchaser directs the seller in writing to deliver, at the expense of the purchaser, the said bone or other substance to a registered sterilising plant for purposes of its being sterilised as prescribed at the expense of the purchaser; and the seller makes such delivery as directed.

(2) Unless it is otherwise provided by agreement between the parties, delivery of the said bone or other substance to a registered sterilising plant under the proviso to subsection (1) shall for all purposes be deemed to be delivery under the contract of sale.

(3) Any person who fails to comply with the provisions of subsection (1) shall be guilty of an offence.

37. (1) Save as provided by the proviso to subsection (1) of section *thirty-six*, any person who sells any bone or other substance derived from animal carcass for use in the manufacture or processing of, or as an ingredient in, any farming requisite, shall, upon request, produce for inspection by the purchaser or by an inspector or duly authorised officer, the certificate of sterilisation issued as prescribed in respect of the said bone or other substance.

Power of Minister to prohibit importation of farming requisites

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

PART VI

IMPORTATION OF FARMING REQUISITES

38. The Minister may, from time to time, by regulation, restrict, limit or prohibit the importation of any particular farming requisite, or class of farming requisites, into Zambia, without the prior written consent of the Minister.

Prohibition against importation of farming requisites

39. (1) Any person who, in contravention of any restriction, limitation or prohibition imposed in pursuance of the provisions of section *thirty-eight*, imports into Zambia any farming requisite shall be guilty of an offence.

Prohibition against importation of farming requisites



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(2) Upon the conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare the said farming requisite to be forfeited or order it to be destroyed, without compensation; or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

40. (1) No person shall import into Zambia-

Conditions for importation of fertilisers and farm feed containing animal substance bone, etc.

- (a) any fertiliser or farm feed which contains bone or any other substance derived from animal carcass; or
- (b) any bone or any other substance derived from animal carcass for use in the manufacture or processing of or as an ingredient in any farming requisite;

unless he has submitted to the Minister a certificate issued and signed in the country of origin of such fertiliser, farm feed, bone or other substance, by a person designated by the Minister, in which it is stated that such fertiliser or farm feed is free from such pathogenic organisms as are specified, or that such bone or other substance has been sterilised in the manner prescribed and is free from such pathogenic organisms as are specified.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(3) Upon conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such fertiliser or farm feed, or bone, or other substance derived from animal carcass, to be forfeited, or may order it to be destroyed, without compensation; or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

41. (1) Any farming requisite brought to any part of Zambia for purposes of importation in contravention of any of the provisions of this Act, or of any condition thereunder prescribed for such importation, may be seized and detained, subject to the disposal thereof by the Minister under the provisions of subsection (2).

Seizure and disposal of unlawfully imported farming requisites

(2) If any such farming requisite is detained under the provisions of subsection (1), the Minister may-

- (a) order such farming requisite-
 - (i) to be removed from Zambia within such time as may be specified in the order; or
 - (ii) with the consent of the person to whom the said farming requisite was consigned, or his agent, or of the owner thereof, to be destroyed without compensation; or

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- (b) bring proceedings in the manner prescribed by subsection (3), for its forfeiture and destruction; or
- (c) permit the removal thereof subject to such conditions as he may impose; or
- (d) order samples of such farming requisite to be taken and tested in the manner prescribed and-
 - (i) if, upon such test, the said farming requisite is found and certified not to vary beyond the limits of variation of analysis prescribed for such farming requisite, permit the importation thereof into Zambia, subject to such conditions as he may impose; or
 - (ii) if, upon such test, the said farming requisite is found and certified to vary beyond the said limits of variation of analysis prescribed, permit the importation thereof into Zambia, subject to such conditions as he may impose; or bring proceedings in the manner prescribed by subsection (3), for its forfeiture and destruction; or
 - (iii) if, upon such test, the said farming requisite is also found and certified to be in a dangerous state or injurious to the health of human beings, animals or plants, and the Minister deems it to be reasonably necessary so to do, order the said farming requisite to be destroyed forthwith, without compensation.

(3) (a) Where the Minister elects to bring proceedings in pursuance of paragraph (b) of subsection (2) or in pursuance of sub-paragraph (ii) of paragraph (a) of subsection (2), he may, in his name, bring civil proceedings in the court against the owner of the said farming requisite, or against the person to whom it was consigned, as agent of the owner, and in the said proceedings the Minister shall claim for a declaration by the court that the said farming requisite was imported into Zambia in contravention of the provisions of this Act, and for an order that it be forfeited to the Government and destroyed.

(b) Such proceedings shall be commenced by filing with the clerk of the court an affidavit, made by a public officer duly authorised by the Minister in that behalf, setting forth the relevant facts and exhibiting the report or certificate or reports or certificates upon which the declaration and order are sought.

(c) (i) Upon the filing of the said affidavit, the clerk of the court shall assign a date for the hearing of the claim not less than three weeks and not more than six weeks from the date of issue of the writ of summons in accordance with the provisions of sub-paragraph (ii).

(ii) The clerk of the court shall thereupon issue a writ of summons in the form prescribed setting forth therein the date assigned for the hearing of the claim by the court.

(a) The said writ of summons shall be served upon the party named as party defendant therein in the manner prescribed in paragraph (e); and notice of the proceedings in the form prescribed shall be published in the *Gazette* not less than fourteen days prior to the date assigned for the hearing of the claim.

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(e) For the purposes of this section, any writ of summons issued under the provisions of this section shall be deemed to have been served upon the party defendant, if, not less than fourteen days prior to the date assigned for the hearing of the claim by the court, a true copy thereof is-

- (i) delivered to the said defendant personally; or
- (ii) addressed to him and left or forwarded by post to him at his usual or last known place of abode or business; or
- (iii) addressed to him forwarded by registered post to his usual or last known post office box number; or
- (iv) where he is unknown, or where he has no address within Zambia, or his address is unknown, published in one issue of the *Gazette*.

(f) If any party defendant served with the said writ of summons as provided in paragraph (e) wishes to defend or oppose or contest the said proceedings, he shall, in the form prescribed, give notice of his intention so to do to the clerk of the court not less than five days before the date assigned in the said writ of summons for the hearing of the said claim.

(g) If any person, who is not a party defendant, desires to defend or oppose or contest the said proceedings, he shall, not less than seven days after the publication of the notice of proceedings pursuant to paragraph (d), give to the clerk of the court notice in writing of his intention so to do; whereupon he shall be entitled to appear at the hearing of the claim as if he were in every respect a party defendant.

(h) If any party defendant fails to comply with the provisions of paragraph (f), or if he, or any person who has given the notice provided for by paragraph (g), fails to appear at the hearing of the claim on the date assigned therefor, the court shall enter his default and may thereupon proceed to hear and determine the claim forthwith on the evidence of the affidavit filed under paragraph (b) and the report or certificate or reports or certificates exhibited therein or may adjourn such hearing and determination to a date not more than two weeks from the date assigned for the hearing of the claim.

(i) Upon hearing the evidence adduced, the court may make the declaration and order sought; or may dismiss the claim and make such order as to costs, consequential upon such dismissal, as the court deems meet.

(j) In the event of a dismissal of the said claim, the Minister may elect to dispose of the said farming requisite in any other manner thereunto provided by subsection (1).

(4) It is hereby declared that any act done or ordered or permitted to be done in terms of this section shall not-

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- (a) prevent the institution of criminal proceedings under this Act or under any other written law against the person to whom the said farming requisite was consigned, or his agent, or the owner thereof, or any other person; or
 - (b) curtail or limit in any way whatsoever the powers or duties of the Controller of Customs and Excise or of any customs officer under the Customs and Excise Act; or
 - (c) affect the liability of any person for the payment of customs duty in respect of the said farming requisite; or
 - (a) entitle any person to claim a refund of customs duty paid in respect to any farming requisite seized and dealt with in terms of this section.
- (5) Any person who fails to comply with any order made or condition imposed under this section shall be guilty of an offence.

PART VII

MISCELLANEOUS

42. (1) If any sample, taken in the manner prescribed, of any farming requisite is, upon test in the manner prescribed, found and certified to vary beyond the limits of variation of analysis prescribed for such farming requisite-

Disposal of substandard farming requisites

- (a) the Minister may, if the said farming requisite has been seized and is detained under the provisions of this Act-
 - (i) subject to such conditions as to its sale and use and to such other conditions as he may impose, direct its return either to the owner thereof or to the persons from whose custody and control it was taken; or
 - (ii) with the consent of the owner thereof, order it to be destroyed without compensation; or
 - (iii) bring proceedings in the manner prescribed by subsection (2) for its forfeiture and destruction; or
 - (iv) if, upon such test, the said farming requisite is also found and certified to be in a dangerous state or injurious to the health of human beings, animals or plants, and the Minister deems it reasonably necessary so to do, order the said farming requisite to be forfeited and destroyed, without compensation;



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- (b) the Minister may, if the said farming requisite has not been seized or detained under the provisions of this Act-
- (i) subject to such conditions as to its sale and use and to such other conditions as he may impose, permit the owner thereof to retain the said farming requisite; or
 - (ii) with the consent of the owner thereof, order it to be destroyed without compensation;
 - (iii) bring proceedings in the manner prescribed by subsection (2) for its forfeiture and destruction; and may, if he deems it necessary so to do, at any time prior to or after the commencement of the said proceedings, direct that the said farming requisite be seized and detained pending the determination of the said proceedings; or
 - (iv) if, upon such test, the said farming requisite is also found and certified to be in a dangerous state or injurious to the health of human beings, animals or plants, and the Minister deems it reasonably necessary so to do, order the said farming requisite to be forfeited and destroyed, without compensation; and may for the purposes of this sub-paragraph, if he deems it necessary so to do, order the seizure and detention of the said farming requisite.

(2) (a) Where the Minister elects to act in pursuance of sub-paragraph (iii) of paragraph (a) of subsection (1) or of subparagraph (iii) of paragraph (b) of subsection (1), he may, in his name, bring, or cause to be brought, civil proceedings in the court against the owner of the said farming requisite or against the person from whose custody or control the same was taken, or in whose custody or control the same is found, as agent of the owner; and in the said proceedings the Minister shall claim for a declaration by the court that the said farming requisite varies beyond the limits of variation of analysis prescribed under this Act for such farming requisite; and for an order that it be forfeited to the Government and destroyed, without compensation.

(b) Such proceedings shall be commenced by filing with the clerk of the court an affidavit, made by a public officer duly authorised by the Minister in that behalf, setting forth the relevant facts and exhibiting the report or certificate or reports or certificates upon which the declaration and order are sought.

(c) (i) Upon the filing of the said affidavit, the clerk of the court shall assign a date for the hearing of the claim not less than three weeks and not more than six weeks from the date of issue of the writ of summons in accordance with the provisions of sub-paragraph (ii).

(ii) The clerk of the court shall thereupon issue a writ of summons in the form prescribed setting forth therein the date assigned for the hearing of the claim by the court.

(a) The said writ of summons shall be served upon the party named as party defendant therein in the manner prescribed in paragraph (e); and notice of the proceedings in the form prescribed shall be published in the *Gazette* not less than fourteen days prior to the date assigned for the hearing of the claim.

(e) For the purposes of this section, any writ of summons issued under the provisions of this section shall be deemed to have been served upon the party defendant if not less than fourteen days prior to the date assigned for the hearing of the claim by the court, a true copy thereof is-

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- (i) delivered to the said defendant personally; or
- (ii) addressed to him and left or forwarded by post to him at his usual or last known place of abode or business; or
- (iii) addressed to him and forwarded by registered post to his usual or last known post office box number; or
- (iv) where he is unknown, or where he has no address within Zambia, or his address is unknown, published in one issue of the *Gazette*.

(f) If any party defendant served with the said writ of summons as provided in paragraph (e) wishes to defend or oppose or contest the said proceedings, he shall, in the form prescribed, give notice of his intention so to do to the clerk of the court not less than five days before the date assigned in the said writ of summons for the hearing of the said claim.

(g) If any person, who is not a party defendant, desires to defend or oppose or contest the said proceedings, he shall, not less than seven days after the publication of the notice of proceedings provided for in paragraph (d), give to the clerk of the court notice in writing of his intention so to do; whereupon he shall be entitled to appear at the hearing of the claim as if he were in every respect a party defendant.

(h) If any party defendant fails to comply with the provisions of paragraph (f), or if he, or any person who has given the notice provided for by paragraph (g), fails to appear at the hearing of the claim on the date assigned therefor, the court shall enter his default and may thereupon proceed to hear and determine the claim forthwith on the evidence of the affidavit filed under paragraph (b), and the reports or certificates exhibited therein, or may adjourn such hearing and determination to a date not more than two weeks from the date assigned for the hearing of the claim.

(i) Upon hearing the evidence adduced, the court may make the declaration and order sought; or may dismiss the claim and make such order as to costs, consequential upon such dismissal, as the court deems meet.

(j) In the event of a dismissal of the claim by the court, the Minister may elect to dispose of the said farming requisite in any other manner thereunto provided by subsection (1).

(3) It is hereby declared that anything done or any proceedings taken in terms of this section shall not prevent the institution of criminal proceedings under this Act, or under any other written law, against the owner of the said farming requisite or his agent, or the person from whose custody and control it was taken, or in whose custody or control it is found, as the case may be, or against any other person.

(4) Any person who fails to comply with any order made or condition imposed under paragraph (a) of subsection (1), or under paragraph (b) of subsection (1), shall be guilty of an offence.

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43. Any person who contravenes or fails to comply with any of the provisions of this Act, or with any regulation, requirement or condition lawfully prescribed thereunder, shall be guilty of an offence. Failure to comply with Act or regulations an offence

44. Any person who- Prohibition against tampering with samples

- (a) tampers with any farming requisite so as to procure that any sample of such farming requisite taken under, and for the purposes of, this Act does not correctly represent the bulk from which the said sample was taken; or
- (b) otherwise tampers with any sample taken under this Act; or
- (c) with intent to deceive, causes or permits to be sent to any approved laboratory, to be tested, for the purposes of this Act, a sample of any farming requisite which to his knowledge does not represent the bulk from which it was taken;

shall be guilty of an offence.

45. Any person who shall, without lawful authority, alter, deface or remove- Prohibition against altering, defacing or removing official records, etc.

- (a) any register, roll, index or other such official record maintained in pursuance of this Act or of any order, requirement or regulation made thereunder; or
- (b) any entry appearing in any such register, roll, index or other such official record;

shall be guilty of an offence.

46. Any person who shall, without lawful authority, alter or deface- Prohibition against altering, etc., documents and marks

- (a) any certificate, report, invoice, account, or other document, prescribed, issued, furnished or kept under this Act or under any order, requirement, condition or regulation made thereunder; or
- (b) any note, docket or mark placed upon any package or container under this Act or under any order, requirement, condition or regulation made thereunder; or who shall remove any such note, docket or mark from any such package or container upon which it is required to be kept or attached under this Act or under any order, requirement, condition or regulation made thereunder;

shall be guilty of an offence.

PART VIII

PROCEEDINGS AND PENALTY

47. In any proceedings brought under this Act, the production of any certificate or report of any test prescribed under this Act shall be sufficient evidence of the facts therein stated unless the defendant or person charged requires, as regards a certificate or report issued by an approved laboratory, that the approved analyst or the person who made the analysis be called as a witness: Certificate or report prima facie evidence of facts certified



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Provided that this section shall not apply as regards a certificate or report issued by an approved laboratory where the sample analysed has been taken otherwise than in the manner prescribed.

48. Save where otherwise expressly provided by this Act, any person who is convicted by the court of an offence under this Act shall, in the case of a first such offence, be liable to a fine not exceeding three hundred penalty units or to imprisonment for a term not exceeding three months, or to both; and in the case of a second or any subsequent offence, to a fine not exceeding seven hundred and fifty penalty units or to imprisonment for a term of six months, or to both.

Penalty

(As amended by Act No. 13 of 1994)

49. If any person-

Secrecy

- (a) being a person employed for the purposes of this Act, publishes or communicates to any person without lawful authority any information acquired by him in the course of his employment; or
- (b) having possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person;

he shall be guilty of an offence and shall be liable to a fine not exceeding fifteen thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(As amended by Act No. 13 of 1994)

50. Nothing in this Act shall require particulars of any secret process, formula or preparation to be disclosed, but the Minister shall be entitled to require disclosure to him of the ingredients used (but not the percentages thereof) and may also require that the cost of production (exclusive of overhead charges) shall be furnished by the producer under the certificate, verified by statutory declaration, of a qualified accountant approved by the Minister.

Protection of secret processes, etc., against disclosure

51. All registers and rolls maintained by the Registering Officer under this Act shall be open to the inspection of any person applying to the Registering Officer on payment of the fee prescribed.

Inspection of registers and rolls

PART IX

REGULATIONS AND RULES



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52. The Minister may, by statutory instrument, make regulations for the better carrying out of this Act, and, without prejudice to the generality of the foregoing, such regulations may make provision for-

Regulations

- (a) the forms of registers, rolls, applications, nominations for registration, certificates of registration, reports of sampling, reports of analysis, and such other forms as the Minister deems fit to prescribe under and for the purposes of this Act;
- (b) the forms of records to be kept, and of returns to be made by registered owners and owners of approved laboratories, importers, wholesalers and retailers, for the purposes of this Act;
- (c) standards of hygiene to be maintained in registered plant and approved laboratories;
- (d) the qualifications, professional or otherwise, of persons for approval as analysts under this Act;
- (e) standards of quality and performance of scientific equipment, and the variety of such equipment to be maintained in any laboratory for purposes of approval as an approved laboratory under this Act, together with such other requirements as to the operation of such approved laboratory as the Minister deems necessary; including requirements as to the number of approved analysts to be attached to any such approved laboratory;
- (f) the purpose or purposes for which any particular approved laboratory is approved under this Act;
- (g) limits of variation in the declared analysis of any farming requisite;
- (h) the manner in which samples of any farming requisite are to be taken under this Act; the forms to be used in and about the taking of such samples; and the fees to be paid for the taking of such samples under particular circumstances;
- (i) the methods to be employed by an approved laboratory in the testing of particular farming requisites under and for the purposes of this Act; and the fees to be paid to such approved laboratory for each such test;
- (j) the type of packing of any particular farming requisite which the Minister deems to be of a noxious nature, and which is packed by any registered plant, or by a packer, in packages or containers which are sealed by the plant or the packer and are intended for sale to the general public in such sealed packages or containers;
- (k) the manner of branding, labelling, marking or sealing packages or containers of any particular farming requisites;
- (l) periodic sampling and tests of farming requisites;
- (m) the prevention of the use of false or misleading statements in advertising any farming requisite for sale;
- (n) the prohibition or restriction of the disposal, acquisition or use of any farm feed as a fertiliser;
- (o) the restriction, limitation or prohibition of the importation of any particular farming requisite, or class of farming requisites, into Zambia; and the conditions under which any particular farming requisite may be imported;
- (p) the methods to be employed by a registered sterilising plant in and about the sterilisation of bone and other substance derived from animal carcass;
- (q) the exemption of any particular farming requisite or class of farming requisites from any or all of the provisions of this Act.

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53. The Chief Justice may, by statutory instrument, make rules providing for-

Rules of court

- (a) with respect to proceedings brought under and in accordance with the provisions of subsection (3) of section *forty-one* and subsection (2) of section *forty-two*, the procedure and practice of the court, the forms to be used therein, the fees payable and the costs and charges to be allowed to legal practitioners practising therein;
- (b) the proper and effectual exercise of jurisdiction by the court;
- (c) the procedure and practice relating to appeals from the court.



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FIRST SCHEDULE

(Section 17)

REGISTRATION FEES

	Fee units
1. For provisional registration of a plant on the register of plant	30
2. For provisional registration of an owner on the register of plant	30
3. For first registration of a plant on the register of plant	60
4. For first registration of an owner on the register of plant	60
5. For the annual renewal of a registration of registered plant and registered owner	30

(As amended by Act No. 13 of 1994)



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SECOND SCHEDULE

(Section 17)

TRANSFER FEES

	Fee units
1. For provisional registration of a transferee from, or successor in interest to a registered owner, as registered owner on the register of plant	30
2. For full registration of a transferee from, or successor in interest to a registered owner, as registered owner on the register of plant	60

(As amended by Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

AGRICULTURE (FERTILISERS AND FEED)

CAP 226

THE AGRICULTURE (FERTILISERS) REGULATIONS

ARRANGMENT OF REGULATIONS

PART I

PRELIMINARY

Regulation

1. Title
2. Application

PART II

REGISTRATION OF PLANT

3. Registration of plant and fees
4. Register of plant
5. Requirements of plant

PART III

ANALYSTS AND LABORATORIES



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6. Approval of analysts
7. Approval of laboratories
8. Roll of analysts
9. Roll of laboratories

PART IV
SEARCHES AND SEIZURES

10. Certificates of authority for inspectors

PART V
SALE OF FARMING REQUISITES

11. Statements of analysis for sales in bags, containers, etc.
12. Statements of analysis for sales in bulk
13. Statements of analysis for sales under trade names, etc

PART VI
SAMPLING, ANALYSIS AND LIMITS OF VARIATION

Regulation

14. Form of report to be used
15. Form of certificate to be used
16. Method of taking samples
17. Methods of analysis
18. Limits of variation

FIRST SCHEDULE-Certificates and forms

SECOND SCHEDULE-Method of taking samples

THIRD SCHEDULE-Methods of analysis of fertilisers

FOURTH SCHEDULE-Limits of variation

FIFTH SCHEDULE-Statements of analysis required for different classes of fertilisers

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SIXTH SCHEDULE-Statement of particular to be lodged with the Registering Officer in respect of fertilisers sold in bags, containers, etc., under any trade name, trade mark, etc., as described in section 30 of the Act

SECTION 52-THE AGRICULTURE (FERTILISERS) REGULATIONS

Regulations by the Minister

Statutory Instrument
476 of 1969
117 of 1970
Act No.
13 of 1994

PART I

PRELIMINARY

- | | |
|---|-------------|
| 1. These Regulations may be cited as the Agriculture (Fertilisers) Regulations. | Title |
| 2. These Regulations shall apply to any fertiliser as defined in section <i>two</i> of the Act. | Application |

PART II

REGISTRATION OF PLANT

- | | |
|---|--------------------------------|
| 3. (1) Applications under Part II of the Act for registration, transfer of registration or renewal of registration of plant shall be made in Form FERT. 4 in the First Schedule, and such application shall be accompanied by the appropriate fees shown in the First Schedule and the Second Schedule to the Act, and be given to the Registering Officer. | Registration of plant and fees |
| (2) The Registering Officer shall issue a certificate of registration in Form FERT. 5 in the First Schedule. | |
| (3) The Registering Officer shall issue a certificate of provisional registration in Form FERT. 6 in the First Schedule. | |
| 4. The Registering Officer shall keep a register of plant as prescribed in Form FERT. 1 in the First Schedule. | Register of plant |
| 5. Any plant within the definition in section <i>two</i> of the Act shall be so equipped as to permit the adequate performance therein of the activities described in the application for registration of such plant, to the satisfaction of the Registering Officer. | Requirements of plant |

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PART III

ANALYSTS AND LABORATORIES

6. (1) For the purposes of the Act, an analyst shall furnish proof to the satisfaction of the Minister that he has competent knowledge of chemistry and of chemical analyses, as applied to fertilisers. Such proof shall in every case comprise documentary evidence that such person holds a certificate or diploma attesting his possession of the requisite knowledge and given by a recognised competent body. All such documentary evidence shall be submitted to the Minister when applying for approval. The Minister may call for further evidence if required in any particular case. Approval of analysis

(2) Where the requirements referred to in sub-regulation (1) are satisfied, the Registering Officer shall issue a certificate of approval in Form FERT. 7 in the First Schedule.

7. (1) An approved laboratory shall be so equipped as to enable approved analysts to perform accurately for the purposes of the Act all the analyses specified under the Third Schedule, and such laboratories shall have been inspected by a duly authorised officer of the Ministry of Agriculture before approval by the Minister and may be inspected from time to time as the Registering Officer may deem necessary. Approval of laboratories

Provided that, in addition, other laboratories may be approved for certain analyses only, such analyses to be specified by the Registering Officer after inspection by a duly authorised officer of the Ministry of Agriculture.

(2) Where the Minister approves a laboratory, the Registering Officer shall issue a certificate of approval in Form FERT. 8 in the First Schedule.

8. The Registering Officer shall keep a roll of approved analysts in Form FERT. 2 in the First Schedule. Roll of analysts

9. The Registering Officer shall keep a roll of approved laboratories in Form FERT. 3 in the First Schedule. Roll of laboratories

PART IV

SEARCHES AND SEIZURES

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- 10.** The certificate of authority to be held by inspectors under section *twenty-five* of the Act shall be issued by the Registering Officer and shall be-
- (a) in the case of general authorisation, in Form FERT. 11 in the First Schedule; and
 - (b) in the case of limited authorisation, in Form FERT. 12 in the First Schedule.

Certificates of authority for inspectors

PART V

SALE OF FARMING REQUISITES

- 11.** The statement of analysis for each class of fertiliser as defined in the Fifth Schedule shall appear in English in lettering both durable and legible on the bag or container containing the same or on a label securely attached thereto.
- 12.** Where any class of fertiliser as defined in the Fifth Schedule is sold in bulk, the statement of analysis for such class shall appear in English in lettering both durable and legible on a note which shall be given to the purchaser or his agent at the time of delivery of such fertiliser.
- 13.** Where any class of fertiliser as defined in the Fifth Schedule is sold in a container or a package under a trade name, trade mark, trade label or trade brand, as provided by section *thirty of the Act*, there shall appear in English in lettering both legible and durable on the container or package or on a label securely attached thereto, a statement of analysis in respect thereof and, in addition, there shall be lodged with the Registering Officer, in respect of such fertiliser, a statement of particulars specified in the Sixth Schedule.

Statements of analysis for sales in bags, containers, etc.

Statements of analysis for sales in bulk

Statements of analysis for sales under trade names, etc.

PART VI

SAMPLING, ANALYSIS AND LIMITS OF VARIATION

- 14.** A report of analysis shall be issued by the analyst performing the analysis in respect of every sample taken under the Act, and any such report shall be in Form FERT. 9 in the First Schedule.
- 15.** A certificate of analysis shall not be issued unless the sample has been taken in accordance with the Second Schedule and such certificate shall be in Form FERT. 10 in the First Schedule.
- 16.** Samples for analysis for the purposes of the Act shall be taken in the manner prescribed in the Second Schedule and certificates of sampling issued in relation thereto shall be in Form FERT. 13 in the First Schedule.

Form of report to be used

Form of certificate to be used

Method of taking samples

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17. Methods of analysis shall be as prescribed in the Third Schedule.

Method of analysis

18. The limits of variation in respect of any prescribed analysis shall be as prescribed in the Fourth Schedule.

Limits of variation



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FIRST SCHEDULE

CERTIFICATES AND FORMS

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FORM FERT. 1

REPUBLIC OF ZAMBIA

THE AGRICULTURE (Fertilisers and Feed) Act

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 4 and Regulation 4)

REGISTER OF PLANT

Certificate Number and Date	Location	Name and Purposes for which Registered	Address of registered owner	Remarks (e.g., if only provisional)



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REPUBLIC OF ZAMBIA

FORM FERT. 2

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 20 (a) and Regulation 8)

ROLL OF APPROVED ANALYSTS AND ANALYSTS APPROVED FOR
SPECIAL TECHNIQUES

Name	Address	Recognised qualifications	Purposes for which approved (general or special)	Date approved	Certificate Number	Remarks

NOTE.-Date of withdrawal of approval shall be noted in "Remarks" column opposite the analyst.



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FORM FERT. 3

REPUBLIC OF ZAMBIA

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 20 (b) and Regulation 9)

ROLL OF APPROVED LABORATORIES

Name and address of Laboratory	Names of approved analysts attached to laboratory	Purposes for which approved	Date of withdrawal	Certificate Number	Remarks (e.g. types of analysis)



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FORM FERT. 4

REPUBLIC OF ZAMBIA

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Sections 5 (1), 11 (1), (3), 17 (1), (2) and Regulation 3)

APPLICATION FOR REGISTRATION, TRANSFER OF REGISTRATION OR RENEWAL OF REGISTRATION

Name of applicant

Address

Address of plant

Nature of activities to be carried out in plant

Owner of plant

Address of owner

Please state whether you are applying for*(1)-

Fee units

(a)	First registration of plant	..	..	..	..	..	..	60
(b)	Annual renewal of registration of plant	..	..	..	..	..	..	30
(c)	Provisional registration of a plant	..	..	..	..	..	..	30
(d)	Provisional registration of a transferee from, or successor in interest to a registered owner, as registered owner on the register of plant	..	..	..	..	..	..	30
(e)	Full registration of a transferee from, or successor in interest to a registered owner, as registered owner on the register of plant	..	..	..	..	..	..	60

NOTE.-Fees should accompany this application.

* Strike out those inapplicable.



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Ref. No.	Date received
.....	
Fee units	
First registration	60
Renewal	30
Transfer (Provisional)	30
Transfer (Full)	60
Provisional registration	30
Fee paid	
Date.....	
Inspection by	
Remarks	
Certificate issued by	
Certificate No.	Date
.....	

NOTES:

1. This form should be used when applying for registration of any plant or plant ownership.
2. Where a plant is owned by more than one person then one person should be nominated and registered as owner for the purposes of the Act.
3. After this application has been received your plant will be inspected and you will be informed whether or not your plant has been approved for registration with or without conditions.
4. If such an inspection is not immediately practicable your application for registration may be classed as "provisional".

(As amended by Act No. 13 of 1994)



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FORM FERT. 5

REPUBLIC OF ZAMBIA

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 10 (1) and Regulation 3)

CERTIFICATE OF REGISTRATION OF PLANT

This is to certify that the plant situated at
and used for the purpose of
and owned by has been inspected, approved and registered for
the purposes of the Act.

This certificate should be displayed in a prominent place in the plant.

.....
Registering Officer

Date

No.

Receipt No.

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FORM FERT. 6

REPUBLIC OF ZAMBIA

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Sections 8 and 9 and Regulation 3)

CERTIFICATE OF PROVISIONAL REGISTRATION OF PLANT

This is to certify that the plant situated at and used for the purposes of and owned by has been provisionally registered for the purposes of the Act.

This certificate should be displayed in a prominent position in the plant.

.....
Registering Officer

Date

No.

Receipt No.



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FORM FERT. 7

REPUBLIC OF ZAMBIA

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 18 (1) and Regulation 6)

CERTIFICATE OF APPROVAL OF ANALYST

This is to certify that the Minister of Agriculture, Food and Fisheries has approved
..... as an analyst for the purposes of the Act.

.....
Registering Officer

Date
No.



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FORM FERT. 8

REPUBLIC OF ZAMBIA

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 19 (1) and Regulation 7)

CERTIFICATE OF APPROVAL OF LABORATORY

This is to certify that the Minister of Agriculture has approved
as a laboratory for the purposes of the Act, subject to the following limitations

.....
.....

.....
Registering Officer

Date
Roll No.



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FORM FERT. 9

REPUBLIC OF ZAMBIA

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 21 and Regulation 14)

REPORT OF ANALYSIS

I certify that I received on
.....19.....,

a sample of
from

The report is as follows:

Laboratory number

Sample number

.....
.....
.....
.....

Date

Analyst

NOTE.-To be completed in triplicate and copies despatched as follows:

Original -Owner or Seller.

Duplicate -Inspector.

Triplicate -To be retained by Analyst.



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FORM FERT. 10

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Sections 21 and 47 and Regulation 15)

CERTIFICATE OF ANALYSIS

I certify that I received on
19.....
a sample of
from
and the analysis of this sample is as declared below.
Laboratory number
Sample number

Constituent	Declared Analysis	Actual Analysis

Date
.....
Analyst

NOTE.-To be completed in triplicate and copies despatched as follows:
Original-Owner or Seller.
Duplicate-Inspector.
Triplicate-To be retained by Analyst.



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REPUBLIC OF ZAMBIA

FORM FERT. 11

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Sections 24 (2) and 25 (2) and Regulation 10)

CERTIFICATE OF AUTHORITY FOR INSPECTOR

This is to certify that
has been duly authorised as an Inspector of farming requisites for the purposes of the Act and is empowered to exercise
all the powers therein described anywhere in Zambia.

Certificate number

Date

.....
Inspector

.....
Registering Officer

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FORM FERT. 12

REPUBLIC OF ZAMBIA

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 24 and Regulation 10)

CERTIFICATE OF LIMITED AUTHORITY FOR INSPECTOR

This is to certify that
has been granted limited authorisation to act as an Inspector of farming requisites for the purposes of the Act and is
empowered to exercise all the powers therein described except as stated below.

.....
.....
.....

Signature of Inspector

Certificate number

Date

.....
Registering Officer



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REPUBLIC OF ZAMBIA

FORM FERT. 13

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 52 (h) and Regulation 16)

CERTIFICATE OF SAMPLING

I certify that the accompanying is/are sample(s) of
 taken by me on, 19....., at
 from stock in charge of
 in the presence of

(name and address of witness)

The following particulars are given in connection with this/these sample(s).

Sample No.	Description of goods represented by this sample	Quantity of goods represented by this sample

Other particulars

Declared analysis as set out in the Fifth Schedule and trade name, trade brand or trade mark, etc., under which sold

Signature of witness

Signature of Inspector

Date

NOTE.-This form is to be completed in triplicate and should be despatched as follows:

Original-Analyst.

Duplicate-Owner or Seller.

Triplicate-To be retained by Inspector.



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SECOND SCHEDULE

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 25 (1) (a), (1) (b) and Regulation 16)

METHOD OF TAKING SAMPLES

NOTE.-In this regulation "metric ton" is defined as 1,000 kg.

1. Where the fertiliser is contained in packages the samples shall be taken from different parts of the whole quantity as follows:

- (a) if the quantity does not exceed two and a half metric tons, from not less than two unopened packages per ton or part thereof;
- (b) if the quantity exceeds two and a half metric tons, from one additional unopened package for every additional ton or part thereof:

Provided that in no case need samples be taken from more than twenty packages.

2. Where the fertiliser is not contained in packages, not less than two samples per ton or part thereof shall be taken from different parts of the whole quantity:

Provided that not less than six shall be taken and not more than fifty need be taken.

3. The samples shall be taken by means of a suitable sampling probe or by such other means as will ensure, as far as is practicable, the taking of a representative sample.

4. The samples thus taken shall be thoroughly mixed and reduced in size to give a final sample not exceeding six pounds in weight. This final sample shall be mixed and divided into three parts and each of these parts shall be transferred to a clean, dry, non-corrodible container capable of being closed in such a manner as to preserve the contents of the container in their original condition. These three containers shall be so sealed so that they cannot be opened without breaking the seal. Each of these three parts shall be marked with the name of the fertiliser, date and place of sampling and the sample number together with the name of the inspector taking the sample.

5. The first part shall be given to the owner or seller of the fertiliser or his agent, the second part shall be delivered to an approved analyst for analysis, and the third part shall be retained by the inspector for a period of not less than six months after the date on which the Report or Certificate of Analysis is issued.

6. A Certificate of Sampling (Form FERT. 13 in the First Schedule) shall be made out in triplicate at the time of sampling and the relevant copies as detailed in Form FERT. 13 in the First Schedule should accompany each part of the sample.

(As amended by S.I. No. 117 of 1970)

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THIRD SCHEDULE

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 52 (i) and Regulation 17)

METHODS OF ANALYSIS OF FERTILISERS

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1. PREPARATION OF SAMPLE:

- Remove any extraneous matter which cannot be conveniently ground and allow for this when calculating results.
- Grind the sample as rapidly as possible to pass through a sieve having apertures about 1 mm. square. In the case of granular fertilisers and dry powdered fertilisers grind a representative portion of about 250 g. to pass through a sieve having apertures about 0.25 mm. square.
- Store the prepared sample in a non-corrodible air-tight container.
- Where a sample is too moist to be ground in its original condition, mix the sample thoroughly and remove a portion for moisture determination. Dry the remaining portion at 100 degrees C except where the sample may lose ammonia or where the sample contains soluble phosphorus compounds. In these instances dry the sample in a desiccator over calcium chloride or silica gel, or alternatively by passing dry air at room temperature over the sample until it is in a suitable condition for grinding. The results of the analysis of the dried sample should be adjusted to the "as received" condition.

2. DETERMINATION OF MOISTURE:

Weigh to the nearest mg. about 5 g. of the sample and heat to 100°C for three hours, cool in a desiccator and weigh. Calculate the loss in weight as a percentage of the original weight.

3. DETERMINATION OF NITROGEN:

(a) REAGENTS

Ammonia alum.

Standard indigo solution.

Cautiously add 40 ml. of concentrated sulphuric acid to 1 g. of indigo carmine and stir until dissolved. Pour the solution into 800 ml. of water, cool and dilute to 1 litre. Adjust the strength of the solution to comply with the following test:

Add 20 ml. to a solution of 4 mg. of potassium nitrate in 20 ml. of water. Add rapidly 40 ml. of concentrated sulphuric acid and heat to boiling; the blue colour is just discharged in one minute.

Concentrated sulphuric acid.

1 : 9 *Sulphuric acid*-Cautiously add 100 ml. of concentrated sulphuric acid to 900 ml. of water. Cool and dilute to 1 litre.

1 : 1 *Sulphuric acid*-Cautiously add 500 ml. of concentrated sulphuric acid to 500 ml. of water. Cool and dilute to 1 litre.

Anhydrous sodium sulphate.

Cupric sulphate.

Paraffin wax.

Granulated zinc.

Light magnesium oxide.

50% sodium hydroxide solution-Dissolve 500 g. of sodium hydroxide in water and dilute to 1 litre.

0.1 N Hydrochloric acid.

Mixed indicator solution-Grind together in an agate mortar 0.6 g. of methyl red and 0.6 g. of methylene blue. Dissolve the mixture in 500 ml. of 95% ethanol. Shake, filter and store in a dark glass bottle.

2% Boric acid solution-Dissolve 20 g. of boric acid in water, dilute to 1 litre and add 5 ml. of the mixed indicator solution.

Devarda's alloy: Finely powdered-not less than 80% to pass through a sieve having apertures of about 0.25 mm. square.

(b) TEST FOR ABSENCE OF NITRATES

Shake 5 g. of the sample with 80 ml. of water in a 100 ml. volumetric flask. Add 1 g. of ammonia alum, dilute to 100 ml., shake well and filter into a dry beaker. Dilute 1 ml. of the filtrate with 8 ml. of water. Add 1 ml. of standard indigo solution and 10 ml. of concentrated sulphuric acid. Heat to boiling point. If the colour is not discharged regard the sample as free from nitrates.

(c) TOTAL NITROGEN (ORGANIC AND AMMONIACAL) IN THE ABSENCE OF NITRATES

(i) Weigh to the nearest mg. about 2 g. of the sample (or an amount containing not more than 250 mg. of nitrogen) and transfer to a Kjeldahl flask. Add 25 ml. of concentrated sulphuric acid and approximately 10 g. of anhydrous sodium sulphate containing 0.4 g. of cupric sulphate. Heat gently until frothing ceases, increase the heat and continue the digestion until the liquid is practically colourless. Continue to heat for a further hour. If frothing is excessive add about 0.5

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FOURTH SCHEDULE

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 52 (g) and Regulation 18)

LIMITS OF VARIATION

The limits shown shall be the maximum variation allowed above and below the amount stated except in the case of sulphur.

1. *Limits Applicable to all Fertilisers Except in 2 below:*

Nitrogen	All forms of nitrogen expressed as % N:1/10th of amount stated with a minimum of 0.3% N and a maximum of 1.0% N.
Phosphorus	Water-soluble phosphorus expressed as % P: 1/20th of amount stated with a minimum of 0.2% P and a maximum of 0.9% P.
Potassium	Total potassium expressed as % K: 1/20th of amount stated with a minimum of 0.6% K and a maximum of 1.7% K.
Chloride	Percentage chloride expressed as % Cl: 1/20th of amount stated.
Boron	Percentage boron expressed as % B: 1/5th of amount stated.
Sulphur	No variation allowed below minimum amount stated.

2. *Limits Applicable to Borax and Other Borates for Use as Fertilisers:*

Percentage boron expressed as % B: 1/10th of amount stated with a maximum of 1.0% B.

3. *Sulphate of Ammonia:*

In addition to the other limits applicable in 1 above, percentage of free acidcontent:

1/5th of amount stated or 0.025% whichever is the greater, expressed as percentage by weight of sulphuric acid (H₂SO₄).



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 FIFTH SCHEDULE

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Sections 28, 29 and 52 (k) and Regulations 11 and 12)

STATEMENTS OF ANALYSIS REQUIRED FOR DIFFERENT CLASSES
 OF FERTILISERS

*Statement of Analysis to be Shown on Bags,
 Containers or Labels, and Notes to Accompany
 Sales in Bulk*

<i>Class of Fertiliser</i>	
Nitrogenous fertilisers	Percentage of total nitrogen.
Ammoniated phosphates and ammoniated super-phosphates.	Percentage of total nitrogen. Percentage of water-soluble phosphorus expressed in the elemental form (P). Minimum percentage of sulphur expressed in the elemental form (S).
Single, double or triple super-phosphates.	Percentage of water-soluble phosphorus expressed in the elemental form as (P).
Potassic fertilisers.	Percentage of potassium expressed in the elemental form (K).
Any other inorganic fertiliser or compound, complex, blend or mixture of fertilisers.	Percentage of total nitrogen (N). Percentage of water-soluble phosphorus expressed in the elemental form (P). Percentage of potassium expressed in the elemental form (K). Percentage of boron expressed in the elemental form (B). Minimum percentage of sulphur expressed in the elemental form (S).
Borax and other borates for use as fertilisers.	Percentage of boron expressed in the elemental form.



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SIXTH SCHEDULE

THE AGRICULTURE (FERTILISERS AND FEED) ACT

THE AGRICULTURE (FERTILISERS) REGULATIONS

(Section 30 and Regulation 13)

STATEMENT OF PARTICULARS TO BE LODGED WITH THE REGISTERING OFFICER IN RESPECT OF FERTILISERS SOLD IN BAGS, CONTAINERS, ETC., UNDER ANY TRADE NAME, TRADE MARK, ETC., AS DESCRIBED IN SECTION 30 OF THE ACT

1. Percentage by weight of nitrogen:
 - (a) in the ammonium form;
 - (b) in the nitrate form;
 - (c) in the urea form;
 - (d) in any other form.
2. Percentage by weight of water-soluble phosphorus expressed as (P).
3. Percentage by weight of potassium expressed as (K):
 - (a) in the chloride form;
 - (b) in the sulphate form;
 - (c) in any other form.
4. The minimum percentage by weight of sulphur expressed as (S).
5. The percentage by weight of boron expressed as (B).
6. In the case of sulphate of ammonia only the percentage of free acid.
7. The trade name, brand name, etc., under which the product is to be sold.
8. By whom sold
Address

THE AGRICULTURE (FARM FEED) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I
PRELIMINARY



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Regulation

1. Title
2. Interpretation
3. Application

PART II
REGISTRATION

4. Registration of plant and fees
5. Register of plant
6. Requirements of plant

PART III
ANALYSIS AND LABORATORIES

7. Approval of analysts
8. Approval of laboratories
9. Roll of analysts
10. Roll of laboratories

PART IV
SEARCHES AND SEIZURES

11. Certificate of authority for inspectors

PART V
SALE OF FARM FEED

Regulation

12. Statements of analysis for sales in bags, containers, etc.
13. Statements of analysis for sales in bulk
14. Statements of analysis and records to be kept for sales under trade names, etc.
15. Exemption of farm feed made to specification
16. Deleterious ingredients
17. Declaration of presence of certain ingredients upon sale



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PART VI

SAMPLING, ANALYSIS AND LIMITS OF VARIATION

18. Form of report to be used
19. Form of certificate to be used
20. Method of taking samples
21. Methods of analysis
22. Limits of variation

FIRST SCHEDULE-Implied definitions

SECOND SCHEDULE-Statements of analysis

THIRD SCHEDULE-Records to be kept in connection with farm feed sold under trade names, etc.

FOURTH SCHEDULE-Deleterious ingredients

FIFTH SCHEDULE-Ingredients which must be declared

SIXTH SCHEDULE-Method of taking samples

SEVENTH SCHEDULE-Methods of analysis

EIGHTH SCHEDULE-Limits of variation

SECTION 52-THE AGRICULTURE (FARM FEED) REGULATIONS

*Statutory Instrument
197 of 1970*

Regulations by the Minister

PART I

PRELIMINARY

1. These Regulations may be cited as the Agriculture (Farm Feed) Regulations. Title
2. In these Regulations, unless the context otherwise requires- Interpretation

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"the Act" means the Agriculture (Fertilisers and Feed) Act.

"Minister" means the Minister responsible for Agriculture.

3. These Regulations shall apply in relation to any farm feed as defined in section *two* of the Act. Application

PART II

REGISTRATION

4. (1) Applications under Part II of the Act for registration, transfer of registration or renewal of registration of plant shall be made in Form FERT 4 in the First Schedule to the Agriculture (Fertilisers) Regulations, 1969 (hereinafter in these Regulations referred to as "the Fertilisers Regulations") and such application shall be accompanied by the appropriate fees shown in the First and Second Schedules to the Act, and be given to the Registering Officer. Registration of plant and fees. S.I. No. 476 of 1969

(2) The Registering Officer shall issue a certificate of registration in Form FERT 5 in the First Schedule to the Fertilisers Regulations.

(3) The Registering Officer shall issue a certificate of provisional registration in Form FERT 6 in the First Schedule to the Fertilisers Regulations.

5. The Registering Officer shall keep a register of plant as prescribed in Form FERT 1 in the First Schedule to the Fertilisers Regulations. Register of plant

6. Any plant within the definition of section *two* of the Act shall be so equipped as to permit the adequate performance therein of the activities described in the application for registration of such plant, to the satisfaction of the Registering Officer. Requirement of plant

PART III

ANALYSTS AND LABORATORIES

7. (1) For the purposes of the Act an analyst shall furnish proof to the satisfaction of the Minister that he has competent knowledge of chemistry and of chemical analyses, as applied to farm feed, and such proof shall in every case comprise documentary evidence that the analyst holds a certificate or diploma attesting his possession of the requisite knowledge and given by a recognised competent body, and shall be submitted to the Minister when applying for approval, so, however, that the Minister may call for further evidence if required in any particular case. Approval of analysts



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(2) Where the requirements referred to in sub-regulation (1) are satisfied, the Registering Officer shall issue a certificate of approval on Form FERT 7 in the First Schedule to the Fertilisers Regulations.

8. (1) An approved laboratory shall be so equipped as to enable approved analysts to perform accurately for the purposes of the Act all the analyses specified under the Seventh Schedule to these Regulations and such laboratories shall have been inspected by a duly authorised officer of the Ministry of Agriculture, Food and Fisheries before approval by the Minister and may be inspected from time to time as the Registering Officer may deem necessary:

Approval of laboratories

Provided that, in addition, other laboratories may be approved for certain analyses only, such analyses to be specified by the Registering Officer after inspection by a duly authorised officer of the Ministry of Agriculture, Food and Fisheries.

(2) Where the Minister approves a laboratory, the Registering Officer shall issue a certificate of approval on Form FERT 8 in the First Schedule to the Fertilisers Regulations.

9. The Registering Officer shall keep a roll of approved analysts in Form FERT 2 in the First Schedule to the Fertilisers Regulations.

Roll of analysts

10. The Registering Officer shall keep a roll of approved laboratories in Form FERT 3 in the First Schedule to the Fertilisers Regulations.

Roll of laboratories

PART IV

SEARCHES AND SEIZURES

11. The certificate of authority to be held by inspectors under section *twenty-five* of the Act shall be issued by the Registering Officer and shall be-

Certificate of authority for
inspectors

- (a) in the case of general authorisation, in Form FERT 11 in the First Schedule to the Fertilisers Regulations; and
- (b) in the case of limited authorisation, in Form FERT 12 in the First Schedule to the Fertilisers Regulations.

PART V

SALE OF FARM FEED

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12. The statement of analysis for each class of farm feed specified in the Second Schedule to these Regulations shall appear in English in lettering both durable and legible on the bag or container containing the same or on a label securely attached thereto. Statements of analysis for sales in bags, containers, etc.

13. Where any class of farm feed specified in the Second Schedule to these Regulations is sold in bulk, the statement of analysis for such class shall appear in English in lettering both durable and legible on a note which shall be given to the purchaser or his agent at the time of delivery of such farm feed. Statements of analysis for sales in bulk

14. Where any class of farm feed specified in the Second Schedule to these Regulations is sold in a container or a package under a trade name, trade mark, trade label or trade brand, as provided by section *thirty* of the Act, there shall appear in English in lettering both durable and legible on the container or package, or on a label securely attached thereto, a statement of analysis in respect thereof and, in addition, the Registering Officer shall have access to such records relating thereto as are specified in the Third Schedule to these Regulations. Statements of analysis and records to be kept for sales under trade names, etc.

15. Where any farm feed is manufactured to a farmer's own specifications, such farm feed shall be exempted from these Regulations, but only if the farm feed is for the sole use of the farmer supplying the specifications and is not intended for re-sale. Exemption of farm feed made to specification

16. No class of farm feed shall contain any of the ingredients listed as deleterious in the Fourth Schedule to these Regulations. Deleterious ingredients

17. The presence in any farm feed of any of the materials specified in the Fifth Schedule to these Regulations shall be declared in writing to the purchaser of any farm feed whether sold in containers, in bulk or under any trade name, trade mark, trade label or trade brand. Declaration of presence of certain ingredients upon sale

PART VI

SAMPLING, ANALYSIS AND LIMITS OF VARIATION

18. A report of analysis shall be issued by the analyst performing the analysis in respect of every sample taken under the Act, and any such report shall be in Form FERT 9 in the First Schedule to the Fertilisers Regulations. Form of report to be used

19. A certificate of analysis shall not be issued unless the sample has been taken in accordance with the Sixth Schedule to these Regulations and such certificate shall be in the Form FERT 10 in the First Schedule to the Fertilisers Regulations. Form of certificate to be used

20. Samples for analysis for the purposes of the Act shall be taken in the manner prescribed in the Sixth Schedule to these Regulations and certificates of sampling issued in relation thereto shall be in Form FERT 13 in the First Schedule to the Fertilisers Regulations. Method of taking samples

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21. Methods of analysis shall be as prescribed in the Seventh Schedule to these Regulations. Methods of analysis
22. The limits of variation in respect of any prescribed analysis shall be as prescribed in the Eighth Schedule to these Regulations. Limits of variation



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FIRST SCHEDULE

Agriculture (Fertilisers and Feed) Act

Agriculture (Farm Feed) Regulations

(Section 2)

DEFINITIONS IMPLIED ON THE SALE OF FARM FEED UNDER CERTAIN NAMES

<i>Name of Farm Feed or Class of Feed</i>	<i>Implied Definition</i>
Cereal brans	By-products produced in the milling of maize, wheat or other cerealkernels.
Oilseed cakes or meals (undecorticated)	Meals or cakes produced from the residues resulting from the removal of oil from undecorticated groundnuts, cottonseeds, sunflower seeds, soya beans or other oilseeds.
Oilseed cakes or meals (decorticated)	Meals or cakes produced from the residues resulting from the removal of oil from decorticated or partly decorticated groundnuts, cottonseeds sunflower seeds, soya beans or other oilseeds.
Meat and bone meal	The product, containing not less than 40 per cent of protein (and not more than 4 per cent of salt) obtained by drying and grinding animal carcasses or portions thereof (excluding hoof and horn) to which no other matter has been added, but which may have been treated previously for the removal of oil or fat.
Bone meal	Commercially pure bone, raw or degreased, which has been ground or crushed.
Meat meal	The product, containing not less than 55 per cent of protein (and not more than 4 per cent of salt) obtained by drying and grinding animal carcasses or portions thereof (excluding hoof and horn) to which no other matter has been added but which may have been treated previously for the removal of oil or fat.
Fish meal	A product obtained by drying and grinding or otherwise treating fish or fish waste.
Molasses	A concentrated syrup product obtained in the manufacture of sugar from sugar cane, to which no other matter has been added.
Molasses feed and molasses.	Any mixture (containing not less than 10 per cent of sugar) of an absorbent material
Mixture of molasses	Any mixture of molasses and urea with or without any absorbent material.
Compound cakes and meals	A homogeneous mixture of two or more farm feeds.
Concentrated or high energy farm feed	A homogeneous mixture of two or more farm feeds or other substances intended to be mixed with some other farm feed before feeding to livestock.

NOTE:

"Commercially pure" means that no other matter has been added. In the case of every article mentioned in this Schedule the definition shall be deemed not to exclude the presence of a substance added to improve the keeping or handling properties of the farm feed or the presence of any coccidiostat, anti-blackhead remedy, natural or synthetic hormone.

"Synthetic hormone" means a synthetic compound which has similar properties to, or has the property of stimulating the production of, a natural hormone.

"Coccidiostat" means a substance used in the prevention or curative treatment of disease in poultry caused by protozoal organisms of the order coccidia.

"Anti-blackhead remedy" means a substance used in the prevention or curative treatment of infection in poultry due to *Histomonas Meleagridis*.

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SECOND SCHEDULE

Agriculture (Fertilisers and Feed) Act

Agriculture (Farm Feed) Regulations

(Sections 28, 29 and 52K and regulations 12, 13 and 14)

STATEMENTS OF ANALYSIS REQUIRED FOR DIFFERENT CLASSES OF FARM FEED

<i>Class of Farm Feed</i>	<i>Statement of Analysis</i>
Cereal brans	Percentages of protein, oil and fibre.
Oilseed cakes or meals (undecorticated)	Percentages of protein and oil.
Oilseed cakes or meals (decorticated)	Percentages of protein, oil and fibre.
Meat and bone meal	Percentages of protein, oil and phosphorus.
Bone meal	Percentages of protein and phosphorus.
Meat meal	Percentages of protein, oil and phosphorus.
Fish meal	Percentages of protein, oil, phosphorus and salt.
Molasses	Percentage of sugar.
Molasses feed	Percentages of sugar and fibre.
Mixture of molasses and urea	Percentages of sugar and protein equivalent of urea.
Compound cakes and meals	Percentages of oil, fibre and protein (including the protein equivalent of urea, if any)
Concentrated or high energy feed	Percentages of oil, fibre and protein (including the protein equivalent of urea, if any); a statement of the proportions in which the feed should be mixed with other farm feed defined by name or class.

NOTES:

1. The amount of protein, except in the case of Compound Cakes and Concentrated or High Energy farm feed, means the amount of nitrogen other than ammoniacal, nitric or urea nitrogen, multiplied by 6.25. In the case of Compound Cakes and High Energy farm feed the amount of protein means the amount of nitrogen other than ammoniacal and nitric nitrogen multiplied by 6.25. The amount of protein equivalent of urea means the amount of urea nitrogen multiplied by 6.25.
2. In all cases the names of any added vitamins, minerals, antibiotics and synthetic or natural hormones shall be declared in the statement of analysis.
3. In all cases the maximum percentage of urea present in any farm feed shall be declared.



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THIRD SCHEDULE

Agriculture (Fertilisers and Feed) Act,

Agriculture (Farm Feed) Regulations.

(Section 30 and regulation 14)

STATEMENTS OF ANALYSIS AND RECORDS TO BE KEPT FOR SALES UNDER TRADE NAMES, ETC.

Manufacturers of farm feeds shall keep records of all ingredients used in manufacturing any farm feed which is sold under a trade name, trade mark, trade label or trade brand. Such records shall be available for inspection at all reasonable times by a duly authorised officer, and shall be kept in such a manner as to enable the Registering Officer or any duly authorised officer to ascertain the materials from which any lot or batch of farm feed have been manufactured, and the proportions of such materials contained in the farm feed.

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FOURTH SCHEDULE

Agriculture (Fertilisers and Feed) Act,

Agriculture (Farm Feed) Regulations,

(Section 52 and regulation 16)

DELETERIOUS INGREDIENTS IN FARM FEED

1. Salts soluble in water, if present in a farm feed in proportion likely to be injurious to the health of livestock.
2. All poisonous substances in quantities likely to be injurious to the health of livestock for which the farm feed is intended whether or not such substances are naturally present in the farm feed or material(s) from which the farm feed was manufactured.
3. Sand, siliceous matter or other insoluble mineral matter not naturally associated with ingredients of the farm feed which do not fall within the scope of this Schedule, or which, even if naturally so associated, are present in greater proportion than the maximum that may be expected to be due to such natural association.
4. For the purposes of this paragraph the term "insoluble" shall imply insolubility as determined by the prescribed method; the term "natural association" shall be construed as applying to average commercial samples of the farm feed or its ingredients with which it may be claimed that a particular mineral ingredient is associated.



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FIFTH SCHEDULE

Agriculture (Fertilisers and Feed) Act,

Agriculture (Farm Feed) Regulations.

(Section 52 and regulation 17)

INGREDIENTS IN FARM FEED THE PRESENCE OF WHICH MUST BE DECLARED

1. Husks, chaff, glumes, hulls, nutshells or skins of nuts, from any source, whether ground or unground, treated or untreated, when used as separate ingredients or artificial mixtures in the manufacture of farm feed.

Where the kernels naturally associated in seeds with one or other of the above materials are present in a farm feed along with material with which they are associated, regard shall be had to the proportion of the above materials that might reasonably be expected to accompany such kernels, when the seed from which they are derived is in its natural condition, provided that feeding in this condition is regarded as a common practice in the feeding of livestock.

2. Peat, peat moss or sugar cane pith, treated or untreated, ground or otherwise.
3. Wheat, maize or sorghum straw, maize rachis, ground or otherwise.
4. Sawdust or any other form of wood, treated or untreated.



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SIXTH SCHEDULE

Agriculture (Fertilisers and Feed) Act.

Agriculture (Farm Feed) Regulations.

(Section 52 (h) and regulations 19 and 20)

METHOD OR TAKING SAMPLES

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NOTE-In this regulation "metric ton" is defined as 1,000 kg.

1. Where a farm feed is contained in packages the samples shall be taken from different parts of the whole quantity as follows:

- (a) if the quantity does not exceed one ton, from not less than two unopened packages per ton or part thereof;
- (b) if the quantity exceeds one ton but does not exceed two tons, from not less than four unopened packages;
- (c) if the quantity exceeds two tons but does not exceed three tons, from not less than six unopened packages;
- (d) if the quantity exceeds three tons, from one additional unopened package for every additional ton or part thereof, but in no case need samples be taken from more than fifteen packages.

2. Where a farm feed is not contained in packages, a proportion calculated in accordance with paragraph 1 shall be taken from different parts of the whole quantity.

3. The samples shall be taken by means of a suitable sampling probe or by any other means as will ensure, as far as is practicable, the taking of a representative sample.

4. When a farm feed consists of material uneven in character, bulky or likely to get matted together, portions shall be taken from the selected packages, or from different parts of the farm feed if in bulk, any matted portions torn up, and all the portions thoroughly mixed together.

5. The samples thus taken shall be thoroughly mixed and reduced in size to give a final sample not exceeding six pounds in weight. This final sample shall be mixed and divided into three parts and each of these parts shall be transferred to a clean, dry, noncorrodible container capable of being closed in such a manner as to preserve the contents of the container in their original condition. These three containers shall be so sealed that they cannot be opened without breaking the seal. Each of these parts shall be marked with the name of the farm feed, date and place of sampling and the sample number together with the name of the inspector taking the sample.

6. When the farm feed is in liquid condition it should be thoroughly mixed before sampling. When in containers, samples shall be taken as follows:

Where the number of containers-

exceeds 1 but does not exceed 20
exceed 20 but does not exceed 40
exceed 40 but does not exceed 60
exceed 60

Portions shall be drawn from-

not less than 2 containers
not less than 4 containers
not less than 6 containers
one extra container for every 20
containers by which the total exceeds 60.

Where the farm feed is in liquid condition and is in bulk a representative sample shall be taken in accordance with the scale of sampling set out above.

The portions drawn shall be mixed together in a clean, dry container and a sample of 1 kg weight shall be taken. The sample shall be divided into three equal parts by pouring successive portions into each of three clear glass bottles or jars, preferably with wide mouths. The bottles or jars shall be provided with air-tight stoppers or with lids which shall be so fastened that spillage or evaporation of the contents is prevented. Each of the bottles or jars shall be so sealed that they cannot be opened without breaking the seal. Each of the bottles or jars shall be marked with the name of the farm feed, date and place of sampling and the sample number together with the name of the inspector taking the sample.

7. In the case of all samples the first part shall be given to the owner or seller of the farm feed or his agent, the second part shall be delivered to an approved analyst for analysis and the third part shall be retained by the inspector for a period of not less than six months after the date on which the report or certificate of analysis is issued.

8. A certificate of sampling (Form FERT 13 in the First Schedule to the Agriculture (Fertilisers) Regulations, 1969) shall be made out in triplicate at the time of sampling and the relevant copies as detailed in the form should accompany each part of the sample.

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SEVENTH SCHEDULE

Agriculture (Fertilisers and Feed) Act.

Agriculture (Farm Feed) Regulations.

(Section 52 (i) and regulation 21)

METHODS OF ANALYSIS

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NOTE:

1. In this Schedule "water" means distilled or purified water except where stated.
2. *Reagents* should be of the appropriate analytical purity.

PREPARATION OF SAMPLE

- (a) If the sample is in a fine condition and passes through a sieve having apertures of one millimetre square, it shall be thoroughly mixed and a portion not less than 100 grams in weight shall be placed in a stoppered bottle. From this portion the quantities for analysis shall be taken.
- (b) If the sample does not wholly pass through a sieve having apertures of one millimetre square and wholly passes through a sieve having apertures of three millimetres square, it shall be thoroughly mixed and a portion for the determination of the moisture content shall be taken at once.
- (c) If the sample is in a coarse condition as, for example, pieces of cake, it shall be carefully pulverised until the whole passes through a sieve having apertures of three millimetres square. It shall then be thoroughly mixed and a portion for the determination of the moisture content shall be taken at once.
- (d) From the mixed sample as in (b) above, or from the coarsely crushed sample as in (c) above, a portion not less than 100 grams in weight shall be taken and further powdered and passed through a sieve having apertures of one millimetre square. The portion of the sample so prepared shall be placed in a stoppered bottle and from it the quantities for analysis shall be taken.
- (e) If the original sample is appreciably moist, or if for any reason the operations of pulverisation and mixing are likely to result in loss or gain of moisture, the moisture in the bottled portion shall be determined as well as in the portion taken for that purpose under (b) or (c) above in order that the results of the analysis may be corrected to correspond with the original sample as regards moisture.
- (f) Materials which cannot conveniently be pulverised or passed through a sieve shall be thoroughly mixed by the most suitable means.

DETERMINATION OF MOISTURE

A weighed quantity of the sample shall be dried at 100°C and then be reweighed.

DETERMINATION OF OIL OR FAT (ETHER EXTRACT)

Reagents:

Petroleum ether-light petroleum-b.p. 40°C to 60°C.

NOTE-If ambient temperature of the laboratory demands then petroleum ether- light petroleum-of b.p. 60°C to 80°C may be used.

METHOD

Extract 2 to 5 grams of the sample, which has been dried for 1 hour at 100°C, in a Soxhlet extraction apparatus with petroleum ether for a period of at least 6 hours. After evaporation of the solvent, dry the oil or fat for 30 minutes at 100°C, cool in a desiccator and weigh. Calculate the oil or fat percentage as follows:

$$\frac{(A-B) \times 100}{C}$$

where *A* = weight in grams of the Soxhlet flask after extraction

B = weight in grams of the Soxhlet flask before extraction

C = weight in grams of the sample taken.

DETERMINATION OF FIBRE

Reagents:

Sulphuric acid solution-Prepare a solution containing 1.25 grams of sulphuric acid per 100 ml from chemically pure sulphuric acid. (0.255N).

Sodium hydroxide solution-Prepare a solution containing 1.25 grams of sodium hydroxide from carbonate-free sodium hydroxide. (0.313N).

Dilute hydrochloric acid solution (1:100).

Ethyl alcohol (95 per cent v/v).

METHOD

Transfer a 2 to 3 gram sample, from which the bulk of the oil or fat has been extracted, to a conical flask (1 litre). Measure 200 ml of the sulphuric acid solution and heat to boiling; add to the flask, connect the flask to a condenser and heat. Bring the contents of the flask to boiling within one minute and boil gently and continuously for exactly 30 minutes. Rotate the flask at intervals of about 5 minutes to mix the contents thoroughly; do not allow any material to adhere to the sides of the flask out of contact with the solution.

At the end of 30 minutes remove the flask and immediately filter with suction through a Whatman No. 54 or No. 541 filter paper (or equivalent) fitted to a Hartley funnel or Buchner funnel. The time of filtration of the bulk of the 200 ml of liquid should not exceed 10 minutes. Wash with boiling water until the washings are free from acid.

Wash the material back into the flask with 200 ml of sodium hydroxide solution (measured at ordinary temperature and heated to boiling point). Boil again for exactly 20 minutes, observing the precautions stated for the acid treatment.

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 EIGHT SCHEDULE

Agriculture (Fertilisers and Feed) Act.

Agriculture (Farm Feed) Regulations.

(Section 52 (g) and regulation 22)

LIMITS OF VARIATION

<i>Farm Feed</i>	<i>Limits of Variation</i>
Cereal brans	Protein, one tenth of the amount stated. Oil, 0.75 per cent or one tenth of the amount stated, whichever is the greater. Fibre, one eighth of the amount stated.
Oilseed meals or cakes (undecorticated)	Protein, one tenth of the amount stated. Oil, 0.75 per cent or one tenth of the amount stated, whichever is the greater.
Oilseed meals or cakes (decorticated)	Protein, one tenth of the amount stated. Oil, 0.75 per cent or one tenth of the amount stated, whichever is the greater. Fibre, one eighth of the amount stated.
Meat and bone meal	Protein, one tenth of the amount stated. Oil, 0.75 per cent or one tenth of the amount stated, whichever is the greater. Phosphorus, one tenth of the amount stated.
Bone meal	Protein, one tenth of the amount stated.
Meat meal	Phosphorus, one tenth of the amount stated. Protein, one tenth of the amount stated. Oil, 0.75 per cent or one tenth of the amount stated, whichever is the greater.
Fish meal	Protein, one tenth of the amount stated. Oil, 0.75 per cent or one tenth of the amount stated, whichever is the greater. Phosphorus, one tenth of the amount stated. Salt, 0.75 per cent.
Molasses	Sugar, one twentieth of the amount stated.
Molasses feed	Sugar, one tenth of the amount stated. Fibre, one eighth of the amount stated.
Mixtures of molasses and urea	Sugar, one tenth of the amount stated. Protein equivalent of urea, one fifth of the amount stated.
Compound cakes and meals, and.	Protein, one tenth of the amount stated. Protein, concentrated or high energy farm equivalent of urea, 1.25 per cent or one feed, fifth of the amount stated. Oil, 0.75 per cent or one tenth of the amount stated, whichever is the greater. Fibre, one eighth of the amount stated.



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Argemone mexicana (subfusiformis) is hereby declared to be a noxious weed in all areas of Zambia. *Statutory Instrument 70 of 1968*

Xanthium Pungens Wall is hereby declared to be a noxious weed in all areas of Zambia.

REPUBLIC OF ZAMBIA

THE AGRICULTURAL PRODUCTS LEVY ACT

CHAPTER 232 OF THE LAWS OF ZAMBIA

CHAPTER 232 THE AGRICULTURAL PRODUCTS LEVY ACT CHAPTER 232

THE AGRICULTURAL PRODUCTS LEVY ACT

ARRANGEMENT OF SECTIONS

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SCHEDULE-Maximum rates of levy

CHAPTER 232

AGRICULTURAL PRODUCTS LEVY

Act No.
19 of 1957
13 of 1994
Statutory Instrument
176 of 1965

An Act to provide for the payment and collection of levies on certain agricultural products and for matters incidental thereto.

[1st October, 1957]

1. This Act may be cited as the Agricultural Products Levy Act.

Short title

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

Interpretation

"agricultural product" means-

(a) dry maize on or off the cob, milk and butterfat; and

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- (b) any other animal or thing whatsoever declared to be an agricultural product in terms of subsection (1) of section *five*;

"animal" includes the carcass or any portion of the carcass of any animal;

"class", in relation to an agricultural product, includes grade, quality, standard and type;

"dealer" includes-

- (a) an auctioneer, broker, purchaser, seller or exporter of an agricultural product or class of agricultural product and a person engaged in a trade or industry in which an agricultural product or class of agricultural product is utilised or treated;
- (b) a market master and a local authority;
- (c) a statutory board, organisation, society, association or like body in or to which an agricultural product or class of agricultural product is vested or surrendered;

and cognate expressions shall be construed by reference, *inter alia*, to transactions or operations such as are carried on by persons referred to in paragraph (a);

"marketing or levy law", in relation to an agricultural product or class of agricultural product, means any written law relating to the marketing of the agricultural product or class of agricultural product or providing for the imposition of a levy on the agricultural product or class of agricultural product, but does not include this Act;

"producer" means a person who, by himself or by means of his agents or servants, produces an agricultural product and "produced" shall be construed accordingly;

"producers' association", in relation to an agricultural product, means the Zambia National Farmers' Union or, if the Minister is satisfied that some other association of persons adequately represents producers of the agricultural product, that other association;

"sell" includes to exchange or dispose of for any valuable consideration and "purchaser" and "seller" shall be construed accordingly.

(As amended by S.I. No. 176 of 1965)

3. The provisions of this Act shall not apply-

Application

- (a) obsolete;
- (b) in relation to agricultural products which are-
- (i) obsolete;

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- (ii) produced by a producer and consumed by him, members of his household and his servants or utilised by him for the feeding of his livestock and poultry.

4. (1) A producer shall pay a levy on an agricultural product produced by him at such rate as the Minister may, subject to the provisions of subsection (4), prescribe.

Levies on agricultural products

(2) In prescribing the rate of a levy on an agricultural product, the Minister may-

- (a) make different provision in respect of different classes of the agricultural product and in respect of different producers and classes of producers of the agricultural product;
- (b) make no provision in respect of particular classes of the agricultural product or in respect of particular producers or classes of producers of the agricultural product;
- (c) exempt a particular class of producer or producers of a particular class of the agricultural product from payment of the whole or any portion of the levy;

and may in classifying an agricultural product for the purposes of this subsection have regard, amongst other things, to the purposes for which, or the manner, or the places or areas in which, or the persons by whom, the agricultural product is produced, consumed, utilised or dealt in.

(3) A levy shall be payable to the Permanent Secretary in such circumstances and at such times as the Minister may prescribe.

(4) The Minister shall not prescribe a levy-

- (a) in the case of an agricultural product specified in paragraph (a) of the definition of that term in section *two*, at a rate exceeding the appropriate rate specified for the agricultural product in the Schedule; or
- (b) in the case of an agricultural product referred to in paragraph (b) of the definition of that term in section *two*, at a rate exceeding the agreed maximum rate for the agricultural product referred to in paragraph (b) of subsection (2) of section *five*;

unless he is satisfied as a result of a referendum held by the appropriate producers' association that the majority of producers of the agricultural product voting on the referendum has consented to the imposition of the levy at the rate proposed by the Minister.

(As amended by S.I. No. 176 of 1965)

5. (1) Subject to the provisions of subsection (2), the Minister may, by statutory order, declare any animal or any thing whatsoever which is produced in the course of agriculture to be an agricultural product for the purposes of this Act.

Declaration of agricultural products

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(2) The Minister shall not declare any animal or thing to be an agricultural product for the purposes of this Act unless he is satisfied, as a result of a referendum held by the Zambia National Farmers' Union of persons by whom a levy in respect of that animal or thing will be paid, that a majority of the persons voting on the referendum-

(a) is in favour of the imposition of a levy in respect of that animal or thing; and

(b) has agreed on the maximum rate at which the levy may be imposed.

(As amended by S.I. No. 176 of 1965)

6. The Minister may at any time, by statutory order-

(a) withdraw a levy; or

(b) suspend the collection of a levy;

on an agricultural product or class of agricultural product, in whole or in part.

Withdrawal or suspension
of levy

7. On the date the rate of a levy on an agricultural product or class of agricultural product is first prescribed in terms of this Act, there shall be established in respect thereof a special account, to be described by reference to the name of the agricultural product or class of agricultural product, into which shall be paid the proceeds of the levy thereon and any moneys granted for the purpose of promoting the interests of producers of the agricultural product or class of agricultural product by any person or authority which the person or authority directs shall be payable to the account and any moneys payable to the account by virtue of the provisions of any written law.

(As amended by S.I. No. 176 of 1965)

Establishment of levy
accounts

8. The funds of each levy account established in terms of section seven shall be applied to objects calculated to promote generally the interests of producers of the particular agricultural product or class of agricultural product in respect of which the account relates.

Object of levies

9. (1) The Minister shall from time to time pay to the appropriate producers' association the amount standing to the credit of each levy account.

Disposal of levies

(2) A producers' association to which moneys are paid in terms of subsection (1) may spend the money so paid for such purposes, including the payment of a portion of the general administrative expenses of the association, and in such amounts and in such manner as the Minister, having regard to the provisions of section eight, may approve in writing.

(3) If the constitution of a producers' association is at any time so changed as to result, in the Minister's opinion, in the producers' association ceasing to be representative of producers of an agricultural product or class of agricultural product on which a levy is or was payable, the Minister may deal with the moneys standing to the credit of the levy account relating thereto in accordance with the provisions of section eight.

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10. (1) A producers' association shall keep proper accounts showing the manner in which moneys paid to it in terms of section *nine* have been spent.

Audit of accounts of producers' association

(2) The accounts referred to in subsection (1) shall be subject to annual audit by an auditor appointed by the producers' association with the approval of the Minister.

(3) The auditor appointed in terms of subsection (2) shall report to the Minister whether the moneys paid to the producers' association in terms of section nine are being spent in accordance with the provisions of that section.

(4) If at any time it appears to the Minister that a producers' association has spent moneys paid to it from a levy account otherwise than in accordance with the provisions of section *nine*, he may-

- (a) require the person or persons responsible for so spending the moneys to repay the amount spent to the levy account and for that purpose cause action to be brought in a court of competent jurisdiction;
- (b) cease payments to the producers' association until the moneys have been repaid; and
- (c) pending repayment of the moneys, deal with the funds standing to the credit of the levy account in accordance with the provisions of section *eight*.

11. (1) The Minister may, by regulation, statutory order or statutory notice, prescribe all matters which by this Act are required or are permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

Regulatory powers of Minister

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may, in regulations, orders or notices made in terms of that subsection, provide for-

- (a) the registration of producers and consumers of and dealers in an agricultural product or class of agricultural product and the information to be supplied in connection with applications for registration;
- (b) the keeping of books, registers and accounts, the furnishing of returns and the supply of information relating to the production and consumption of and dealings in agricultural products or classes of agricultural products by producers, consumers and dealers;



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- (c) the inspection by persons authorised by the Minister of-
 - (i) agricultural products or classes of agricultural products wherever they may be; and
 - (ii) books, registers and accounts referred to in paragraph (b); and
 - (iii) land or animals from which agricultural products or classes of agricultural products are derived; and
 - (iv) premises in which agricultural products are kept, dealt in, stored or produced;
- (d) the production to persons authorised by the Minister of agricultural products, classes of agricultural products, books, registers, accounts and animals referred to in paragraph (c);
- (e) the manner in which levies shall be assessed and the collection of and the remittal to the Permanent Secretary of levies, including the collection and the remittal to the Permanent Secretary of levies by consumers and dealers.

(3) The Minister may make different regulations, orders or notices in terms of subsection (1) in respect of different agricultural products or classes of agricultural products and in respect of different producers, consumers and dealers or classes of producers, consumers and dealers.

(4) The Minister may in regulations, orders or notices made in terms of subsection (1) provide-

- (a) that books, registers and accounts kept, or returns and information furnished in connection with an agricultural product or class of agricultural product in terms of or under a marketing or levy law shall, for the purposes of this Act, be treated as books, registers and accounts kept or returns and information furnished in terms of or under this Act;
- (b) that producers and consumers of and dealers in an agricultural product or class of agricultural product who are registered or licensed in terms of a marketing or levy law shall be treated as registered producers and consumers of or dealers in the agricultural product or class of agricultural product for the purposes of this Act;
- (c) for the submission to the Permanent Secretary by a board or like body established by or in terms of a marketing or levy law of information or returns in connection with an agricultural product or class of agricultural product furnished to it in terms of or under that law.

(As amended by S.I. No. 176 of 1965)

12. (1) If the requirements of a form or return to be furnished in terms of or under a marketing or levy law or the provisions of subsidiary legislation prescribed in terms of a marketing or levy law require amendment in order that the Minister may, in regulations, orders or notices made in terms of subsection (1) of section *eleven*, make provision as is contemplated in subsection (4) of that section, the Minister may by regulation make such incidental, consequential and supplemental amendments to the form or return or to the provisions of the subsidiary legislation as may appear to the Minister to be necessary in order to make the provision contemplated.

Amendment of forms, returns and subsidiary legislation prescribed under marketing or levy laws

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(2) An amendment to a form or return or to the provisions of subsidiary legislation referred to in subsection (1) which is made by the Minister in terms of that subsection, shall be treated for all purposes as if it had been made in accordance with the provisions of the marketing or levy law in terms of or under which the form or return is to be furnished or in terms of which the subsidiary legislation is prescribed.

(As amended by S.I. No. 176 of 1965)

13. (1) A person who-

Offences and penalties

- (a) fails or refuses to register as a producer or a consumer of, or a dealer in, an agricultural product or class of agricultural product when required to do so in terms of this Act; or
- (b) fails or refuses to furnish a return, or to supply information in the manner and in the time prescribed, or furnishes a false or incomplete return or supplies false or incomplete information; or
- (c) obstructs a person authorised by the Minister in the exercise of powers of inspection conferred by or under this Act or, on being directed to do so, does not produce to that person for inspection an agricultural product or class of agricultural product, and any books, registers or accounts relating thereto which are in his possession or under his control; or
- (d) contravenes or fails to comply with a provision of a regulation, order or notice made in terms of this Act or an order or direction made or given thereunder with which it is his duty to comply;

shall be guilty of an offence and liable-

- (i) on first conviction, to a fine not exceeding seven hundred and fifty penalty units or, in default of payment, to imprisonment for a period not exceeding one month, or to such imprisonment without the option of a fine, or to both;
- (ii) on the second or any subsequent conviction, to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding two months, or to such imprisonment without the option of a fine, or to both.

(2) On the conviction of-

- (a) a producer for an offence of failing or refusing to pay a levy in terms of this Act; or
- (b) a person for an offence of failing or refusing to collect or to remit to the Permanent Secretary a levy in terms of this Act;

the court convicting the accused may, on the application of the prosecutor and in addition to any penalty which it may inflict, give summary judgment in favour of the Minister for the amount of the levy to which the offence relates.

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(3) A judgment given by a court in terms of subsection (2) shall have the same force and effect and may be executed in the same manner as if the judgment had been given in a civil action instituted in the court.

(As amended by S.I. No. 176 of 1965 and Act No. 13 of 1994)

14. The Minister may, by civil action in a competent court, recover the amount of a levy on an agricultural product or class of agricultural product which is due in terms of this Act from a producer or, as the case may be, from a person required in terms of this Act to collect and remit the levy to the Permanent Secretary.

Recovery of levies due

(As amended by S.I. No. 176 of 1965)

15. Any costs payable by the Minister in an action referred to in paragraph (a) of subsection (4) of section *ten* or in section *fourteen* may be paid from the funds in the levy account relating to the moneys in respect of which the action is brought.

Legal costs of Minister



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 SCHEDULE

(Section 4)

MAXIMUM RATES OF LEVY ON AGRICULTURAL PRODUCTS SPECIFIED IN PARAGRAPH (a) OF THE DEFINITION OF THAT TERM IN SECTION 2

<i>Agricultural product</i>	<i>Maximum rate</i>
Maize	One fee unit per 90 kg weight of shelled maize or One fee unit per 90 kg weight of maize on the cob.
Milk	One fee unit per litre.
Butterfat	One fee unit per kg weight.

(As amended by Act No. 13 of 1994)



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SUBSIDIARY LEGISLATION

AGRICULTURAL PRODUCTS LEVY

CAP. 232

SECTION 5-THE AGRICULTURAL PRODUCTS LEVY (CATTLE) ORDER

*Federal Government
Notice
245 of 1959*

Order by the Minister

- | | |
|--|-------------------------------------|
| 1. This Order may be cited as the Agricultural Products Levy (Cattle) Order. | Title |
| 2. In this Order, "cattle" means bulls, calves, cows, heifers and oxen. | Interpretation |
| 3. Cattle are hereby declared to be an agricultural product for the purposes of the Act. | Declaration of agricultural product |

SECTION 6-THE AGRICULTURE PRODUCTS LEVY (WITHDRAWAL) ORDER

*Statutory Instrument
47 of 1966*

Order by the Minister

- | | |
|--|----------------------|
| 1. This Order may be cited as the Agricultural Products Levy (Withdrawal) Order. | Title |
| 2. The levies imposed in pursuance of the Act on- | |
| (a) dry maize on or off the cob; | |
| (b) milk and butterfat; | |
| (c) cattle; | |
| are hereby wholly withdrawn. | Withdrawal of levies |

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CHAPTER 229 OF THE LAWS OF ZAMBIA

CHAPTER 229 THE AGRICULTURAL STATISTICS ACT CHAPTER 229

THE AGRICULTURAL STATISTICS ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Statistics that may be collected
4. Obligation to make returns
5. Obligation to supply information
6. Power of entry
7. Publication of statistics
8. Offences by officers and penalties
9. Penalty for false statements
10. Forgery
11. Regulations
12. Authentication of forms
13. Free postal service
14. Evidence
15. Consequences of default in payment of fines

CHAPTER 229

AGRICULTURAL STATISTICS

An Act to provide for the collection of agricultural statistics; to provide for the compilation and publication of statistics; and to provide for matters incidental to the foregoing.

[13th March, 1919]

11 of 1916
13 of 1994
Government Notices
319 of 1964
497 of 1964

1. This Act may be cited as the Agricultural Statistics Act.

Short title

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

Interpretation

"statistics" means the information which may be collected of and incidental to matters specified in or prescribed under section *three*.

3. (1) Subject to the provisions of this Act and to the directions of the Minister, statistics or estimates shall be collected from time to time in relation to all or any of the following matters:

Statistics that may be collected

- (a) pastoral, agricultural, horticultural and dairying industries;
- (b) factories dealing with animal or vegetable products of the country;
- (c) land tenure and occupancy;
- (d) any other matter relating to rural industries prescribed by the Minister by statutory notice.

(2) The duty of collecting any such statistics shall be performed by such public officer or officers as the Minister may, by statutory notice, designate thereto, and all prescribed particulars shall be furnished to such officers.

(As amended by G.N. No. 319 of 1964)

4. (1) For the purpose of enabling the statistics to be collected, every prescribed person shall, to the best of his knowledge, when required by the prescribed officer so to do, fill up and supply, in accordance with the instructions contained in or accompanying the prescribed form, the particulars specified in that form.

Obligation to make returns

(2) Such particulars may relate to estimates of probable production, as well as to actual facts and figures.

5. Every person shall to the best of his knowledge and belief answer when so required all questions asked of him by the prescribed officer, or by an officer authorised in writing by a prescribed officer, which are necessary to the obtaining of any information required for the collection of statistics.

Obligation to supply information

6. (1) For the purpose of making any inquiries or observations necessary for the carrying out of this Act, the prescribed officer, or any officer authorised by him in writing, may at all reasonable times enter upon any land on which any agricultural, horticultural, dairying or pastoral industry is carried on, and may enter any factory, workshop, dairy or other place where persons are employed or any such industrial undertaking is carried on, and may inspect any part of it, and all plant and machinery used in connection with it, and may make such inquiries as are prescribed or allowed by this Act.

Power of entry



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(2) Any person who hinders, obstructs or delays any officer mentioned in subsection (1) in the execution of any power conferred by this section shall be guilty of an offence, and liable upon conviction to a fine not exceeding three hundred penalty units.

(As amended by Act No. 13 of 1994)

7. Compilations of statistics or abstracts thereof shall be made and published in such manner as the Minister may direct: Publication of statistics

Provided that no return of statistics furnished by any person shall separately and alone be made public without the consent of the person making the return.

(As amended by G.N. No. 319 of 1964)

8. Any officer who-

Offences by officers and penalties

- (a) puts an improper or offensive question to any person;
- (b) asks, receives or takes, in respect of or in connection with his employment under this Act, from any person other than an authorised officer of the Government, any payment or reward;
- (c) divulges, except as allowed by this Act, the contents of any form or return filled up in pursuance of this Act, or any information furnished in pursuance of this Act;

shall be guilty of an offence, and be liable on conviction to a fine not exceeding one thousand five hundred penalty units, or to imprisonment for a period not exceeding three months in default of payment of any fine inflicted, or to the like imprisonment without the option of a fine, at the discretion of the court trying the offence.

(As amended by Act No. 13 of 1994)

9. Any person who makes, in any form or document filled up or supplied in pursuance of this Act or in answer to any question asked him under authority of this Act, any statement which is false in any material particular knowing the same to be false, shall be guilty of an offence, and be liable on conviction to a fine not exceeding one thousand five hundred penalty units, or in default of payment of any fine inflicted to imprisonment for a period not exceeding three months, or to the like period of imprisonment without the option of a fine, at the discretion of the court trying the offence. Penalty for false statements

(As amended by Act No. 13 of 1994)

10. Any person who forges any form or document which is used or prescribed under this Act, or utters such a document knowing it to be forged, shall be guilty of an offence, and be liable on conviction to the penalties prescribed by law for the crime of fraud. Forgery

11. (1) The Minister may, by statutory instrument, make regulations- Regulations

- (a) prescribing the particulars and information to be furnished in relation to any matter in respect of which statistics may be collected under this Act;

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(b) prescribing the manner and form in which, the times and places at which, and the persons by whom and to whom such particulars and information shall be furnished.

(2) Such regulations may provide that any person who, without reasonable cause, makes default in complying therewith shall be guilty of an offence, and be liable upon conviction to a fine not exceeding one thousand five hundred penalty units, or, in the case of a continuing default, to a fine not exceeding thirty penalty units for every day during which the default continues.

(As amended by G.N. No. 319 of 1964,
and by Act No. 13 of 1994)

12. Every form, notice or other document given or issued by an officer under this Act shall be sufficiently authenticated if the name of the officer by whom it is given or issued has been printed or stamped thereon. Authentication of forms

13. All letters, parcels and packets, and all telegraphic messages relating to the statistics, shall, if marked with the words "Statistics. On Government Service", and when transmitted to or by a prescribed officer, be free of postal, telegraphic or other charges made by the General Post Office. Free postal service

14. No entry in any return, book, register or record made by an officer or by any person under this Act shall be admissible in any legal proceedings, civil or criminal, except upon a charge of an offence against this Act, anything to the contrary in the law of evidence notwithstanding. Evidence

15. Whenever any fine has been imposed under this Act for an offence, and the person convicted thereof does not forthwith pay the fine, the court imposing the fine may in its discretion issue a warrant for the levy of the amount of the fine by seizure and sale of any movable property belonging to the offender, and the warrant shall authorise the seizure and sale of such movable property within the court's jurisdiction, and also outside its jurisdiction if the warrant be endorsed by the magistrate having jurisdiction where the property is situate. Consequences of default in payment of fines

SUBSIDIARY LEGISLATION

AGRICULTURAL STATISTICS

CAP. 229
Government Notices
197 of 1953
497 of 1964
Act No.13 of 1994

SECTION 11-THE AGRICULTURAL STATISTICS REGULATIONS

Regulations by the Minister

1. These Regulations may be cited as the Agricultural Statistics Regulations. Title

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- 2.** Statistics relating to crops, areas of cultivation and stock shall be collected by Provincial Agricultural Officers on behalf of the Director of Agriculture. Statistics relating to crops and stock
- 3.** (1) All persons in charge of farms or estates, whether owners, lessees, managers, servants or occupiers, or any persons acting on behalf of such persons, shall render a return in the form set out in the Schedule to the Provincial Agricultural Officer of the Province in which the farm or estate is situate. Return to be rendered
- (2) Returns under this regulation shall be made in respect of every twelve-month period ending on the 30th September in each year and shall reach the Provincial Agricultural Officer not later than the 31st October in the same year.
- 4.** Statistics relating to costs of agricultural production and agricultural prices shall be collected by the agricultural economist. Costs of production
- 5.** Any person who, in the opinion of the agricultural economist, is able to furnish information which the agricultural economist desires to obtain for the purposes of determining the costs of agricultural production or agricultural prices shall, when required so to do by the agricultural economist, furnish such information. Information to be supplied
- 6.** Any person who, without reasonable cause, makes default in complying with the requirements of regulations 3 and 5 shall be liable on conviction to a fine not exceeding one thousand five hundred penalty units or, in case of a continuing default, to a fine not exceeding thirty penalty units for every day during which the default continues. Penalty

(As amended by Act No. 13 of 1994)



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SCHEDULE

(Regulation 3)

RETURN OF CROPS

Full Name of Owner

Full Name of Manager

Postal Address of Owner/Manager

Name(s) of Farm(s)

Land Survey Number(s) of Farm(s)

District

Area: (a) Freehold acres

(b) Leased from State acres

(c) Leased from Others acres

(d) Managed acres

TOTAL acres

NOTE.-In this return the gross weight of bags is taken to be 90 kg., excepting groundnuts (shelled 81 kg.) and potatoes 67 kg. The ton is the short ton of 1000 kg.

ANNUAL CROPS

Kind of crop	Acres Planted	Total Crop Reaped	Acreage to be Planted Next Year
Maize (mealies) for grainbags	.....
Maize (mealies) for silagetons	.....
Wheatbags	.....
Oats for grainzbags	.....
Oats for foddertons	.....
Barley for grainbags	.....
Barley for foddertons	.....
Rice (unhusked)bags	.....
Groundnuts (shelled)bags	.....
Potatoes (main crop)bags	.....
Potatoes (irrigated)bags	.....
Sunnhemp seedbags	.....
Sunnhemp haytons	.....
Sunflower seedbags	.....
Cowpeas and Beans seedbags	.....
Cowpeas and Beans haytons	.....
Green manure crops ploughed in- Specify kinds:			
Tobacco:			
Virginia (flue-cured)lb.
Virginia (air or sun cured)lbs.
Turkishlbs.

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Burleylbs.
Vegetables (for sale)tons
Cultivated grass fodder crop:	
Irrigated	
Unirrigated	
Others-Specify:	
.....	
.....	
.....	
Total acreage under crops	
Acres lying fallow	
Veld grass cut for hay	

ORCHARDS AND OTHER PERENNIAL CHOPS

Kind of Trees	No. of Trees Bearing	No. of Trees Not Bearing
Oranges
Other citrus
Other fruit trees-Specify:		
.....		
.....		
Other perennial crops-Specify:		
.....		
.....		
.....		

WOODLAND

During Year	Acres Planted	Total Acreage
Natural
Artificially established-Specify:		
.....		
.....		
.....		

MANAGEMENT AND LABOUR

<i>Management:</i>	<i>Labour:</i>
Owners or Occupies	On Agriculture
Managers	On livestock
Learners	General work
Other employees	
All other persons living on farm.....	

FERTILISERS AND MANURES

Kind and quantity of fertilisers used-Specify:tons
.....tons
Acres manured with kraal manure or compostacres



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SOIL CONSERVATION WORKS

Total area of cultivated land protected by contour ridges or broad base terraces acres

Total area of cultivated land not protected by contour ridges or broad base terraces acres

RAINFALL

Total rainfall 1st October, 19..... to 30th September, 19 in inches

IRRIGATION

Source of water (spring, river, well, borehole or dam)

Pumping equipment (windmills, engine-driven pumps, etc.)

Horse-power of pump(s)

Total area irrigated by free flow water

Total area irrigated by borehole water

Kind of crops irrigated

EQUIPMENT

Lorries-number on farm

Make, type and year

Trailers-number on farm

Tractors-number on farm

Make, type and year

Combine harvesters-number on farm

Make, type and year

Maize pickers-number on farm

Make, type and year

Other heavy equipment (e.g. steam engines)-Specify:

I hereby certify that to the best of my knowledge the foregoing particulars of my farm or farms are correct and complete.

.....
Owner/Occupier/Manager

Date.



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ANNUAL LIVESTOCK SUMMARY

Farm For the Year Ending 19
Owner Postal Address

	Bulls in Service	Bulls under 2 years old	Breeding and Heifers	Heifers over 1 year old not yet served	Culled Cows and Queens	Oxen over 3 years old	Steers and Tollies over 1 year old and under 3 year old	Bull Calves under 1 year old	Heifer Calves under 1 year old	Total Cattle	Steep and Goats
On Hand Beginning of Year ..											
Born											
Purchased											
Died											
Sold											
Slaughtered											
On Hand End of Year ..											

No. of Dipping Tanks Kind of Dip Used

CAUSES OF DEATHS:

- (a) Cattle:
- (b) Other Stock:

CATTLE:

- (a) Calving perc
- (b) Mortality perc
- (c) General Bre

Date ...



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Unlocking Zambia's Potential

THE ANIMAL HEALTH ACT, 2010

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

ADMINISTRATION

3. Appointment of Director and other staff
4. Functions of Department
5. Powers of officer
6. Power of veterinary officers
7. Power to carry out test
8. Release, seizure and destruction
9. Appointment of veterinary inspectors
10. Obstruction of veterinary officer, veterinary inspector or officer
11. Indemnity

PART III

MEASURES FOR CONTROLLING AND PREVENTING ANIMAL DISEASES

12. Power to control introduction and spread of disease
13. Declaration of infected area
14. Owners of land to provide handling and other facilities
15. Government to provide livestock structures
16. Restriction of movement
17. Notification of officer of suspected disease
18. Isolation and separation of diseased animal
19. Power of entry into farm, ranch, etc.
20. Power to order assembly of animals for inspection, etc.
21. Identification and traceability of animals

*Single copies of this Act may be obtained from the Government Printer,
P.O. Box 30136, 10101 Lusaka. Price K23,000 each*



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22. Declaration of disease control zone
23. Declaration of quarantine area
24. Designation of animal quarantine stations
25. Lifting of quarantine
26. Permit to manufacture or sell virus, vaccine, etc.
27. Import of animal, animal product, animal by-product or article
28. Importation for scientific, educational or research purposes
29. Export of animals, animal products, animal by-products and articles
30. Approval of laboratories
31. Regulatory powers for eradication of diseases

PART IV

TRANSPORTATION OF ANIMALS

32. Obligation of transporter of animals in transit
33. Transportation of animals
34. Transporter of animals to maintain records

PART V

LIVESTOCK SLAUGHTER AND CLEANSING

35. Prohibition of slaughter of certain livestock
36. Permit to slaughter livestock
37. Permit for slaughterhouse
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GOVERNMENT OF ZAMBIA

ACT

No. 27 of 2010

Date of Assent: 14th August, 2010

An Act to provide for the appointment of the Director responsible for veterinary services and other staff and define their powers and functions; provide for the prevention and control of animal diseases; provide for the quarantine of animals; regulate the importation and exportation of animals, animal products, animal by-products, articles and animal feed; establish the Animal Disease Control Fund; repeal and replace the Stock Diseases Act, 1961; and provide for matters connected with, or incidental to, the foregoing.

[16th August, 2010

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Animal Health Act, 2010.
2. In this Act, unless the context otherwise requires—

Short title

Interpretation

“animal ” means any vertebrate, other than a human being, which is a member of the Phylum Chordata and includes a bee, butterfly and other insect used in the production of animal products, including the carcass of such animals; and

“ animal by-product ” means any part or entire body of an animal or products of animal origin that are not intended to be eaten by human beings;



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“ animal feed ” means —

(a) any —

(i) substance obtained by a process of crushing, gristing or grinding or by the addition to any substance or removal therefrom of any ingredient;

(ii) condimental foodstuff or mineral substance which possesses, or is alleged to possess, nutritive properties; or

(iii) substance of animal origin;

which is intended or offered for the feeding of animals; or

(b) any stock lick or substance which can be and is used as a stock lick, whether or not it possesses medicinal properties;

but does not include straw, chaff, hay, silage, cereal in the grain or any substance which has been crushed, gristed or ground for a farmer in accordance with the farmer’s directions for own use, unless such substance has been declared by the Minister, by notice in the *Gazette*, to be animal feed for the purposes of this Act;

“ animal product ” means any meat, meat product or product of animal origin for human consumption, for use in animal feeding or for pharmaceutical or agricultural use, and includes an embryo, ova, semen, blood, bone or bone meal, hide, skin, horn, fat, honey, unprocessed wool and feathers;

“ animal quarantine station ” means a place where any animal, animal product, animal by-product or article may be kept for observation, research, inspection, testing, treatment, detention or destruction for the purposes of disease control and prevention;

“ article ” includes gear, harness, seed, grass, forage, hay, straw, manure or any other thing likely to act as a carrier of any disease;

“ border inspection post ” means a veterinary inspection post near or at the border or the point of entry designated by the Minister, by statutory instrument;

“ carcass ” means the carcass of an animal, and includes part of a carcass, and the meat, bone, hide, skin, feather, hoof, horn, offal, fur, wool, teeth or any other part of an animal;



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“cattle” means bulls, cows, heifers, calves, steers and oxen;

“Chairperson” means a person appointed as such under section *sixty-seven*;

“check point” means a point where any animal, animal product, animal by-product or article may be inspected for purposes of disease control and prevention;

“cleanse” in relation to Part V, means the maintaining of livestock free from tick infestation by using an effective tick destroying agent in such manner as the Director may direct;

“Committee” means the Animal Disease Control Interdisciplinary Committee constituted under section *sixty-seven*;

“controlled veterinary action” in relation to an animal, means

(a) the isolation, detention, inspection, testing, immunisation, observation, sampling, marking, treatment, care, destruction or disposal thereof; and

(b) the carrying out of any post mortem examination on any animal;

“conveyance” means an aircraft, ship, vessel, train, vehicle, carriage, cart or other conveyance of whatever kind, including the fittings and equipment of the conveyance and, in the case of animals, the harness and tackle thereof;

“Department” means the Department responsible for Veterinary Services;

“dipping” means the complete immersion of cattle in a dipping tank containing an effective tick destroying agent;

“dipping tank” means any apparatus for the cleaning of animals by submerging or any other structure used for that purpose as the Director may approve;

“Director” means the Director responsible for veterinary services, and includes the Deputy Director responsible for veterinary services;

“disease” means the pathological condition of a part, organ or system of an animal resulting from various causes such as infection, genetic defect or environment;

“disease control zone” means an area declared by the Director as a disease control zone where controlled veterinary actions are instituted to prevent the entry,



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Act No. 14
of 2004

occurrence or spread of a causative agent, and includes a disease free zone, a buffer zone, a disease free compartment, a protective zone, a surveillance zone and an infected zone;

“disease free zone” means an area established for the maintenance of disease free status of a sub population of animals with a distinct health status, from specified disease or diseases, separated by natural or artificial boundaries;

“disease free compartment” means an area smaller than a zone with a clearly defined management practice and biosecurity plan and can be recognised as such within an infected zone;

“effective tick destroying agent” means a drug or chemical registered as an acaricide under the Pharmaceutical Act, 2004, or as the Minister may prescribe;

“emerging disease” means a new infection resulting from the evolution or change of an existing pathogenic agent, a known infection spreading to a new geographic area or population or a previously unrecognised pathogenic agent diagnosed for the first time and which has a significant impact on animal or public health;

“Fund” means the Animal Diseases Control Fund established under section *sixty-four*;

“immature cattle” means cattle, male or female, under the age of eighteen months or not having four permanent incisor teeth yet erupted;

“infected area” means an area declared as such under section *thirteen*;

“livestock” means any breed or population of animal kept by a human being for a useful or commercial purpose, and includes domestic animals, semi-domestic animals and captive wild animals;

“livestock cleansing area” means an area declared as such under section *forty*;

“notifiable disease” means an animal disease or other disease which fulfils one or more of the following conditions and which the Minister may, by statutory instrument, declare:

(a) is not indigenous or native to Zambia;

(b) spreads rapidly with serious socio economic consequences;



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(c) is of major importance in the international trade of animals or animal products;

(d) is common to human beings and animals; or

(e) for which any general or particular control measures have been prescribed;

“officer” means a veterinary officer, livestock officer, veterinary assistant or animal scientist employed by the Government;

“outbreak of disease” means an occurrence of one of the notifiable diseases or any other disease which the Minister may, by statutory instrument, declare in—

(a) any agricultural or breeding establishment, premises or building and all the adjoining premises where animals are present; or

(b) any area where animals are communally grazed as specified by the Director;

“owner” —

(a) in relation to an animal, includes the person for the time being having the management, custody or control of such animal; and

(b) in relation to any land or place, includes any person who, whether lessee or licensee, has the charge, control and management or occupation of such land or place;

“para veterinary” has the meaning assigned to it in the Veterinary and Para Veterinary Professionals Act, 2010;

Act No. of
2010

“permit” means a permit issued under the provisions of this Act;

“police officer” has the meaning assigned to it in the Police Act;

Cap. 107

“pour-on” means a chemical with a vector destroying capacity applied on the skin surface of an animal;

“public road” has the meaning assigned to it in the Public Roads Act, 2002;

Act No. 12
of 2002

“railway company” means the Zambia Railways and any other railway company operating in Zambia;

“rendering” means the process that converts waste animal tissue or animal by-products into stable value added materials;



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“spraying” means the complete saturation of animals with an effective vector destroying agent, manually or mechanically;

“spray race” means any effective apparatus approved by the Director for the cleansing of animals by spraying;

“tick infestation” means the presence on any cattle of one or more ticks;

“vector” means a disease spreading agent;

“veterinary inspector” means a veterinary surgeon appointed by the Director to undertake designated official duties on behalf of the Department for a specified period and location;

“veterinary officer” means an officer in the service of the Government who is a registered veterinary surgeon;

“veterinary surgeon” means a person registered as a veterinary surgeon under the Veterinary Surgeons Act; and

“Vice Chairperson” means a person appointed as such under section *sixty-seven*.

Cap. 243

PART II

ADMINISTRATION

Appointment of Director and other staff

3. The Public Service Commission shall appoint, as public officers, a Director responsible for veterinary services, a Deputy Director responsible for veterinary services, veterinary officers, tsetse control biologists, animal scientists and other staff for the Department, within the Ministry responsible for livestock development, as shall be necessary for the proper administration of this Act.

Functions of Department

- 4.** (1) The functions of the Department are to—
- (a) prevent and control animal diseases;
 - (b) control vectors that contribute to disease propagation in animals;
 - (c) regulate the importation and exportation of animals, animal products, animal by-products and articles;
 - (d) regulate the importation, manufacturing and use of animal feed;
 - (e) regulate the provision of veterinary services;



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- (f) collect, analyse and present data related to the livestock sector;
 - (g) certify for trade measures, import and export measures and veterinary services, animals, animal products, animal by-products, articles and premises; and
 - (h) do all such acts and things as are necessary, incidental or conducive to the better carrying out of its functions under this Act or any other law.
- (2) The Director shall, in the execution of the functions of the Department as specified under subsection (1) —
- (a) regulate the delivery of veterinary services;
 - (b) regulate the control of animal diseases and vectors;
 - (c) categorise diseases into lists and maintain lists of all notifiable diseases according to the criteria prescribed under this Act;
 - (d) establish expert advisory committees to advise on technical matters relating to the provisions of this Act;
 - (e) establish and maintain a national veterinary laboratory system and other means for analysing animal products and samples for the purpose of this Act; and
 - (f) do all such acts and things as are necessary, incidental or conducive for the execution of the functions of the Department.
5. (1) An officer may —
- (a) at any reasonable time, enter upon and inspect any land, building or premises where animals, animal products, animal by-products, articles or animal feed may be found or processed for the purposes of inspection and data collection;
 - (b) open and examine any container, conveyance, package or wrapping suspected to contain an animal, animal product, animal by-product, article or animal feed to ensure sanitary compliance;
 - (c) inspect any animals, animal products, animal by-products, articles or animal feed destined for import into or export from Zambia to determine whether the consignment is sanitary compliant;

Powers of officer



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- (d) inspect and examine any conveyance which the officer has reasonable grounds to believe is transporting an animal, animal product, animal by-product, article or animal feed to ensure sanitary compliance; and
- (e) search any person whom the officer has reasonable grounds to believe is carrying an animal, animal product, animal by-product, article or animal feed or carrying out activities contrary to this Act.

(2) An owner of any land, building or premises or of any conveyance shall afford an officer access thereto and shall give such information and provide such reasonable assistance as the officer may require for the purposes of data collection and carrying out an inspection.

(3) An officer may, in the performance of any functions under this section, be accompanied and assisted by a police officer.

(4) An officer may detain an animal, animal product, animal by-product, article or animal feed for a period not exceeding two weeks.

Powers of
veterinary
officer

6. (1) A veterinary officer may—
- (a) apply or order the application of measures which are necessary or prescribed for the control or prevention of the spread of a disease;
 - (b) destroy or order the destruction at any time of any animal, animal product, animal by-product, article or animal feed which is diseased, moved or used contrary to the provisions of this Act;
 - (c) order the adoption of measures prescribed to ensure the welfare of animals; and
 - (d) seize or order the seizure of a conveyance carrying an animal, animal product, animal by-product, article or animal feed in contravention of this Act or any other law.
- (2) A veterinary officer may, in the course of an inspection carried out under this section—
- (a) seize, re-call, destroy, detain, treat or otherwise dispose of any animal, animal product, animal by-product, article or animal feed, or order that any such action be taken, at the expense of the owner;
 - (b) obtain any sample of any animal, animal product, animal by-product, article or animal feed as the veterinary officer considers necessary;



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- (c) order any person to produce for inspection, or for purposes of obtaining extracts or copies, any book, document or other information concerning any matter relevant to the administration of this Act;
- (d) suspend one or more activities or temporarily, partially or completely close an inspected premises; and
- (e) suspend or withdraw any permit issued under this Act, relating to any premises.

(3) Where a veterinary officer detains, treats, disposes of or destroys an animal, animal product, animal by-product, article or animal feed under sub section (2), the veterinary officer shall within fourteen days of the detention, treatment, disposal, or destruction, of the animal, animal product, animal by-product, article or animal feed, notify in writing, the owner of the animal, animal product, animal by-product or article of the steps taken and the reasons therefor.

(4) Where—

- (a) at any place within Zambia, any animal, animal product, animal by-product, article or conveyance is infected or is suspected of being infected with any disease;
- (b) any animal, animal product, animal by-product, article, animal feed or conveyance has been introduced into any place in Zambia without the permit required for such introduction, or having been introduced under a permit is moved or dealt with otherwise than in accordance with such permit; or
- (c) any animal is found straying into Zambia from outside Zambia or straying within, into, or out of any specified area in Zambia;

a veterinary officer may make such order as the veterinary officer considers necessary for all or any of the following purposes:

- (i) to direct that such animal, animal product, animal by-product, article, animal feed or conveyance be seized or detained;
- (ii) to direct that such animal, animal product, animal by-product, article, animal feed or conveyance be slaughtered, disposed of or destroyed, as the case may be; or
- (iii) to direct that such animal, animal product, animal by-product, article or conveyance be dealt with in such manner as is considered necessary to prevent the spread of any disease.



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(5) A person who contravenes an order made pursuant to this section commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(6) Where a person fails or refuses to do anything which that person is required to do under an order made under this section, a veterinary officer may do or cause such thing to be done.

(7) The cost of anything which a veterinary officer does or causes to be done under subsection (6) shall be recoverable by the Director from the person who failed or refused to comply with the order.

Power to carry out tests

7. An officer shall for the purposes of this Act—

(a) take or cause to be taken from an animal, any samples or specimen;

(b) take or cause to be taken from a building, shed, place or conveyance, any article, sample or specimen; and

(c) apply such other tests as the officer may consider necessary.

Release, seizure and destruction

8. (1) Where a veterinary officer reasonably believes that it is not necessary to destroy an animal, animal product, animal by-product or article seized, the veterinary officer shall—

(a) release the animal, animal product, animal by-product, article, animal feed or property to its lawful owner; or

(b) release the animal, animal product, animal by-product, article, animal feed or property to its lawful owner on conditional payment of any charges incurred, in connection with its impounding or other measures taken by the veterinary officer.

(2) At the time of release, a veterinary officer shall, by order in writing, require an owner of any animal, animal product, animal by-product, article or animal feed to take measures to eliminate any risk associated with a notifiable disease.

Appointment of veterinary inspectors

9. (1) The Director may, for purposes of this Act, appoint a registered veterinary surgeon as a veterinary inspector.

(2) The Director, on appointment of a veterinary inspector, shall specify—



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- (a) the duties of the veterinary inspector;
- (b) the area of operation; and
- (c) the period of operation.

10. A person who —

- (a) wilfully delays or obstructs an officer, veterinary officer or veterinary inspector in the carrying out of their duties; or
- (b) knowingly or negligently gives an officer, veterinary officer or inspector false or misleading information orally, in writing or otherwise;

Obstruction of veterinary officer, veterinary inspector or officer

commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

11. An action shall not lie against an officer, veterinary officer or veterinary inspector in respect of any act done by the officer, veterinary officer or veterinary inspector in good faith and without negligence in the execution of the powers vested in them under this Act.

Indemnity

PART III

MEASURES FOR CONTROLLING AND PREVENTING ANIMAL DISEASE

12. Where at any place within or outside Zambia there exists, or is suspected to exist, any disease which is likely to affect animals in Zambia, the Minister or Director may make such order as the Minister or Director considers necessary for all or any of the following purposes:

Power to control introduction and spread of disease

- (a) to prohibit or prevent the introduction of any disease from such place into Zambia or any part of Zambia;
- (b) to prohibit or regulate the entry and movement of any animal, animal product, animal by-product, article or conveyance within or out of any part of Zambia named in the order;
- (c) to regulate the quarantine, isolation, disinfection or treatment of any animal, animal product, animal by-product, article or conveyance in any part of Zambia named in the order;
- (d) to prohibit or regulate the sale of any animal, animal product, animal by-product or conveyance and control agricultural show grounds, stock markets or sale yards in any area specified in the order;



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- (e) to provide for the establishment of veterinary spot checks and check points on roads and such other areas as may be necessary to control diseases;
- (f) to regulate and provide for the conduct of meat inspection in a slaughter facility for the purpose of controlling animal diseases and residues in meat; or
- (g) to regulate the production, distribution and use of veterinary drugs, biologicals, vitamins, minerals, hormones, growth promoters, animal feed and feed additives for the purposes of animal disease control, drug resistance, residue control and imbalances.

Declaration
of infected
area

13. (1) An officer may, where any land, premises or building are suspected of being contaminated with a notifiable or emerging disease—

- (a) enter the land, premises or building for purposes of inspection or taking of such samples as the officer may consider necessary to contain or eradicate the disease;
- (b) prohibit the removal from the land or premises of any animal, animal product, animal by-product or article or anything whatsoever capable of spreading the disease; and
- (c) order, by notice in writing, the owner of the land, premises or building and an owner of any land, building or premises in the vicinity, to take within a specified period of time such measures as are necessary to eradicate, contain or restrict the spread of the disease.

(2) The Director shall, where there is reasonable suspicion or confirmation of the presence of a notifiable or emerging disease in any area declare the area an infected area.

(3) A veterinary officer may seize, detain and destroy without compensation, any animal, animal product, animal by-product or article removed from an infected area in contravention of the provisions of this Act or an order made in terms of this Act.

(4) A veterinary officer may order the disposal of an animal, animal product, animal by-product, article, carcass and any other thing associated with any disease within an infected area.

Owners of
land to
provide
handling and
other
facilities

14. (1) An owner of land on which livestock are kept shall provide facilities for the handling and housing of livestock and disease control facilities for the humane maintenance of such livestock.



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(2) An owner of land who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

15. (1) The Minister may provide livestock structures in appropriate places for the common use of the owners of livestock, and may charge such fees for the use of the structures as may be prescribed.

Government to provide livestock structures

(2) A person shall not damage, break, tear down or deface a livestock structure provided under subsection (1) or use it for any other purpose contrary to the provisions of this Act.

(3) A person who contravenes subsection (2) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

16. (1) A person shall not move any animal, animal product, animal by-product, article or anything as may be prescribed, without a permit.

Restriction of movement

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

17. (1) An owner of an animal suspected of being infected with any disease shall immediately inform the nearest officer, police officer, agriculture officer, veterinary surgeon, district executive officer, chief or village headman.

Notification of suspected disease

(2) Where a person, other than an officer, is notified under subsection (1), that person shall immediately notify the nearest officer or veterinary inspector.

(3) Notwithstanding subsection (1), a veterinary inspector who has reasonable grounds to believe that an animal is infected with a disease shall immediately give notice of that fact to an officer.

(4) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

18. (1) An owner of an animal suspected of being infected with any disease shall—

Isolation and separation of diseased animal

(a) as far as is practicable, keep such animal separate from other animals that are not infected;

(b) prevent the movement of such animal outside the infected area; and

(c) prevent the sale of such infected animal.



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(2) A veterinary inspector or officer shall, for the purpose of isolating animals in an infected area —

- (a) require the owner of the infected animals within the infected area to isolate the infected animals from other animals;
- (b) regulate the movement of animals within the infected area; and
- (c) cause any animal in the infected area to be marked for the purposes of identification.

(3) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(4) A person in charge of a livestock market or fair who suspects that an animal infected with a disease is being sold or exposed or offered for sale or disposal, shall seize and isolate the animal and forthwith notify the nearest officer or veterinary inspector.

Power of entry into farm, ranch, etc.

19. (1) An officer may enter on any land, farm or ranch, or into any stable, pen, sty or outbuilding or any kraal, enclosure or conveyance with such persons, animals and things as the officer considers necessary for the purposes of inspecting, examining or collecting samples from any animal, animal product, animal by-product, article, carcass, animal feed or conveyance or doing or causing to be done or supervising and inspecting the doing of anything which is required to be done under this Act or under any order made under the provisions of this Act.

(2) A person who prevents an officer from entering on any land, farm or ranch or into any sty or outbuilding or any kraal, enclosure or conveyance or who impedes or obstructs an officer in doing anything which the officer is empowered to do under subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Power to order assembly of animals for inspection, etc.

20. (1) An officer may instruct an owner of any animals to assemble the animals or any part of the animals at any specified place for the purposes of inspection or inoculation, or for any purpose authorised under the provisions of this Act or under any order made under the provisions of this Act.

(2) An instruction issued in accordance with subsection (1) to the headman of a village shall be deemed to be an instruction to an owner of animals in such village:



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Provided that such notice is issued in writing and in such language or dialect as is commonly spoken by, or understood among, the majority of the inhabitants of that village.

(3) A headman of a village to whom an instruction is issued in accordance with subsection (2) shall immediately take all reasonable steps to communicate the contents of the instruction to every owner of animals in such village.

(4) A person who—

(a) fails to comply with any instruction given under subsection (1) or (2); or

(b) fails to communicate the contents of an instruction in accordance with subsection (3);

commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

21. The Director shall, for the purpose of disease control and animal and animal product traceability, use an animal and animal product identification system that allows for the tracing of animals and animal products from origin to end-use for the purpose of disease control.

Identification and traceability of animals

22. (1) The Director may, in order to control, prevent and eradicate disease declare an area a disease control zone.

Declaration of disease control zone

(2) Where the Director declares a disease control zone under subsection (1), the Director shall cause the disease control zone to be *gazetted* and made public through the media.

(3) An officer may, in order to control any disease use any barriers, notices or beacons to identify and demarcate the disease control zone.

23. (1) The Director may declare any land, premises or area that is infected or is suspected to be infected with a notifiable disease to be a quarantine area for such period as the Director may determine.

Declaration of quarantine area

(2) The Director may, where the Director declares an area a quarantine area under subsection (1) —

(a) determine measures for the treatment or disposal of any animal, animal product, animal by-product or article in the area;

(b) order the treatment of any conveyance, whether infected or not;



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(c) prohibit the movement of any person, conveyance, animal, animal product, animal by-product or article from or to the area; and

(d) order the taking of any other measure to eradicate the disease as the Department considers necessary.

Designation of animal quarantine stations

24. (1) The Director may designate any place as an animal quarantine station.

(2) The Director may require any animal, animal product, animal by-product or article, to be kept at an animal quarantine station or at any other location identified by the Director, on such conditions as the Director may determine.

Lifting of quarantine

25. The Director may, by written notice served on an owner of animals which are in a quarantine station or area, lift the quarantine where the Director determines that a notifiable disease is no longer present in the quarantine station or area and does not pose a threat to other animals outside the quarantine station or area.

Permit to manufacture or sell virus, vaccine, etc.

26. (1) A person shall not import, export manufacture, sell or expose for sale in Zambia a virus, vaccine, serum or an analogous product used for the purpose of diagnosis or treatment of any animal disease except under a permit, in writing, issued by the Director.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Import of animal, animal product or article

27. (1) A person shall not import an animal, animal product or article without an import permit issued by the Director.

(2) The Minister may, by statutory instrument, provide for the prohibition, restriction and regulation of the importation of any animal, animal product, animal by-product or article.

(3) Without derogating from the generality of subsection (1), the Minister may, by regulation:

(a) provide for the disinfection or treatment of any imported animal, animal product, animal by-product or article or their containers;

(b) designate ports of entry, routes and methods of transportation;

(c) provide for the detention of any animal, animal product, animal by-product or article which is imported and the measures to be taken during the detention;



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(d) provide for the imposition and recovery of fees for disinfecting, or treating any animal, animal product, animal by-product or article which is imported; and

(e) provide for the disposal of any imported animal, animal product, animal by-product or article in respect of which prescribed fees are not paid and of the proceeds resulting from their disposal.

28. The Minister may, in consultation with the Director, authorise the entry of an animal, animal product or article for scientific or research purposes, subject to such terms and conditions as the Minister may consider necessary.

Importation for scientific, educational or research purposes

29. (1) A person shall not export an animal, animal product, animal by-product or article without an export permit issued by the Director.

Export of animal, animal product, animal by-product and article

(2) The Minister may, by statutory instrument, prohibit the export of animals, animal products, animal by-products or articles from Zambia, or any part of Zambia, in general or to one or more designated countries of destination, unless and until all regulations with regard to their export have been complied with, and may at any time, by like notice rescind such prohibition.

(3) The Minister may, by statutory instrument, make regulations for the purposes of regulating and controlling the export of animals, animal products, animal by-products or articles from Zambia or any part of Zambia and prescribing the fees to be paid.

(4) The Minister shall take into account, in the regulations prescribed under subsections (2) and (3), the requirement to fulfill international treaties and agreements and the requirements of the countries of destination.

30. (1) The Minister may, for the purposes of disease control and veterinary public health, approve a laboratory for—

Approval of laboratories

(a) the testing of animal feed, vaccine, veterinary products, animal products and animal by-products; or

(b) disease diagnosis; or

(c) food safety and assurance; or

(d) any other activity considered necessary under this Act.

(2) The Director shall cause to be kept a register of approved laboratories in the prescribed manner and form.



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Regulatory powers for eradication of diseases

31. (1) The Minister may, by statutory instrument, provide for the eradication of diseases and the prevention or control of the spread of diseases.

(2) Without derogating from the generality of subsection (1), the Minister may provide for—

- (a) the disinfection, treatment, destruction or disposal of an animal, animal product, animal by-product or article infected, or appearing to be infected, with a disease, or anything liable to infect an animal with a disease;
- (b) the prohibition, restriction and regulation of the transportation of animals, animal products, animal by-products and articles;
- (c) the prohibition, restriction and regulation of the keeping of animals where a disease cannot otherwise be readily or adequately controlled or eradicated;
- (d) the reporting of the occurrence of a disease by the public and the collection and transmission of specimens of a disease by an officer or a veterinary inspector;
- (e) the method, age, and time limits for the slaughter of animals;
- (f) the inspection and registration of slaughter houses, slaughter slabs, abattoirs, farms, hatcheries, livestock markets and animal product processing plants and the imposition of registration fees for such registration and inspection;
- (g) the collection, processing methods and authorised uses of animal by-products;
- (h) the disinfection, fumigation and treatment of land, warehouses, buildings and structures suspected of being or having been used for the storage of anything likely to infect an animal with a disease;
- (i) the declaration of disease control zones and the prohibition, restriction and regulation of the removal of animals, animal products, animal by-products and articles or any other thing whatsoever to or from a disease control zone;
- (j) the maintenance of a disease free area;
- (k) the forms of records to be kept and of records to be made by owners of approved laboratories;
- (l) the standards of hygiene and quality assurance to be maintained in rendering plants and approved laboratories;



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- (m) the methods to be employed by an approved laboratory in the testing of animal feed for purposes of this Act and the fees to be paid for such testing;
- (n) the inspection, disinfection or fumigation of any conveyance used in the transportation of an animal, animal product, animal by-product or article; and
- (o) the payment and recovery of fees for any inspection, disinfection, fumigation or treatment carried out by an officer or a veterinary inspector.

PART IV

TRANSPORTATION OF ANIMALS

32. A transporter of any animals in transit by any conveyance, within or through Zambia, shall appoint a person to be in control of the animals, and, in default of such appointment

Obligation of transporter of animals in transit

- (a) in the case of a motor vehicle, the driver of the motor vehicle;
- (b) in the case of a train, the guard of the train;
- (c) in the case of an aircraft, the captain of the aircraft; and
- (d) in the case of a ship, the captain of the ship;

shall be deemed to be the person in control of such animals.

33. (1) A transporter of animals shall be in possession of a movement permit authorising the conveyance of such animals.

Transportation of animals

(2) The Minister may, by statutory instrument, make regulations for the purposes of regulating and controlling the mode and manner in which animals shall be transported.

34. (1) A transporter of animals shall maintain a record of the animals conveyed in the prescribed manner and form.

Transporter of animals to maintain records

(2) A transporter referred to in subsection (1) shall, at the request of an officer, make available to the officer any record kept in accordance with subsection (1).

PART V

LIVESTOCK SLAUGHTER AND CLEANSING

35. (1) A person shall not slaughter any immature livestock, or pregnant livestock unless the person is in possession of a permit granted under section *thirty six* in respect of the slaughter.

Prohibition of slaughter of certain livestock

(2) Any person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.



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Permit to
slaughter
livestock

36. (1) Any person who wishes to slaughter immature livestock or pregnant livestock shall apply to the Director for a permit in the prescribed manner and form upon payment of the prescribed fee.

(2) The Director may, upon receipt of an application under subsection (1) and where the application meets the requirements of this Act, grant the applicant a permit authorising the slaughter of such number of livestock as may be specified on the permit.

(3) A person shall, where the person slaughters immature livestock or pregnant livestock, furnish an officer with—

(a) the permit granted in respect of the slaughter; and

(b) such other information relating to the livestock and the slaughter thereof as the Minister may, by statutory instrument, prescribe.

Permit for
slaughterhouse

37. (1) A person who intends to operate any premises as a slaughterhouse shall apply to the Director for a permit in the prescribed manner and form upon payment of the prescribed fee.

(2) The Director shall, upon receipt of an application under subsection (1) and where the application meets the requirements of this Act, grant the applicant a permit to authorise the operation of the slaughterhouse.

Power of
entry

38. (1) An officer may, at any reasonable time, enter any land or premises where livestock are kept for slaughter or offered for sale, and may inspect any livestock or carcass found on the land or premises.

(2) An officer may, in the exercise of the officer's powers under subsection (1), prohibit the slaughtering of any livestock and may seize and remove any carcass or part thereof.

Regulations
in respect of
livestock
slaughtering

39. The Minister may, by statutory instrument, prescribe the manner and form for the registration of any premises as a slaughterhouse.

Declaration of
livestock
cleansing area

40. The Minister may, by notice in the *Gazette*, declare an area, or any part thereof, to be a livestock cleansing area.

Obligation of
owner of
livestock
cleansing
area

41. (1) An owner of livestock in a livestock cleansing area shall cleanse the livestock at such intervals as may be prescribed:

Provided that where it is impossible or inexpedient to cleanse the livestock within such prescribed interval, the interval may be extended by the Director for a further period not exceeding fourteen days.



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(2) Livestock shall not be moved from a livestock cleansing area to another area unless the livestock is cleansed twice within fourteen days immediately prior to the movement or until such time as an officer shall certify the livestock as free from ticks.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

42. (1) The Director may, for considerations of weather, drought or condition of the livestock, or for other causes beyond the control of the owner of the livestock, temporarily exempt an owner of livestock from the provisions of section *forty-one* and may during such period prescribe the interval of cleansing.

Exemption
to cleanse
livestock

(2) The Director shall notify any exemption granted under this section to the local authority of the area in which such exemption is granted.

(3) A person shall not move any livestock from an area in which an exemption from cleansing under this section is in force unless the livestock are cleansed twice within fourteen days immediately prior to the movement.

(4) A person who contravenes subsection (3) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

43. (1) An officer may, in any livestock cleansing area, at any reasonable time, enter any land or premises and inspect and count any livestock thereon, take a sample from the contents of any dipping tank, spray race or pour-on and call upon an owner of the livestock to produce all the livestock in the owner's possession for the purpose of inspection and enumeration.

Powers of
officer in
livestock
cleansing
area

(2) An owner of livestock shall advise an officer of the usual date, place and method of tick control of the livestock and of any change of such date or place.

(3) A person who refuses to allow an officer to enter any land or premises or to examine livestock, or who impedes or hinders or attempts to impede or hinder an officer in the execution of the officer's duties, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.



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Animal Health

Owner of land to provide cleansing facilities

44. (1) An owner of land on which livestock are found shall provide facilities for tick control of the livestock and shall make provision for sufficient quantities of effective tick-destroying agent for the cleansing of such livestock.

(2) An owner of land who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Provision of tick control facilities

45. (1) An officer may require an owner of land or livestock in a livestock cleansing area to provide tick control facilities of an approved design on the land, or may require the owner of land or livestock to make efficient by repair or otherwise, an existing tick control facility on the land at the expense of the owner of the land or livestock:

Provided that nothing in this section shall be deemed to prohibit the provision of tick control facilities for the common use of two or more owners of land or livestock with the approval of an officer.

(2) For the purposes of this section, an officer may enter any land or premises and may give written notice to the owner of land or livestock found thereon to provide tick control facilities within a reasonable period, being not less than thirty days, to be specified in such notice.

(3) An officer may, where a person fails to comply with a notice under subsection (2), proceed to provide tick control facilities and may recover the cost thereof from the owner of the land or livestock.

(4) An owner of land or livestock who refuses or fails to comply with any notice given by an officer under this section commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Government to provide dipping tanks or spraying races

46. (1) The Minister may provide dipping tanks or spraying races in suitable places for the common use of owners of the livestock, and may charge such fees for the cleansing of livestock in such tanks or spraying races as may be prescribed.

(2) The Minister may, in any livestock cleansing area, direct local authorities to provide dipping or spraying races for the common use of owners of livestock within the areas under the control of the local authorities and the local authorities may charge the fees prescribed pursuant to subsection (1).



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47. (1) A person shall not sell or offer for sale as an effective tick destroying agent any article or fluid which does not conform to the prescribed standard.

Tick destroying agent to conform to prescribed standard

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

PART VI

TSETSE CONTROL

48. (1) In this Part —

Interpretation

“ domestic animal ” includes any horse, cattle, mule, ass, sheep, hog, pig, goat, fowl, ostrich, dog, cat, or any other domesticated animal, fowl or bird, and any wild animal, fowl, bird or reptile in a state of captivity;

“ officer ” means a tsetse control biologist, tsetse control officer or tsetse assistant employed by the Government;

“ private land ” means any land, the ownership of which has by law, grant or title deed, become vested in any person other than the President, and includes any land held by any person under an agreement whereby such person is entitled to obtain from the President title thereto on the fulfilment by the person of the conditions prescribed by such agreement;

“ tsetse control picket ” means any barrier erected on any road or recognised footpath in terms of paragraph (e) of section *fifty-one*;

“ tsetse fly area ” means an area declared as such under section *forty-nine*; and

“ tsetse fly control area ” means a defined area where techniques to control or eradicate tsetse flies are applied.

(2) For the purposes of this Part, the terms “ persons ”, “ domestic animals ” and “ vehicles ” include any baggage or other articles carried by or on such persons, domestic animals or vehicles.

49. (1) The Minister may, by statutory notice, declare any defined area to be a tsetse fly area or a tsetse fly control area.

Declaration of tsetse fly area

(2) A declaration made pursuant to subsection (1) may provide for the introduction of any of the following measures in respect of any tsetse fly area or part thereof and may confer powers and



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impose duties on an officer or owner of private land in connection with the carrying out and enforcement of such measures:

- (a) the cutting, clearing or removal of any trees, timber or vegetation where the control of tsetse flies is hampered by the presence of such trees, timber or vegetation;
- (b) the control of bush fires;
- (c) the removal of any persons or domestic animals from the area or any part thereof where such removal is considered necessary for the application of any scheme for the eradication or effective control of tsetse flies;
- (d) the application of insecticides to clear an area of tsetse flies:

Provided that where the insecticide is to be applied on a private land, the owner of the land shall be given prior notification; and

- (e) the application of any other method or technique that may be considered appropriate and effective.

Powers of Minister in respect of private land

50. (1) The Minister may order an officer to take such steps as may be necessary for the introduction on private land of any measures under this Act, and require the owner of such land to permit the introduction of such measures.

(2) A notice requiring an owner to permit any measures under subsection (1) shall be published in the *Gazette*.

Regulations on tsetse fly control

51. The Minister may, by statutory instrument, make regulations—

- (a) prohibiting the travel or movement of persons, domestic animals and conveyances to, from or within, a tsetse fly area or a tsetse fly control area;
- (b) restricting travel or movement to certain defined routes and to specified periods of the day or night;
- (c) where any travel or movement is authorised in terms of this Act, providing for the inspection, by officers, of persons, domestic animals and conveyances, for the purpose of detecting the presence of tsetse flies, and for the introduction and enforcement of measures for ridding such persons, domestic animals and conveyances, of tsetse flies;
- (d) providing for the protection of loads on conveyances by tarpaulins or similar coverings for the purpose of preventing the entry of tsetse flies amongst the loads;



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- (e) providing for the establishment of tsetse control pickets and check points on roads and recognised footpaths;
- (f) preventing the entry, introduction or carrying, of tsetse fly into a tsetse fly control area or tsetse fly free area and for matters incidental to such purposes;
- (g) regulating or prohibiting, except under a permit issued under this Act, the performance of any specified act or the carrying on of any operation including trading, whether within or outside a tsetse fly control area, where such regulation or prohibition is reasonably required for the purpose of controlling the spread of tsetse flies;
- (h) providing for the issue and revocation of permits, for the performance of any act or the carrying on of any operation which is mentioned in paragraph (g);
- (i) prescribing the form of permits, the conditions attaching to them, the conditions precedent to their issue and the periods of their validity and providing for the production of permits to officers;
- (j) prescribing the fees payable for permits; and
- (k) generally for the better carrying into effect of the provisions of this Act.

PART VII

GENERAL PROVISIONS ON CONTROL OF ANIMAL DISEASE

52. (1) The Minister may, by statutory instrument, in consultation with the Director, establish zoosanitary border posts and internal check points.

Zoosanitary border posts and internal check points

(2) The Department shall control livestock at zoosanitary border posts and internal check points established under subsection (1), and shall conduct veterinary inspections at such posts and check points.

53. The Director shall, for the purpose of early detection of diseases have in existence an early warning system of diseases.

System for disease control

54. (1) The Minister may, by statutory instrument, in consultation with the Director, declare an area to be a disease free zone and prescribe—

Declaration of disease free zone

- (a) the use of such area;
- (b) the measures to be undertaken by owners of livestock within a disease free zone; and



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(c) measures to be undertaken by owners of livestock outside a disease free zone in order to prevent introduction of diseases into such area.

(2) Without prejudice to subsection (1), an area shall be declared disease free if —

(a) any disease announced by the Director has not occurred in that area for a period specified by the Director;

(b) measures to prevent the introduction of disease or infection are in place;

(c) barriers, either natural or artificial exist to prevent animal sub-populations from mixing; and

(d) no disease declared by the Director under this Act has been detected in adjacent zones including wildlife areas.

Prohibition of use of pesticides, etc. an animal without permit

55. (1) A person shall not test, register, sell or use any pesticide, chemical, drug or hormone on any animal without a permit issued by the Director in respect of that pesticide, chemical drug or hormone.

(2) A person shall not—

(a) distribute, sell or offer or expose for sale any pesticide or chemical for animals which does not conform to the requirements of this Act; and

(b) carry out research or activities related to research on notifiable diseases without a permit from the Director.

(3) A person who produces, distributes, stores, sells or deals in any manner with pesticides for animals and any other chemical shall—

(a) ensure that the chemical is maintained according to standards approved by the Minister; and

(b) provide information of any change or anticipated change in the pesticide three months prior to the introduction of the change.

(4) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Restriction on bee keeping

56. A person shall not import or export honey, bee or hive products or run, keep or maintain a bee keeping farm or enterprise for purposes of sale without a permit from the Director.



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57. The Minister may, by statutory instrument make regulations for—

Prevention and control of fish diseases

- (a) the assessment of fish health status in the production sites through inspections and standardised procedures;
- (b) the eradication of fish diseases by slaughtering of infected stocks, and re stocking with fish from approved disease free resources; and
- (c) regulating and monitoring the introduction and transportation of fish.

58. (1) A person shall not herd or graze animals or allow that person's animals to herd or graze within two hundred metres of a public road unless there is a barrier between the public road and the area of herding or grazing.

Prohibition of herding or grazing near public road

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

PART VIII

ANIMAL FEED

59. (1) A person shall not import, manufacture or sell any animal feed without a permit from the Director.

Restriction on importation, manufacture or sale of animal feed

(2) A person shall not import, manufacture or sell any animal feed unless the animal feed conforms to the standards and specifications prescribed under this Act.

(3) A person who contravenes subsections (1) and (2) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

60. (1) A person shall not import without a permit from the Director—

Restriction on importation, manufacture, etc. of animal feed containing certain substances

- (a) any animal feed which contains bone or any other substance derived from an animal carcass; or
- (b) bones or any other substance derived from an animal carcass for the purpose of manufacturing any animal feed.

(2) A person shall not manufacture or sell any animal feed containing bone or any other substance derived from an animal carcass unless such bone or substance has been sterilised in the prescribed manner.



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(3) A person who contravenes subsections (1) and (2) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Permit for rendering plant

61. (1) A person shall not operate a rendering plant without a permit from the Director.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Regulatory provisions for animal feed

62. The Minister may, by statutory instrument make regulations for—

- (a) the form of register, applications, permits, reports of sampling and analysis;
- (b) the manner of branding, labelling, marking or sealing packages or containers of any animal feed;
- (c) the prohibition or restriction of the disposal, acquisition or use of any animal feed;
- (d) the restriction, limitation or prohibition of the importation of any animal feed or class of animal feed into Zambia and the conditions under which the animal feed may be imported; and
- (e) the methods to be employed for rendering.

PART IX

THE ANIMAL DISEASE CONTROL FUND

Declaration of animal disease emergency

63. (1) The Minister may declare an animal disease emergency where—

- (a) an introduced disease is capable of spreading rapidly;
- (b) the presence, impact and extent of the disease, the potential for spread and its rate of spread, requires emergency eradication measures to eliminate the disease;
- (c) a disease is of immediate or potential danger to the health of other animals or to human health;
- (d) a Group 1 notifiable disease is detected in any area in Zambia; or
- (e) the animal was diseased at the time of slaughter.

(2) The Director may, where the Minister declares an animal disease emergency under subsection (1)—



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- (a) designate a disease control zone;
- (b) prohibit or restrict the entry or removal of any animal, animal product, article or animal feed from the area;
- (c) specify the activities to be carried out in the area;
- (d) restrict the movement of persons, vehicles and goods to, and from, the area; and
- (e) take any other action that the Director considers appropriate to prevent the introduction or spread of the disease.

64. (1) There is hereby established the Animal Diseases Control Fund.

Animal
Diseases
Control Fund

(2) The Fund shall consist of—

- (a) such moneys as Parliament may appropriate for the purpose of the Fund;
- (b) voluntary contributions to the Fund from any person or organisation; and
- (c) any grants from any source within or outside Zambia approved by the Minister responsible for finance.

(3) The monies of the Fund shall be applied for —

- (a) the prevention, control and eradication of emergency diseases declared under section *sixty-three*;
- (b) the payment of compensation due to any person whose animals are destroyed under powers conferred by this Act; and
- (c) any other matter relating to the prevention, control and eradication of emergency diseases.

65. The financial year of the Fund shall be the period of twelve months ending on 31st December in each year.

Financial
year

66. (1) The Minister shall cause to be prepared proper books of accounts in relation to the Fund.

Accounts
and audit

(2) The accounts of the Fund for each financial year shall be audited by the Auditor General and, for that purpose, the Auditor General and any officer authorised by the Auditor General shall have access to all books and other records relating to the accounts for the Fund.

(3) The Auditor General shall, not later than nine months after the end of each financial year, submit a report on the accounts of the Fund for that financial year to the Minister.



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(4) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of the report, lay it before the National Assembly.

Establishment
of Animal
Disease
Control
Interdisciplinary
Committee

67. (1) There is hereby established the Animal Disease Control Interdisciplinary Committee.

(2) The Committee shall consist of the following members who shall be appointed by the Minister:

- (a) the Permanent Secretary in the Ministry responsible for livestock development, who shall be the Chairperson; and
- (b) one Permanent Secretary each from the Ministries responsible for—
 - (i) home affairs;
 - (ii) local government;
 - (iii) transport;
 - (iv) information;
 - (v) health; and
 - (vi) finance.

(3) The Minister shall appoint a Vice-Chairperson from amongst the members of the Committee.

(4) The functions of the Committee are to —

- (a) mobilise resources for the prevention and control of animal diseases;
- (b) control disbursements from the Fund; and
- (c) co ordinate the implementation of the measures in respect of preventing and controlling the spread of a notifiable disease or other disease using the sectoral skills and resources of line ministries.

(5) The Committee may exercise its functions notwithstanding any vacancy in its membership.

(6) The provisions of the Schedule apply to the Committee.

Reports to
Committee

68. (1) The Director shall, where there is an animal disease emergency, submit to the Committee a periodic report at such intervals as may be determined by the Chairperson.

(2) The report referred to in subsection (1) shall include the following:



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- (a) the status of the outbreak of disease;
- (b) the measures that have been undertaken to prevent the spread of the outbreak of disease; and
- (c) such other information as may be requested by the Chairperson.

PART X

COMPENSATION

69. The Minister may, by statutory instrument, regulate the procedure, criteria, type and determination of compensation to be given to any person under this Act.

Regulatory powers with respect to compensation

70. (1) A claim for compensation shall be made to the Director in the prescribed manner and form.

Claim for compensation

(2) Subject to the other provisions of this Act, the Minister may order the payment of compensation to the owner of an animal, animal product, animal by-product, article or animal feed destroyed or disposed of, under the powers conferred by this Act, where physical evidence is provided that the animal, animal product, animal by-product, article or animal feed was destroyed or disposed of as a consequence of the exercise of powers conferred under this Act.

(3) In determining the amount of compensation to be paid under this Act, no allowance for loss of profit occasioned by breach of contract or loss of production or any other consequential losses shall be made.

71. The Minister may withhold compensation in whole or in part where —

Compensation to be withheld in certain circumstances

- (a) doubt or dispute arises as to the entitlement of a person to receive compensation as stipulated under this Act;
- (b) the owner of the animal, animal product, animal by-product, article or animal feed in respect of which compensation is claimed has committed an offence under this Act;
- (c) the animal, animal product, animal by-product, article or animal feed was at the time it was imported into the country already infected or contaminated by a disease or did not meet the prescribed standard;
- (d) the animal is slaughtered on humane grounds; or
- (e) the animal was diseased at the time of slaughter.



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PART XI

GENERAL PROVISIONS

Appeals

72. (1) A person aggrieved with any decision made by an officer or Director under this Act may, within seven days of the date of the decision, lodge with the Minister an appeal against the order.

(2) There shall be no right of appeal against—

- (a) an order for the destruction or disposal of an animal, animal product or animal by-product declared by a veterinary officer to be infected with a disease;
- (b) an order for the destruction or disposal of an animal, animal product or animal by-product kept or transported contrary to the provisions of this Act or any other law; or
- (c) an order for the disposal of animal feed imported, compounded, mixed, manufactured or used contrary to the provisions of this Act.

(3) An appeal lodged under subsection (1) shall be in writing and shall specify in detail the grounds upon which it is made.

(4) A person aggrieved with a decision of the Minister may appeal to the High Court within thirty days of receiving the decision.

General offences

73. A person who—

- (a) contravenes or fails to comply with a provision of this Act, regulations or any order or notice made or issued under this Act;
- (b) contravenes or fails to comply with any condition of a permit issued under this Act;
- (c) intentionally introduces or causes the introduction or spread of a disease;
- (d) on being required to do so, fails or refuses to produce to an officer, veterinary officer, veterinary inspector, police officer or other authorised person a permit or other document relevant for purposes of this Act;
- (e) fails or refuses, without reasonable cause, to give information to an officer, veterinary officer, veterinary inspector or a police officer when required to do so under this Act;



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- (f) knowingly or recklessly gives false or incomplete information for purposes of obtaining a permit or other requirement under this Act;
- (g) for the purpose of obtaining the issue of a permit whether for that person or any other person, makes a declaration or statement which the person knows to be false in any material particular or makes use of a declaration, statement or document containing the same;
- (h) grows, possesses, sells, offers for sale, transports or distributes in any manner, any animal, animal product, animal by-product or article knowing that the animal, animal product, animal by-product or article is infected with a disease;
- (i) tampers with any sample taken for purposes of this Act; or
- (j) alters, forges, defaces or destroys any document issued under this Act;

commits an offence and is liable—

- (i) for a contravention of paragraphs (c) and (h), to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both; or
- (ii) for any other offence, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

74. Except where otherwise expressly provided in this Act, any person who is convicted of an offence under this Act for which no penalty is provided, is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

General penalty

75. (1) A person shall not, without the consent in writing given by, or on behalf of, the Department, publish or disclose to any person otherwise than in the course of duties, the contents of any document, communication or information which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

Prohibition of disclosure of information to unauthorised persons

(2) Any person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.



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(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Arrest
without
warrant

76. (1) An officer may arrest a person without warrant where the officer has reasonable grounds to believe that the person-

- (a) has committed an offence under this Act;
- (b) is about to commit an offence under this Act and there is no other way to prevent the commission of the offence;
or
- (c) is willfully obstructing the officer in the execution of the officer's duties.

(2) An officer who makes an arrest under subsection (1) shall, without undue delay, have the person so arrested brought before a court of competent jurisdiction to be dealt with accordingly.

Forfeiture
provisions
on
conviction

77. (1) Upon the conviction of any person of an offence under this Act, the court may in addition to any other penalty imposed, declare any animal, animal product, animal by-product or article or subject to subsections (2) to (8) inclusive, any conveyance with which the offence was committed, or which was used in, or for the purpose of, or in relation to, or in connection with, the commission of the offence, to be forfeited without compensation and shall order the same to be disposed of as the State considers fit.

(2) Where the prosecution requests a declaration of forfeiture in respect of any conveyance, the court shall make an order, to the effect that unless any person other than the convicted party claims, under this section, any right of ownership in the conveyance within three months of the date referred to in subsection (5), the prosecution may apply to the court *ex parte* for a declaration for forfeiture under subsection (1), and the court shall make the declaration.

(3) Upon the making of an order under subsection (2), the Director shall, within one month thereafter, cause to be published in the *Gazette* and in at least one daily newspaper of general circulation in the place where the offence was committed, a notice of the making of the order, which notice shall be in the prescribed form, or if no such form is prescribed, in a form approved by the court.



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(4) If under any written law requiring the registration of any conveyance referred to in subsections (1) and (2), the conveyance is registered in Zambia in the name of any person other than the person convicted, the Director shall, within seven days after publication of the notice in the *Gazette* cause a copy to be sent by registered post in a sealed envelope addressed to the person at the address appearing on the register, and the registration of the letter shall be conclusive evidence of service of the notice upon such person.

(5) Any person who claims any right of a conveyance may, within three months after the making of the order referred to in subsection (2), serve upon the Director and lodge with the clerk of the court an application in writing for the discharge of the order setting out the claim of ownership in the conveyance, whereupon the clerk of the court shall fix a date, not less than one month after the lodgement of the application for a hearing and shall, within seven days after the lodgement, cause notice of the hearing of the application to be served upon the Director.

(6) In any proceedings brought under subsection (5), the onus of proof shall be on the applicant and no order discharging the order shall be made unless the applicant has adduced evidence and proved to the satisfaction of the court that the applicant was not in any way privy to the offence and that the conveyance was, at the time of the commission of the offence, being used for such purpose without the knowledge or consent of the applicant and without any negligent disregard on the part of the applicant, of its use by the convicted person.

(7) Where, upon an application made under subsection (5), the court is satisfied that the conveyance is owned jointly by the claimant and the convicted party, or is the subject matter of a hire purchase agreement between the claimant and the convicted party, and the claimant has discharged the onus of the proof prescribed by subsection (6), the court shall declare forfeited all of the estate or interest of the convicted person in and to the conveyance, or all of the rights therein accrued to that person under the hire purchase agreement or pursuant to the Hire Purchase Act and order the estate, or interest or rights to be disposed of as the State may consider fit.

Cap. 399

(8) Except with the consent of the State, any right vested in any claimant under any hire purchase agreement or pursuant to the Hire Purchase Act to repossess any conveyance which is subject to an order made under subsection (2), shall be suspended pending

Cap. 399



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the determination of any application brought under subsection (5), and in the event of the court declaring the rights therein accrued to the convicted party to be forfeited, the accrued right to repossess the conveyance shall not be exercisable against the Government.

Disposal of seized animals, etc.

78. (1) Where any animal, animal product, animal by-product or article or any conveyance or animal feed is seized under this Act, or any other written law, in relation to or in connection with the commission of any offence under this Act, and —

- (a) the person suspected of having committed the offence is unknown;
- (b) the person suspected of having committed the offence cannot be found for the purpose of service of the process of the court charging that person with the offence; or
- (c) having been served with such process, the person suspected of having committed the offence fails to appear in answer to the charge;

the Director may, one month after publication of a notice of intention to apply for a court order for forfeiture in one daily newspaper of general circulation in the district in which the offence is alleged to have been committed, apply by way of original application, *ex parte*, to the court for an order declaring the animal, animal product, animal by-product, article, animal feed or conveyance, as the case may be, to be forfeited without compensation and ordering it to be disposed of as the Director may consider fit.

(2) If any person claims any right of ownership in any conveyance to which a notice published under subsection (1) applies, the person may, within one month after the date of publication, lodge with the clerk of the court a notice of claim of ownership and serve a copy of the notice upon the Director, and the provisions of subsections (4) to (8) of section *seventy seven* shall apply, with the necessary modifications, to the claim of ownership.

(3) If any animal, animal product, animal by-product, article or animal feed is seized under this Act, or any other written law, in relation to, or in connection with, the commission of any offence under this Act, or any other written law, the Director may apply to the court by way of original application, *ex parte*, for an order



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for the immediate disposal by sale or otherwise of the animal, animal product, animal by-product, article or animal feed and the proceeds shall be held by the Director pending the determination of any proceedings brought in respect of the offence and shall be dealt with by the Director as the court may direct or, if the person suspected of having committed the offence is unknown or cannot be found for the purposes of service of the process of the court, subsection (1) shall apply, with necessary modifications, to the proceedings.

79. Where the holder of any permit or authority, issued under this Act, is convicted of an offence under this Act, the court shall, in addition to any penalty imposed, order the person to surrender forthwith to the Director the permit or authorisation, as the case may be, to be dealt with by the Director in accordance with the provisions of this Act.

Surrender of
permit on
conviction

80. (1) The Minister may make regulations for the better carrying out of the provisions of this Act and, in particular but without prejudice to the generality of the foregoing, such regulations may provide for—

Regulations

- (a) the prevention of the introduction of, or the spread of, any animal disease in Zambia;
- (b) the prohibition or control of movements of animals, animal products, animal by-products and articles and the mode of their transfer;
- (c) the establishment of animal disease control check points;
- (d) the controlling of —
 - (i) any disease common to human beings and animals; and
 - (ii) any parasite injurious both to human beings and animals or capable of introducing or spreading among human beings or animals any disease referred to in sub paragraph (i);
- (e) the quarantine or isolation of any animal, animal product, animal by-product or article;
- (f) the control, immunisation, treatment, compulsory tick control and other prescribed measures by the owner of an animal and the manner in which community participation in control measures shall be conducted;
- (g) the manner in which any infection or contaminated article or anything suspected of being an infected or contaminated article, shall be cared for, treated,



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- disinfected, destroyed or disposed of by the owner thereof or by any owner of premises on which such article is present;
- (h) the manner in which animals suspected to have been in contact with diseased animals shall be disposed of;
 - (i) the cleansing, disinfecting and disinfestation of any building or place where animals infected with disease are kept;
 - (j) the cleansing, disinfecting and disinfestation of any conveyance or premises used for the conveyance, sale, exhibition or other purpose of animals;
 - (k) the control of public markets, sales yards and agricultural show grounds, animal production, health programmes or schemes for purposes of this Act;
 - (l) the dividing of Zambia into veterinary districts;
 - (m) the declaration of specified areas for purposes of this Act, including the declaration and regulation of certain areas as disease control zones;
 - (n) generally for the prevention and control of disease;
 - (o) the control of animals in captivity and the prevention of zoonotic diseases;
 - (p) the standards of animal welfare;
 - (q) the competence and supervision of veterinary inspectors;
 - (r) the fees to be paid for anything done or to be done under this Act; and
 - (s) generally the carrying into effect of the purposes of this Act.

(2) Any regulations under subsection (1) may provide that any person who contravenes or fails to comply with such regulations commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Repeal of
Cap. 252

81. (1) The Stock Diseases Act, 1961, is hereby repealed.

Cap. 248
Cap. 249
Cap. 250

(2) Notwithstanding subsection (1), and the repeal of the Cattle Cleansing Act, the Tsetse Control Act and the Cattle Slaughter (Control) Act, any permit, licence or authorisation issued under the repealed Acts shall be in force for three months after the commencement of this Act, after which the holder shall apply for a permit in accordance with the provisions of this Act.



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FIRST SCHEDULE

(Section 65 (6))

ADMINISTRATION COMMITTEE

1. A person shall not be appointed as a member of the Committee if that person—

(a) holds office in, or is an employee of, any political party; or

(b) has been convicted of an offence involving fraud or dishonesty, or any other offence under this Act or any other written law and sentenced therefor to a term of imprisonment of six months or more without the option of a fine.

2. (1) A member of the Committee shall, subject to the other provisions of this Schedule, hold office for a term of three years and may be appointed for a further period of three years.

(2) A member of the Committee may resign upon giving one month's notice in writing to the Minister.

(3) The office of a member of the Committee shall become vacant—

(a) if the member is absent, without reasonable excuse from three consecutive meetings of the Committee of which the member has had notice;

(b) if the member is adjudged bankrupt;

(c) if the member is convicted of an offence under this Act or any other written law and sentenced therefor to imprisonment for a term of six months or more, without the option of a fine;

(d) if the member is declared to be of unsound mind; or

(e) upon the member's death.

3. (1) Subject to the other provisions of this Act, the Committee may regulate its own procedure.

(2) The Committee shall meet for the transaction of business at least once in every four months at such places and times as the Chairperson may determine.

(3) A meeting of the Committee may be called by the Chairperson upon giving notice of not less than fourteen days, and shall be called by the Chairperson if not less than one third of the members so request in writing:

Qualification
for
appointment
of member
of
Committee

Tenure of
office of
member of
Committee

Proceedings
of
Committee



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Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon a shorter notice given by three members of the Committee.

(4) The Chairperson and Vice-Chairperson with two other members shall constitute a quorum at any meeting of the Committee.

(5) There shall preside at any meeting of the Committee -

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson;
or

(c) in the absence of both the Chairperson and the Vice-Chairperson, such other member as the members present may elect for the purpose of that meeting.

(6) A decision of the Committee on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote, in addition to that person's deliberative vote.

(7) The Committee may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Committee, but such person shall have no vote.

(8) The validity of any proceedings, acts or decisions of the Committee shall not be affected by any vacancy in the membership of the Committee or by any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

Sub-
committees
of
Committee

4. (1) The Committee may, for the purpose of performing its functions under this Act, establish such sub-committees as it considers necessary and delegate to any of those sub-committees such of its functions as it considers fit.

(2) Subject to subparagraph (1), the Committee may appoint as members of a sub-committee persons who are, or are not, members of the Committee, except that at least one member of the Committee shall be a member of the sub-committee.

(3) A person serving as a member of a sub-committee shall hold office for such period as the Committee may determine.

(4) Subject to any specific or general direction of the Committee, a sub-committee may regulate its own procedure.

Allowances
of member

5. There shall be paid to a member of the Committee or sub-committee such allowances as the Minister may determine.



Ministry of Agriculture
and Livestock



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6. (1) If any person is present at a meeting of the Committee or any sub-committee at which any matter is the subject of consideration, and in which matter that person or that person's spouse is, directly or indirectly, interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Committee or the sub-committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

Disclosure of
interest

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

7. (1) A person shall not, without the consent in writing given by, or on behalf of, the Committee, publish or disclose to any unauthorised person, otherwise than in the course of duties of that person, the contents of any document, communication or information whatsoever, which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

Prohibition
of
publication
of, or
disclosure
of,
information
to
unauthorised
persons

(2) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of sub-paragraph (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

8. An action or other proceeding shall not lie or be instituted against a member of the Committee or a sub-committee, or in respect of, any act or thing done or omitted to be done in good faith in the exercise of or performance, or purported exercise or performance of any of the powers, functions or duties conferred under this Act.

Immunity



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The Laws of Zambia

REPUBLIC OF ZAMBIA

THE COFFEE ACT

CHAPTER 228 OF THE LAWS OF ZAMBIA

CHAPTER 228 THE COFFEE ACTCHAPTER 228

THE COFFEE ACT

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PRELIMINARY

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COFFEE BOARD OF ZAMBIA



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PRODUCTION, CURING, CLASSIFICATION, MARKETING AND EXPORT OF COFFEE

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DISTINGUISHING MARKS

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CHAPTER 228

COFFEE ACT

Act No.24 of 1989 of
1994

An Act to establish the Coffee Board of Zambia; to define the functions and powers of the Coffee Board of Zambia and those of the Zambia Coffee Growers Association Limited; to regulate the coffee industry; to control the production and marketing of coffee; and to provide for matters connected with or incidental to the foregoing.

[29th December, 1989

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Coffee Act. Short Title
2. In this Act unless the context otherwise requires- Interpretation

"Appeals Classification Committee" means the body constituted by section *fifteen*;

"Association" means the Zambia Coffee Growers Association Limited, a company limited by guarantee and registered under the Companies Act; Cap. 388

"Board" means the Coffee Board of Zambia established by section *three*;

"Chairman" means the person designated chairman of the Board under section *four*;

"cherry" means the fresh fruit of the coffee tree;

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"classified coffee" means coffee which has been classified by the Association under section *twenty-six*;

"coffee" means the commodity derived from the fruit of the rubiaceous plant known as the coffee tree, and includes cherry, dried cherry, parchment coffee, cured coffee, roasted coffee and prepared coffee;

"Coffee Licensing Committee" means the Committee constituted under section *thirteen*;

"Committee" means the Coffee Licensing Committee or the Appeals Classification Committee as the case may be;

"crop year" means the period from the 1st April to the 31st March of the following year unless otherwise changed by the Board;

"cured coffee" means coffee beans after removal of dried cherry skin or parchment skin and "cleaning", "clean coffee" or "green coffee" shall be construed accordingly;

"curing" means the process of removing dried cherry skin or parchment skin by mechanical means, for commercial purposes, and "cured" shall be construed accordingly;

"curing establishment" means any place where dried cherry or parchment coffee is cured;

"depulping" means the process of removing the cherry skin by mechanical means and "depulp" shall be construed accordingly;

"dried cherry" means the fruit of the coffee tree dried whole and not depulped;

"licence holder" means a person holding a licence issued under section *thirty-seven*;

"member" means a member of the Board;

"parchment coffee" means coffee after depulping but before curing;

"prepared coffee" means coffee which is brewed for commercial purposes;

"registered coffee grower" means a person holding a coffee growers certificate, issued under section *twenty*;

"registered curing establishment owner" means a person holding a coffee curing establishment certificate issued under section *twenty*;

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"roasted coffee" means cured coffee roasted to any degree whether whole or ground to powder;

"Vice-Chairman" means the person elected Vice-Chairman of the Board under section *four*.

PART II COFFEE BOARD OF ZAMBIA PART II

COFFEE BOARD OF ZAMBIA

3. There is hereby established the Coffee Board of Zambia which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may lawfully do or perform. Establishment of Board

4. (1) The Board shall consist of the following members: Composition of Board

(a) the Permanent Secretary in the Ministry responsible for agriculture, who shall be Chairman;

(b) not more than seven persons appointed by the Minister of whom-

(i) one shall be a representative of the Ministry responsible for finance;

(ii) one shall be a nominee of an establishment concerned with research in coffee;

(iii) one shall be a nominee of holders of coffee roasting licenses issued under section *thirty-seven*;

(iv) four shall be from persons who the Minister thinks should be represented on the Board; and

(c) five persons appointed by the Association.

(2) There shall be a Vice-Chairman who shall be elected by the Board from amongst its members.

(3) A member referred to in paragraphs (b) and (c) of subsection (1) shall hold office for a period of four years, but shall be eligible for reappointment.

(4) A member referred to in paragraphs (b) and (c) of subsection (1) may resign upon giving one month's notice in writing to the Minister or Association, as the case may be, and may be removed at any time.

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5. Whenever the office of a member becomes vacant before the expiry of the term provided in section *four* the Minister or the Association, as the case may be, may appoint another person to be a member: Filling of casual vacancy

Provided that such other person shall hold office only for the unexpired term of office of the person who vacated the office.

6. The Board may appoint a Secretary to the Board on such terms and conditions as the Board may determine. Secretary

7. (1) The functions of the Board shall be to- Functions of Board

- (a) regulate the coffee industry for the Republic;
- (b) advise the Government on policies and measures relating to the coffee industry;
- (c) promote the sale of coffee;
- (d) encourage the production of good quality coffee;
- (e) implement the Government's policies relating to the coffee industry;
- (f) act as the agent of the Government in matters relating to the coffee industry;
- (g) co-operate, within the framework of any international organization or agreement, for the promotion, control of production, or marketing, of coffee;
- (h) arrange, when so requested by the Government, for the representation of Zambia, on any international organization dealing with coffee, or at any international conference relating to coffee;
- (i) experiment, investigate and conduct research in areas relating to coffee;



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- (j) in consultation with the Association-
- (i) set out licensing criteria for use by the Coffee Licensing Committee;
 - (ii) lay down conditions for the control of coffee production;
 - (iii) lay down conditions for the propagation of coffee seedlings;
 - (iv) lay down conditions under which Arabica Coffee shall be grown in Zambia;
 - (v) lay down terms and conditions for the importation and sourcing of coffee seed;
 - (vi) establish a coffee classification system;
- (k) carry out such other activities as are necessary or conducive to the better performance of its functions.

(2) The Board may, by directions in writing, and subject to such terms and conditions as it considers necessary, delegate to the Secretary any of its functions under this Act.

8. (1) The seal of the Board shall be such device as may be determined by the Board and may be kept by the Secretary. Seal of Board

(2) The Board may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman, and the Secretary or one other person authorised in that behalf by a resolution of the Board.

(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person authorised in that behalf by a resolution of the Board.

(5) Any document purporting to be a document under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

9. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure. Proceedings of Board

(2) The Board shall meet for the transaction of business at least once every three months at such places and at such times as the Chairman may decide.

(3) Upon giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairman and shall be called if not less than five members so request in writing:

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Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon the giving of shorter notice.

(4) Seven members shall form a quorum at any meeting of the Board.

(5) There shall preside at any meeting of the Board-

(a) the Chairman; or

(b) in the absence of the Chairman, the Vice-Chairman; or

(c) in the absence of the Chairman and the Vice-Chairman, such member as the members present may elect for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at a meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) Where the member referred to in paragraph (a) of subsection (1) of section *four* is for any reasonable cause unable to attend any meeting of the Board, he may, in writing, nominate another person to attend such meeting in his stead and such person shall be deemed to be a member for the purpose of that meeting.

(8) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board but that person shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board.

10. (1) If a person is present at a meeting of the Board or of the Coffee Licensing Committee or Appeals Classification Committee at which any matter is the subject of consideration and in which the person or his spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting disclose such interest and shall not, unless the Board or the Coffee Licensing Committee or the Appeals Classification Committee directs, take part in any consideration or discussion of, or vote on, any question touching the matter.

Disclosure of interest

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(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

11. No action or other proceedings shall lie or be instituted against any member or member of the Coffee Licensing Committee or the Appeals Classification Committee for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Immunity

12. (1) No person shall, without the consent in writing given by or on behalf of the Board, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of, his duties under this Act.

Prohibition of publication or disclosure or information to unauthorised persons

(2) Any person who knowingly contravenes subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding one thousand two hundred and fifty penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be liable, upon conviction, to a fine not exceeding one thousand two hundred and fifty penalty units or to imprisonment for a term not exceeding three years, or to both.

(As amended by Act No. 13 of 1994)

13. (1) There is hereby constituted the Coffee Licensing Committee which shall consist of-

Coffee Licensing Committee

- (a) a Chairman who shall be a member of the Board and who shall be elected by the Board;
- (b) three members of the Board who shall be appointed by the Chairman of the Committee after consulting the Chairman of the Board; and
- (c) three persons holding certificates issued under section *twenty* who shall be elected annually by the members of the Association.

(2) A member of the Committee, other than the Chairman of the Committee, shall hold office for one year.

(3) The Chairman of the Committee shall hold office for a period of two years and shall be eligible for re-election for another period of one year.

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(4) A member of the Committee may resign upon giving one month's notice in writing to the Board and may be removed by the Board at any time.

(5) Subject to any specific or general direction of the Board the Committee may regulate its own procedure.

14. (1) Subject to the control and directions of the Board, the functions of the Committee shall, on behalf of the Board be to- Functions of the Coffee Licensing Committee

- (a) issue certificates and licenses in accordance with this Act;
- (b) approve distinguishing marks;
- (c) maintain a register of land planted with coffee, registered coffee growers, registered curing establishment owners and distinguishing marks.

(2) The Board may delegate to the Committee such other of its functions as it may consider necessary.

15. (1) There is hereby constituted the Appeals Classification Committee which shall consist of not more than five members who shall be appointed by the Board. Appeals Classification Committee

(2) A member of the Committee shall hold office for one year.

(3) A member of the Committee may resign upon giving one month's notice in writing to the Board and may be removed by the Board at any time.

(4) Subject to any specific or general direction of the Board the Committee may regulate its own procedure.

16. (1) The functions of the Committee shall, on behalf of the Board, be to hear and determine appeals from aggrieved registered coffee growers on the classification, by the Association, of their coffee. Functions of the Appeals Classification Committee

(2) The Committee may request the Association to submit to it any samples or information the Committee considers necessary to help it determine the appeal.

(3) The Committee may-

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- (a) confirm the classification made by the Association; or
- (b) set aside the classification made by the Association and direct the Association to re-classify the coffee.

PART III PRODUCTION, CURING, CLASSIFICATION, MARKETING AND EXPORT OF COFFEE PART III

PRODUCTION, CURING, CLASSIFICATION, MARKETING AND EXPORT OF COFFEE

- 17.** (1) No coffee other than Arabica Coffee shall be grown in Zambia. Arabica Coffee to be grown in Zambia
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable, upon conviction, to the general penalty imposed under section *fifty-five*.
- 18.** Subject to the general and specific control and direction of the Board, the Association may- Functions of Association
- (a) regulate the production and curing of coffee;
 - (b) collect, store, process, pack and market coffee;
 - (c) negotiate, on behalf of registered coffee growers, the best price for coffee;
 - (d) pay registered coffee growers for coffee sold by the Association on their behalf; and
 - (e) appoint agents to assist the Association in the performance of any of its functions.
- 19.** No person shall grow or cure coffee without a valid certificate issued under this Part. Prohibition on growing or curing coffee without a certificate
- 20.** Subject to the other provisions of this Act, the Coffee Licensing Committee may issue the following certificates: Certificates
- (a) *a coffee growers certificate* which shall authorise the holder to grow coffee in such area or areas as may be specified in the certificate;
 - (b) *a coffee curing establishment certificate* which shall authorise the holder to cure such description of coffee, by means of such machinery, and in such manner, as may be specified in the certificate.
- 21.** (1) Every application for a certificate or renewal of a certificate shall be made to the Coffee Licensing Committee in the prescribed form and shall be accompanied by the prescribed fee. Application for, renewal and refusal of, certificates

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(2) Where an application is made for a renewal of a certificate, the Coffee Licensing Committee may on application of the applicant, vary the conditions specified in the certificate.

(3) The Coffee Licensing Committee may refuse to issue a certificate to an applicant if it is satisfied that the applicant or a person employed by the applicant does not have sufficient knowledge or experience in the growing of coffee or the curing of coffee, as the case may be.

(4) The Coffee Licensing Committee may refuse to issue a coffee curing establishment certificate if the curing establishment is not properly equipped or if the installed machinery is not adequate or suitable for processing coffee to the standards set by the Association or is not in conformity with the laws relating to factories.

22. (1) Where an application for a certificate or renewal of a certificate is made by a co-operative society, registered under the Co-operative Societies Act, it shall submit to the Coffee Licensing Committee together with the prescribed form and fee-

Application for certificates
by co-operative society
Cap. 397

- (a) a schedule specifying the names of the members of the co-operative society; and
- (b) if the application relates to growing coffee, the description and acreage of the land on which each member may plant coffee;

and each member shall be deemed to be registered as a coffee grower or an owner of a curing establishment except that a certificate shall be issued to the co-operative society.

23. A certificate issued under this Part shall be subject to the following conditions-

Conditions of certificates

- (a) unless earlier cancelled it shall remain in force-
 - (i) in the case of a first certificate issued to a person who is planting coffee for the first time, for three years following the date of issue and shall thereafter be renewable annually;
 - (ii) in the case of a certificate issued to a person who already has coffee under cultivation and which is mature, for one year following the date of issue and shall thereafter be renewable annually;
 - (iii) in the case of a coffee curing establishment certificate, for one year following the date of issue and shall thereafter be renewable annually;
- (b) it shall not be transferable;
- (c) the holder shall not carry on any business related to coffee on any premises or place except those stipulated in the licence; and
- (d) such other conditions as the Minister may, by statutory order, impose.

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24. (1) The Coffee Licensing Committee shall maintain a register of all land planted with coffee, registered coffee growers and registered curing establishment owners.

Register of land planted with coffee, coffee growers and registered curing establishment owners

(2) For the purpose of the register a registered coffee grower and a registered curing establishment owner shall, upon request in writing by the Committee, submit to the Committee, a return containing such particulars as the Minister may, by statutory order, prescribe and the particulars shall be entered in the register.

(3) Any registered coffee grower or registered curing establishment owner who-

(a) fails or refuses to make a return when requested to do so; or

(b) makes or causes to be made a return which to his knowledge is false in any particular; shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units.

(As amended by Act No. 13 of 1994)

25. (1) No person shall cure coffee in any place other than in a curing establishment.

Curing of coffee

(2) Any person who intends to operate a curing establishment shall obtain the authority of the Coffee Licensing Committee before he obtains any machinery for that purpose:

Provided that the Minister may, by statutory order, prescribe the conditions under which any machinery obtained, before the commencement of this Act, shall continue to be used and shall prescribe a time period in which-

(a) the conditions shall be complied with; or

(b) if the conditions cannot be complied with, the machinery shall no longer be used.

(3) Any person who contravenes subsections (1) and (2) shall be guilty of an offence and shall be liable, upon conviction, to the general penalty imposed under section *fifty-five*.

(4) Every curing establishment that buys or receives dried cherry or parchment coffee from any person shall report to the Association-

(a) the place where the coffee was grown; and

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(b) the quantity of coffee received.

26. (1) The Association or its authorised agents shall be the sole classifiers of coffee in Zambia. Classification of coffee

(2) Every registered curing establishment owner shall send or cause to be sent to the Association, for purposes of classification, a sample of the coffee cured by him.

(3) The Association shall, in accordance with the classification system established by the Board, classify all coffee samples sent for classification under subsection (2).

(4) The Association shall, within fourteen days after receiving the coffee samples for classification, classify the coffee and notify the registered coffee grower and the registered curing establishment owner of the class in which the coffee has been classified.

27. Any registered coffee grower who is not satisfied with the class in which his coffee has been classified may, within twenty-one days of receipt of the notification given under section *twenty-six*, appeal in writing against the classification to the Appeals Classification Committee. Appeals against classification

28. (1) No registered coffee grower shall sell, deliver for sale or otherwise dispose of any cured coffee to any person other than to the Association. Coffee to be delivered to Association

(2) No person, other than the Association, shall market any cured coffee processed in Zambia.

(3) Subject to the other provisions of this Act, the Association shall, on such terms and conditions as it may lay down in regard to handling and delivery, accept all classified coffee and sell it on behalf of a registered coffee grower.

(4) Nothing in subsection (2) shall apply to-

(a) the purchase or acquisition by a licence holder of cured coffee from the Association;

(b) the purchase or acquisition of roasted coffee from a retail seller for consumption.

(5) Any person who contravenes subsections (1) or (2) shall be guilty of an offence and shall be liable, upon conviction, to the general penalty imposed under section *fifty-five*.

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29. The Association or its authorised agents shall be the sole exporters of coffee.

Export of coffee

PART IV DISTINGUISHING MARKSPART IV

DISTINGUISHING MARKS

30. Every registered coffee grower shall submit a copy of his distinguishing mark to the Coffee Licensing Committee for approval.

Approval of distinguishing mark

31. Where the Coffee Licensing Committee approves a mark submitted to it under section *thirty*, it shall register the mark and shall issue to the registered coffee grower a certificate in the prescribed form.

Registration of distinguishing mark

32. (1) The Coffee Licensing Committee may refuse to approve a mark and may require the applicant to submit an alternative mark for its approval.

Refusal to approve distinguishing mark

(2) Where the Committee refuses to approve a distinguishing mark it shall give reasons for so refusing.

(3) Any person aggrieved by a decision of the Committee may appeal to the Board who may either confirm the decision of the Committee or request the Committee to reconsider the submission made by the applicant.

33. (1) The Coffee Licensing Committee shall keep a register of approved distinguishing marks.

Register of distinguishing mark

(2) The Board shall publish in the Gazette details of all registered distinguishing marks.

34. (1) No person, other than the holder of a certificate issued in relation to that distinguishing mark, shall use that mark.

Use of distinguishing mark

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to the general penalty provided under section *fifty-five*.

35. (1) A registered coffee grower shall not part with possession of any coffee unless each bag or receptacle in which the coffee is contained has been clearly marked on it the registered distinguishing mark of the registered coffee grower.

Marking of receptacle

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(2) For the purposes of this section, a bag or receptacle in which coffee is contained shall be clearly marked if the registered distinguishing mark is either-

- (a) made on a cloth tag firmly sewn on the bag or receptacle in letters or figures which are easily distinguishable; or
- (b) stencilled on the bag or receptacle in letters or figures which are easily distinguishable.

PART V LICENSINGPART V

LICENSING

36. Subject to section *twenty-eight*, no person shall buy, roast, warehouse, export or otherwise deal in any coffee, for commercial purposes, without a valid licence issued under this Part. Prohibition in dealing in coffee without a licence

37. Subject to the other provisions of this Act, the Coffee Licensing Committee may issue the following licences: Licenses

- (a) *a coffee dealer's licence* which shall authorise the holder, being an authorised agent of the Association, to purchase, sell or otherwise deal in coffee or coffee of a description specified in the licence;
- (b) *a coffee roasting licence* which shall authorise the holder to roast coffee for wholesale;
- (c) *a coffee warehouse licence* which shall authorise the holder to conduct the business of a coffee warehouseman;
- (d) *a seedling propagating licence* which shall authorise the holder to propagate coffee seedlings.

38. (1) Every application for a licence, or a renewal of a licence, shall be made to the Coffee Licensing Committee in the prescribed form and shall be accompanied by the prescribed fee. Applications for, renewal and refusal of, licences

(2) The Committee may refuse to issue a coffee roasting licence or a coffee warehouse licence if the works or premises are not properly equipped or if the installed machinery is not adequate or suitable for producing roasted coffee of good quality, or the premises are not in conformity with the law relating to factories.

(3) The Committee shall not issue a licence to any person if it is satisfied that the applicant or a person employed by him does not have sufficient knowledge or experience in the coffee trade.



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39. A licence issued under this Part shall be subject to the following conditions:

Conditions of Licences

- (a) unless earlier cancelled, it shall remain in force for one year following the date of issue;
- (b) it shall not be transferable;
- (c) the holder shall not carry on any business related to coffee on any premises or place except those stipulated in the licence; and
- (d) such other conditions as the Minister may, by statutory order, impose.

40. (1) A licence holder shall at all times maintain, on his premises, a register in which shall be recorded, as applicable to his licence-

Register to be kept by
licence holder

- (a) all purchases, sales or movement of coffee;
- (b) the quantity of coffee processed;
- (c) the name and address of the owner, vendor or purchaser, of the coffee;
- (d) the date of each transaction.

(2) A register maintained in accordance with subsection (1) shall be open to inspection, at all reasonable times, by the Board or by an inspector appointed by the Board.

(3) Any licence holder who contravenes subsection (1) or (2) shall be guilty of an offence and liable, upon conviction, to a fine not exceeding five thousand penalty units.

(As amended by Act No. 13 of 1994)

41. (1) Subject to subsection (2) the Coffee Licensing Committee may cancel a licence issued under this Part if the licence holder has contravened, or failed to comply with, any of the conditions subject to which his licence was issued.

Cancellation of licences

(2) The Committee shall, before cancelling any licence issued under this part, give the licence holder thirty days notice of its intention to cancel the licence if the holder does not take such measures as the Committee may specify in the notice.

(3) A licence holder may, within fourteen days of receiving the notice issued under subsection (2), make representations to the Committee giving the reasons why he has contravened or failed to comply with the conditions of his licence and shall inform the Committee of any remedial measures taken by him.

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(4) If after the expiry of the thirty days notice and if the Committee is not satisfied with the representations made by the licence holder and where the Committee is not satisfied with any remedial measures taken, it may cancel the licence.

(5) Where a licence is cancelled under this section, the Coffee Licensing Committee shall inform the licence holder of the reasons for the cancellation.

42. (1) Where any licence is issued to a co-operative society registered under the Co-operative Societies Act, there shall be attached to the licence a schedule specifying the names of members of the society.

Licences held by
co-operative society
Cap. 397

(2) Each member of the co-operative society shall be deemed to be a licence holder for the purposes of this Act.

43. (1) Any person aggrieved by-

Appeals relating to
licences

(a) the refusal of the Coffee Licensing Committee to issue or renew a licence;

(b) the cancellation of his licence;

(c) any restrictions imposed on his licence;

may, within thirty days of the receipt of the notification to him of the issue, refusal or cancellation, as the case may be, appeal in writing to the Board.

(2) On any appeal made under subsection (1), the Board may confirm, set aside or vary the decision of the Coffee Licensing Committee.

PART VI FINANCEPART VI

FINANCE

44. (1) Subject to subsection (3), the Association may, by notice in the Gazette, on the recommendation of the Board, impose such levies as it may consider necessary and, in particular, shall impose the following levies:

Levies

(a) *growers Levy* which shall be levied on the basis of hectarage under coffee which is mature;

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- (b) *coffee Levy* which shall be levied on all clean coffee delivered to the Association during that crop year:

Provided that the Association may classify the coffee levy into more than one class.

- (2) The rates payable for each levy or class of levy shall be determined by the Association and approved by the Board.

- (3) Notwithstanding subsection (1), the Association shall not impose any levy on coffee samples of a quantity to be determined by the Association.

- (4) A levy imposed under this section shall be a debt due to the association and shall be paid within a period determined by the Association or the Association may recover the levy owing by deducting it from any monies which may be due to that person from the Association.

45. (1) There is hereby established a Coffee Pool Fund which shall be under the control of the Association and which shall consist of all monies derived from- Coffee Pool Fund

- (a) the sale of coffee by the Association;
- (b) payments made to the Association for administering the sale of coffee on behalf of registered coffee growers;
- (c) levies imposed by the Association; and
- (d) such other monies as may vest in or accrue to the Association.

(2) There shall be paid from the Coffee Pool Fund the following:

- (a) payments due to registered coffee growers for their coffee;
- (b) payments for insurance, transport, storage, brokerage, commission and any other charges and expenses incurred by the Board or Association in the administration of this Act;
- (c) the remuneration of officers, servants and agents employed by the Board or the Association, for the performance of their functions under this Act;

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- (d) such reasonable travelling and subsistence allowances for members of the Board or Association or members of a Committee, when performing their functions under this Act, at such rates as the Board may approve;
 - (e) the cost of measures promoting agriculture, research or consumption of coffee.
- (3) The Board may direct the Association to apply certain monies from the Coffee Pool Fund for such other purposes as it may consider necessary.
- (4) The Association may create reserve funds for such purposes as it may consider necessary.
- 46.** The Association may, for purposes for which it is authorised to expend money under this Act, borrow money on the security of the Coffee Pool Fund. Power to borrow on security of Coffee Pool Fund
- 47.** The financial year of the Board shall be from the 1st October to the 30th September of the following year. Financial year
- 48.** The Association shall cause to be kept proper books of account and other records relating to its accounts. Accounts
- 49.** (1) The Board shall appoint auditors to examine the accounts of the Association at the end of each financial year. Audit of accounts
- (2) The expenses of any audit shall be borne and paid by the Association out of the Coffee Pool Fund.
- 50.** (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Minister a report concerning its activities and the activities of the Association during that financial year. Annual report
- (2) The report referred to in subsection (1) shall include information on the financial affairs of the Board and the Association and there shall be appended to the report-
- (a) an audited balance sheet;
 - (b) an audited statement of income and expenditure; and
 - (c) any other information the Minister may require.

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(3) The Minister shall lay the report referred to in subsection (1) before the National Assembly not later than seven days after the first sitting of the National Assembly next after the receipt of the report.

PART VI MISCELLANEOUSPART VI

MISCELLANEOUS

51. (1) In order to ensure compliance with the provisions of this Act, the Board may appoint such inspectors as it may consider necessary. Inspectors

(2) Every inspector shall be provided with a certificate of appointment which shall be *prima facie* evidence of the inspector's appointment as such.

(3) An inspector shall, on demand by any person affected by the exercise of an inspector's powers under this Act, produce for inspection the certificate referred to in subsection (2).

52. (1) In the performance of his duties, an inspector or a police officer shall have power- Powers of inspectors and police officers

(a) with a warrant, to enter and search any premises upon which he has reason to believe there is coffee in respect of which an offence under this Act is being or has been committed, and seize and remove any coffee found on the premises which he has reasonable cause to believe may provide evidence of the 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 of the coffee;

(b) to stop, search and detain any vehicle 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 is being or has been committed;

(c) with a warrant, to inspect all books, records, returns, reports and other documents relating to coffee or to any purchase or sale of coffee;

(d) to seize machinery or material which he has reason to believe an offence against this Act appears to have been or is likely to be committed;

(e) without warrant, to arrest and detain any person who he has reason to believe has committed an offence under this Act; and

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(1) to require any person connected with the coffee business to supply any information relating to the purchase, sale or export of coffee.

(2) Any person detained or anything seized under this section shall forthwith be taken before a court to be dealt with according to law, and where it is not practicable to remove from its location any apparently unlawful means of processing or producing coffee, such means may forthwith be rendered inoperative.

(3) An inspector or a police officer may request any person whom he sees doing an act for which a licence or certificate is required under this Act to produce his licence or certificate.

(4) Any person who obstructs an inspector or police officer in the execution of his duties under this Act or who, without reasonable excuse, fails to comply with a request made under subsection (3) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units:

Provided that where such person is on demand unable to produce any licence, or certificate issued under this Act, he shall not be guilty of an offence under this subsection-

(a) if he produces the licence, or certificate within a reasonable time, not exceeding twenty-one days, to an inspector, a police officer or the Association; and

(b) explains to the inspector, police officer or the Association that the licence or certificate is produced in compliance with the demands of an inspector or police officer and names the place where the demand was made.

(As amended by Act No. 13 of 1994)

53. Any registered coffee grower or paid up member of the Association may, subject to any conditions as may be prescribed, inspect the records maintained by the Association and may, on payment of the prescribed fee, obtain copies of any proceedings or documents of the Board or of a Committee.

Inspection of records of Association

54. Where any person is convicted of an offence under this Act, the court may order the cancellation of any certificate or licence held by that person with effect from such date as the court may consider reasonable to enable him to dispose of any stocks of coffee in his possession; and may further order that the person shall not be issued with any further certificate or licence for such period as the court thinks fit.

Cancellation of certificate or licence by court order

55. (1) Any person who is convicted of an offence under this Act for which no specific penalty has been provided shall be liable to a fine not exceeding twenty five thousand penalty unit or to imprisonment for a period not exceeding three years, or to both.

General penalty



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(2) Where any person is convicted of an offence under this Act, the court may order, in addition to any other punishment that it may impose, that any coffee or machinery in respect of which the offence was committed be forfeited.

(As amended by Act No. 13 of 1994)

56. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act. Regulations

(2) Without prejudice to the generality of subsection (1), the Minister may after consultation with the Board make regulations prescribing-

- (a) anything which may be or is required to be prescribed under this Act;
- (b) the fees to be paid for anything to be done under this Act;
- (c) the forms of certificates and licences issued under this Act and the manner for applying for registration or licences under this Act;
- (d) the condition in which premises specified in a certificate or licence shall be kept;
- (e) the manner in which coffee shall be stored;
- (f) the books and registers which shall be kept, the inspection of such registers and how returns under this Act shall be made;
- (h) the manner in which any levy imposed under this Act shall be collected;
- (i) the forms to be used and the procedures to be followed on any appeal under this Act.

REPUBLIC OF ZAMBIA

THE AGRICULTURAL STATISTICS ACT

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THE CO-OPERATIVE SOCIETIES ACT, 1998

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Unlocking Zambia's Potential

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SCHEDULE



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to become members, is sufficient for the commencement of operations; and

(c) a notice of situation of registered office.

10. Subject to the other provisions of this Act, and within thirty days of receipt of the application, the Registrar shall register a co-operative as a co-operative society if the Registrar is satisfied that—

Registration
of
co-operatives

(a) the application complies with subsection (2) of section nine;

(b) the by-laws make adequate provision for —

(i) regular audits to be carried out;

(ii) the education, training and provision of advisory services to the members of the co-operative society; and

(c) the by-laws are not *ultra-vires* this Act or any other written law.

11. (1) A company registered under the Companies Act may, by a resolution made in accordance with the Companies Act, convert itself into a co-operative under this Act.

Conversion
of company
into co-
operative
society
Cap. 388

(2) A company that has converted into a co-operative in accordance with subsection (1), shall apply to the Registrar for the registration of the co-operative as a co-operative society.

(3) An application for registration made under subsection (2) shall be accompanied by—

(a) the resolution made by the company converting itself into a co-operative as provided under subsection (1);

(b) four copies of the by-laws of the co-operative to be registered signed by ten members of the company and the secretary of the company;

(c) a resolution—

(i) authorising the ten members and the secretary of the company to sign the by-laws;

(ii) authorising the ten members and the secretary of the company to accept any alterations made by the Registrar without further consultations with the company or authorising such members to submit to the company in a general or extraordinary meeting any alterations made by the Registrar;

(d) a resolution confirming that the capital to be furnished, initially by the members of the company, is sufficient for the commencement of operations as a co-operative society; and

(e) notice of situation of registered office.



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(4) Subject to the other provisions of this Act, where the Registrar is satisfied that the application, made under subsection (2), complies with subsection (3) and paragraphs (b) and (c) of section ten, the Registrar shall register the co-operative as a co-operative society.

Certificate of registration and name of co-operative society

12. (1) The Registrar shall issue a certificate of registration to a co-operative society upon its registration.

(2) The word "limited" shall be the last word in the name of every co-operative society and, except as otherwise provided in this Act, the word "co-operative" shall form part of the name of every co-operative society.

Action to be taken after registration of former company as co-operative society

13. After registering a co-operative, formed under section eleven, as a co-operative society—

(a) the Registrar shall return to the co-operative society three copies of the by-laws duly certified by the Registrar;

(b) the secretary of the company shall submit a copy of the resolution, made under section eleven, under the seal of the company with the certificate of registration, issued under section twelve, to the Registrar of Companies who shall register the resolution and the certificate; and the company shall cease to be a company registered under the Companies Act and the provisions of this Act shall apply, in all respects, to such co-operative society, as from the date of such registration with the Registrar of Companies;

Cap. 388

(c) the registration shall not affect any right or claim subsisting for or against the former company or any liability incurred by the former company;

(d) for the purpose of enforcing any right, claim or liability under paragraph (c), the former company may be sued and proceeded against in the same manner as if it had not been registered as a co-operative society under this Act; and

(e) any right, claim or liability, specified under paragraph (c), shall have priority against the property of the co-operative society over all other right, claims or liabilities of the co-operative society.

Effect of registration

14. A co-operative society shall be a body corporate with perpetual succession, a common seal and limited liability and shall, subject to the other provisions of this Act and its by-laws, have power to do all such acts and things as a body corporate may by law do or perform.



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15. (1) If the Registrar is not satisfied with an application submitted by a co-operative, the Registrar shall refuse to register the co-operative as a co-operative society and shall give reasons for such refusal, within thirty days of receipt of the application.

Refusal to register

(2) Any person who is aggrieved by a decision of the Registrar, not to register a co-operative under this section, may, within thirty days of receipt of the decision, appeal to the Minister, subject to further appeal to the High Court.

16. The equity capital of a co-operative society shall consist of the sum of the shares of the members, the reserve funds and such additional funds or investments as may be provided for in the by-laws.

Equity capital

17. The liability of the members for debts and liabilities of a co-operative society shall be limited to the amount, if any, unpaid on the shares respectively held by them, or on the membership fee, as the case may be.

Liability of members

18. (1) A co-operative society shall—

Display of registered name

(a) cause its registered name to be painted or affixed, in a conspicuous place and in letters which are easily legible, at its registered office and at every other office or place at which the business of the co-operative society is carried on; and

(b) engrave its registered name, in legible characters, on its seal; and shall emboss its registered name—

(i) on all notices, advertisements and other official publications of the co-operative society;

(ii) on all business letters of the co-operative society; and

(iii) on all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods, purporting to be signed by or on behalf of the co-operative society.

19. (1) The by-laws of a co-operative society shall include provisions relating to the matter specified in the Schedule.

By-laws

(2) The Registrar shall register the by-laws of a co-operative society if such by-laws comply with paragraphs *(b)* and *(c)* of section *ten*.

20. (1) Subject to the other provisions of this Act and to the by-laws, the by-laws may be amended by a resolution of two-thirds of the members present at a general meeting of the co-operative society.

Amendments to by-laws



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(2) An amendment to the by-laws shall take effect after the amendment has been registered with the Registrar; and for this purpose four copies of the amendment, signed by the chairperson, of the general meeting at which such amendments were made, and the secretary of the co-operative society, shall be forwarded to the Registrar.

(3) If the Registrar is satisfied that the amendment is not contrary to any provision of this Act, the Registrar shall register the amendment and shall forthwith return three copies of the amendment, duly certified by the Registrar, to the co-operative society.

(4) The provisions of section *fifteen* shall apply, with the necessary modifications, to a decision of the Registrar not to register any amendment to the by-laws.

Copy of regulations and by-laws and list of members to be open for inspection

21. A co-operative society shall keep a copy of its regulations, by-laws and list of members open to inspection by any member free of charge or any member of the public on payment of a prescribed fee, at all reasonable times, at the registered office of the co-operative society.

PART IV

RIGHTS AND LIABILITIES OF MEMBERS

Patronage bonus

22. A co-operative society may pay out a patronage bonus to its members; or may use such surplus for any other purpose specified in its by-laws or as may be decided by the general meeting of the co-operative society.

Membership governed by by-laws

23. Subject to the other provisions of this Act, membership of a co-operative society shall be governed by its by-laws, but in no case shall a co-operative society fix any limit to the number of its members.

Minors

24. (1) Notwithstanding anything contained in any other law, a minor may form or become a member of a co-operative society.

(2) Notwithstanding anything contained in the by-laws or any other law, where any member has not reached the age of eighteen years, that member may execute or cause to be executed any instrument under this Act; and any contract entered into by that member with the co-operative society shall be valid whether as principal or as surety, and shall be enforceable at law.

Members not to exercise rights until due payment made

25. Any person who wishes to be a member of a co-operative society shall not exercise the rights of a member until that person has paid to the co-operative society the amount required for membership of that co-operative society, or such person has acquired such interest in the co-operative society, as may be prescribed in or under this Act or the by-laws.



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26. (1) Where a co-operative society does not have any share capital, a member who has paid the membership fee, as set by the co-operative society, in full, shall be issued with a certificate of membership.

Certificate of membership

(2) Where a co-operative society is registered with share capital and each member is obliged to take up shares in the co-operative society as a condition for being or remaining a member of the co-operative society, the shares may be paid for in instalments at the times and in the manner prescribed by the by-laws; but no share certificate shall be issued to a member until the shares to which it relates have been fully paid for.

27. A co-operative society shall have a lien over the shares or other interest of its members' for debts due from them to the co-operative society; and such shares or interest shall be subject to a set-off for any indebtedness by that member to the co-operative society.

Lien on member's share

28. (1) A co-operative society shall keep a register of its members and of the shares held, if any, by each member, or any membership fee paid, by its members; and the register shall be *prima facie* evidence of—

Co-operative society to keep membership register

- (a) the names, addresses and occupations of the members;
- (b) the number of, and amounts paid for any shares held by such members;
- (c) the date on which a member was registered as a member; and
- (d) the date on which a member ceased to be a member.

(2) A co-operative society shall furnish the Registrar with a list of its members; and such list shall be open for inspection, by any person, at the office of the Registrar, on payment of a prescribed fee.

29. (1) Subject to the other provisions of this Act, the by-laws shall provide for the holding of general and special meetings of the co-operative society, for the procedure at such meetings and the keeping of minutes at such meetings.

Meetings, votes of members and delegates

(2) A member or delegate shall have one vote at meetings of a co-operative society; and there shall be no voting by proxy.

(3) Subject to subsection (4), the by-laws may provide for plural voting rights for delegates or members who contribute above average to the development of the co-operative society; which may be determined in accordance with the patronage bonus such member or delegate receives from the co-operative society.



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(4) Notwithstanding subsection (3)—

(a) no co-operative society, other than a co-operative union or a federation, shall provide for the determination of the number of voting rights on the basis of the number of shares held by a member;

(b) no member shall have more than three voting rights;

(c) plural voting rights shall not be exercised when a decision of the meeting requires a special resolution; and

(d) in the event of an equality of votes, the chairperson shall have a casting vote in addition to the chairperson's deliberative vote.

Limitation on share holding

30. A member shall not hold more than one-fifth of the share capital of a co-operative society unless the by-laws provide otherwise for share holding by other co-operative societies.

Assignment, transfer, redemption and re-purchase of shares

31. (1) Subject to the provisions of subsection (2), shares may be assigned, transferred, redeemed or re-purchased by a member or co-operative society.

(2) An assignment, transfer, redemption or re-purchase of a share shall—

(a) be subject to such conditions as may be prescribed in the by-laws; and

(b) not be valid unless approved by the board; except that the board shall not give the approval if it would reduce the total number of members below the minimum required by this Act for the registration of a co-operative society.

Shares or interest not attachable

32. (1) The shares or other interests of a member in the capital of a co-operative society shall not be liable to attachment or sale, under decree or order of any court, in respect of any debt or liability incurred by a member.

(2) Subject to any condition that may be imposed in the by-laws, nothing contained in subsection (1) shall prohibit the transfer, assignment or sale of shares or other interests of a member to the co-operative society or to any member of the co-operative society.

Transfer of shares or interest on death of member

33. (1) On the death of a member, a co-operative society may—

(a) transfer the shares or other interests of the deceased member to a person nominated in accordance with the rules made in that behalf; and if there is no person so nominated, to the legal representative of the deceased member; or



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(b) pay to any nominee or legal representative, as the case may be, a sum, representing the value of such member's share or other interests, as may be provided in the by-laws.

(2) A co-operative society shall pay, to the legal representative of that member, all other moneys due to a deceased member from the co-operative society.

(3) All transfers and payments made by a co-operative society, in accordance with this section, shall be valid and have effect against any demand made upon the co-operative society by any other person.

34. (1) Subject to section *seventeen*, and subsection (2), the liability of a former member for the debts of a co-operative society, as they exist on the date on which that member ceased to be a member, shall continue for a period of two years reckoned from that date.

Liability of past member and estate of deceased member for debts of co-operative society

(2) Notwithstanding subsection (1) if the first audit of the accounts of the co-operative society, after that member ceased to be a member, discloses a credit balance in favour of the co-operative society, the financial liability of that member shall forthwith cease.

(3) Subject to section *seventeen*, and subsection (2) the estate of a deceased member shall be liable, for the debts of a co-operative society as they existed on the date of the death of that member, for a period of two years reckoned from that date.

35. (1) Subject to any prior claim of the Republic on the property of a debtor or a lien or claim of a landlord in respect of rent or any money recoverable as rent or to any agricultural charge or, in the case of immovable property, to any prior registered charge thereon, any debt or outstanding demand due and payable to a co-operative society by any member or former member shall be a first charge on all assets of that member or former member.

Creation of charges in favour of co-operative societies

(2) Nothing contained in subsection (1) shall affect the claim of any *bona fide* purchaser, for value, without notice, of a loan given by the co-operative society.

36. (1) A member may, at any time, withdraw from a co-operative society, subject to the other provisions of this Act and the by-laws.

Withdrawal by member

(2) Where a member withdraws from a co-operative society under subsection (1) or under circumstances such as illness, disability, permanent removal from the area or district served by the co-operative society or death, payment of the shares or other interests of the member shall be made in such order or priority as the by-laws may prescribe; or where not so prescribed, in such order or priority as the board may approve.



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(3) Where the financial stability of a co-operative society would be impaired if the co-operative society made payment for the shares, held by a member who has withdrawn from the co-operative society, at their par or paid-up value, or of any other interests of such a member at the value shown on the books of the co-operative society, the directors may suspend payment for such period as may be approved by the annual general meeting, except that, such period shall not exceed one year from the time the member withdrew from the co-operative society.

Expulsion of member

37. (1) Upon any complaint arising against a member, the secretary shall, upon the instructions of the board, provide the member with a written notice of the particulars of the complaint and of the date, time and place of the meeting of the board at which the complaint shall be considered.

(2) The board may, after having given the member, against whom the complaint has been made, the opportunity to make representations or submissions, orally or in writing, or both, in rebuttal or in mitigation, recommend to the general meeting, in a report detailing the complaint and the opinion of the board, that the member be expelled.

(3) The general meeting may, after considering the report submitted by the board, expel a member by a resolution passed by at least a two-thirds majority vote of the members of the co-operative society.

(4) The secretary of the co-operative society shall, within two weeks from the date on which the member was expelled, inform the member, in writing, of the decision of the general meeting.

(5) Subject to section *thirty-four*, a member who has been expelled from a co-operative society, under this section shall—

(a) forfeit all rights to share in the net surplus or other benefits of the co-operative society from the date of such expulsion; and

(b) be refunded that member's share capital or other interest held in the co-operative society, together with such dividend as may later be declared and calculated up to the date of expulsion.

(6) A person who has been expelled from a co-operative society shall not be eligible for re-admission as a member of that co-operative society within a period of two years from the date of expulsion.



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PART V

BOARD OF DIRECTORS

38. (1) A co-operative society shall have a board of directors, consisting of such number of persons as shall be prescribed in its by-laws, who shall be elected, by the members, at an annual general meeting, from amongst the members.

Board of
directors

(2) The persons whose names appear in an application for the registration of a co-operative society shall, upon registration, be deemed to have all the powers and duties of directors; and shall direct the affairs of the co-operative society until directors have been elected at the first general meeting of the co-operative society.

39. (1) A co-operative society shall, at an annual general meeting, establish such number of committees as it may consider necessary for the purpose of assisting the board carry out its functions under this Act.

Committees
of co-
operative
society

(2) A co-operative society shall elect from amongst its members at least three persons, who are not employees of the co-operative society, to constitute each committee.

(3) A co-operative society may confer upon a committee established under subsection (1) such specific functions as it may consider necessary in the interest of the co-operative society.

(4) A board may delegate to any committee established under subsection (1) such of its functions as it may determine.

(5) A committee established under subsection (1) shall, subject to the by-laws, determine its own procedures.

(6) The provisions of subsections (5) and (6) of section *forty-six* shall apply, with the necessary modifications, to a committee established under subsection (1).

40. Where the by-laws provide for the election of directors by members or delegates voting by districts or zones, the board so elected shall be deemed to be elected by all the members or delegates of the co-operative society.

Effect of
election of
directors by
districts or
zones

41. (1) The board shall represent the co-operative society, subject to the provisions of the by-laws.

Functions of
board

(2) The board shall—

- (a) direct and supervise the business of a co-operative society;
- (b) be the custodian of the property of the co-operative society; and
- (c) exercise all such powers of the co-operative society as are not required by or under this Act or the by-laws to be exercised by resolution of the co-operative society in a general or special meeting.



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(3) Without prejudice to the generality of subsection (2), the board shall—

- (a) be provided with, and examine, reports from officers of the co-operative society as the board directs in order to determine the operations and financial status of the co-operative society;
- (b) keep the members informed of progress being made in the operations of the co-operative society;
- (c) render advice to the members, on any matter relating to co-operatives, as the members may require;
- (d) prepare and present to the annual general meeting an income and expenditure report for the previous financial year and the budget requirements for the forthcoming year, in accordance with the other provisions of this Act and the by-laws;
- (e) make a report to the annual general meeting of the work of the board during the preceding financial year including the activities undertaken by the co-operative society during the preceding financial year, together with such recommendations as it may consider necessary for the maintenance or improvement of the services provided by the co-operative society to its members; and
- (f) present audited accounts to the annual general meeting.

Chairperson
and vice-
chairperson

42. (1) The Co-operative society shall elect, from amongst its members, a chairperson and a vice-chairperson of a board who shall not be a chairperson or vice-chairperson in any other co-operative society nor be a direct employee of the co-operative society.

(2) The board may appoint such officers, as the board considers necessary, to assist the board in the performance of its functions, on such terms and conditions as the board may determine.

Term of
office of
director of
board

43. (1) Subject to subsection (2), the term of office of a director of a board shall be prescribed in the by-laws.

(2) Notwithstanding subsection (1), a director of a board shall not hold office for a period of more than six consecutive years from the time of the first election of that director but may be eligible for election as a director after a lapse of one year after the end of the initial period.

Vacancy on
board

44. (1) Subject to subsection (2), where, a vacancy on the board occurs, otherwise than by expiration of the term of office, the remaining directors of the board may, unless the by-laws provide otherwise, fill the vacancy until the next general meeting.



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(2) Notwithstanding subsection (1) where, by reason of any vacancy on the board, the number of directors is reduced to less than the number required by the by-laws to constitute a quorum for a meeting of the board, the remaining directors shall, forthwith, call a special meeting of the co-operative society in order to fill the vacancy.

(3) The office of director shall become vacant if the director—

(a) is removed from office under the provisions of section *forty-seven*;

(b) resigns, giving not less than one month's notice in writing;

(c) holds any remunerative office in the co-operative society;

(d) is declared bankrupt;

(e) is declared to be of unsound mind;

(f) is connected with, or participates in the profits of, any contract made between the co-operative society and any other co-operative society, company, organisation or individual in which that director has an interest; the fact of which that director knowingly failed to disclose to the board at or before the time the contract was made;

(h) is sentenced to a term of imprisonment exceeding six months;

(h) is lawfully detained for a period exceeding three months or the Director's freedom of movement is restricted for a period exceeding three months under any written law;

(g) is guilty of gross misconduct in terms of the by-laws; or

(i) dies or ceases otherwise to be a member of the co-operative society.

45. If a loan or other transaction is made in contravention of this Act, all officers of the co-operative society who made the loan or other transactions or assented thereto, shall be jointly and severally liable to the co-operative society for the amount of the loan or other transaction and may only be relieved of such liability by a decision of a court.

Liability of directors and other officers for unlawful transactions

46. (1) Subject to the other provisions of this Act and of the by-laws, a board may determine its own procedure.

Procedure and meetings of board

(2) Upon giving notice of not less than seven days, a meeting of a board may be called by the chairperson and shall be called if not less than one-third of the directors so request in writing; except that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.



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(3) Notwithstanding the provisions of the by-laws, the quorum at any meeting of a board shall be not less than one half of the number of directors.

(4) A board shall cause minutes to be kept of every meeting of the board.

(5) If a director is present at a meeting of a board at which any matter is the subject of consideration and in which matter the director or the director's spouse is, in a private capacity, interested, the director shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the board otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.

(6) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Removal of
director from
office

47. (1) Notwithstanding section *forty-four* and in the absence of any provision in its by-laws, a co-operative society, at a general meeting may, by resolution passed by at least two-thirds of the members or delegates present, remove any director before the expiration of the term of office of that director and may fill the vacancy created by such removal—

(a) by appointing another director; or

(b) by appointing another board where all the directors are removed.

(2) Notwithstanding paragraph (b) of subsection (1) and subject to subsection (3), where all the directors are removed, the co-operative society may, in a general meeting, by a resolution passed by at least two thirds of the members or delegates present, authorise the Registrar to appoint officers to provide management and administrative support services to the co-operative society for a term, which shall not exceed one year, as the co-operative society may determine.

(3) Notwithstanding subsection (2) where officers have been appointed under subsection (2) their term of service shall come to an end as soon as the co-operative society appoints a board under paragraph (b) of subsection (1).

PART VI

CHARGES BY CO-OPERATIVE SOCIETIES

Registration
of charges

48. (1) A charge, other than an agricultural charge, created by a co-operative society which is—

(a) a charge for the purpose of securing any issue of debentures;

(b) a charge on uncalled or unpaid share capital of the co-operative society;



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- (c) a charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale;
- (d) a charge on land, wherever situate, or any interest therein;
- (e) a charge on book debts; or
- (f) a floating charge on the undertaking or property of the co-operative society;

shall so far as any security on the property or undertaking of the co-operative society is hereby conferred, be void against the liquidator and any creditor of the co-operative society, unless the prescribed particulars of the charge, together with the instrument, are delivered or received by the Registrar of Agricultural Charges for registration in the manner prescribed under this Act, within thirty days after the date of its creation, but without prejudice to any contract or obligation for payment of any money secured.

(2) Where a charge becomes void under this section any money secured shall immediately become payable.

(3) Where a negotiable instrument has been given to secure the payment of any debts to a co-operative society, the deposit of the instrument for the purpose of securing an advance to the co-operative society shall not, for the purpose of this section, be treated as a charge on those debts.

(4) The holding of debentures entitling the holder to a charge on land shall not be deemed to be an interest in land.

(5) The Registrar of Agricultural Charges shall keep, for each co-operative society, a register, in the prescribed form, of all charges requiring registration under this section and shall, upon payment of the prescribed fee, enter in the register, with respect to every charge, the date of its creation, the amount secured by it, short particulars of the property charged and the names of the persons entitled to the charge.

(6) A certificate under the hand of the Registrar of Agricultural Charges relating to the registration of any charge registered under this section, stating the amount thereby secured, shall be issued by the Registrar of Agricultural Charges and the certificate shall be conclusive evidence that the requirements of this section, as to registration, have been complied with.

(7) A co-operative society shall submit to the Registrar of Agricultural Charges, for registration, the particulars of every



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charge requiring registration under this section, but registration of any such charge may be effected on the application of any person interested therein.

(8) Where the registration is effected on the application of some person, other than the co-operative society, that person shall be entitled to recover from the co-operative society the amount of any fees properly paid, for the registration, by that person, to the Registrar of Agricultural Charges.

(9) The register kept under this section shall be open to inspection, by any person, upon payment of a prescribed fee.

(10) A co-operative society shall cause a copy of every instrument creating a charge, requiring registration under this section, to be kept at the registered office of the co-operative society.

(11) In this Part, except where the context otherwise provides, the expression "charge" includes a mortgage but excludes an agricultural charge.

Registration
of enforce-
ment of
security and
filing of
accounts

49. (1) If a person obtains an order for the appointment of a receiver or manager of the property of a co-operative society, or appoints such a receiver or manager under any powers contained in any instrument, that person shall, within seven days from the date of the order of the appointment under the powers contained in the instrument, give notice of the fact to the Registrar of Agricultural Charges who shall, on payment of the prescribed fee, enter the fact in the register of charges.

(2) A person who fails to comply with the requirements of subsection (1), shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one hundred and forty penalty units for every day during which the default continues.

(3) A receiver or manager of the property of a co-operative society who has been appointed under the powers contained in any instrument, and who has taken possession of the property, shall once in every half year, while remaining in possession, and also on ceasing to act as receiver or manager, file with the Registrar of Agricultural Charges an abstract, in the prescribed form, of receipts and payments during the period to which the abstract relates and shall also, on ceasing to act as receiver or manager, file with the Registrar of Agricultural Charges notice to that effect, and the Registrar of Agricultural Charges shall enter the notice in the register of charges.

(4) Every receiver or manager who does not comply with the provisions of subsection (3), shall be guilty of an offence and shall



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be liable, on conviction, to a fine not exceeding six hundred penalty units.

50. A court on being satisfied that—

(a) the omission to register a charge within the time required under section *forty-nine*;

(b) the omission or mis-statement of any particular fact with respect to any such charge was accidental or due to inadvertence or to some other sufficient cause; or is of a nature prejudicial to creditors or the co-operative society; or

(c) it is just and equitable to grant relief of any other grounds,

the court may, on the application of the co-operative society or any interested person, and on such terms and conditions as seem to that court just and expedient, order that the time for registration be extended or that the omission or mis-statement be rectified, as the case may be.

51. The Registrar of Agricultural Charges shall, upon being satisfied that the debt for which any registered charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register and shall, if requested by the co-operative society, furnish the co-operative society with a copy thereof.

52. If any co-operative society makes default in submitting to the Registrar of Agricultural Charges the particulars of any charge requiring registration under this Part, the co-operative society and every officer thereof or other person who is knowingly a party to the default shall, unless the registration has been effected on the application of some other person, be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one hundred and forty penalty units for every day during which the default continues.

53. (1) A co-operative society shall keep a register of charges and agricultural charges and enter therein all charges specifically effecting the property of the co-operative society and all floating charges on the undertaking or any property of the co-operative society, giving in each case a short description of the property charged, the amount of the charge, and the names of the persons entitled thereto.

(2) If any officer knowingly and wilfully authorises or permits the omission of any entry required to be made under this section, that officer shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two hundred and eighty penalty units.

Rectification
of register of
charges

Entry of
memoran-
dum of
satisfaction
on register

Failure to
submit
particulars
for registra-
tion

Co-operative
society's
register of
charges



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Right to inspect copies of instruments and register of charges

54. (1) A copy of any instrument creating any charge requiring registration under this Part and the register of charges required to be kept under section *fifty-three*, shall—

(a) be available at all times for inspection by any creditor or member of the co-operative society free of charge; and

(b) be open for inspection by any other person on payment of a fee, not exceeding fifty fee units, for every inspection, as the co-operative society may prescribe.

(2) If inspection of any copy of any instrument creating a charge or the register of charges kept under section *fifty-three* is refused, any officer refusing inspection or authorising, or knowingly and wilfully permitting the refusal shall be guilty of an offence and shall be liable, on conviction—

(a) to a fine not exceeding two hundred penalty units; and

(b) to a fine not exceeding fifty penalty units for every day during which the refusal continues;

and the court may, by order, compel an immediate inspection of any copy of any instrument creating the charge or register of charges.

Perpetual charges

55. A condition contained in any charge created by a co-operative society shall not be invalid by reason only that the charge is made irredeemable or redeemable only on the happening of a contingency, however remote, on the expiration of a period, however long, notwithstanding any rule of equity to the contrary.

Agricultural charges
Cap. 22.

56. The Agricultural Credits Act shall apply to any agricultural charge, created upon farming stock or agricultural assets, by a co-operative society.

PART VII

ADMINISTRATION OF CO-OPERATIVE SOCIETIES

Registered office

57. A co-operative society shall have a registered office to which all communications and notices may be addressed.

Seal of co-operative society

58. (1) The seal of a co-operative society shall be—

(a) such device as may be determined by the board;

(b) engraved as provided in section *eighteen*; and

(c) kept by the secretary to the board.

(2) The affixing of the seal of the board shall be authenticated by the chairperson or the vice-chairperson of the board and the secretary



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or one other person authorised in that behalf by a resolution of the board.

(3) Any contract of instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the board by the secretary or any other person generally or specially authorised by the board in that behalf.

(4) Any document purporting to be a document under the seal of the board or issued on behalf of the board shall be received in evidence without further proof, unless the contrary is proved.

59. (1) The board shall cause to be kept proper books of account and other records relating to the accounts of the co-operative society.

Books of
account and
records

(2) The records of the co-operative society shall be open for inspection, at the registered office of the co-operative society, by any member or delegate during office hours; except that no person who is not an officer of the co-operative society, or who is not specifically authorised by a resolution in that behalf of a general meeting, shall have the right to inspect the accounts of any other member without the written consent of that member.

(3) No officer shall, in any legal proceedings to which the co-operative society is not a party, be compelled to produce any of the books of account of the co-operative society or to appear as a witness to prove any matter, transaction or accounts therein recorded, unless the court for special reason so directs.

60. (1) An audit of the books of account of a co-operative society shall be conducted, annually, by an auditor or a person publicly carrying out the profession of an accountant in Zambia, engaged by the board with the approval of the general meeting.

Audit

(2) An auditor shall prepare and submit, to the members of the co-operative society and the Registrar, a report on the accounts and balance sheet examined by that auditor.

(3) The report specified under subsection (2) shall state—

(a) whether or not all the information and explanations required are obtained;

(b) whether in the opinion of the auditor—

(i) the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of affairs of the



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Rates of
interest on
loans

74. The interest rates on loans made by a credit union shall be determined by the board of the credit union.

Maintenance
of cash
reserve to
meet
withdrawals

75 (1) A credit union shall maintain a reserve, to meet withdrawals of money, in share and deposit accounts, consisting of cash on hand; or in a bank or other organisation authorised by law to accept moneys on deposit, and the reserve shall not, at the end of any calendar month, be less than ten per centum of the liabilities of the credit union to its members in respect of shares and deposits at that time.

(2) Cash may only be kept on hand by a credit union in accordance with the conditions regarding safe-keeping facilities, insurance and other safeguards as prescribed in the by-laws.

Non-
application
of Banking
and
Financial
Services Act
Cap. 387

76. The Banking and Financial Services Act shall not apply to a credit union registered under this Act.

PART X

CO-OPERATIVE UNIONS AND FEDERATIONS

Registration
of co-
operative
unions and
federations

77. (1) A co-operative may be registered as a co-operative union under this Act.

(2) A co-operative may be registered as a federation under this Act.

(3) Subject to the other provisions of this Part, the provisions of Part III shall apply, with the necessary modifications, to the registration of a co-operative union or federation; which shall be co-operative societies for the purposes of this Act.

Use of word
"co-
operative"

78. The Registrar may exempt a co-operative union or a federation from the requirement that the word "co-operative" shall form part of the name of that union or federation, if it is clear to the public that they are co-operative societies.

Incorporation
and
functions of
unions and
federations

79. (1) A co-operative union or a federation, registered under this Act, shall be a body corporate with perpetual succession, a common seal and limited liability, and shall, subject to the other provisions of this Act and its by-laws, have power to do all such acts and things as a body co-operate may by law do or perform.

(2) Subject to subsection (3) a co-operative union or a federation shall perform such functions as may be specified in its by-laws.



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(3) Notwithstanding subsection (2), a co-operative union or federation, shall not *interfere* in the general operations of a co-operative society which is a member of the union or federation.

PART XI

WINDING-UP AND CANCELLATION

80. A co-operative society shall be wound up only in accordance with this Part.

81. (1) Subject to subsection (2), the Registrar shall cancel the registration of a co-operative society if the Registrar is satisfied that—

- (a) the registration was obtained by fraud or mistake;
- (b) the co-operative society exists for an illegal purpose;
- (c) the co-operative society, after notice having been given to that effect by the Registrar, willfully continues to contravene any of the provisions of this Act or its by-laws;
- (d) the number of members of the co-operative society has fallen below the minimum required by this Act;
- (e) a special resolution has been passed in accordance with subsection (3); or
- (f) the co-operative society is no longer in business or operation.

(2) The Registrar shall, before cancelling the registration of any co-operative society—

- (a) give notice in writing, of at least fourteen days, to that co-operative society, excluding a co-operative society to which subsection (3) applies, of the Registrar's intention to cancel its registration and giving reasons for such cancellation; and
- (b) publish in the Gazette and in a newspaper of general circulation in the area where the registered office of the co-operative society is situated, the notice referred to in paragraph (a).

(3) A co-operative society may, by special resolution, resolve to wind up the affairs of the co-operative society and shall request the Registrar to cancel the registration of that co-operative society.

(4) Where the Registrar cancels the registration of a co-operative society under this section, the Registrar may give directives for the safe custody of the books and documents and the protection of the

Winding up
of co-operative
societies

Cancellation
of registration
of
co-operative
society



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assets of the co-operative society; and such directives shall remain effective until a liquidator is appointed in accordance with section *eighty-two*.

(5) Any member of a co-operative society, may, within thirty days from the date of the cancellation, appeal to the Minister.

(6) When the registration of a co-operative society is cancelled under this section, the co-operative society shall cease to carry on any business, make any transaction or do any act affecting its property or its members.

(7) Where the registration of a co-operative society is cancelled under this section, a floating charge on the undertaking or property of that co-operative society created within a period of twelve months prior to the date of cancellation shall, unless it is proved that the co-operative society, immediately after the creation of the charge, was solvent, be invalid except to the amount of any cash paid to the co-operative society at the time of, or subsequent to, the creation of, and in consideration for, the charge, together with interest on that amount at a rate not exceeding the current lending rate as determined by the Bank of Zambia.

Winding up
after
cancellation
of registra-
tion

82. (1) Where the Registrar cancels the registration of a co-operative society under section *eighty-one*, the Registrar shall appoint, in writing, a liquidator of the co-operative society, on such terms and conditions as the Registrar shall determine.

(2) Where the Registrar appoints a liquidator for a co-operative society the assets and liabilities of the co-operative society shall vest in the liquidator, with effect from the date of appointment of the liquidator.

(3) Subject to the other provisions of this Act, the Companies Act shall apply, with the necessary modifications, to any winding up under this Act.

PART XII

MISCELLANEOUS

Regulations

83. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations prescribing—

(a) the forms to be used, the information to be furnished, the procedure to be followed and the conditions to be complied with, in the making of an application for the registration of a co-operative society under this Act;



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- (b) the fees to be paid under this Act;
- (c) the form of yearly or other financial returns and reports to be filed by co-operative societies with the Registrar; or
- (d) anything required to be prescribed or done under this Act.

84. Any person who contravenes any of the provisions of this Act, where no penalty is specifically provided, shall be liable on conviction, to a fine not exceeding six hundred penalty units, or to imprisonment for a term not exceeding six months, or to both.

General
penalty

85. (1) The Co-operative Societies Act, 1970 is hereby repealed.

Repeal of
Co-operative
Societies
Act, 1970
and savings

(2) Notwithstanding the provisions of subsection (1)—

- (a) every co-operative society and the by-laws registered under the repealed Act shall be deemed to have been registered under this Act;
- (b) any register kept pursuant to the repealed Act shall be deemed to be part of a register to be kept under this Act;
- (c) any documents referring to a provision of the repealed Act shall be construed as referring to a corresponding provision of this Act; and
- (d) any orders, rules and directions, appointments and other acts, lawfully made or done under the repealed Act and in force immediately before the commencement of this Act, shall be deemed to have been made or done under this Act, and shall continue to have effect in so far as they are not inconsistent with the provisions of this Act.

(3) The registration of an existing co-operative society not complying with this Act shall be cancelled unless the members, by special resolution, resolve, within one year, to re-constitute the co-operative society in accordance with this Act; except that such re-constitution shall not affect any right or claim for the time being subsisting for or against that co-operative society.



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Co-operative Societies

SCHEDULE

(Section 19)

1. The by-laws of every co-operative society shall include with the following matters:

- (a) the name of the co-operative society;
- (b) the place and postal address of the registered office of the co-operative society;
- (c) the objects for which the co-operative society is formed;
- (d) the value of each share of the co-operative society, whether divided into shares, and whether the shares are of equal amount, and whether or not the shares are to be paid up in full at the time of issue;
- (e) the qualifications for membership;
- (f) the minimum number of shares to be subscribed for by a person as a condition of being admitted to membership, and the amount payable on application on each share so subscribed, which may be less than ten per centum of its value, and the amount, if any, remaining unpaid on the shares, and the method of dealing with non-payment of such shares;
- (g) if there is no share capital, the terms on which the interest of the member in the society is to be determined;
- (h) the entrance fee, if any;
- (i) the annual membership fee, if any;
- (j) the purpose to which funds may be applied;
- (k) the composition of the board of directors;
- (l) the manner of distributing the net surplus or of covering a deficit;
- (m) the conditions under which a member may withdraw from the society;
- (n) the geographical area of operation of the co-operative society;
- (o) the term of office of the board of directors;
- (p) the holding of annual general meetings, notice of such meetings, and the quorum for such meetings;
- (q) the remuneration, if any, to be paid to the officers of the co-operative society;
- (r) the constitution of the reserve fund;
- (s) the dates of the financial year of the co-operative society;
- (t) the extent to which the co-operative society may have non-member business; and
- (v) such other matters concerning the administration and operation of the co-operative society as the Registrar may require.



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Co-operative Societies [No. 20 of 1998] 253

11. The by-laws of a co-operative society may, *inter-alia*, deal with the following matters:

- (a) the liability of members, whether limited by shares, guarantee or unlimited;
- (b) plural voting rights;
- (c) the constitution of additional funds, in particular, a fund for education and training;
- (d) the issuing of preference shares including preferred investment shares to members or non-members;
- (e) the constitution of committees; and
- (f) the honorarium, if any, to be paid to the officers of the co-operative society.



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CHAPTER 247 THE CONTROL OF DOGS ACT CHAPTER 247

THE CONTROL OF DOGS ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Regulations
4. Fabrication of certificate or badge

CHAPTER 247

CONTROL OF DOGS

An Act to amend and consolidate the law relating to the registration and control of dogs and the prevention of rabies; and to provide for matters incidental thereto.

[15th March, 1929]

17 of 1929
6 of 1940
3 of 1953
69 of 1965
Act No.
13 of 1994
Government Notices
319 of 1964
497 of 1964

1. This Act may be cited as the Control of Dogs Act.

Short title

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

Interpretation

"dog", other than in regulations dealing only with registration, includes any tame or partly tame carnivorous animal in captivity.

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3. The Minister may, from time to time by statutory instrument, make, alter and repeal Regulations regulations-

- (a) to prohibit or regulate the introduction of dogs into Zambia from all or any of the adjacent countries and to authorise the destruction of any dogs unlawfully introduced into Zambia;
- (b) to prohibit or regulate the removal of dogs from any place to any other place within Zambia;
- (c) to authorise or require the control, isolation, inoculation, muzzling or destruction of any dogs within Zambia or any part thereof and to prescribe the manner in which the carcasses of any dogs so destroyed as aforesaid shall be dealt with or disposed of;
- (d) to prescribe the manner in which and by whom and to whom notice of the fact shall be given if any dog is suspected of suffering from rabies;
- (e) to provide for the registration of dogs in any particular area and to prescribe the persons or authorities by whom such registration shall be carried out, the forms to be used, the badges to be issued and the fees to be paid, and any other matters or things he deems it necessary to prescribe in connection with such registration;
- (f) providing that fees collected under this Act by a rural council shall be paid into the general fund of the rural council;
- (g) to prescribe penalties for the contravention or attempted contravention of any regulation, such penalties not to exceed one year's imprisonment with or without hard labour or a fine of three thousand penalty units or both;

and generally for carrying into effect the purposes or provisions of this Act.

*(As amended by No. 6 of 1940, No. 3 of 1953,
G.N. No. 319 of 1964, No. 69 of 1965
and Act No. 13 of 1994)*

4. Any person who shall-

- (a) fabricate any certificate or badge prescribed by any regulations made under the preceding section with intent that it shall be used as a certificate or badge lawfully issued under such regulations;
- (b) use or utter any fabricated certificate or badge knowing the same to have been fabricated with intent as aforesaid;
- (c) steal or be found in possession of any certificate or badge issued under such regulations to another person without being able to account satisfactorily for such possession;

Fabrication of certificate or badge

shall be guilty of an offence against this Act and shall be liable, on conviction, to imprisonment with or without hard labour for a period not exceeding two years.

SUBSIDIARY LEGISLATION

CONTROL OF DOGS

THE CONTROL OF DOGS REGULATIONS

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ARRANGEMENT OF REGULATIONS

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2. Interpretation

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3. Application of Part II
4. Power to exempt
5. Application for registration
6. Certificate of registration
7. Collars to be worn
8. Duplicate badge
9. Transfer of ownership of dog
10. Production of dog and certificate
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Regulation

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SECTION 3-THE CONTROL OF DOGS REGULATIONS

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PART I

PRELIMINARY

1. These Regulations may be cited as the Control of Dogs Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"Council" shall have a meaning assigned to it in the Local Government Act.

"Director of Veterinary Services" includes a Deputy Director of Veterinary Services;

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"officer" includes any Registering Authority, Administrative Officer, Veterinary Officer, police officer of or above the rank of Sub-Inspector, officer of the Department of Wildlife, Fisheries and National Parks, Livestock Officer and Veterinary Assistant;

"outbreak" means any known or suspected case of rabies;

"Registering Authority" means any person specified in the First Schedule;

"valid certificate of inoculation" means a certificate issued by an officer or veterinary surgeon and so endorsed by such officer or veterinary surgeon to indicate that the dog has been inoculated in accordance with regulation 4 of the Control of Dogs (Inoculation) Regulations;

"Veterinary District" shall have the same meaning as in the Stock Diseases Regulations. Cap. 252

(As amended by No. 35 of 1940, No. 31 of 1943, No. 193 of 1949, No. 99 of 1950, No. 278 of 1957, No 36 of 1959, No. 57 of 1965 and No. 130 of 1989)

PART II

REGISTRATION

3. This Part shall apply to the areas set out in the Second Schedule. Application of Part II

4. The Minister may, by statutory notice, declare that the provisions of these Regulations or of any Part thereof shall not apply in the case of dogs owned by any specific class of persons, either generally or in any particular area. Power to exempt

(No. 229 of 1949 as amended by No. 319 of 1964)

5. Application for registration of any dog as hereinafter provided shall be made to a Registering Authority in the district in which the applicant is resident, and such application shall be in Form 1 in the Third Schedule. Application for registration

6. (1) Every owner or other person having the custody or control of a dog of the apparent age of three months or over shall register such dog and take out in respect thereof a badge and certificate of registration as hereinafter provided. Certificate of registration



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(2) In respect of dogs which are on the 1st January in any year at the apparent age of three months and over, application shall be made for the issue or renewal of a certificate of registration within one month after such date and, in respect of dogs reaching such age between such date and the 31st December next ensuing, application for such certificate shall be made within one month after the dog reaches such age.

(3) Such certificate shall be in Form 2 in the Third Schedule and shall expire on the 31st December of each year and shall be renewed annually, and with such certificate there shall be issued to the holder thereof a metal badge stamped with a number and the year of issue, and such number shall be entered on the certificate.

(4) A separate certificate shall be issued in respect of each dog registered.

(5) Any person applying for a certificate of registration in an area to which the Control of Dogs (Inoculation) Regulations apply shall be required to produce a valid certificate of inoculation in respect of such dog.

(As amended by No. 239 of 1948 and No. 278 of 1957)

7. Every owner of a dog of the apparent age of three months or over shall cause such dog to wear at all times a collar bearing either the badge issued in respect of such dog or the name and address of the owner.

Collars to be worn

(No. 130 of 1950 as amended by No. 278 of 1957)

8. On production by the holder of a valid certificate of registration and on the payment of 1 fee unit, a Registering Authority may issue a duplicate badge in replacement of any badge lost or destroyed.

Duplicate badge

(As amended by Act No. 13 of 1994)

9. On the transfer of any registered dog from one person to another, the certificate of registration shall be forwarded to a Registering Authority so that the transferee's name may be endorsed on such certificate. A fee of 1 fee unit shall be payable for such endorsement, which endorsement shall be deemed to constitute an issue of such certificate to the transferee.

Transfer of ownership of dog

(As amended by Act No. 13 of 1994)

10. Every person who has in his possession or custody or under his control a dog in respect of which a certificate of registration is under these Regulations necessary shall, if requested by any officer and within a reasonable time after such request, produce or cause to be produced for inspection any such certificate and the dog in respect of which it was issued.

Production of dog and certificate

11. (1) Except with the written consent of the Registering Authority, not more than two certificates or renewals shall be held at the same time by any one household.

Limitation of certificates

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(2) Any member of a household who obtains, or attempts to obtain, any certificate or renewal in excess of the maximum prescribed by sub-regulation (1) shall be guilty of an offence.

(3) For the purposes of this regulation, the members of a household shall comprise-

- (a) the person in actual occupation of land or premises without regard to the title under which he holds; and
- (b) all other persons residing on such land or premises with the express or implied consent of the occupier.

(No. 239 of 1948 as amended by S.I. No. 29 of 1964)

12 (1) The fees payable in respect of the issue or renewal of a certificate of registration shall be-

Prescribed
fees

(a) In Council areas: Dogs (other than bitches):	Fee units
First Dog	5
Second and subsequent dogs, each	6
Bitches, each	6
 (b) In Customary areas:	
Dogs (other than bitches)	
First dog	4
Second and subsequent dogs, each	5
Bitches, each	5
 (c) Outside Council, areas and reserves and trust land:	
Dogs (other than bitches):	
First Dog	5
Second and subsequent dogs, each	6
Bitches, each	6
 (d) Dogs maintained by the Department of National Parks and Wildlife service and certified by an officer of that Department to be maintained for the control of vermin	
	Free
 (e) Where consent has been given to the holding of more than two certificates or renewals under regulations 11 (1) and where it is certified by the Registering Authority that such additional dogs or bitches are being maintained by a farmer for the protection of stock from vermin, such additional dogs or bitches, each	
	5

(2) Where a dog which has already been registered in one area is brought into another area for which a higher registration fee is prescribed, such dog shall again be registered in the latter area and the higher registration fee paid, subject to a rebate equivalent to the fee first paid. In the event of failure to comply with this sub-regulation, the dog shall be deemed to be unregistered.



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(3) Fees collected by a rural council shall be paid into the general fund of the rural council.

(As amended by No. 35 of 1940, No. 239 of 1948, No. 332 of 1950, No. 336 of 1958, S.I. No. 29 of 1964, S.I. No. 119 of 1982, S.I. No. 70 of 1987, S.I. No. 130 of 1989 and Act No. 13 of 1994)

13. The provisions of this Part shall not apply to any dog introduced into any area to which this Part applies with the permission in writing of a Registering Authority until such dog shall have been in such area for a period of fourteen consecutive days, if such dog is led on a leash or chain when in any street or public place.

Dogs temporarily in area to which Part II applies

14. Any dog over the apparent age of four months, if found without a badge issued in respect of such dog, or without a collar bearing its owner's name and address, may be forthwith destroyed by any officer or by the owner or occupier of a farm on which such dog is found straying.

Destruction of dogs

(No. 193 of 1949 as amended by No. 130 of 1950 and No. 278 of 1957)

15. (1) Notwithstanding that a dog is registered, if it is found by an officer to be so diseased or so severely injured or in such a physical condition that it should be destroyed, it shall be lawful for the officer to destroy the dog-

Destruction of stray dogs

- (a) if the owner of the dog is present and his consent to the destruction is obtained; or
- (b) if the owner is absent and his presence cannot be obtained without undue delay, the consent to the destruction of some relative or other representative of full age of the owner is obtained; or
- (c) if, on such consent as aforesaid being unobtainable by reason of the refusal of the owner, or the absence or refusal of all his relatives or other representatives of full age-
 - (i) a veterinary surgeon, or if no veterinary surgeon be within reasonable distance, some other officer, having duly examined the dog, gives a certificate that the dog is in his opinion so diseased or so seriously injured or in such physical condition that it is cruel to keep it alive; or
 - (ii) if, no veterinary surgeon or other officer being within reasonable distance, the presence of one or more of the following persons is obtained as a witness:
 - a chief;
 - a councillor of a rural council;
 - a village headman;
 - a district messenger;
 - a scout of the Department of Wildlife, Fisheries and National Parks;
 - a game guard;
 - a veterinary assistant;
 - a veterinary orderly;
 - a forest ranger;
 - a forest guard;
 - a dispensary assistant;
 - or a rural council kapasu.

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(2) Any officer who destroys any dog or causes or procures it to be destroyed under the provisions of this regulation shall ensure that the carcass of such dog is buried.

(3) Any expenses which may be reasonably incurred by any officer in carrying out the provisions of this regulation may be recovered from the owner as a civil debt.

(No. 332 of 1950 as amended by No. 186 of 1951)

PART III

IMPORTATION

16. (1) No person shall introduce or cause to be introduced into Zambia any dog except under a permit in writing issued by or under the direction of the Director of Veterinary Services and in accordance with such conditions as may be endorsed on such permit. Introduction of dogs without permit prohibited

(2) The issue or withholding of such permit shall be entirely at the discretion of the Director of Veterinary Services.

17. All applications for permits for the importation of dogs shall be made at the office of the Director of Veterinary Services or of an officer. Application for permit

18. The permit issued under regulation 16 must accompany a dog upon its introduction into Zambia and thereafter be preserved for a period of not less than six weeks. Any such permit shall upon demand be produced to any officer. Preservation and production of permit

19. Any dog introduced into Zambia without a permit under these Regulations, or dealt with in violation of any condition endorsed on any such permit, may be seized and placed in quarantine or destroyed or otherwise dealt with by any officer as the Director of Veterinary Services shall direct. Disposal of dogs introduced without permit

PART IV

PREVENTION OF RABIES



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| <p>20. Any person knowing or suspecting that any dog-</p> <ul style="list-style-type: none"> (a) has bitten any person without any apparent cause; or (b) is infected with or suffering from rabies; or (c) has been in contact with any dog or other animal known or suspected to be infected with or suffering from rabies; <p>shall immediately notify the nearest officer. Such officer, if other than a Veterinary Officer or Livestock Officer or Veterinary Assistant, shall immediately convey such notification to the nearest Veterinary Officer or Livestock Officer or Veterinary Assistant and to the Director of Veterinary Services.</p> | <p>Preventive measures</p> |
| <p>21. (1) Any person knowing that a dog is suffering from rabies may destroy such dog.</p> <p>(2) The owner or person in charge of a dog known to be suffering from rabies shall immediately destroy such dog.</p> | <p>Destruction of rabid dog</p> |
| <p>22. The owner or other person in charge of a dog which-</p> <ul style="list-style-type: none"> (a) has bitten any person without any apparent cause; or (b) is suspected of being infected with or to be suffering from rabies; or (c) is suspected of having been in contact with any dog or other animal known or suspected to be infected with or suffering from rabies; <p>shall either destroy such dog or shall secure and confine and keep secured and confined such dog, so as effectively to prevent it having access to any person, dog or other animal and to prevent any dog or other animal or any person (other than the owner or person in charge) having access to it.</p> | <p>Measures to be taken by owner.</p> |
| <p>23. Any person having reasonable suspicion that any dog is suffering from rabies may, if such dog is not secured and confined as provided for in these Regulations, destroy such dog.</p> | <p>Suspected rabid dogs</p> |
| <p>24. A Veterinary Officer or Livestock Officer or Veterinary Assistant may at any time take control of any dog if, in his opinion, it is advisable to do so for the purpose of close observation of any dog suspected of rabies or for the prevention of rabies, and may, in his discretion, destroy or order the destruction of such dog.</p> | <p>Control by Veterinary Officer or Livestock Officer or Veterinary Assistant</p> |
| <p>25. The carcass of any dog destroyed under this Part shall be thoroughly burnt and the ashes buried at a depth of not less than 1220 millimetres.</p> <p>Provided that any officer may himself preserve or direct the preservation of any parts of such carcass under proper precautions for scientific investigation.</p> | <p>Disposal of carcass</p> |
| <p>26. (1) As soon as an officer knows of an outbreak, he may exercise within the Veterinary District under his control all or any of the following powers:</p> | <p>Declaration of infected area</p> |



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- (a) declare any area to be an infected area;
- (b) prohibit the movement of dogs from any place or area to any other place or area;
- (c) issue such order as to movement, prohibition of movement, quarantine or isolation of dogs as he may consider necessary to prevent the spread of the disease.

(2) Every declaration, prohibition or order shall be in writing under the hand of the officer making or issuing the same, and such officer shall take immediate steps to make known such declaration, prohibition or order to all persons affected thereby.

(No. 31 of 1943)

27. It shall be lawful for the Director of Veterinary Services at any time to cancel, vary or extend any infected area, and such cancellation, variation or extension shall be notified in the same manner as provided in regulation 26 to the persons affected thereby.

Power of Director of Veterinary Services to vary area

28. (1) As soon as any area shall have been declared an infected area, the following regulations shall immediately apply to such area and shall continue in force until such area is declared by the Director of Veterinary Services to be no longer infected:

Regulations applicable to infected areas

- (a) such animals included in the expression "dog" as shall be specified by the Director of Veterinary Services or any officer declaring an infected area, either at the time or subsequent to the time of such declaration, shall be secured by the owner so as effectively to prevent any such animal having access to any person or to any dog or other animal and to prevent any dog or other animal or any person (other than the owner or person in charge) having access to it:

Provided that the Director of Veterinary Services may, in his discretion, order that in substitution for such securing as aforesaid any dog shall be effectively muzzled;

- (b) any such animal as specified not secured or muzzled as provided for in paragraph (a) may be destroyed by or under the direction of any officer;
- (c) no person shall introduce or cause to be introduced into or remove or cause to be removed from an infected area any dog:

Provided that the Director of Veterinary Services may grant a permit for the transit by rail of any dog through an infected area on condition that such dog is not detained at any point within an infected area.

(2) For the purposes of this regulation, "owner" includes any person, not being a servant of the owner, in charge of a dog.

(As amended by No. 208 of 1952)

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29. In addition to such notification as is prescribed in these Regulations, every declaration as to an infected area shall be published in the *Gazette*. Publication in *Gazette*

PART V

PREVENTION OF TRYPANOSOMIASIS

30. Wherever at any place within Zambia any dog is found affected or reasonably suspected of being affected with trypanosomiasis, any officer may, by written order under his hand, direct that such dog shall be seized and detained at such place or be removed for detention to any other place for such period as may be deemed necessary to prevent the spread of the disease, or may direct that such dog be destroyed or otherwise dealt with in any manner necessary for preventing the removal of such dog to other places or the spread of the disease. Power to seize and detain

(No. 31 of 1943)

31. (1) As soon as an officer knows of any case or of any suspected case of trypanosomiasis, he may exercise within the Veterinary District under his control either or both of the following powers: Prohibition of movement

- (a) prohibit the movement of dogs from any place or area to any other place or area;
- (b) issue such order as to movement, prohibition of movement, quarantine or isolation of dogs as he may consider necessary to prevent the spread of the disease.

(2) Every prohibition or order shall be in writing under the hand of the officer making or issuing the same, and such officer shall take immediate steps to make known such prohibition or order to persons affected thereby.

(No. 31 of 1943)

PART VI

MISCELLANEOUS

32. An officer issuing any prohibition or order under the provisions of these Regulations may himself carry out the same or cause it to be carried out if the party to whom it was given does not comply with the terms of the prohibition or order. Powers of officers

(No. 31 of 1943)

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33. No dog may be moved into or out of such Veterinary Districts as the Minister may specify by Gazette notice, unless a permit in writing has first been obtained from the Veterinary Officer who may, in his discretion, at any time cancel, vary, amend or refuse to issue such permit.

Movement from
Veterinary Districts

(No. 31 of 1943 as amended by No. 319 of 1964)

34. Any person contravening any of the provisions of these Regulations, or refusing or failing to comply with the requirements of any notice or lawful order or direction of any officer issued hereunder, shall be liable to a fine not exceeding three thousand penalty units.

Penalties

*(As amended by No. 237 of 1944, S.I. No. 170 of 1989
and Act No. 13 of 1994)*



Ministry of Agriculture
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FIRST SCHEDULE

(Regulation 2)

REGISTERING AUTHORITIES

- (1) The Town Clerk in municipalities.
- (2) All Administrative Officers in any area outside a municipality or township in respect of which a township council has been established pursuant to the provisions of section 7 of the Local Government Act.
- (3) Rural councils in respect of dogs within the area of their control.
- (4) All township councils.

(No. 239 of 1948 as amended by No. 264 of 1957)

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SECOND SCHEDULE

(Regulation 3)

AREAS TO WHICH THE PROVISIONS OF PART II APPLY

All areas of the Republic

(As amended by S.I. No. 222 of 1979)

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THIRD SCHEDULE

PRESCRIBED FORMS

GOVERNMENT OF ZAMBIA

THE CONTROL OF DOGS REGULATIONS

FORM 1
(Regulation 5)

APPLICATION FOR REGISTRATION

I hereby apply for a Certificate of Registration for one dog hereunder described for which I enclose the sum of fee units

Dated this day of 19

Signature

Description of Dog.

Breed

Sex

Colour, markings, etc., for purpose of identification

GOVERNMENT OF ZAMBIA

THE CONTROL OF DOGS REGULATIONS



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FORM 2
(Regulation 6)

CERTIFICATE OF REGISTRATION

Certificate No

This is to certify that one dog hereunder described, the property of

of, has been registered for the year ending 31st December,

19, and that Badge No.has been issued.

Dated this day of 19

Signature

Title

Station

Description of Dog.

Breed

Sex

Colour, markings, etc., for purpose of identification



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SECTION 3-THE CONTROL OF DOGS (INOCULATION) REGULATIONS

Regulations by the Minister

Government Notices

108 of 1953
198 of 1953
224 of 1954
286 of 1954
60 of 1955
168 of 1956
279 of 1957
218 of 1958
37 of 1959
53 of 1959
160 of 1960
135 of 1959
37 of 1961
130 of 1963
Statutory Instruments
162 of 1971
Act No.
13 of 1994

1. These Regulations may be cited as the Control of Dogs (Inoculation) Regulations, and shall apply to the areas set forth in the Schedule. Title and application

2. In these Regulations, unless the context otherwise requires- Interpretation

"Director" means the Director in Charge of Veterinary Services;

"dog" means any animal of the canine species which is over the apparent age of three months;

"inoculation" means inoculation with a rabies vaccine approved by the Director, and "inoculated" and "re-inoculated" shall be construed accordingly;

"officer" includes any Registering Authority, Administrative Officer, Veterinary Officer, police officer, officer of the Department of Wildlife, Fisheries and National Parks, Livestock Officer and Assistant Livestock Officer;

"valid certificate of inoculation" means a certificate issued by an officer or veterinary surgeon and so endorsed by the said officer or veterinary surgeon as to indicate that the dog has been inoculated in accordance with the provisions of regulation 4.

(As amended by No. 193 of 1953, No. 279 of 1957 and No. 37 of 1959)

3. (1) The Director may notify- Notification of inoculation centres, etc.

(a) the places;



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(b) the dates; and

(c) the times;

at or upon or within which inoculation of dogs shall take place in any area to which these Regulations apply or in any part of such area.

(2) Notification under the provisions of this regulation shall be given, at least fourteen days before inoculation is to take place, by publication in the *Gazette* and by advertisement in some newspaper circulating in the area concerned, and in any other manner which the Director may think fit.

4. Every person having, within an area to which a notification given under regulation 3 applies, the ownership, custody or control of any dog-

(a) which has not been inoculated; or

(b) which has been inoculated on attaining the age of three months but which has not been re-inoculated after an interval of six months from primary inoculation irrespective of the age of the dog at primary inoculation;

(c) which has not been re-inoculated within three years of a second or subsequent inoculation.

shall present such dog for inoculation or re-inoculation, as the case may be, at one of the places and within the dates and times specified in such notification.

*(As amended by No. 286 of 1954, No. 279 of 1957
No. 37 of 1961 and S.I. No. 162 of 1971)*

5. For every inoculation or re-inoculation of any dog there shall be paid such fee as the Director may prescribe.

6. Every person who has in his possession or custody or under his control a dog in respect of which a certificate of inoculation is necessary under these Regulations shall, if requested by any officer and within seven days after such request, produce or cause to be produced for inspection any such certificate and the dog in respect of which it was issued.

(No. 198 of 1953 as amended by No. 279 of 1957)

7. Any person who refuses or fails to comply with any of the provisions of these Regulations shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding seven hundred and fifty penalty units.

(As amended by Act No. 13 of 1994)



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SCHEDULE
(Regulation 1)

AREAS TO WHICH THE CONTROL OF DOGS (INOCULATION)
REGULATIONS APPLY

Chililabombwe Kabwe	Kansuswa Township
Chibuluma Township	Kasompe Township
Chililabombwe Township	Livingstone Municipality
Chingola Municipality	Luanshya Municipality
Chipata Township	Mazabuka Township
Choma Township	Mbala Township
City of Kitwe	Monze Township
City of Ndola	Mufulira Township
Fisenge Township	Mufulira Municipality
Garneton Township	Nehanga Township
Kabwe Municipality	Nkana Township
Kafue Township	Roan Antelope Township
Kalomo Township	Twapia Township
Kalulushi Township	

The following area:

Starting on the western edge of the Zambia Railways 100 yards Strip Reserve at Beacon Y400, the south-eastern corner beacon of Farm No. 1139, the boundary runs in a straight line in a south-easterly direction across the said strip reserve to Beacon LL on its eastern edge and at the north-western corner of Farm No. 610, "Foxdale"; thence along the northern boundaries of the said farm and Farm No. 609, "Foxdale", through Beacon H176, to Beacon N, the north-eastern corner beacon of the latter farm; thence along the south-eastern boundary of this farm to Beacon B76, the north-eastern corner beacon of Farm No. 440a, "Bordeaux"; thence along the eastern boundaries of this farm and Farm No. 377a, "Kabulonga", through Beacon B75 to Beacon B79, the north-eastern corner beacon of Farm No. 488, "Twin Palm" 211; thence along the north-eastern boundary of this farm to Beacon B83, its most easterly corner beacon; thence in a straight line in a south-westerly direction across Farm No. 487a, "Namobiro", to Beacon W118, the south-western corner beacon of this farm; thence in a straight line in a westerly direction to Beacon C382, the north-eastern corner beacon of Farm No. 919; thence following the eastern and southern boundaries of this farm through Beacon C383, to Beacon B104, its south-western corner beacon on the eastern edge of the Zambia Railways 100 yards Strip Reserve; thence in a straight line in a westerly direction across the said strip reserve to Beacon B106, on its western edge and at the south-eastern corner of Farm No. 400a, "Mariandale"; thence along the southern and western boundaries of this farm through Beacon B110, to Beacon B108, the south-eastern corner beacon of Farm No. 397a, "Chipwenupwenu"; thence along the southern boundaries of this farm and Farm No. 396a, "Paaineers Rust", through Beacon B119 to Beacon BB5 of the latter farm; thence in a straight line in a north-westerly direction across this farm to Beacon BC101, the south-western corner beacon of Farm No. 687, "Mandevu"; thence along the western boundary of this farm to Beacon CL02, the southermost corner beacon of Farm No. 15a, "Dagbreek", and also the south-western corner beacon of the unsurveyed farm leased to Mr. CM. Eksteen; thence northwards along the western boundary of the latter farm to Beacon EX3, the south-western corner beacon of Farm No. 873, "Lilanda"; thence along the western boundary of this farm through Beacon EX4 to Beacon H313, the south-western corner beacon of Farm No. 874; thence along the western and northern boundaries of this farm, through Beacon P6, to Beacon H311, its north-eastern corner beacon; thence along the northern boundary of Farm No. 873, "Lilanda", to Beacon P5, the southernmost corner beacon of Farm No. 693, "Namando"; thence along the south-eastern and eastern boundaries of this farm through Beacon P5a and following the western bank of the Namando River to its junction with the southern bank of the Chunga River near Beacon P10; thence eastwards along the southern bank of the Chunga River following its most northerly course to its source; thence south-eastwards in a straight line to Beacon C268, the north-eastern corner beacon of Farm No. 875, situated on the western edge of the Zambia Railways 100 yards Strip Reserve; thence north-eastwards along the western edge of the Zambia Railways 100 yards Strip Reserve to Beacon Y396, the south-eastern corner beacon of Farm No. 1138; thence north-westwards, north-eastwards and south-eastwards along the boundaries of that farm through Beacons Y397 and Y398 to Beacon Y399, situated on the western edge of the Zambia Railways 100 yards Strip Reserve; thence northwards along the western edge of the Zambia Railways 100 yards Strip Reserve to Beacon Y400, the point of starting.

(As Amended by No. 244 of 1954, No. 60 of 1955, No. 168 of 1956,
No. 279 of 1957, No. 218 of 1958, Nos. 53 and 160 of 1959,
No. 135 of 1960 and No. 130 of 1963)

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Cotton

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THE COTTON ACT, 2005

ARRANGEMENT OF SECTIONS

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2. Interpretation

PART II

THE COTTON BOARD

3. Establishment of Board
4. Functions of Board
5. Composition of Board
6. Tenure of office of member
7. Filling of Casual vacancy
8. Executive Secretary
9. Secretary and other staff
10. Seal of Board
11. Proceedings of Board
12. Committees of Board
13. Allowances
14. Disclosure of interest
15. Prohibition of publication or disclosure of information to unauthorised persons
16. Cotton Licensing Committee
17. Functions of Cotton Licensing Committee
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19. Functions of Appeals Committee

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REGISTRATION OF COTTON SEED PRODUCER, GINNERS AND
COTTON SEED SELLER

20. Registration of cotton seed producers, etc
21. Register of persons
22. Cancellation of registration of persons

*Copies of this Act can be obtained from the Government Printer,
P.O. Box 30136, 10100 Lusaka. Price K5000 each.*



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29. Register of distinguishing marks
30. Use of distinguishing mark
31. Marking of receptacle
32. Prohibition of dealing in cotton without licence
33. Licences
34. Application for licence
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36. Licence holder to maintain register
37. Cancellation of licence
38. Appeals
39. Funds of Board
40. Cotton Development Fund
41. Financial year
42. Accounts
43. Annual Report
44. Appointment of inspectors
45. Powers of Inspectors
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GOVERNMENT OF ZAMBIA

ACT

No. 21 of 2005

Date of Assent: 28th September, 2005

An Act to establish the Cotton Board and define its functions and powers; to regulate the cotton industry as it relates to the production and ginning of seed cotton; to control the production and marketing of cotton; to repeal and replace the Cotton Act, 1914; and to provide for matters connected with or incidental to the foregoing.

[7th October, 2005

ENACTED by the Parliament of Zambia.

Enactment

**PART I
PRELIMINARY**

1. This Act may be cited as the Cotton Act, 2005, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

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

Interpretation

“Appeals Committee” means the Committee constituted by section *eighteen*;

“Board” means the Cotton Board of Zambia established by section *three*;

“Chairperson” means the person appointed chairperson of the Board under section *five*;

“cotton” means the cotton plant grown for lint and seed;

“Cotton Development Trust” means the Cotton Development Trust established under a trust deed registered with the Registrar of Lands and Deeds under the Lands and Deeds Registry Act;

Cap. 185

“cotton sector” means the producers and ginners of seed cotton but does not include weavers or spinners of cotton or producers of textile products;

“cotton seed” means the propagative part of the cotton plant grown principally for seed multiplication;



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Cotton

- Cap. 204
- “distinguishing mark” means any sign, inscription, letter or number which distinguishes a person, association or organisation;
- “Environmental Council of Zambia” means the Environmental Council of Zambia established under the Environmental Protection and Pollution Control Act;
- “Executive Director” means a person appointed as Executive Director under section *eight*;
- “ginned cotton” means seed cotton which has been processed into lint;
- Cap. 119
- “Ginners Association of Zambia” means the Ginners Association of Zambia registered under the Societies Act;
- “inspector” means a person appointed as an inspector under section *forty-four*;
- “levy” means such charge on cotton lint as may be prescribed by the Board;
- “licence holder” means a person, organisation or company holding a licence issued under section *thirty-four*;
- “lint” means the fibre component of processed seed cotton;
- “packaging” means the recommended packaging in terms of material, labelling and sealing;
- Cap. 45
- “penalty unit” has the meaning assigned to it in the Fees and Fines Act;
- “person” includes an institution, an individual or company dealing in cotton;
- “producer” means a person, organisation or company engaged in growing, promoting and marketing of cotton;
- “receptacle” means any acceptable packaging approved by the Board;
- “Register” means the summarised record of all persons, organisations, companies or agents producing, purchasing and selling the cotton crop;
- Cap. 227
- “repealed Act” means the Cotton Act, 1914;
- “seed company” means an organisation or company holding a Cotton Seed Licence issued under section *thirty-four*;
- “seed cotton” means the unginned cotton;
- “to pre-finance” means to give a loan in the form of cotton inputs; and
- “Trust Fund” means the Cotton Development Trust Fund established under section *fourty*



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PART II

COTTON BOARD OF ZAMBIA

3. There is hereby established the Cotton Board of Zambia which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such things as a body corporate may by law do or perform.

Establishment of Board

4. (1) Subject to the other provisions of this Act, the functions of the Board shall be to —

Functions of Board

- (a) regulate the production, ginning and marketing of seed cotton;
- (b) set the standards relating to the quality of the cotton crop in the field, seed cotton, cotton seed and lint;
- (c) advise the Government on regulations, policies and measures pertaining to the protection, control, promotion and development of the cotton industry;
- (d) encourage the production of good quality cotton;
- (e) facilitate the principle functions of the Cotton Development Trust —
 - (i) in research and development of cotton; and
 - (ii) regarding extension programmes and training of cotton farmers conducted by the Trust;
- (f) maintain a record of the credit status of cotton growers;
- (g) implement the Government's policies relating to the cotton industry;
- (h) arrange, when so requested by the Government, for the representation of Zambia, on any international organisation dealing with cotton, or at any international conference relating to cotton; and
- (i) carry out such activities as are necessary or conducive to the better performance of its functions under this Act.

(2) The Board may, by directions in writing and subject to such conditions as it considers necessary, delegate to any member, committee or the Executive Director any of its functions under this Act.

5. (1) The Board shall consist of the following part-time members:

Composition of Board

- (a) two representatives of the Ministry responsible for agriculture, one of whom shall be from the Division responsible for marketing and co-operatives and the other from the Division responsible for agriculture;



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Cap. 236

- (b) one representative from the Cotton Development Trust;
- (c) two representatives of the Cotton Ginners Association of Zambia who are not members of the Board of Trustees of the Cotton Development Trust;
- (d) one representative of an association of cotton farmers;
- (e) one representative of small holder cotton farmers;
- (f) the director of the Seed Control and Certification Institute appointed pursuant to section *three* of the Plant Variety and Seeds Act;
- (g) one representative of the Environmental Council of Zambia;
- (h) one representative of the textile industry;
- (i) one representative of the Ministry responsible for finance and national planning; and
- (j) one representative of the Attorney-General.

(2) The members referred to in subsection (1) shall be nominated by their respective institutions and shall be appointed by the Minister.

(3) The Minister shall appoint the Chairperson of the Board and the Vice-Chairperson shall be elected by the members from amongst themselves:

Provided that the members appointed under paragraph (a) of subsection (1) shall not be elected as Chairperson or Vice-chairperson.

(4) A person shall not be appointed as a member of the Board if the person —

- (a) is an undischarged bankrupt;
- (b) has been convicted of an offence involving fraud or dishonesty; or
- (c) has been convicted of an offence under any written law and sentenced to a term of imprisonment of not less than six months, without the option of a fine.

Tenure of
office of
member

6. (1) The Chairperson and Vice-Chairperson shall hold office for a period of three years and two years respectively and shall be eligible for reappointment for one more like term.

(2) The members of the Board shall hold office for a period of three years and may be reappointed for a further term of three years.

(3) A member of the Board may resign upon giving one month's notice in writing to the Minister or the Chairperson of the Board, as the case may be.



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(4) The office of a member of the Board shall become vacant --

- (a) upon the death of the member;
- (b) if that member is absent without reasonable excuse from three consecutive meetings of the Board of which that member has had notice;
- (c) on ceasing to be a representative of the organisation which nominated the member;
- (d) if the member becomes mentally or physically incapable of performing the duties of a member of the Board;
- (e) if the member is declared bankrupt; or
- (f) if the member is convicted of an offence under any written law and sentenced therefor to imprisonment for a term of not less than six months without the option of a fine.

7. Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another member in place of the member who vacates the office, but that member shall hold office only for the unexpired part of the term.

Filling of casual vacancy

8. (1) The Board shall appoint an Executive Director who shall be the Chief Executive Officer of the Board on such terms and conditions as the Board may determine.

Executive Director

(2) The Executive Director shall, subject to the direction of the Board, be responsible for the day to day administration of the Board.

(3) The Executive Director shall attend the meetings of the Board and any committee of the Board and may address such meetings but shall have no vote.

9. (1) The Executive Director shall be the Secretary to the Board.

Secretary and other staff

(2) The Board shall appoint, on such terms and conditions as the Board may determine, such other staff of the Board as it considers necessary for the performance of its functions under this Act.

10. (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary.

Seal of Board

(2) The Board may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the Seal shall be authenticated by the Chairperson or the Vice chairperson and the Secretary or one other person authorised in that behalf by a resolution of the Board.



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(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate, will not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person generally or specifically authorised by the Board in that behalf.

(5) Any document purporting to be a document under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Proceedings
of Board

11. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business, at least once in every three months at such places and at such times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Board and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least five members of the Board.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under subsection (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Seven members shall form a quorum at any meeting of the Board.

(6) There shall preside at any meeting of the Board—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson,
or

(c) in the absence of the Chairperson and the Vice-chairperson,
such member as the members present may elect for the
purpose of that meeting.

(7) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(8) Where a member is for any reasonable cause unable to attend any meeting of the Board, the member may, in writing appoint a proxy in that member's stead and such person shall be deemed to be a member for the purpose of such meeting.



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(9) The Board may invite any person whose presence is in its opinion, desirable, to attend and to participate in the deliberations of a meeting of the Board and any other committee of the Board but such person shall have no vote.

(10) The validity of any proceedings, action or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.

(11) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and every meeting of any committee established by the Board.

12. (1) The Board may, for the purpose of performing its functions under this Act, establish such committees as it considers necessary and may delegate to any such committees such of its functions as it considers fit.

Committees of Board

(2) The Board may appoint as members of a committee established under subsection (1), persons who are or are not, members of the Board, except that at least one member of a committee shall be a member of the Board, and such persons shall hold office for such period as the Board may determine.

(3) Subject to any specific or general directions of the Board, a committee may regulate its own procedure.

13. The members of the Board or any Committee of the Board shall be paid such allowances as the Board may, with the approval of the Minister, determine.

Allowances

14. (1) If a member or person is present at a meeting of the Board or any Committee of the Board at which any matter is the subject of consideration and in which matter the member or person or the member or person's spouse is directly or indirectly interested in a private capacity, the member or person shall, as soon as practicable after the commencement of the meeting, declare such interest and shall not, unless the Board or committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.

Disclosure of interest

(2) A declaration of interest made under subsection (1), shall be recorded in the minutes of the meeting at which it is made.

15. (1) A person, shall not without the consent in writing given by, or on behalf of, the Board publish or disclose to any person, otherwise than in the course of duty, the contents of any document, communication or information, which relates to, and which has come to that person's knowledge in the course of duties under this Act.

Prohibition of publication or disclosure of information to unauthorised persons



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(2) Any person who knowingly contravenes the provisions of subsection (1) commits an offence and shall be liable, upon conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

(3) If any person having any information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates any such information to any person, that person commits an offence and shall be liable upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

Cotton
Licensing
Committee

16. (1) There is hereby established the Cotton Licensing Committee which shall consist of not more than seven members who shall be appointed by the Board.

(2) A person, other than a Board member, shall not be appointed as a member of the Committee unless the person has expertise, skills and experience in any of the following areas:

- (a) cotton agronomy, cotton variety development, cotton variety maintenance;
- (b) crop marketing, handling, transportation and storage;
- (c) crop seed production; and
- (d) cotton ginning.

(3) The Chairperson of the Committee shall hold office for a period of two years and shall be eligible for re-election for another period of one year.

(4) A member of the Committee, other than the Chairperson of the Committee, shall hold office for one year.

(5) A member of the Committee may resign upon giving one month's notice, in writing to the Board and may be removed by the Board at any time.

(6) There shall preside at any meeting of the Committee the Chairperson and in the absence of the Chairperson such member of the Committee as the members present may elect for the purpose of that meeting.

(7) Subject to any specific or general direction of the Board the Committee may regulate its own procedure.

Functions of
Cotton
Licensing
Committee

17. (1) Subject to the control and direction of the Board, the functions of the Committee shall, on behalf of the Board be to —

- (a) issue registration certificates and licences in accordance with this Act;
- (b) approve and register distinguishing marks; and
- (c) maintain a register of land planted with cotton, registered cotton growers and distinguishing marks.



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Cotton

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(2) The Board may delegate to the Committee such other of its functions as it may consider necessary.

18. (1) There is hereby constituted the Appeals Committee, which shall consist of not more than five members who shall be appointed by the Board.

Constitution and functions of Appeals Committee

(2) A member of the Committee shall hold office for one year.

(3) A member of the Committee may resign upon giving one month's notice in writing to the Board and may be removed by the Board at any time.

(4) Subject to any specific or general direction of the Board the Committee may regulate its own procedure.

19. (1) The functions of the Committee shall, on behalf of the Board, be to hear and determine appeals from aggrieved cotton growers, ginners and promoters on matters relating to cotton.

Functions of Appeals Committee

(2) In subsection (1) "promoter" means any person who does any act for purposes of advancing the production and marketing of cotton.

PART III

REGISTRATION OF COTTON SEED PRODUCERS, GINNERS AND COTTON SEED SELLERS

20. (1) Any person who intends to produce, buy, sell, transport, store or gin cotton shall apply for registration in the prescribed form to the Board.

Registration of cotton seed producers, etc

(2) The application referred to in subsection (1) shall state —

(a) the type of cotton trade to be engaged in; and

(b) such other particulars as may be prescribed.

(3) The Board shall issue a certificate of registration in the prescribed form to an applicant referred to in subsection (1) upon payment of a prescribed fee.

(4) A certificate of registration shall contain —

(a) the name of the registered person;

(b) the type of cotton trade; and

(c) such other particulars as the Board may prescribe.

(5) A certificate of registration issued under subsection (3) shall be valid for one year.

(6) The Board may refuse to register a person or reject a person's application for registration and shall give reasons in writing for such refusal or rejection.



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Register of persons

21. The Board shall establish and maintain a register of persons, which shall contain such particulars, as may be prescribed.

Cancellation of registration of persons

22. (1) The Board may cancel the registration of a registered person—

(a) who ceases to comply with any of the provisions under section *nineteen*;

(b) who buys pre-financed cotton without the prior written consent of the pre-financing institution or company.

(2) The Board shall, before cancelling any person's registration under subsection (1), give written notice to the registered person of the Board's intention to cancel the registration and specify the grounds for cancellation and require the registered person to show cause, within such period as the Board may specify, why the registration should not be cancelled.

(3) The Board shall not cancel the person's registration under this section if the registered person complies with such requirements as the Board may specify to the satisfaction of the Board within the period referred to in subsection (2).

(4) If the registered person notified under subsection (2) fails to show cause to the satisfaction of the Board why the registration should not be cancelled or does not take remedial measures within the time specified in subsection (2) the Board shall cancel the registration.

Appeals

23. (1) Any person aggrieved by a decision of the Board to cancel the registration of such person may appeal to the Appeals Committee subject to a further appeal to the Board.

(2) Any person who is dissatisfied with the decision of the Board on appeal under subsection (1) may appeal to the High Court against such decision within thirty days of being notified of the decision.

Offences and penalties

24. Any person who produces, buys, sells, transports, stores or gins cotton when that person —

(a) is not registered under section *twenty*; or

(b) has been notified in writing that their application for registration has been refused or that their registration certificate has been cancelled;

commits an offence and shall be liable upon conviction to a fine not exceeding fifty-six thousand penalty units or to imprisonment for a term not exceeding two years or to both.

Publication of list of registered persons

25. The Board shall at regular intervals, but not less than once a year, cause to be published in the *Gazette* a list of all persons registered under this Part.



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PART IV

DISTINGUISHING MARKS

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|---|---|
| <p>26. Every registered ginner or producer of processed cotton shall submit a copy of the distinguishing mark to the Board for approval.</p> | <p>Approval of distinguishing mark</p> |
| <p>27. Where the Board approves a mark submitted to it under section <i>twenty-six</i>, it shall register the mark and shall issue to the registered cotton ginner or producer of processed cotton a certificate in the prescribed form.</p> | <p>Registration of distinguishing mark</p> |
| <p>28. (1) The Board may refuse to approve a mark and may require the applicant to submit an alternative mark for its approval.</p> <p>(2) Where the Board refuses to approve a distinguishing mark it shall give reasons for so refusing.</p> <p>(3) Any person aggrieved by a decision of the Board not to approve a distinguishing mark may appeal to the Minister who may either confirm the decision of the Board or request the Board to reconsider the submission made by the applicant.</p> | <p>Refusal to approve distinguishing mark</p> |
| <p>29. (1) The Board shall keep a register of approved distinguishing marks.</p> <p>(2) The Board shall publish in the <i>Gazette</i> and one daily newspaper details of all registered distinguishing marks.</p> | <p>Register of distinguishing mark</p> |
| <p>30. (1) No person, other than the holder of a certificate issued in relation to that distinguishing mark, shall use that mark.</p> <p>(2) Any person who contravenes subsection (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.</p> | <p>Use of distinguishing mark</p> |
| <p>31. (1) A registered cotton ginner or processed cotton seller shall not part with possession of any cotton unless each bag or receptacle in which the cotton is contained has clearly marked on it the registered distinguishing mark of the registered cotton ginner or seller of processed cotton.</p> <p>(2) For the purposes of subsection (1), a bag or receptacle in which cotton is contained shall be clearly marked if the registered distinguishing mark of the cotton ginner or processed cotton seller is—</p> <p>(a) made of a cloth tag firmly sown on the bag or receptacle in letters or figures which are easily distinguishable; or</p> <p>(b) stencilled on the bag or receptacle in letters or figures, which are easily distinguishable.</p> | <p>Marking of receptacle</p> |



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PART V
LICENSING

Prohibition
of dealing in
cotton
without
licence

32. (1) A person shall not buy, sell, import, export or otherwise deal in cotton, for commercial purposes, without a valid licence issued under this Part.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding fifty-six thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

Licences

33. Subject to the other provisions of this Act, the Board may issue the following licences:

(a) a cotton ginner's licence which shall authorise the holder to process such description of cotton, by means of such machinery, and in such manner, as may be specified in the licence;

(b) a cotton seed seller's licence which shall authorise the holder to purchase, sell, export, import or otherwise market cotton seed on such premises as may be specified in the licence;

(c) a cotton seed producer's licence which shall authorise the holder to produce cotton seed on such premises as may be specified in the licence.

Application
for licence

34. (1) Every application for a licence, or renewal of a licence, shall be made to the Board in the prescribed form and shall be accompanied by the prescribed fee.

(2) The Board shall issue a licence, in the prescribed form, to an applicant under subsection (1) if the Board is satisfied that the applicant has fulfilled such conditions for the issue of a licence as the Board may prescribe.

(3) The Board may refuse to issue a cotton seed producer's licence if the works or premises are not properly equipped or if the installed machinery is not adequate or suitable for producing cotton and processing seed of good quality, or the premises do not conform to the provisions of the Factories Act.

Cap. 441

(4) The Board shall not issue a licence to any person if it is satisfied that the applicant or a person employed by the applicant does not have sufficient knowledge or experience in the cotton trade.



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35. A licence issued under this Part shall be subject to the following conditions: Conditions of licence

- (a) unless earlier cancelled, it shall remain in force for one year following the date of issue;
- (b) it shall not be transferable;
- (c) the holder shall not carry on any business related to cotton on any premises or place except those stipulated in the licence;
- (d) that where the licence is for the importation or exportation of cotton the licence shall be subject to an import or export permit issued under the Control of Goods Act;
- (e) such other conditions as the Minister may on the recommendation of the Board, by statutory instrument, impose.

Cap. 421

36. (1) A licence holder shall at all times maintain on their premises, a register in which shall be recorded, as applicable to the licence —

Licence holder to maintain register

- (a) all purchases, sales or movement of cotton;
- (b) the quantity of cotton processed;
- (c) the name and address of the owner, vendor or purchaser, of the cotton; and
- (d) the date of each transaction.

(2) A register maintained in accordance with, subsection (1) shall be open to inspection at all reasonable times, by the Board or by an inspector appointed by the Board.

(3) Any licence holder who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five thousand penalty units.

37. (1) Subject to subsection (2) and on the recommendation of the Cotton Licensing Committee the Board may cancel a licence issued under this Part if the licence holder has contravened, or failed to comply with, any of the conditions subject to which the licence was issued.

Cancellation of licence

(2) The Board shall, before cancelling a licence in accordance with subsection (1), give written notice to the licence holder of its intention to cancel the licence and specify the grounds for cancellation and shall require the licence holder to show cause why the licence should not be cancelled or to take such remedial action as the Board may specify, within a period of thirty days.



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(3) A licence holder who is notified under subsection (2) may, within the period specified in that subsection, make representations to the Board giving the reasons why the licence holder breached the conditions of, or failed to comply with, the conditions of the licence and shall inform the Board of any remedial measures taken by the licence holder.

(4) The Board shall not cancel a licence under this section if the holder of the licence takes the remedial measures, to the satisfaction of the Board, within the period stipulated in subsection (2).

(5) If the holder of the licence notified under subsection (2) fails to show cause, to the satisfaction of the Board or does not take remedial measures within the period stipulated in subsection (2) the Board shall cancel the licence.

(6) Where a licence is cancelled under this section, the Board shall inform the licence holder of the reasons for the cancellation.

Appeals

38. (1) Any person who is aggrieved by —

(a) the refusal of the Board to issue, or renew a licence;

(b) the cancellation of a licence; or

(c) any restrictions imposed on the licence;

may, within thirty days of the receipt of notification of the refusal to issue, renew or cancel the licence, as the case may be, appeal to the Minister subject to further appeal to the High Court.

(2) On any appeal made under subsection (1), the Minister may confirm, set aside or vary the Board's decision and notify the appellants of the decision in writing.

(3) Any person who is aggrieved with the Minister's decision under subsection (2) may appeal to the High Court against such decision within thirty days of receipt of the Minister's notification given under subsection (2).

PART VI

FINANCIAL PROVISIONS

Funds of
Board

39. (1) The funds of the Board shall consist of such moneys as may —

(a) be appropriated by Parliament for the purposes of the Board;

(b) be paid to the Board by way of fees, grants or donations; and

(c) vest in or accrue to the Board.



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- (2) The Board may —
- subject to the approval of the Minister, raise by way of loans, or otherwise such moneys as it may require for the discharge of its functions; and
 - charge and collect licence fees for services provided by the Board such as for instance, the issuing of licences.
- (3) There shall be paid from the funds of the Board —
- the salaries, allowances and loans of the staff of the Board;
 - such reasonable sitting, travelling, transport and subsistence allowances for members or members of any committee of the Board when engaged on the business of the Board, at such rates as the Board may, with the approval of the Minister, determine; and
 - any other expenses incurred by the Board in the performance of its functions.
- (4) The Board may invest in such manner as it thinks fit any of its funds which it does not immediately require for the performance of its functions.

40. (1) The Board shall establish and maintain a Cotton Development Trust Fund into which levies, grants, donations and royalties paid to the Board shall be paid.

Cotton
Development
Trust Fund

(2) The moneys of the Fund shall be applied for the purposes of—

- research and development;
- extension programmes and training of cotton farmers;
- seed production and multiplication;
- seed quality control;
- phytosanitary and quarantine on cotton; or
- such other areas as the Board may consider appropriate.

41. The financial year of the Board shall be the period of twelve months ending 31st March of each year.

Financial
year

42. (1) The Board shall cause to be kept proper books of accounts and other records relating to its accounts.

Accounts

(2) The accounts of the Board shall be audited annually by independent auditors appointed by the Board.

43. (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Minister a report concerning its activities during such financial year.

Annual
report



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(2) The report referred to in paragraph (1) shall include information on the financial affairs of the Board and there shall be appended to the report: —

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure;
- (c) such other information as the Minister may require.

PART VII
INSPECTIONS AND GENERAL PROVISIONS

Appointment
of Inspectors

44. (1) The Board may appoint such inspectors as it may consider necessary to monitor and ensure compliance with the provisions of this Act.

(2) The Secretary shall issue an identity card to every inspector which shall be prima facie evidence of the inspector's appointment as such.

(3) An inspector shall, on demand by any person affected by the exercise of an inspector's powers under this Act, produce for inspection the identity card referred to in subsection (2).

Powers of
inspectors

45. (1) In the performance of duties under this Act, an inspector shall have power —

- (a) on production of an identity card issued to the inspector under subsection (2) of section *forty-four*, to enter and search any premises upon which the inspector has reason to believe there is cotton in respect of which an offence under this Act is being or has been committed and seize and remove any cotton found on the premises which the inspector has reasonable cause to believe may provide evidence of the offence:

Provided that, before removing any cotton under this section, the inspector removing it shall furnish the person in whose custody or possession the cotton is, at the time of removal, with a written receipt of the cotton.

- (b) to stop, search and detain any vehicle or other conveyance which the inspector has reason to believe is being or has been used for conveying any cotton in respect of which an offence is being or has been committed;
- (c) to inspect all books, records, returns, reports and other documents relating to cotton or to any dealings in cotton;
- (d) to seize machinery, any motor vehicle or material with which the inspector has reason to believe an offence under this Act appears to have been or is likely to be committed;
- (e) to require any person connected with the cotton business to supply any information relating to the purchase, sale, import or export of cotton.



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(2) Any person detained or any thing seized under this section shall without delay be taken before a court to be dealt with according to the law, and where it is not practicable to remove from its location any apparently unlawful tool or other means of processing or producing cotton, such tool or other means may immediately be rendered inoperative.

(3) An inspector may request any person whom the inspector sees doing an act for which a licence or certificate is required under this Act to produce a licence or certificate.

46. Any person who obstructs an inspector in the execution of duties under this Act or who, without reasonable excuse, fails to comply with a request made under subsection (3) of section *forty-five* commits an offence and shall be liable upon conviction to a fine not exceeding eight thousand penalty units or to imprisonment for a term not exceeding six months, or to both:

Obstruction
of inspector

Provided that a person who on demand is unable to produce any licence or certificate issued under this Act shall not be guilty of an offence under this subsection —

(a) if that person produces the licence, or certificate within a reasonable time, not exceeding twenty-one days, to an inspector, the Executive Director or the Board; and

(b) explains to the inspector, Executive Director or the Board that the licence or certificate is produced in compliance with the demands of an inspector and names the place where the demand was made.

47. Each inspector shall furnish the Board with such reports and other information relating to an inspection as the Board may direct.

Duty of
inspector to
report to
Board

48. Where any person is convicted of an offence under this Act, the court may order the cancellation of any certificate or licence held by that person with effect from such date as the court may consider reasonable to enable that person to dispose of any stocks of cotton at hand, and may further order that the person shall not be issued with any further certificate or licence for such period as the court thinks fit.

Cancellation
of licence by
court order

49. (1) The Minister may, on the recommendation of the Board, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

Regulations



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(2) Without prejudice to the generality of subsection (1), regulations made under this section may prescribe —

- (a) the fees to be paid for anything to be done under this Act;
- (b) the forms of certificate and licences issued under this Act and the manner for applying for registration or licences under this Act;
- (c) the condition in which premises specified in a certificate or licence shall be kept;
- (d) the manner in which cotton shall be stored;
- (e) the books and register which shall be kept, the inspection of such registers and how returns under this Act shall be made;
- (f) the manner in which any levy imposed under this Act shall be collected;
- (g) the forms to be used and the procedures to be followed on any appeal under this Act;
- (h) declaration of a prescribed area which shall cease to be one of the recommended areas to be used for planting and growing of any or specified variety of cotton;
- (i) time to uproot and burn ratcon cotton plant without sprout growing;
- (j) persons who shall maintain, test cotton seed or monitor the quality of cotton seed production;
- (k) guidelines of cotton seed imports and exports; and
- (l) anything which may or is required to be prescribed under this Act for the better carrying out of the provisions of this Act.

Repeal of
Cap. 227

50. (1) The Cotton Act, 1914, is hereby repealed.



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Dairy Industry Development [No. 22 of 2010 291]

THE DAIRY INDUSTRY DEVELOPMENT ACT, 2010

ARRANGEMENTS OF SECTIONS

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Section

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2. Application
3. Interpretation

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4. Establishment of Board
5. Composition of Board
6. Functions of Board
7. Feeds and feeding
8. Animal breeding services
9. Animal health and clinical services
10. Powers of Board
11. Delegation
12. Registrar of Board
13. Staff of Board

PART III REGISTRATION PROVISIONS

14. Application for registration
15. Issue of certificate of registration
16. Refusal to register
17. Variation, suspension and revocation of registration
18. Validity of certificate of registration
19. Certificate of registration not transferable
20. Replacement of lost or destroyed certificate of registration
21. Appeals
22. Register

*Copies of this Act can be obtained from the Government Printer,
P.O. Box 30136, 10101 Lusaka, Price K11,000 each*

ACT NO. 22 OF 2010



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PART IV

THE DAIRY INDUSTRY DEVELOPMENT FUND

23. Establishment of fund
24. Purpose of Fund
25. Management of Fund
26. Accounts and annual report
27. Auditing of Fund

PART V

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28. Obstruction of member or staff of Board
29. Inspections
30. Offences relating to inspection
31. General penalty
32. Offence by company
33. Regulations
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FIRST SCHEDULE

ACT NO. 22 OF 2010



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Unlocking Zambia's Potential

Dairy Industry Development [No. 22 of 2010 293]

GOVERNMENT OF ZAMBIA

ACT

No. 22 of 2010

Date of Assent: 13th April, 2010

An Act to regulate the dairy industry so as to develop an efficient and self sustaining dairy industry that will effectively contribute towards poverty alleviation, household food security and employment creation; establish the Dairy Industry Development Board and provide for its functions and powers; enhance milk production in order to fully utilise the capacity of processing facilities, so as to achieve growth in the processing of safe and wholesome high value milk products; provide for the processing, manufacturing, marketing and distribution of milk; ensure collaboration and participation of all stakeholders within the dairy industry and provide a wider service to farmers in the dairy industry; promote self regulation of the dairy industry through the development and use of codes of practice; repeal the Dairies and Dairy Produce Act, 1931; and provide for matters connected with, or incidental to, the foregoing.

[16th April, 2010

ENACTED by the Parliament of Zambia.

Enactment

PART I PRELIMINARY

1. This Act may be cited as the Dairy Industry Development Act, 2010, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

2. This Act shall apply to milk and milk products.

Application

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

Inter-pretation

“animal health service provider” includes any person who is qualified to perform any operation and give or provide any treatment, test, advice, diagnosis or attendance to livestock;

“Board” means the Dairy Industry Development Board established under section *four*;



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“certificate” means a certificate issued under section *fifteen*;

“dairy” means any premises, building or structure used for the production, processing or manufacture of milk or milk products, as the case may be, for sale;

“dairy animal” means an animal which is kept for the purpose of milking;

“dairy industry” means the entire milk and value chain in the dairy sector relating to the production, processing, manufacturing, transportation, marketing, and distribution of milk and milk products;

“dairy sector” means a sub-sector of the agricultural sector dealing with the regulatory, executory and delivery aspects of the dairy industry;

“distributor” means any person who carries on the business of distributing milk or milk products, but does not include a retailer or milk vendor;

“Fund” means the Dairy Development Fund established under section *twenty three*;

“milk” means a normal lacteal secretion obtained from the mammary gland of a dairy animal;

“milk product” means any product prepared from milk by an approved process including heating, separation, fermentation, evaporation and drying and includes cultured soured milk, yoghurt, butter, ghee, cream, dairy ice cream and any other product manufactured wholly or with at least ten per cent of milk;

“milk shed area” means any part of Zambia which has a sizeable number of stakeholders whether at provincial, district or ward level;

“milk vendor” means a person who carries on the business of selling milk or milk products by delivering the milk or products to the place of residence or business premises of the purchaser;

“Minister” means the Minister responsible for livestock and fisheries development;

“producer” means any person who keeps dairy animals for the production of milk and includes a manager;

“processor” means any person who carries out the business of processing milk or manufacturing milk products;

“producer processor” means a person who processes milk or manufactures milk products solely obtained from that person’s own farm;



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“pasteurised cream” includes any type of milk product,
prescribed as pasteurised cream;

“pasteurised milk” includes any type of milk prescribed as
pasteurised milk;

“retailer” means any person who buys milk or milk products
from a distributor for resale to consumers, but does not
include a milk vendor;

“registered person” means any person or a producer,
processor, producer processor, marketing agent, importer,
exporter, dairy inputs supplier, retailer, milk vendor or
manufacturer, registered under section *fifteen*;

“regulatory agency” means a public authority that is entrusted
with the power to issue and enforce the laws governing
the dairy industry or the retail, sale, processing, production,
manufacture or handling of goods and products for use by,
or consumption of, the public or the provision of services,
in particular any authority under the—

- | | |
|---|------------------------|
| (a) Local Government Act; | Cap. 281 |
| (b) Co operative Societies Act, 1998; | Act No. 20 of
1998 |
| (c) Control of Goods Act; | Cap. 421 |
| (d) Factories Act; | Cap. 441 |
| (e) Food and Drugs Act; | Cap. 303 |
| (f) Food Reserve Act; | Cap. 225 |
| (g) Markets and Bus Stations Act, 2007; | |
| (h) Standards Act; | Act No. 7
of 2007 |
| (i) Public Health Act; | Cap. 416 |
| (j) Pharmaceutical Act, 2004; | Cap. 295 |
| (k) Stock Diseases Act; | Act No. 14
of 2004 |
| (l) Trades Licensing Act; | Cap. 252 |
| (m) Tsetse Control Act; | Cap. 393 |
| (n) Veterinary Surgeons Act; | Cap. 249 |
| (o) Water Act; | Cap. 243 |
| (p) Environmental Protection and Pollution Control Act; | Cap. 198 |
| (q) Zambia Development Agency Act, 2006; | Cap. 204 |
| (r) Agricultural Credits Act; | Act. No. 11
of 2006 |
| (s) Agricultural Lands Act; | Cap. 224 |
| (t) Companies Act; | Cap. 187 |
| (u) Societies Act; and | Cap. 388 |
| (v) Weights and Measures Act. | Cap. 199 |
| | Cap. 403 |

“stakeholder” means any person, organisation, institution,



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private or public, interested in, concerned with, or involved in, the dairy industry or development of the dairy industry in Zambia, whether directly or indirectly; and
“Standards Bureau” means the Zambia Bureau of Standards established by the Standards Act.

Cap. 416

PART II

THE DAIRY INDUSTRY DEVELOPMENT BOARD

Establishment
of Board

4. (1) There is hereby established the Dairy Industry Development Board which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to this Act, to do all things as a body corporate may, by law, do or perform.

(2) The Schedule applies to the Board.

Composition
of Board

5. (1) The Board shall consist of the following part-time members who shall be appointed by the Minister:

(a) one person representing the Zambia National Farmers Union;

(b) a representative of an association representing veterinarians;

(c) one person representing the Dairy Association of Zambia registered under the Societies Act;

(d) one person elected by the members of the milk collection centres registered under the Co-operative Societies Act, 1998, or Societies Act;

(e) one person representing the Standards Bureau;

(f) one person representing the Ministry responsible for finance;

(g) one person representing the Ministry responsible for livestock development;

(h) one person representing the Dairy Processors;

(i) one person representing the Ministry responsible for health; and

(j) one person representing the Bankers Association of Zambia.

(2) The members referred to in subsection (1) shall be nominated by their respective institutions and shall be appointed by the Minister.

Cap. 119

Act No. 20 of
1998



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(3) The members shall elect a Chairperson and Vice Chairperson from amongst their number, except that the members appointed under paragraphs (e), (f), (g), (h), (i) and (j) shall not be elected as Chairperson.

6. The functions of the Board are to—

Functions of
Board

- (a) promote the development of the dairy industry and advise the Minister on policies and strategies for the promotion and development of the dairy industry;
- (b) regulate the dairy industry in accordance with this Act;
- (c) carry out or cause to be carried out market research relating to the dairy industry;
- (d) cause to be conducted research in dairy farming and investigate problems affecting the industry;
- (e) develop and monitor strategies and plans designed to achieve and maintain self sufficiency and efficiency in milk production, processing, manufacturing and marketing in Zambia;
- (f) promote the establishment of milk processing plants to receive, process and retail milk in an orderly manner that assures milk quality and safety;
- (g) support the development of informal milk markets, especially in remote rural areas where milk collection centers are non existent, ensuring that milk comes from tuberculosis brucellosis free herds and the milk has been hygienically produced and handled;
- (h) ensure the availability of appropriate technology for the dairy industry;
- (i) create and promote a competitive environment conducive to fair play among the stakeholders in the industry;
- (j) collect, analyse and disseminate data and information relating to the dairy sector;
- (k) establish and maintain an up to date data bank on the dairy sector using information from within and outside Zambia;
- (l) promote and facilitate the formation of cooperative societies and other associations of stakeholders and monitor their activities;
- (m) promote and co ordinate the development of small, medium and large scale dairy farmers and processors;
- (n) render advice and technical assistance to milk collection centers under small holder dairy farmers;
- (o) encourage and promote the consumption of milk and milk products within Zambia;



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- (p) promote the training and improvement of skills in technological advancement in the dairy sector through training programmes, visits, study tours and agricultural shows and ensure that such technologies address the sensitivities of gender;
- (q) monitor trends for local dairy production, dairy export and import requirements;
- (r) monitor the implementation of agreements governing the sale of, or infrastructure development for, dairy factories and farms and submit a report to the Minister;
- (s) advise the Government on national strategic reserves for the dairy sector;
- (t) ensure that women, youth and other vulnerable groups are beneficiaries of any development programme under the dairy sector and ensure equity to resources;
- (u) liaise with all regulatory agencies;
- (v) organise dairy shows and the participation of stakeholders in such shows within and outside Zambia;
- (w) promote advocacy of the dairy industry; and
- (x) do all acts and things as are necessary, incidental or conducive to the better carrying out of its functions under this Act.

Feeds and feeding

7. The Board shall promote the availability of high quality livestock feeds and fodder in order to ensure sustained increase of milk yields and long term viability of the dairy industry by—

- (a) providing clear guidelines on the supply of standardised quality feeds, in liaison with the appropriate regulatory agency;
- (b) promoting the even distribution of feed millers in milk shed areas;
- (c) encouraging private sector participation and competition in the feed industry;
- (d) promoting the production of seed for crops including drought tolerant crops, pasture seed as well as legume seed and other fodder crops so as to enhance the availability of feed at the farm level for the improvement of animal productivity;
- (e) encouraging the development of appropriate technological know how in feed management and storage;
- (f) providing adequate services such as extension, research and market information; and



Ministry of Agriculture
and Livestock



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(g) supporting and strengthening individual dairy farmers to grow permanent and seasonal fodder crops.

8. The Board shall upgrade the production of milk from dairy animals by the use of high milk breeding value proven semen through natural service or the use of artificial insemination by—

Animal
breeding
services

(a) harmonising and strengthening breed improvement services;

(b) supporting any institution dealing in artificial insemination services, pregnancy diagnosis and fertility testing in sires;

(c) encouraging private participation in the provision of artificial insemination services;

(d) encouraging the sharing of costs between the private sector and the Government to give impetus to private veterinarians and inseminators to provide the service; and

(e) encouraging the conservation of best sires by individual farmers and the use of these sires in any upgrading programme.

9. The Board shall ensure the availability of efficient and reliable animal health and clinical services as a vital input in dairy development.

Animal
health and
clinical
services

10. (1) The Board may, in carrying out its functions under this Act—

Powers of
Board

(a) investigate the cost of production, processing, distributing and transporting any milk or dairy product;

(b) investigate a price, price spread, trade practice, method of financing, management practice, grading policy or any policy or other matter relating to the marketing, production or processing of milk or milk products;

(c) conduct a milk utilisation audit;

(d) investigate, arbitrate, adjudicate upon or otherwise settle any dispute arising under this Act;

(e) formulate implementation plans, showing monthly and yearly activities to be undertaken, to implement its strategies for the carrying out of its functions; and

(f) do such other acts and make such orders, guidelines and directives as are necessary for the implementation of this Act.

(2) The Minister may, by statutory instrument, designate milk products, and animals as dairy animals, for the purposes of this Act.

Delegation

11. Subject to the other provisions of this Act, the Board may, by directions in writing, and subject to any terms and conditions as



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it considers necessary, delegate to the Registrar, any member of the Board, staff of the Board and any committee of the Board any of its functions under this Act.

Registrar of Board

12. (1) The Board shall appoint a Registrar, who shall be the chief executive officer of the Board and Secretary of the Board, on such terms and conditions as the Board may determine.

(2) The Registrar shall be responsible, under the direction of the Board, for the—

- (a) management and administration of the affairs of the Board;
- (b) implementation of the decisions of the Board; and
- (c) any other functions assigned to the Registrar by the Board or under this Act.

(3) The Registrar shall attend meetings of the Board and may attend meetings of any committee of the Board, and may address such meetings, but shall have no vote.

Staff of Board

13. The Board may appoint, on such terms and conditions as it may determine, experts and such other staff as it considers necessary for the performance of its functions under this Act.

PART III

REGISTRATION PROVISIONS

Application for Registration

14. (1) Any person who deals with milk or milk products shall, within twelve months from the commencement of this Act, register with the Board under this Act, in the prescribed manner and form.

(2) Any person shall, in accordance with the prescribed criteria, conditions and procedure, apply to be registered as a—

- (a) producer, processor or marketing agent;
- (b) producer processor;
- (c) milk or milk products importer or exporter;
- (d) dairy inputs supplier or importer;
- (e) milk vendor; or
- (f) retailer.

(3) The Minister may, by regulations and on the recommendation of the Board, prescribe the criteria, terms and conditions for registration under this Act, including—

- (a) the form of, and procedure for, making an application for registration;
- (b) the information and documents to be submitted with an application for registration;
- (c) the fee payable on the issuing or renewal of a certificate of registration;
- (d) the procedures and conditions for the variation, suspension,

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revocation and renewal of any certificate of registration issued under this Part;

- (e) the form and procedure to be used when making any objection under this Part;
- (f) any notices that are required to be issued under this Part;
- (g) the form and procedure for making any appeal under this Part; and
- (h) such other matter as may be necessary to ensure an efficient and fair registration and certification system.

(4) Any person who contravenes this section or any regulations made under this section commits an offence and is liable, upon conviction, to the general penalty provided under section *thirty two*.

15. The Board shall register any applicant who meets the prescribed criteria and conditions for registration, within fourteen days of receiving the application for registration, and issue that applicant with a certificate of registration.

Issue of certificate of registration

16. (1) The Board may refuse to register any applicant under section *fifteen* if the applicant does not meet any prescribed criteria or condition, after notifying the applicant of its intended decision and giving the applicant fourteen days in which to make any objections, in writing, against such decision or to remedy any defect that necessitated that intended decision.

Refusal to register

(2) The Board shall take into account any objection or remedy made by an applicant under subsection (1) before making its final decision whether to register or to refuse to register the applicant.

17. (1) The Board may, if a registered person fails to comply with the terms and conditions of the registration, vary, suspend or revoke the registration of that person, after giving that person fourteen days notice to that effect and an opportunity to be heard, in accordance with regulations issued by the Minister under subsection (3) of section *fourteen*.

Variation, suspension and revocation of registration

(2) The variation, suspension or revocation of registration may be in addition to any other penalty to which the registered person may be liable under this Act.

18. A certificate of registration, issued under this Act, shall be valid for two years and shall be renewable for further periods of two years on payment of a prescribed fee.

Validity of certificate of registration

19. A certificate of registration issued under this Act shall not be transferable.

Certificate of registration not transferable

20. (1) Where a certificate of registration, issued under this Act, is lost or destroyed the holder of such a certificate may apply to the Board for a replacement and the Board shall, after being satisfied with proof of loss from the applicant and on payment of a prescribed fee, issue a copy of the certificate.

Replacement of lost or destroyed certificate of registration



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Appeals

(2) A certified copy of the certificate of registration shall be as effective as the original certificate.

21. (1) Any person who is aggrieved with a decision of the Board may, within thirty days from the date of the decision, appeal to the Minister.

(2) An appeal may be lodged to the Minister in respect of any decision of the Board to refuse to register or renew the registration of any person or against the variation, revocation or suspension of any registration under this Act.

(3) The Minister may, for any good reason, extend the time for lodging of an appeal under subsection (1).

(4) In determining an appeal under this section, the Minister may—

- (a) dismiss the appeal;
- (b) require the Board to register, or renew the registration of, the applicant and issue the certificate of registration;
- (c) quash any variation, suspension or revocation of the registration or substitute any suspension for a revocation of the registration; or
- (d) order a person to make a fresh application for registration under this Act.

(5) The Board shall give effect to any decision made by the Minister.

Register

22. (1) The Registrar shall —

- (a) keep and maintain a register of all registered persons;
- (b) maintain a data base on such information relating to the dairy industry as may be prescribed; and
- (c) publish, periodically, in a daily newspaper of general circulation in Zambia, the register of registered persons kept under paragraph (a).

PART IV

THE DAIRY INDUSTRY DEVELOPMENT FUND

Establishment
of Fund

23. (1) There is hereby established the Dairy Industry Development Fund.

(2) The Fund shall consist of—

- (a) all moneys received by the Board for the development of the dairy industry;
- (b) such sums of money as may be appropriated by Parliament for the purpose of developing the dairy industry as specified under this Act;



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- (c) all fees, levies and other charges payable under this Act or any law;
- (d) such donations and grants as the Board may receive from stakeholders, foreign or local organisations or foreign governments;
- (e) income derived from investments; and
- (f) any other source of income approved by the Minister for purposes of the Fund.

24. The Board shall manage the Fund for the following purposes:

Purpose of Fund

- (a) to support various dairy development activities including dairy training, dairy market research, upfront procurement for sale to the dairy farmers or dairy industry of containers, coolers, instant chillers, liquid nitrogen flasks and other dairy and hardware equipment;
- (b) to support artificial insemination and artificial insemination services, the development and promotion of milk and milk products, consumption and export of milk and milk products; and
- (c) to cover the cost of any other dairy development activities as may be required in the furtherance of the Board's functions and powers under this Act.

25. The Fund shall be managed by the Board in accordance with sound financial accounting procedures.

Management of Fund

26. (1) The Board shall prepare or cause to be prepared accounts and records of transactions relating to the Fund in every financial year of the Board, and shall ensure that all moneys received are properly accounted for, and all payments are properly authorised and correctly made and that adequate control is maintained over its property and the incurring liabilities.

Accounts and annual report

(2) The Registrar shall, within sixty days after the end of each financial year of the Board, submit to the Board an annual report, in respect of the Fund, for that year containing—

- (a) audited statement of accounts;
- (b) general information relating to the development activities undertaken by the Board and the dairy industry during the preceding financial year; and
- (c) other information as the Board may, prior to the completion of the annual report or any supplement to the report, request in writing.

27. (1) The Fund shall be audited, within ninety days after the end of the Board's financial year, by any qualified firm of auditors appointed by the Board and approved by the Auditor General.

Auditing of Fund



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(2) A firm of auditors appointed under subsection (1), shall audit the Fund, within sixty days of the receipt of the accounts, and present the audited accounts and its opinion to the Board.

(3) The Board may order any other audit in addition to the audit specified under subsection (1).

(4) As soon as the Fund has been audited, and in any case not later than ninety days after the close of the financial year of the Board, the Board shall submit the audited statements of accounts, together with the Board's annual report prepared under Part II of the Second Schedule, to the Minister.

(5) The Board may, with the approval of the Minister, invest any moneys not required for immediate use.

PART V

GENERAL PROVISIONS

Obstruction
of member
or staff of
Board

28. Any person who, directly or indirectly, impedes or obstructs any staff or member of the Board in the performance of their duties, under this Act, commits an offence and is liable, upon conviction, to the general penalty provided for under section *thirty two*.

Inspections

29. (1) The Board may appoint, on such terms and conditions as it may determine, inspectors as it considers necessary for the performance of its functions under this Act.

(2) The Board shall issue an identity card to an inspector appointed under this Act, which shall be produced by the inspector when any person requires it to be produced.

(3) An inspector may at any reasonable time, with notice, for the purposes of performing that inspector's functions under this Act, without warrant, enter into any land, premises or other place which the inspector reasonably believes is being used for the keeping of dairy animals and for the production, processing or manufacturing of milk or milk products.

(4) An inspector may enter any land, premises or other place, without giving notice and without a warrant, if the inspector—

- (a) has reason to believe that a provision of this Act has been, is being or is about to be contravened;
- (b) is unable to give notice within a reasonable time having regard to all the circumstances; or
- (c) has given reasonable grounds for not giving notice.

(5) An inspector, during an inspection—

- (a) shall have free access to any land, premises or other place



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that fall under the general functions and powers of the Board under this Act;

- (b) may inspect any activity being carried out that are the subject of this Act;
- (c) may take specimens of any milk or milk product from any premises or place;
- (d) may inspect any container for, or with, milk or milk product;
- (e) may examine and make copies of any books, records or other documents containing information relevant to the administration or enforcement of this Act;
- (f) may use any computer to examine any data available and reproduce or print out a copy of any record or entry that contains information relevant to the administration or enforcement of this Act;
- (g) may open and inspect any package, flask or other container; and
- (h) may generally examine or inspect anything relevant to the administration or enforcement of this Act.

(6) The Board shall specify the period of time for which records and specimens collected under this Act shall be kept.

(7) An inspector exercising any power under this Act shall do so with reasonable care and in such a manner as to cause as little damage as possible in so doing.

(8) A person shall not obstruct, molest or hinder any inspector from exercising or performing their powers and functions under this Act.

30. Any person who—

- (a) delays or obstructs an inspector in the performance of the inspector's functions;
- (b) refuses to give an inspector such reasonable assistance as the inspector may require for the purpose of exercising the inspector's powers; or
- (c) gives an inspector false or misleading information in answer to any inquiry made by the inspector;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

31. (1) Any person who contravenes any provision of this Act, where no specific penalty has been provided, commits an offence and is liable, upon conviction, to a fine not exceeding one hundred

Offences relating to inspection

General penalty



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thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

(2) Where a person is convicted of an offence, under this Act, the court may order that milk or milk product in respect of which the offence has been committed be forfeited to the State.

(3) Notwithstanding subsection (1) and (2), in the case of a subsequent offence, the court may order, in addition to penalties provided for under those subsections, the revocation of that person's certificate of registration or the withdrawal of any other right held by the person under this Act.

Offences by
company

32. Where a company commits an offence under this Act, any officer, director, employee or agent of the company who directed, authorised, assented to, or acquiesced in the commission of the offence shall be a party to and commits the offence, and shall be personally liable to the punishment provided for the offence, whether or not the company has been prosecuted or convicted.

Regulations

33. The Minister may, upon the advice of the Board and in consultation with an appropriate regulatory agency, make regulations—

- (a) prescribing standards for the construction, lighting, ventilation, cleanliness, drainage and water supplies of dairies and milk collection centres;
- (b) prescribing types and standards of equipment to be used in the production, processing or manufacture of milk and milk products;
- (c) prescribing minimum standards of milk and milk products and prohibiting the sale of any milk or milk product which does not conform to the minimum standard;
- (d) prescribing methods of treatment and disposal of any waste product or effluent resulting from the production or processing of milk and milk products;
- (e) prescribing methods of processing milk and manufacturing milk products;
- (f) prescribing methods and conditions of use, limitations on the use of preservatives, colouring or other substances added to milk or milk products;
- (g) providing for the cleanliness of vehicles and vessels used for the transport of milk and milk products;
- (h) prescribing methods of packaging any milk or milk products;
- (i) prescribing methods for cooling, aerating, storing, conveying and distributing milk and milk products;
- (j) providing for the grading of milk or milk products, labelling



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and description to be used to distinguish any grade of milk or milk product and prohibiting the sale or delivery for sale of any milk or milk product under any description or distinguished by any marking other than that appropriate to the grade or type thereof;

- (k) prescribing methods for the designation of milk or milk products;
- (l) providing for the issue of grading certificates to producers or manufacturers and for cancellation of such certificates;
- (m) prescribing precaution to be taken for the protection of milk or milk products from infection or contamination;
- (n) providing for the disposal of infected or contaminated milk and milk products;
- (o) providing for the inspection of dairies and persons in or about dairies who have access to milk or milk products or to any vessel or container used therein;
- (p) providing for the inspection, sampling, examination and analysis of milk and milk products at any time before retail;
- (q) prescribing the duties of inspectors, graders, sampling officers and analysts that are in the service of the Board or contracted by the Board;
- (r) providing for the sampling, examination and analysis of any article or substance found within a dairy;
- (s) authorising any person permitted by the Board to seize and detain milk or any milk product and any vehicle carrying such milk or milk products;
- (t) prescribing forms required in the implementation of this Act and regulations;
- (u) prescribing conditions under which milk or milk products may be imported into or exported from Zambia;
- (v) controlling any diseases relating to dairy animals and regulating the quarantine of dairy animals;
- (w) prescribing the handling of milk and milk products and the standard of hygiene required for any employee or owner working with such milk and milk products;
- (x) regulating milk collection centres and training of staff for dairies and milk collection centres;
- (y) prescribing tests to be carried out before acceptance of milk at dairies;
- (z) prescribing any levies, fees or charges required to be paid under this Act; and



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(aa) prescribing for offences and penalties and anything which may be prescribed under this Act or which may be required for the better carrying into effect of the provisions of this Act.

Repeal of 34. The Dairies and Dairy Produce Act is hereby repealed.
Cap. 230
Cap. 230

SCHEDULE

(Section 4)

PART I

ADMINISTRATION OF BOARD

Seal of Board

1. (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Registrar.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Registrar or any other person authorised in that behalf by a resolution of the Board.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Registrar or any other person generally or specifically authorised by the Board in that behalf.

(4) Any document purporting to be a document under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Tenure of office and vacancy

2. (1) Subject to this Act, a member of the Board shall hold office for a period of three years from the date of appointment and may be eligible for re-appointment for one further final term of three years.

(2) A member may resign upon giving one month's notice, in writing, to the organisation which nominated the member and to the Minister.

(3) On the expiration of the period for which a member is appointed, the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed four months.

Filling of casual vacancy

3. Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint in accordance with section *seven*, another member in place of the member who vacates office but such member shall hold office only for the unexpired part of the term.

Committees of Board

4. (1) The Board may, for the purposes of performing its functions, establish such committees as it considers necessary and delegate to any of those committees any of its functions.



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(2) The Board may appoint, as members of a committee, persons who are or are not members of the Board, except that at least one member of the Board shall be a member of a committee.

(3) A person serving as a member of a committee shall hold office for such period as the Board may determine.

(4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.

5. (1) Subject to this Act, the Board may regulate its own procedure.

Proceedings
of Board

(2) The Board shall meet for the transaction of business at least once in every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Board and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least five members of the Board.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under subparagraph (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Five members of the Board shall form a quorum at any meeting of the Board.

(6) There shall preside at any meeting of the Board—

(a) the Chairperson; or

(b) in the absence of the Chairperson, the Vice-Chairperson, and in the absence of the Chairperson and the Vice-Chairperson, such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(8) The Board may invite any person, any research institution or business dealing with milk or milk products, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Board but such person and representative shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.



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Allowances
for members

6. The members of the Board or any committee shall be paid such allowances as the Board may, with the approval of the Minister, determine.

Disclosure of
interest

7. (1) If a member or any person is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter the member or that person or the member's or that person's spouse is directly or indirectly interested, in a private capacity, the member or person shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

(2) A declaration of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) Any person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

Prohibition
of disclosure
of
information
to
unauthorised
persons

8. (1) A person shall not, without the consent in writing given by, or on behalf of, the Board, publish or disclose to any person otherwise than in the course of duties, the contents of any document, communication or information which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

(2) Any person who contravenes sub-paragraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

Immunity of
Board and
member

9. In the exercise of any power or function under this Act, anything done or omitted to be done by the Board, any member or person acting on the direction of the Board shall not subject the Board, member or any other person referred to in this section, in that person's personal capacity, to any action, suit, claim or demand, whatsoever, if it was done or omitted to be done in good faith for purposes of executing this Act.



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PART II
FINANCIAL PROVISIONS

- 10.** (1) The funds of the Board shall consist of such moneys as may— Funds of Board
- (a) be appropriated to the Board by Parliament for the purposes of the Board;
 - (b) be paid to the Board by way of consultancy fees, grants or donations; and
 - (c) otherwise vest in or accrue to the Board.
- (2) The Board may—
- (a) accept moneys by way of grants or donations from any source in Zambia and subject to the approval of the Minister, from any source outside Zambia;
 - (b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; and
 - (c) in accordance with the regulations made under this Act, charge fees for services provided by the Board.
- (3) There shall be paid from the funds of the Board
- (a) the salaries, allowances, loans, gratuities and pensions of staff of the Board and other payments for the recruitment and retention of staff;
 - (b) such reasonable travelling and subsistence allowances for members of the Board and members of any committee of the Board when engaged on the business of the Board and at such rates as the Board may, with the approval of the Minister, determine; and
 - (c) any other expenses incurred by the Board in the performance of its functions.
- (5) The Board may, after the approval of the Minister, invest in such manner as it thinks fit such of its funds as it does not immediately require for the discharge of its functions.
- 11.** The financial year of the Board shall be the period of twelve months ending on 31st December in each year. Financial year
- 12.** (1) The Board shall cause to be kept proper books of account and other records relating to its accounts. Accounts
- (2) The accounts of the Board shall be audited annually by independent auditors appointed by the Board with the approval of the Auditor General.
- (3) The auditor's fees and expenses for preparing audited accounts for the Board shall be paid by the Board.
- 13.** (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Board shall submit to the Minister a report concerning its activities during the financial year and that of the Fund. Annual report



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312 No. 22 of 2010]

Dairy Industry Development

(2) The report of the Board referred to in subparagraph (1), shall include information on the financial affairs of the Board and there shall be appended to the report

- (a) an audited balance sheet of the Board and the Fund;
- (b) an audited statement of income and expenditure of the Board and the Fund; and
- (c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in sub paragraph (1), lay the report before the National Assembly.

ACT NO. 22 OF 2010



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REPUBLIC OF ZAMBIA

THE DAIRY PRODUCE MARKETING AND LEVY ACT

CHAPTER 234 OF THE LAWS OF ZAMBIA

CHAPTER 234 THE DAIRY PRODUCE MARKETING AND LEVY ACTCHAPTER 234

THE DAIRY PRODUCE MARKETING AND LEVY ACT

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PRELIMINARY

Section

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FINANCIAL PROVISIONS RELATING TO BOARD



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4. Board to make certain charges to revenue account, etc.
5. Board to make provision for the redemption of loans
6. Establishment and operation of general reserve account of Board
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IMPOSITION OF LEVY ON DAIRY PRODUCE

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MARKETING OF DAIRY PRODUCE

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CHAPTER 234

DAIRY PRODUCE MARKETING AND LEVY

An Act to make provisions with respect to the operation and functions of the Dairy Produce Board, to provide generally for the regulation of the marketing of dairy produce and for the imposition and collection of levies on certain dairy produce, and for incidental matters.

[18th May, 1962]

27 of 1961
32 of 1962
13 of 1994
Government Notices
91 of 1964
157 of 1964
497 of 1964
Statutory Instrument
176 of 1965

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Dairy Produce Marketing and Levy Act.

Short title

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Interpretation
Cap. 235

2. (1) In this Act, unless the context otherwise requires-

"Board" means the Dairy Produce Board established under section *three* of the Dairy Produce Board (Establishment) Act;

"butter" means the substance commonly known as butter made exclusively from milk or cream or milk and cream, with or without salt or other preservative and with or without the addition of colouring matter;

"butterfat" means the pure fat of milk but does not include the substance commonly known as ghee;

"cheese" means the substance commonly known as cheese containing no fat other than butterfat;

"class", in relation to dairy produce, includes grade, quality, standard and type;

"cream" means that part of milk rich in butterfat which has been skimmed from milk;

"dairy industry" means anything and everything connected with the production, manufacture, preparation and marketing of dairy produce;

"dairy produce" means milk and any milk product;

"dealer" includes any person engaged in the dairy industry and cognate expressions shall be construed by reference, *inter alia*, to transactions and operations such as are carried out by persons engaged in the dairy industry;

"depot" means a depot appointed, established or maintained by the Board for the receipt or sale of dairy produce;

"financial year" means the period beginning on the 1st January, 1964, and ending on the 30th June, 1964, and thereafter the period of twelve months ending on the 30th June each year;

"ices and flavoured milk products" means-

- (a) ice-cream; and
- (b) any frozen concoction containing flavourings or fruit juices or dairy produce and flavourings or fruit juices; and
- (c) any beverage containing dairy produce and flavourings or fruit juices;

"inspector" means an inspector appointed in terms of subsection (1) of section *twenty-nine*, and includes a person exercising or performing any of the powers or duties of an inspector conferred or imposed upon him in terms of subsection (2), (3) or (4) of that section;

"levy" means a levy imposed by the provisions of section *nineteen*;

"member" means a member of the Board;

"milk" means cow's milk in the form in which it comes from the cow;

"milk product" means butter, butterfat, the substance commonly known as ghee, cheese, cream and any other like product of milk, including skimmed milk and milk which has been condensed, dried or evaporated;

"producer" means a producer of milk or a milk product manufactured or prepared by him from milk of which he is the producer;

"producer-retailer" means a producer who sells milk or a milk product by retail;

"producer-wholesaler" means a producer who is not a producer-retailer;

"registered" means registered in terms of section *twenty-six* and "application for registration" and "registration" shall be construed accordingly;

"sell" includes to-

- (a) offer, advertise, keep, expose, transmit, convey or deliver or prepare for sale; and
- (b) exchange or dispose of for any valuable consideration; and

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(2) For the purposes of this Act a producer who sells milk or a milk product to a person, other than the Board or a prescribed dealer or member of a prescribed class of dealers, shall be deemed to have sold the milk or the milk product by retail.

(As amended by No. 32 of 1962, G.N. No. 91 of 1964 and S.I. No. 176 of 1965)

PART II FINANCIAL PROVISIONS RELATING TO BOARDPART II

FINANCIAL PROVISIONS RELATING TO BOARD

3. It shall be the object of the Board so to exercise its functions and conduct its business as to ensure that its revenues, taking one year with another, are not less than sufficient to enable the Board to meet the outgoings of the Board properly chargeable to revenue account and to make the provision which is required to be made by the Board in terms of sections *four* and *five*.

Conduct of financial affairs of Board

4. (1) The Board shall charge to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account and, in so doing, shall make in each financial year proper provision for-

Board to make certain charges to revenue account, etc.

(a) the depreciation of assets; and

(b) the payment of interest on and all other charges and expenses incurred in connection with loans.

(2) In charging to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account as in subsection (1) is provided, the Board may also, with the approval of the Minister responsible for finance, make in each financial year provision for meeting, in whole or in part, increases in the cost of replacing assets.

5. (1) The Board shall in each financial year make such provision as may be necessary for the redemption of loans.

Board to make provision for the redemption of loans

(2) Moneys put aside by the Board in pursuance of the provisions of subsection (1) shall, until such time as they are used for the redemption of loans, be invested in such manner as the Board with the approval of the Minister, acting on the advice of the Minister responsible for finance, may determine.

6. (1) The Board shall establish a general reserve account to which the Board may appropriate from a surplus of revenue over expenditure such moneys as the Minister may approve.

Establishment and operation of general reserve account of Board

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(2) Subject to the provisions of section *seven*, moneys in the general reserve account may, with the approval of the Minister, be used for such purposes as the Board may consider expedient for the proper exercise of its functions.

7. (1) If in any financial year the revenues of the Board, together with any surplus revenue brought forward from any preceding financial year, are insufficient to enable the Board to meet the outgoings of the Board properly chargeable to revenue account and to make the provision which is required to be made by the Board in terms of sections *four* and *five*, the deficiency shall, unless the Minister otherwise directs, be met from the general reserve account established in terms of subsection (1) of section *six*.

Meeting of deficiencies

(2) If the moneys in the general reserve account are insufficient for the purpose of meeting any amount which in terms of subsection (1) is required to be met from the general reserve account, the amount outstanding after the application of those moneys to that purpose shall be met by the Minister out of moneys appropriated for the purpose by Parliament.

(As amended by G.N. Nos. 91 and 157 of 1964)

8. The Board shall establish and administer, in accordance with the directions of the Minister, a dairy produce price stabilisation fund for the purpose of stabilising the price at which the Board sells dairy produce imported into Zambia and dairy produce produced, manufactured or prepared in Zambia.

Establishment of dairy produce price stabilisation fund

(As amended by G.N. No. 91 of 1964)

9. (1) The Board shall establish and administer a fund into which the Board shall pay the proceeds of any levy.

Establishment of levy fund

(2) The moneys in the fund referred to in subsection (1) shall be used by the Board-

- (a) to meet any costs and expenses incurred by the Board in connection with a levy; and
- (b) for the purpose of making, in accordance with the directions of the Minister, payments into the dairy produce price stabilisation fund established in terms of section *eight*; and
- (c) with the approval of the Minister, to meet such expenses as may be incurred by the Board in the exercise of its powers referred to in paragraphs 25 and 26 of the Schedule.

(As amended by G.N. No. 91 of 1964)

10. The income of the Board from whatever source shall be exempt from any tax leviable under the Income Tax Act.

Income of Board exempt from income tax, etc. Cap. 323



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11. (1) The Board shall keep proper books of account and other records in relation thereto and to all its operations, undertakings and property and, in addition, such particular accounts and records in respect of all or any of its operations, undertakings and property as the Minister may direct.

Accounts of Board

(2) The Board shall keep separate accounts in relation to any business which the Board conducts for the account and at the risk of other persons.

(3) The allocation to each account kept by the Board in terms of subsection (2) of the Board's transport, handling and storage costs, the charges in respect of which the Board is required to make provision in terms of section *four* and other like expenses and charges shall be made in such manner as the Board, with the approval of the Minister, may determine.

12. (1) The Board shall, with the approval of the Minister, appoint one or more persons who publicly carry on the profession of accountants, hereinafter referred to as the auditors, to examine and report to the Board and the Minister on the accounts of the Board not less than once each financial year.

Appointment of auditors and audit of Board's accounts

(2) In addition to the report referred to in subsection (1), the Minister may require the Board to obtain from the auditors such other reports, statements or explanations in connection with the operations, undertakings and property of the Board as the Minister may consider expedient.

(3) The Board shall produce and lay before the auditors all books and accounts of the Board, with all vouchers in support thereof and all books, papers and writing in its possession or control relating thereto.

(4) The auditors shall be entitled at all reasonable times to require from all members and all persons in the employ of the Board such information and explanations as may be necessary for the performance of their duties as auditors.

13. It shall be the duty of the auditors to certify not less than once in each financial year whether or not-

Duties of auditors

- (a) they have received all the information and explanations which, to the best of their knowledge and belief, were necessary for the performance of their duties as auditors; and
- (b) the accounts of the Board have been properly kept; and
- (c) the accounts of the Board present a true and fair view of the financial position of the Board according to the information and explanations given and the books and records produced to them; and
- (d) the Board has complied with the provisions of this Part with which it is the duty of the Board to comply and with their requirements as auditors.



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PART III FUNCTIONS, POWERS AND DUTIES OF BOARDPART III

FUNCTIONS, POWERS AND DUTIES OF BOARD

14. (1) The functions of the Board shall, subject to the provisions of this Act and any direction given to the Board by the Minister, be to- Functions of Board

- (a) buy at the appropriate prescribed prices any butterfat, cream or milk which is delivered by a registered producer-wholesaler of butterfat, cream or milk, as the case may be, to any depot appointed by the Board for the purpose; and
- (b) manufacture and prepare milk products; and
- (c) market, within and outside Zambia, milk and milk products.

(2) Nothing in paragraph (a) of subsection (1) shall be construed as precluding the Board when performing its function referred to in that paragraph from directing a registered producer-wholesaler to deliver his butterfat, cream or milk during such periods and to such depot appointed by the Board for the purpose of the delivery to the Board of butterfat, cream or milk, as the case may be, as the Board may specify.

(3) If the Board directs a registered producer-wholesaler to deliver his butterfat, cream or milk to a depot other than the depot appointed by the Board for the purpose of the delivery to the Board of butterfat, cream or milk, as the case may be, which is nearest to the place at which he produces milk, the Board shall pay to him so much of the reasonable transport costs incurred by him in delivering his butterfat, cream or milk to the depot specified by the Board as exceeds the reasonable transport costs which he would have incurred had he delivered his butterfat, cream or milk to that depot nearest to the place at which he produces milk.

(As amended by G.N. No. 91 of 1964)

15. (1) Subject to the provisions of this Act, the Board may, with the approval of the Minister, do all or any of the things specified in the Schedule either absolutely or conditionally and whether solely or jointly with others. Powers of Board

(2) The Minister may approve the exercise by the Board of the power to do a thing specified in the Schedule either generally or specially.



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- 16.** For the better exercise of the functions and powers of the Board, the Board-
- (a) shall appoint a person, approved by the Minister, as manager in whom, subject to the control of the Board, shall be vested the management of the operations, undertakings and property of the Board; and
- (b) may, within or outside Zambia, employ such persons, other than a manager, and appoint such agents as the Board may consider expedient for the purpose.
- (As amended by G.N. No. 91 of 1964)*
- Appointment of manager, etc.

- 17.** The Board may, with the approval of the Minister, make by-laws for-
- (a) the good management and conduct of the operations, undertakings and property of the Board; and
- (b) the conditions of service of persons in the Board's employ;
- and any other matter in the opinion of the Board necessary or convenient to be provided in connection therewith.
- By-laws of Board

- 18.** The Board shall submit an annual report and in addition-
- (a) may submit to the Minister such other reports as the Board may deem advisable; and
- (b) shall submit to the Minister such other reports as the Minister may require;
- in regard to the operations, undertakings and property of the Board.
- (As amended by G.N. No. 91 of 1964)*
- Reports of Board

PART IV IMPOSITION OF LEVY ON DAIRY PRODUCEPART IV

IMPOSITION OF LEVY ON DAIRY PRODUCE

- 19.** (1) There shall, subject to the provisions of this Act, be a levy or levies at such rate or rates, not exceeding in the case of milk delivered to the Board a rate of one ngwee for every 4.5 litres, as the Minister may prescribe on such dairy produce produced, manufactured or prepared in Zambia as the Minister may determine.
- Imposition of levy

- (2) No levy shall be payable on dairy produce which is produced, manufactured or prepared by a producer and consumed by him, members of his household or his servants.
- (As amended by G.N. No. 91 of 1964)*

- 20.** (1) The Minister shall prescribe-
- (a) the persons who shall be responsible for the payment of a levy; and
- Payment, collection and remittal of levy

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- (b) the persons who shall be responsible for the collection and remittal of a levy; and
- (c) the manner and times at which a levy shall be paid, collected and remitted.

(2) A levy shall be remitted to the Board.

21. (1) In prescribing the persons, the rate of a levy and other matters which by this Part are required or permitted to be prescribed, the Minister may-

Minister may make different provision in respect of different classes of dairy produce

- (a) make different provision in respect of different classes of dairy produce and different areas in which dairy produce is produced, manufactured, prepared, sold or dealt in; and
- (b) make no provision in respect of particular classes of dairy produce; and
- (c) make different provision in respect of different classes of persons prescribed for the purposes of section *twenty*; and
- (d) provide that a levy may be paid, collected or remitted by different methods or at different times; and
- (e) provide for exemptions from a levy.

(2) In prescribing classes of dairy produce for the purposes of this Part, the Minister may have regard, amongst other things, to the purposes for which or the manner or areas in which or the persons by whom dairy produce is produced, manufactured, prepared, sold or dealt in.

22. The Minister may by regulation-

Withdrawal or suspension of levy

- (a) withdraw a levy; or
- (b) suspend a levy in whole or in part.

23. (1) On the conviction of a person for an offence of failing or refusing to pay a levy or to collect or remit a levy to the Board in terms of this Act, the court convicting the accused may, on the application of the prosecutor and in addition to any penalty which it may inflict, give summary judgment against the accused in favour of the Board for the amount of the levy to which the offence relates.

Summary judgment for levy in criminal proceedings

(2) A judgment given by a court in terms of subsection (1) shall have the same force and effect and may be executed in the same manner as if the judgment had been given in a civil action instituted in the court.

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24. The Board may, by civil action in a competent court, recover the amount of a levy which is due in terms of this Act from a person required in terms of this Act to pay the levy or to collect and remit the levy to the Board. Recovery of levy

PART V MARKETING OF DAIRY PRODUCEPART V

MARKETING OF DAIRY PRODUCE

25. (1) No person who is not a registered producer-retailer shall sell within a prescribed area cream, milk or skim milk which has not been acquired from or is not the property of the Board: Restriction on sale of certain dairy produce

Provided that the provisions of this subsection shall not apply to-

- (i) the sale of cream which has been sterilised and placed in hermetically sealed containers; or
- (ii) the sale of cream, milk or skim milk by or to the Board or a prescribed dealer or member of a prescribed class of dealers.

(2) No producer shall sell milk or a milk product unless-

- (a) he is a registered producer-wholesaler of milk or, as the case may be, the milk product; or
- (b) he is a registered producer-retailer:

Provided that the provisions of this subsection shall not apply to a prescribed producer or a member of a prescribed class of producers.

(3) No producer shall sell milk or a milk product by retail unless he is a registered producer-retailer:

Provided that the provisions of this subsection shall not apply to a prescribed producer or a member of a prescribed class of producers.

(4) No registered person shall sell-

- (a) milk or a milk product otherwise than in accordance with the conditions imposed upon him on registration; or

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- (b) milk of which he is not the producer:

Provided that a registered producer-retailer may with the consent of the Board sell milk acquired by him from the Board; or

- (c) a milk product which has not been manufactured or prepared by him from milk of which he is the producer:

Provided that a registered person who is the holder of a trading licence issued in terms of the Trades Licensing Act may sell- Cap. 393

- (i) cream such as is referred to in paragraph (i) of the proviso to subsection (1) and condensed, dried and evaporated milk; and
(ii) any other milk product which has been imported into Zambia or has been acquired from or is the property of the Board.

*(As amended by G.N. No. 91 of 1964
and S.I. No. 176 of 1965)*

26. (1) An application for registration as a producer-wholesaler of milk or a milk product or as a producer-retailer shall be made to the Board within the time prescribed. Registration, etc., of
producer-wholesalers and
producer-retailers

(2) An applicant for registration shall state in his application-

- (a) the address of the place at which he produces milk; and
(b) whether he wishes to be registered as a producer-wholesaler of milk or milk products or milk and milk products or as a producer-retailer; and
(c) if he wishes to be registered as a producer-wholesaler of milk products, the milk products in respect of which he wishes to be registered; and
(d) if he wishes to be registered as a producer-retailer-
(i) whether he wishes to sell milk or milk products or milk and milk products; and
(ii) the milk products, if any, he wishes to sell; and
(iii) the area within which he proposes to sell milk or milk products or milk and milk products; and

(e) whether or not he is or his premises are registered in terms of the Dairies and Dairy Produce Act; and Cap. 230

(f) such other particulars as may be prescribed.

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(3) The Board may refuse to register an applicant for registration as a producer-retailer if the registration of the applicant would not, in the opinion of the Board, be conducive to the orderly and efficient marketing of the dairy produce in respect of which application for registration is made.

(4) The Board may register an applicant for registration subject to such reasonable conditions as the Board may deem expedient to impose.

(5) The Board may, with the consent or on the application of a registered person, vary the conditions subject to which the registered person was registered by the Board in terms of subsection (4).

(6) The Board shall cancel the registration of a registered person if the registered person applies to the Board for the cancellation of his registration.

(7) An applicant for registration whose application is refused by the Board in terms of subsection (3) or a registered person who is aggrieved by a condition imposed upon him on registration shall have a right of appeal to the Minister.

(8) The registration of a person in terms of this Act shall not have the effect of exempting him from any liability to register in terms of the Dairies and Dairy Produce Act. Cap. 230

(As amended by No. 32 of 1962 and S.I. No. 176 of 1965)

27. (1) The Board may refuse to buy butterfat, cream or milk delivered to a depot by a registered producer-wholesaler which does not conform with the standard of quality, if any, fixed in relation to the appropriate prescribed price for butterfat, cream or milk or the lowest standard of quality fixed in relation to the appropriate prescribed price for any class of butterfat, cream or milk, as the case may be. Disposal of dairy produce rejected by Board

(2) If the Board refuses to buy butterfat, cream or milk referred to in subsection (1), the Board shall-

- (a) immediately advise the registered producer-wholesaler by whom the butterfat, cream or milk was delivered that the Board has rejected the butterfat, cream or milk; and
- (b) issue to the registered producer-wholesaler referred to in paragraph (a) a certificate of rejection stating the Board's reasons for rejecting the butterfat, cream or milk.

(3) Unless a registered producer-wholesaler by whom butterfat, cream or milk is delivered to the Board otherwise directs before or at the time of delivery, the Board may-

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- (a) make use of any of the butterfat, cream or milk of the registered producer-wholesaler which is rejected by the Board for the benefit of the registered producer-wholesaler; or
 - (b) return any butterfat, cream or milk of the registered producer-wholesaler which is rejected by the Board to the registered producer-wholesaler at his expense; or
 - (c) destroy any butterfat, cream or milk of the registered producer-wholesaler which is rejected by the Board without paying him compensation.
- (4) The Board shall issue a receipt for all butterfat, cream or milk delivered to the Board by a registered producer-wholesaler which the Board does not reject.
- (5) The risk in any butterfat, cream or milk delivered to the Board by a registered producer-wholesaler shall not pass to the Board until issue of the Board's receipt.

PART VI GENERAL PROVISIONSPART VI

GENERAL PROVISIONS

28. (1) If at any time it appears to the Minister that the Board has failed to comply with the provisions of this Act or a direction given to the Board in terms of this Act, he may, by notice in writing, require the Board to make good the default within a specified time.

Proceedings on failure of Board to comply with Act

(2) If the Board fails to comply with a notice referred to in subsection (1), the Minister may apply to the High Court for an order compelling the Board to remedy the default and the High Court may make such order on the application as it thinks fit.

(As amended by G.N. No. 91 of 1964)

29. (1) Subject to the provisions of any written law governing the public service, the Minister may for the purpose of this Act appoint persons as inspectors.

Appointment of inspectors

(2) With the consent of the President, the Minister may confer all or any of the powers and impose all or any of the duties of an inspector under this Act upon any person or class of persons in the public service or in the Zambia Police Force.

(3) With the consent of a local authority, the Minister may confer all or any of the powers and impose all or any of the duties of an inspector under this Act upon any person or class of persons in the employ of the local authority.

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(4) With the consent of the Board, the Minister may confer all or any of the powers and impose all or any of the duties of an inspector under this Act upon any person or class of persons in the employ of the Board.

(As amended by G.N. No. 91 of 1964 and S.I. No. 176 of 1965)

30. (1) A person who-

Offences

- (a) obstructs an inspector in the performance of his duties or the exercise of powers conferred by or in terms of a provision of regulations or, on being required to do so, does not produce to an inspector or a police officer for inspection dairy produce or any books or records relating thereto which are in his possession or under his control; or
- (b) fails or refuses to furnish a return or to supply information in the manner and in the time prescribed or furnishes a false or incomplete return or supplies false or incomplete information; or
- (c) contravenes or fails to comply with a provision of this Act or of regulations or with an order or direction made or given thereunder with which it is his duty to comply; or
- (d) does an act contrary to a condition imposed upon him on registration;

shall be guilty of an offence and liable-

- (i) on first conviction, to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding three months, or to such imprisonment without the option of a fine, or to both; and
- (ii) on a second or a subsequent conviction, to a fine not exceeding three thousand penalty units or, in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both.

(2) If a registered person is convicted of an offence in terms of this Act, the court convicting him may, on the application of the Board and in addition or as an alternative to any other penalty it may inflict, order the cancellation of his registration for the whole or such part of the current period of registration prescribed in terms of section *thirty-one* as the court may deem fit.

(As amended by Act No. 13 of 1994)

31. (1) The Minister may by regulation prescribe all matters which by this Act are required or are permitted to be prescribed or which in his opinion are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

Regulations

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may in the exercise of the powers conferred upon him by that subsection provide for-

- (a) the books and records to be kept and the returns and information to be furnished to the Board by registered persons and dealers; and

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- (b) the form in which and the period within which the returns referred to in paragraph (a) shall be furnished; and
- (c) the information to be contained in returns referred to in paragraph (a) and the information and documents to be supplied in connection with applications for registration; and
- (d) the hearing and determination of appeals to the Minister for which provision is made in this Act and the making, return and forfeiture of deposits and the procedure to be followed in connection therewith; and
- (e) the inspection by inspectors of dairy produce and premises where dairy produce is produced, manufactured, handled, graded, treated, processed, prepared, sold, stored or dealt in; and
- (f) the seizure by an inspector who shall issue a receipt therefor of books and documents and dairy produce which, in the opinion of the inspector, may afford evidence of a contravention of the provisions of this Act, and the doing of such other things as may appear to the inspector to be necessary for ascertaining whether compliance has been made with the provisions of this Act; and
- (g) the prescribing, whether by reference to the amounts delivered to the Board during any fixed period and the amounts used by the Board during any fixed period for different purposes or one or other of those factors, retrospectively or otherwise, of maximum, minimum or specified prices which shall be paid by the Board for butterfat, cream or milk delivered to the Board by registered producer-wholesalers in accordance with the provisions of this Act and the directions of the Board; and
- (h) the prescribing of maximum, minimum or specified prices-
 - (i) at which prescribed classes of dairy produce imported into or produced, manufactured or prepared in Zambia shall be sold; and
 - (ii) which shall be paid for prescribed classes of dairy produce produced, manufactured or prepared in Zambia; and
- (i) the prescribing of the periods during which persons who are registered in terms of section *twenty-six* shall, subject to the provisions of that section, remain registered and of matters ancillary or incidental thereto.

(3) The Minister may, in the exercise of the power conferred upon him by subsection (1), make different provision in respect of different classes of registered persons and dealers, different classes of appeals and different classes of dairy produce and make no provision in respect of particular classes of registered persons and dealers and particular classes of dairy produce.

(4) Nothing in this section shall be construed as precluding the Board from buying-

- (a) butterfat, cream or milk or other dairy produce otherwise than at a depot referred to in paragraph (a) of subsection (1) of section *fourteen*; or

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(b) butterfat, cream or milk delivered to a depot referred to in paragraph (a) of subsection (1) of section *fourteen* by a person who is not a registered producer-wholesaler; at such prices as the Board may deem expedient.

(As amended by No. 32 of 1962 and G.N. No. 91 of 1964)

32. No. information contained in any contract entered into by the Board in the exercise of the functions of the Board or in any return furnished to the Board shall, unless it is ordered to be disclosed by order of a competent court, be disclosed to any person, other than the Minister or an officer of the Board or the Department of Agriculture, without the permission of the Minister.

Information to be confidential



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SCHEDULE

(Section 15)

POWERS OF BOARD

1. To acquire, establish and construct dairies, creameries, factories and other works within Zambia and to provide, maintain and operate distributing, handling and processing facilities and depots within or outside Zambia necessary or convenient for or ancillary to the exercise of the functions of the Board, and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and interests therein and rights over the same and concessions, grants, rights, powers and privileges in relation thereto.

(As amended by G.N. No. 91 of 1964)

2. To buy, take in exchange, hire or otherwise acquire movable property including vehicles, machinery, plant and other apparatus necessary or convenient for or ancillary to the exercise of the functions of the Board.

3. To maintain, alter and improve property acquired by the Board.

4. To apply for, buy or otherwise acquire patents, licences, concessions or the like conferring an exclusive or non-exclusive or limited right to use information or a process which may seem to the Board capable of being used for the purposes of the Board or the acquisition of which may seem to the Board calculated, directly or indirectly, to benefit the Board, and to use, exercise, develop and grant licences in respect of or otherwise turn to account rights, information and processes so acquired.

5. To carry out or enter into contracts for carrying out any work in connection with the production, handling, grading, treatment, processing, preparation, manufacture, purchase or sale, storage, import or export of dairy produce and ices and flavoured milk products.

6. To carry on the business of manufacturers of and dealers in ices and flavoured milk products.

7. To buy or otherwise acquire such quantities of dairy produce for sale or for storage or for such other purposes as the Board may think desirable and sell and otherwise dispose of such dairy produce as and when the Board thinks fit and generally to carry on the business of dealers in dairy produce and, in so doing, to act as agents for the sale of dairy produce and margarine.

8. To make rules regulating the terms and conditions of delivery to the Board and of the sale and disposal by the Board of dairy produce and ices and flavoured milk products.

9. To make rules in relation to the receipt, handling, treatment, storage and despatch of dairy produce and ices and flavoured milk products by the Board's agents.

10. To carry on the business of importers and exporters of dairy produce and ices and flavoured milk products.

11. To enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the Board's objects or any of them, and to obtain from such a government or authority rights, privileges and concessions which the Board may think it desirable to obtain, and to carry out, exercise and comply with such arrangements, rights, privileges and concessions.

12. To sell, exchange, lease, mortgage, pledge, dispose of, turn to account, or otherwise deal with any assets of the Board or any part thereof which are not required for the purposes of the Board for such consideration as the Board may determine:

Provided that the Board may create such mortgages, charges and liens upon all or any of its assets, whether present or future or required for the purposes of the Board or not, as may be required by the Land and Agricultural Bank of Zambia by way of security for a loan of five hundred and fifty thousand pounds which that Bank is hereby authorised to make to the Board in connection with the acquisition by the Board of the assets of the Co-operative Creameries of Northern Rhodesia Limited.

(As amended by No. 32 of 1962)

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13. To draw, make, accept, endorse, discount, execute and issue for the purposes of the business of the Board promissory notes, bills of exchange, bills of lading, securities and other negotiable and transferable instruments.

14. To insure against losses, damages, risks and liabilities which the Board may incur.

15. To make contracts and to enter into suretyships or give guarantees in connection with the exercise of the functions of the Board and to modify or rescind such contracts and to modify or rescind such suretyships or guarantees.

16. To raise moneys, temporarily or otherwise, by such means and for such purposes as the Minister may approve.

(As amended by G.N. No. 91 of 1964)

17. (1) To invest moneys of the Board not immediately required by the Board in such manner as the Board, with the approval of the Minister, acting on the advice of the Minister responsible for finance, may determine and to vary or realise investments so made.

(2) To acquire, hold and dispose of shares in co-operative societies registered under the Co-operative Societies Act and co-operative organisations outside Zambia engaged in the handling or marketing of dairy produce and the acquisition and disposal of equipment used for those purposes.

(As amended by G.N. No. 91 of 1964)

18. To pay to members of a committee of the Board who are not members of the Board and to persons in the Board's employ such remuneration and allowances and to grant such leave of absence and make such gifts, bonuses and the like to persons in the Board's employ as the Board may consider fit.

19. To provide pecuniary benefits for persons in the Board's employ on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for persons in the Board's employ and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.

20. To purchase, take on lease or in exchange or otherwise acquire dwelling-houses for occupation by persons in the Board's employ.

21. To purchase land and construct thereon dwelling-houses for occupation by persons in the Board's employ.

22. To sell or lease dwelling-houses and land for residential purposes to persons in the Board's employ.

23. To make loans to persons in the Board's employ for the purpose of purchasing vehicles, tools or other equipment to be used by those persons in carrying out their duties.

24. To do anything for the purpose of improving-

(a) the skill, knowledge or usefulness of persons in the Board's employ; or

(b) the efficiency of the equipment of the Board or the manner in which the equipment is operated; and in that connection to provide or assist other persons in providing facilities for training, education and research.

25. To introduce, develop and give effect to measures for-

(a) the improvement of, and the promotion of quality in, the production of dairy produce in Zambia such as the giving of prizes for specific or general competition in connection with the production, manufacture or preparation of dairy produce, the granting of money for the purposes of improving the quality of dairy livestock and the making of loans to registered persons for the purchase of equipment facilitating the production or handling of dairy produce; and

(b) the encouragement of the consumption of dairy produce within and outside Zambia.

(As amended by G.N. No. 91 of 1964)

26. To embark upon dairy research, to investigate problems affecting the dairy industry and to conduct experimental work for the purpose of improving the quality of dairy produce produced, manufactured or prepared in Zambia and for that purpose to purchase, maintain and operate experimental equipment.

(As amended by G.N. No. 91 of 1964)

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27. Generally to do all such things as are incidental or conducive to the exercise of the functions of the Board or incidental to the powers specified in this Schedule or which are calculated directly or indirectly to enhance the value of or develop the operations, undertakings and property of the Board.



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SUBSIDIARY LEGISLATION

DAIRY PRODUCE MARKETING AND LEVY

CAP. 234

SECTION 31-THE DAIRY PRODUCE MARKETING AND LEVY (GENERAL) REGULATIONS

Federal Government Notices
 149 of 1962
 184 of 1962
Government Notice
 91 of 1964
Statutory Instruments
 335 of 1966
 274 of 1967
 36 of 1968
Act No.
 13 of 1994

Regulations by the Minister

1. These Regulations may be cited as the Dairy Produce Marketing and Levy (General) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"month" means one of the twelve parts into which a year is ordinarily divided in the calendar;

"prescribed area" means an area prescribed in regulation 3;

"Secretary" means the Secretary to the Dairy Produce Board.

(As amended by G.N. No. 91 of 1964)

3. (1) The areas prescribed for the purposes of subsection (1) of section *twenty-five* of the Act are the areas set out in the Second Schedule. Prescribed areas and prohibition of removal of milk

(2) No milk produced within an area prescribed in sub-regulation (1) shall be removed from the premises on which it is produced for any purpose other than for delivery to the Dairy Produce Board.

(3) For the purposes of sub-regulation (2), premises shall mean any division or subdivision of land used for the purpose of keeping cattle for production of milk or meat.

(S.I. No. 36 of 1968)



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4. (1) The dealer prescribed for the purposes of subsection (2) of section *two* of the Act is the Zambezi Co-operative Dairies, Limited. Prescribed dealers and producers

(2) The dealers or classes of dealers prescribed for the purposes of subsection (1) of section *twenty-five* of the Act are-

- (a) the Zambezi Co-operative Dairies, Limited;
- (b) dealers who, for the purposes of resale, buy cream, milk or skim milk from the dealer referred to in paragraph (a);
- (c) dealers to whom a registered producer-retailer sells cream, milk or skim milk in accordance with the conditions imposed upon him on registration.

(3) The class of producer prescribed for the purposes of subsections (2) and (3) of section *twenty-five* of the Act are those producers who do not sell milk or a milk product within a prescribed area.

*(As amended by F.G.N. No. 184 of 1962
and G.N. No. 91 of 1964)*

5. (1) An application in terms of subsection (1) of section *twenty-six* of the Act for registration of a producer-wholesaler or producer-retailer shall be made to the Board- Registration of producers

- (a) in the case of a person who, after the 18th May, 1962, becomes a producer-wholesaler or producer-retailer who is required in terms of section *twenty-five* of the Act to be registered, not less than ten days before the date he becomes such a producer;
- (b) in the case of a registered producer-retailer who wishes to apply for registration for the year following that in respect of which he is registered, after the 1st November and before the 15th December of the year in respect of which he is registered.

(2) In addition to the information specified in paragraphs (a) to (e) of subsection (2) of section *twenty-six* of the Act, the following particulars shall be stated by an applicant for registration in his application:

- (a) his full name and his postal address;
- (b) if within twelve months of the date of application he has acquired any premises where he produces milk or he is in the process of acquiring those premises, the name of the person from whom he has acquired or is acquiring, as the case may be, those premises;



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- (c) if he proposes to sell milk, the quantity of milk that he estimates he will sell each month;
- (d) if he proposes to sell any milk product, the quantity of each type of milk product he estimates that he will sell each month;
- (e) in the case of a person who wishes to be registered as a producer-wholesaler-
 - (i) the dairy, creamery or factory to which he proposes to supply the dairy produce in respect of which he wishes to be registered;
 - (ii) whether or not he proposes to deliver daily the dairy produce in respect of which he wishes to be registered and the proposed method of delivery;
- (f) in the case of a person who wishes to be registered as a producer-retailer-
 - (i) the name and address of any dealer within a prescribed area who has agreed to purchase dairy produce from him;
 - (ii) the type and quantity of any dairy produce which each dealer referred to in sub-paragraph (i) has agreed to purchase from him.

(3) On registration of an applicant for registration, the Board shall allocate a registration number to that producer and shall issue to him a certificate of registration showing the full name, address and registration number of the registered producer and the period in respect of which he is registered.

(4) Subject to the provisions of sub-regulation (5), a person who is registered in terms of section *twenty-six* of the Act shall remain registered-

- (a) in the case of a producer-wholesaler, for the period ending on the 31st December, 1967;
- (b) in the case of a producer-retailer, for the period of twelve months or part thereof ending on the 31st December of the year in respect of which the certificate of registration is issued;

unless his registration is cancelled in terms of subsection (5) of section *twenty-six* or subsection (2) of section *thirty* of the Act:

Provided that a producer-retailer who is first registered on or after the 1st September in any year shall remain registered for the period ending on the 31st December of the year following that in which he is first registered unless his registration is cancelled in terms of subsection (5) of section *twenty-six* or subsection (2) of section *thirty* of the Act.

(5) If a registered producer-retailer's application for registration for the year following that in respect of which he is registered is refused by the Board he shall, notwithstanding such refusal, remain registered until the 31st January of that year and if before that date he lodges with the Secretary, in terms of sub-regulation (1) of regulation 6, notice of his intention to appeal, together with the deposit, he shall remain registered until the Minister confirms or sets aside the refusal in terms of sub-regulation (5) of regulation 6.

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(6) If a registered person who is aggrieved by a condition imposed upon him on registration lodges with the Secretary, in terms of sub-regulation (1) of regulation 6, notice of his intention to appeal, together with the deposit, the condition shall be suspended until the Minister confirms, varies or sets aside the condition in terms of sub-regulation (5) of regulation 6.

(As amended by F.G.N. No. 184 of 1962)

6. (1) A person whose application for registration as a producer-retailer is refused by the Board in terms of subsection (3) of section *twenty-six* of the Act or a registered person who is aggrieved by a condition imposed upon him on registration and who wishes to appeal to the Minister shall lodge with the Secretary notice of his intention to appeal, together with a deposit in the sum of one hundred and fifty fee units.

Appeals to the Minister

(2) The notice of appeal shall-

- (a) be in writing;
- (b) specify in detail the grounds on which the appeal is made;
- (c) be accompanied by any information or representations which the appellants wishes to tender in support thereof.

(3) The Board shall, on receipt of a notice of appeal, give its reasons in writing for refusing the application for registration as a producer-retailer or imposing the condition against which the appeal is made, as the case may be.

(4) The Secretary shall, within three weeks of receiving a notice of appeal, forward to the Minister the notice and the Board's reasons in writing.

(5) After taking into consideration the information and representations made in support of the appeal and the reasons submitted by the Board the Minister shall, within ninety days of the receipt by him of the notice and reasons forwarded in terms of sub-regulation (4)-

- (a) confirm or set aside the refusal; or
- (b) confirm, vary or set aside the condition; as he thinks fit.

(6) If the Minister-

- (a) sets aside the refusal or varies or sets aside the condition, the sum of ten kwacha deposited in respect of the appeal shall be returned to the appellant;

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- (b) confirms the refusal or condition, the sum of ten kwacha deposited in respect of the appeal shall, unless the Minister otherwise directs, be forfeited by the appellant and paid into the general revenues of the Republic in aid of the costs of the appeal.

*(As amended by G.N. No. 91 of 1964
and Act No. 13 of 1994)*

7. (1) A registered producer-retailer shall furnish to the Board a return showing the milk produced and the dairy produce sold by him each month.

Returns and records of
registered
producer-retailers

- (2) The return referred to in sub-regulation (1) shall be furnished-

- (a) in the form prescribed in the First Schedule; and
(b) not later than the twenty-eighth day of the month following that to which the return relates.

- (3) In the return referred to in sub-regulation (1), the following information in relation to the month to which the return relates shall be contained:

- (a) the registration number of the producer-retailer;
(b) the total quantity of milk produced during that month;
(c) the total quantity of whole milk used by the producer for domestic purposes;
(d) the quantity of whole milk separated by the producer;
(e) the quantity of dairy produce sold by the producer showing-
(i) the quantity of each type of dairy produce sold within a prescribed area; and
(ii) the quantity of each type of dairy produce sold outside a prescribed area;
(f) the name of each dealer to whom dairy produce was sold;
(g) the quantity of each type of dairy produce sold to a dairy, creamery or factor and the name of such dairy, creamery or factory.

- (4) A registered retailer shall keep a record which clearly shows his-



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- (a) daily milk production and utilisation;
- (b) sales of milk and milk products.

(5) A registered producer-retailer who keeps a record or furnishes a return to the Board in terms of this regulation shall retain such record or a true copy of such return at the premises at which he produces or deals in the dairy produce in connection with which the record is kept or to which the return relates for a period of two years after the period to which the return or record refers.

(6) Every entry on a return furnished or a record kept in terms of this regulation shall be made in ink or indelible pencil.

8. (1) An inspector may-

Powers of inspectors

- (a) at any reasonable time enter any premises where dairy produce is produced, manufactured, handled, graded, treated, processed, prepared, sold, stored or dealt in;
- (b) examine books or documents relating to the production, manufacture, handling, grading, treating, processing, preparing or selling of or the dealing in dairy produce to ascertain the correctness of any return or other information required to be furnished to the Board;
- (c) seize any books or documents which in his opinion may afford evidence of a contravention of the provisions of the Act or of any regulations made thereunder.

(2) An inspector shall, if so required, provide the owner of any books or documents seized in terms of paragraph (c) of sub-regulation (1) with a receipt for such books or documents.

(3) When exercising any powers conferred by this regulation an inspector shall, if so required, produce a written authority from the Minister.

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The Laws of Zambia

FIRST SCHEDULE

(Regulation 7 (2))

THE DAIRY PRODUCE MARKETING AND LEVY (GENERAL)

REGULATIONS

Return by a registered producer-retailer for the month of19.....

Registration No.....

Total whole milk produced during the month. litres

Total whole milk used for domestic purposes (calves, household
and servants). litres

Total whole milk separated. litres

DAIRY PRODUCE SOLD OTHERWISE THAN TO A DAIRY, CREAMERY OR FACTORY

<i>Product</i>	<i>Within prescribed areas</i>	<i>Outside prescribed areas</i>
Whole milk sold	..... litres	..... litres
Fresh cream sold otherwise than to a dealer	..... litres	..... litres
Fresh cream sold to a dealer	..... litres	..... litres

Other dairy produce:

Names of dealers to whom dairy produce was sold:

DAIRY PRODUCE SOLD TO A DAIRY, CREAMERY OR FACTORY

<i>Name of dairy, creamery or factory</i>	<i>Product</i>	<i>Quantity litres/kilos</i>
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

I enclose a remittance of being the levy payable in terms of section 19 of the Dairy Produce Marketing and Levy Act,.

Date Signed

Address



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CAP. 234



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SECOND SCHEDULE

(Regulation 3)

PRESCRIBED AREAS

1. Any area within forty-eight kilometres of the Kitwe, Chingola and Ndola Post Offices.
2. Any area within thirty-two kilometres of the Ridgeway (Lusaka) Post Office.
3. Any area within eight kilometres of the Kabwe Post Office.
4. Any area within five kilometres of the Mazabuka and Kafue Post Offices.

(S.I. No. 36 of 1968)

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SECTION 31-THE WHOLE MILK POWDER (RETURNS) REGULATIONS

Statutory Instrument
95 of 1971

Regulations by the Minister

1. These Regulations may be cited as the Whole Milk Powder (Returns) Regulations. Title

2. (1) Any dealer who imports or deals in whole milk powder to an amount exceeding fifty metric tonnes in any calendar year shall furnish to the Manager of the Board a monthly return in respect of such importation or dealings. Returns required to be made by importer and dealer
 - (2) The return referred to in sub-regulation (1) shall be furnished-
 - (a) in the form prescribed in the Schedule; and
 - (b) not later than the fourteenth day of the month following that to which the return relates.
 - (3) In the return referred to in sub-regulation (1) the following information in relation to the month to which the return relates shall be contained:
 - (a) the name of the person required to make the return;
 - (b) the stocks of whole milk powder on hand on the first day of the month;
 - (c) the orders for whole milk powder placed during the month and cancellation of such orders during the month;
 - (d) the amount of whole milk powder imported during the month;
 - (e) the amount of whole milk powder received during the month from importers; and
 - (f) stocks of whole milk powder on hand at the end of the month.



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SCHEDULE

(Regulation 2)

THE WHOLE MILK POWDER (RETURNS) REGULATIONS

Manager, Name of Importer or Dealer
Dairy Produce Board,
P.O. Box 124, Address
Lusaka

WHOLE MILK POWDER RETURN FOR MONTH OF.....

In accordance with regulation 2 of the Whole Milk Powder (Returns) Regulations, we report as follows:

Metric Tonnes

1. Stock of whole milk powder on first day of month.
2. Orders placed for whole milk powder during month.
3. Orders for whole milk powder cancelled.
4. Importation of whole milk powder during month
(applicable to importers only).
5. Whole milk powder received during month from importers
(applicable to dealers only).
6. Stocks of whole milk powder at month end.

Date

Signed

Designation.....

This return is required to be submitted by the 14th day of the month following
that to which this return relates.



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REPUBLIC OF ZAMBIA

THE PREVENTION OF CRUELTY TO ANIMALS ACT

CHAPTER 245 OF THE LAWS OF ZAMBIA

CHAPTER 245 THE PREVENTION OF CRUELTY TO ANIMALS ACT CHAPTER 245

THE PREVENTION OF CRUELTY TO ANIMALS ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Acts and omissions which amount to cruelty and penalties therefor
4. Order of court for destruction of animals
5. Deprivation of ownership
6. Damages
7. Destruction of animals by police officer without consent of owner
8. Production of driver, conductor or animal at hearing
9. Power of entry on premises
10. Powers of arrest without warrant
11. Separate charges may be brought in respect of each animal
12. Delegation of powers to a society
13. Vexatious complaints
14. Service of process on a company

CHAPTER 245

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PREVENTION OF CRUELTY OF ANIMALS

An Act to provide for the prevention of cruelty to animals; to specify acts and omissions which amount to cruelty and penalties therefor; to prescribe the powers of police officers; and to provide for matters incidental thereto.

[20th January, 1921]

20 of 1920
36 of 1933
32 of 1952
47 of 1963
Government Notice
319 of 1964
Statutory Instrument
29 of 1964
Act No.
13 of 1994

1. This Act may be cited as the Prevention of Cruelty to Animals Act.

Short title

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

Interpretation

"animal" means any horse, mare, gelding, bull, cow, ox, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, fowl, ostrich, dog, cat, or any other domestic animal, fowl or bird, and shall also include any wild animal, fowl or bird in a state of captivity;

"owner", in addition to its ordinary meaning, includes any person having the charge, custody or control of any animal.

3. (1) Any person who-

Acts and omissions which amount to cruelty and penalties therefor

(a) shall cruelly beat, kick, ill-treat, over-ride, over-load or torture any animal, or shall cause any animal to be so used, or shall drive or use any animal which is so diseased or so injured, or in such a physical conditions that it is unfit to do any work, or shall by wantonly or unreasonably doing or omitting to do any act, or causing or procuring the commission or omission of any act, cause any unnecessary suffering, or, being the owner, permit in manner aforesaid any unnecessary suffering to be caused to any animal; or

(b) shall convey or carry, or cause or procure, or, being the owner, permit to be conveyed or carried, any animal in such a manner or position as to cause that animal any unnecessary suffering; or

(c) shall cause, procure or assist at the fighting of any animal, or shall keep, use, manage, or act or assist in the management of any premises or place used for the purpose, or partly for the purpose of fighting any animal, or shall permit any premises or place to be so kept, managed or used, or shall receive or cause or procure any person to receive money for the admission of any person to such premises or place; or

(d) shall, without any reasonable cause or excuse, administer, cause or procure, or, being the owner, permit such administration of, any poisonous or injurious drug or substance to any animal, or shall without any reasonable cause or excuse, cause any such substance to be taken by any animal; or

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CAP. 245



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(e) shall subject, or cause or procure, or, being the owner, permit to be subjected, any animal to any operation which is performed without due care and humanity; or

(f) shall kill an animal in the sight of any other animal awaiting slaughter;

shall be guilty of cruelty and of an offence under this Act, and shall, on conviction, be liable to a fine not exceeding seven hundred and fifty penalty units, or in default of payment, to imprisonment with or without hard labour for a period not exceeding three months, or to such imprisonment without the option of a fine, or in case of a second or further conviction, to a fine not exceeding one thousand five hundred penalty units, or in default of payment, to imprisonment with or without hard labour for a period not exceeding six months, or to such imprisonment without the option of a fine, or to corporal punishment in any number of cuts not exceeding fifteen, or to any two of the aforesaid punishments:

Provided that corporal punishment shall only be awarded if the court considers that the offence was of an aggravated nature.

(2) For the purposes of this section, an owner shall be deemed to have permitted cruelty if he shall have failed to exercise reasonable care and supervision in respect of the protection from such cruelty of any animal which is his property or in his charge.

(3) The Minister may, from time to time by statutory instrument, make regulations as to the supply of food and water to animals while in the custody of a railway company for the purpose of being conveyed by train, and any railway company which fails to cause food and water to be supplied to any animal in accordance with such regulations, and any officer of such company who, having been charged with the duty of supplying food and water to any animal in accordance with such regulations, wilfully neglects to fulfil such duty shall be guilty of cruelty and of an offence under this Act and shall, on conviction, be liable to the penalties prescribed by this section.

Regulations for feeding
and watering animals in
transit by train

*(As amended by No. 32 of 1952, G.N. No. 319 of 1964
and Act No. 13 of 1994)*

4. (1) Where the owner of an animal is convicted of an offence under this Act in respect of such animal, it shall be lawful for the court, if satisfied that it would be cruel to keep the animal alive, to direct that the animal be destroyed, and to assign the animal to any suitable person for that purpose; and the person to whom such animal is assigned shall, as soon as possible, destroy such animal or cause or procure such animal to be destroyed in his presence without unnecessary suffering. Any reasonable expenses incurred in destroying the animal and removing and burying the carcass may be ordered by the court to be paid by such owner, and thereupon shall be recoverable from him as a civil debt.

Order of court for
destruction of animals

(2) No appeal shall lie from an order for the destruction of an animal under subsection (1).

5. Where the owner of an animal is convicted of an offence under this Act in respect of such animal, the court may, in addition to any other punishment, deprive such person of the ownership of the animal, and make such order as to the disposal of the animal as it shall think fit:

Deprivation of ownership

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Provided that no order shall be made under this section unless it is shown by evidence as to a previous conviction, or as to the character of the owner, or otherwise, that the animal, if left with the owner, is likely to be exposed to further cruelty.

6. (1) Whenever any person is convicted of an offence under this Act and it appears that such person has by that offence caused damage to any person, the court may, at the written request of the aggrieved person, but in the presence of the convicted person, inquire summarily and without pleadings into the amount of damage so caused.

Damages

(2) Upon proof of such amount, the court shall give judgment therefor in favour of the person aggrieved and against the convicted person, and such judgment shall be of the same force and effect, and be executable in the same manner as if it had been given in a civil action duly instituted before such court:

Provided that judgment shall not be given under this section for a sum exceeding three thousand penalty units.

(As amended by Act No. 13 of 1994)

7. (1) If a police officer find any animal so diseased or so severely injured or in such a physical condition that in his opinion it ought to be destroyed, he shall, if the owner be absent or refuse to consent to the destruction of the animal, at once summon a veterinary surgeon, if any veterinary surgeon be within reasonable distance, or two landowners, and if such veterinary surgeon or such landowners, after having duly examined such animal, shall give a certificate that the animal is mortally injured or so severely injured or so diseased or in such physical condition that it is cruel to keep it alive, it shall be lawful for the police officer, without the consent of the owner, to slaughter the animal, or cause or procure it to be slaughtered with such instruments or appliances and with such precautions and in such manner as to inflict as little suffering as practicable, and if the slaughter takes place on any public road, to remove the carcass or cause it to be removed therefrom.

Destruction of animals by
police officer without
consent of owner

(2) Any expenses which may be reasonably incurred by any police officer in carrying out the provisions of this section (including the expenses of any veterinary surgeon or the said owners of land, and whether the animal is slaughtered under this section or not) may be recovered from the owner as a civil debt.

Expenses of such
destruction

(3) Where a person having charge of a vehicle or animal is apprehended by a police officer for any offence under this Act, or where any animal is found by any police officer being treated with cruelty, it shall be lawful for that or any other police officer to take charge of such vehicle or animal, and to deposit the same in some place of safe custody until the termination of the proceedings or until the court shall direct such vehicle or animal to be delivered to the person charged or the owner, and the reasonable costs of such detention, including the reasonable costs of veterinary treatment when such treatment is required, shall, in the event of a conviction in respect of the said animal, be recoverable from the owner as a civil debt, or where the owner himself is convicted, shall be part of the costs of the case.

Safe custody, and
expenses of same, of
animals, etc., pending
proceedings

8. (1) In all cases where the offender is not in custody and where proceedings are instituted under this Act, it shall be lawful for the court to issue a summons directed to-

Production of driver,
conductor or animal at
hearing

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- (a) the employer of any driver or conductor of any vehicle against whom any proceedings are instituted under this Act;
- (b) the owner of any animal in respect of which any proceedings are instituted under this Act;

requiring him, as the case may be, and if in his power so to do, to produce the driver or conductor at the hearing of the case, or the animal for inspection (if such can be done without cruelty) either at or at any time before the hearing of the case.

(2) Where a summons is issued under subsection (1) and the owner or employer, as the case may be, fails to comply therewith, without satisfactory excuse, he shall be liable upon conviction to a fine not exceeding one hundred and fifty penalty units for the first occasion and not exceeding three hundred penalty units for the second or any subsequent occasion on which he so fails, and may be required to pay the costs of any adjournment rendered necessary by his failure.

(As amended by No. 36 of 1933 and Act No. 13 of 1994)

9. A police officer may, without any warrant, and at any time, upon obtaining permission from the owner, or failing such permission, on obtaining an order from a magistrate, enter any premises where animals are kept for the purpose of examining the conditions under which they are so kept.

Power of entry on premises

(As amended by No. 36 of 1933)

10. Every person who is suspected on reasonable grounds of having committed an offence against this Act may, if there is reason to believe that the ends of justice would be defeated by the delay in obtaining a warrant, be arrested without warrant by a police officer of or above the rank of Assistant Inspector.

Powers of arrest without warrant

(As amended by No. 36 of 1933 and No. 47 of 1963)

11. Separate charges may be brought against any person or persons in respect of each animal, if more than one is concerned.

Separate charges may be brought in respect of each animal

12. The Director or Deputy Director of Veterinary Services and Tsetse Control may, by writing under his hand, authorise any officer of any society for the prevention of cruelty to animals to exercise within his district all or any of the powers conferred by this Act upon a police officer, and, in the exercise of such powers, the officer of the society shall, when required, produce for inspection such documents of authority. The Director or Deputy Director in Charge of Veterinary Services and Tsetse Control may, for good cause, revoke any such authority.

Delegation of powers to a society

(As amended by No. 36 of 1933 and S.I. No. 29 of 1964)

13. If, upon the prosecution of any person for any offence under this Act, the court, upon hearing the charge or complaint, shall pronounce the same unfounded or vexatious, the court may award costs according to the scale of costs set forth in the Subordinate Courts (Civil Jurisdiction) Rules against the society or person at whose instance the charge or complaint was laid.

Vexatious complaints
Cap. 28

(As amended by No. 36 of 1933)

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REPUBLIC OF ZAMBIA

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Licence No.

Reg. No.

Receipt No.

The Radiation Protection Board
Ministry of Health
P.O. Box 30205
Lusaka

THE IONIZING RADIATION ACT, 1972

(Cap. 311)

CERTIFICATE OF COMPLIANCE/ACCEPTANCE OF RADIATION PREMISES, DEVICE OR MATERIAL

This is to certify that the radiation premises/device/materials*
of

Licence No.

Owned by

Has on this day of

been inspected and found conforming with the Radiation Safety Regulations.

.....
Chief Radiation Protection Officer

Date Signature of Holder

*Delete whichever is not applicable

REPUBLIC OF ZAMBIA

THE EXTERMINATION OF MOSQUITOES ACT

CHAPTER 312 OF THE LAWS OF ZAMBIA

CHAPTER 312 THE EXTERMINATION OF MOSQUITOES ACT CHAPTER 312

THE EXTERMINATION OF MOSQUITOES ACT

ARRANGEMENT OF SECTIONS

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Section

1. Short title and application
2. Interpretation
3. Power to prescribe measures for extermination of mosquitoes
4. Duties of occupiers
5. Right of entry
6. Prosecution of measures on lands
7. Compensation
8. Penalties

SCHEDULE-Form of summons

CHAPTER 312

EXTERMINATION OF MOSQUITOES

An Act to prescribe measures for the extermination of mosquitoes; and to provide for matters incidental thereto.

13 of 1944
 2 of 1945
 31 of 1949
 55 of 1963
 69 of 1965
 24 of 1966
 13 of 1994
 Government Notices
 291 of 1964
 497 of 1964

[18th August, 1944]

1. This Act may be cited as the Extermination of Mosquitoes Act, and shall apply to every municipality, mine township and township and, if the Minister so directs, to any area within eight kilometres of the boundaries of a municipality or township and, if the Minister is satisfied that a source of infection to a populated area is situated outside such limit of eight kilometres, to the area in which such source is situated.

Short title and application

(As amended by No. 31 of 1949, G.N. No. 291 of 1964 and No. 69 of 1965)

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

Interpretation

"approved scheme" means a scheme approved by the Minister in pursuance of the provisions of section *six*;

"local authority" means-

- (a) in the area of a municipal council, township council, such council;

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(b) in any other area, the District Secretary for the District in which the area is situate;

"Medical Officer of Health" means any Government Medical Officer, any medical practitioner appointed by the Director of Medical Services to act as Medical Officer of Health in any area specified in such appointment, and the Medical Officer of Health of a municipal council or township council;

"occupier" means, with reference to the particular premises in respect of which the word is used, any person occupying or residing in such premises, and includes any tenant, lodger or licensee;

"owner" shall, as regards land or any interest therein, include any person, other than the President, receiving the rent or profits of any lands or premises from any tenant or occupier thereof or who would receive such rent or profits if such land or premises were let whether on his own account or as agent for any person, other than the President, entitled thereto or interested therein. The term includes any lessee or licensee from the President and any superintendent, overseer or manager of such lessee or licensee residing on the holding.

(As amended by No. 2 of 1945, No. 55 of 1963, G.N. No. 291 of 1964 and No. 69 of 1965)

3. The Minister may, by statutory instrument, make rules prescribing the measures to be taken for the extermination of mosquitoes (in this Act referred to as the "prescribed measures") within any of the areas to which this Act applies.

Power to prescribe measures for extermination of mosquitoes

(As amended by No. 31 of 1949 and G.N. No. 291 of 1964)

4. (1) Every occupier or, in the absence of the occupier, every owner of a building or land within any of the areas to which this Act applies shall take all the prescribed measures and in addition all such other measures as are reasonably necessary to prevent the breeding of mosquitoes in or on such building or land which the local authority may by notice in writing order him to take, not involving in the case of buildings or lands outside municipalities or townships the expenditure of a sum exceeding three thousand penalty units on the same building or land during a period of twelve months:

Duties of occupiers

Provided that, where such occupier is a lodger merely, he shall not be required to take any of the measures mentioned in this subsection which necessarily involve any structural alteration of the premises occupied by him or any expenditure of money.

(2) In the case of two or more persons being joint occupiers or joint owners, each of them shall be deemed an occupier or owner for the purposes of this section.

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(3) Where any such occupier or owner fails to take any of the measures which he is required to take under subsection (1), the local authority may, on giving not less than fourteen days' notice in writing of its intention so to do, cause such measures to be taken; and thereupon such occupier or owner shall, without prejudice to any penalty which he has incurred through such failure, be liable to pay all the costs of such undertaking not exceeding the limit of expenditure mentioned in subsection (1), which shall be recoverable as a debt by the local authority.

(As amended by No. 69 of 1965 and No. 24 of 1966
and Act No. 13 of 1994)

5. The Medical Officer of Health, and any person authorised by him in writing in that behalf, may, at any time between the hours of seven in the morning and six in the evening, enter upon any land or building within any of the areas to which this Act applies for all or any of the following purposes, that is to say:

Right of entry

- (a) of ascertaining whether the measures required to be taken under this Act are being taken;
- (b) of causing any measure to be taken in pursuance of the provisions of subsection (3) of section *four*;
- (c) of determining whether any measures for the extermination of mosquitoes on such land, other than those prescribed or ordered under this Act, are desirable in the interests of public health in the vicinity thereof; and
- (a) of preparing a scheme in pursuance of the provisions of subsection (1) of section *six*:

Provided that no entry shall be made into a dwelling-house without the consent of the occupier or an order of a magistrate who is hereby authorised to issue such an order.

6. (1) Where the Director of Medical Services is satisfied that any measures of the kind mentioned in paragraph (c) of section *five* are desirable in the interests of public health in the vicinity of the land on which such measures are to be taken, he shall cause a scheme to be prepared for the prosecution of such measures, and the plans and specifications incidental thereto, for the consideration of the Minister.

Prosecution of measures
on lands

(2) The Minister may approve the scheme either in its entirety or with such modifications as he may consider necessary

(3) A copy of the approved scheme and the plans and specifications incidental thereto shall be deposited in such place as the Minister may direct, and shall be available for inspection without fee by the owner or occupier of any lands affected thereby; and notice shall be published in the *Gazette* to the effect that such a scheme has been approved and containing a short description of the locality in which such lands are situate.

(4) Notice shall be served upon the occupier or occupiers of the lands to which an approved scheme relates containing such particulars and accompanied by such plans, if any, as are necessary to furnish information as to the nature of the works authorised to be done on such land.

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(5) On the expiration of twenty-eight days after service as provided in subsection (4), it shall be lawful for the Director of Medical Services and any persons authorised by him in that behalf to enter upon the said lands and to do thereon all such acts as are necessary for the execution of the works authorised by the approved scheme.

*(As amended by No. 55 of 1963
and G.N. No. 291 of 1964)*

7. (1) Where any person suffers injury by reason of the prosecution of an approved scheme and is unable to agree with the Director of Medical Services as to the amount of compensation to be paid in respect of such injury, the amount due, if any, shall be settled by the High Court, which shall have jurisdiction to hear and determine the same upon a summons taken out by the Attorney-General or the person affected in the form contained in the Schedule or to a like effect:

Compensation

Provided that, in settling the amount of compensation, no regard shall be had to any injury occasioned by the acquisition of any land by the Government for the purposes of the approved scheme.

(2) Nothing in this Act shall be construed as enabling the Government to acquire any lands otherwise than in pursuance of the provisions of the Lands Acquisition Act, and where an approved scheme involves the acquisition of land, the approval of the Minister thereto shall be deemed to be a resolution of the President that such land is required for a public purpose within the meaning of section *five* of the said Act.

Cap. 189

*(As amended by No. 55 of 1963
and G.N. No. 291 of 1964)*

8. (1) Any person who obstructs any officer empowered to carry out the provisions of this Act, in any act authorised by this Act, is guilty of an offence and is liable to a fine not exceeding seven hundred and fifty penalty units or to imprisonment for a term not exceeding three months.

Penalties

(2) Any occupier or owner who contravenes any of the provisions of section *four* is guilty of an offence and is liable, in the case of a first offence, to a fine not exceeding one hundred and fifty penalty units or to imprisonment for a term not exceeding fifteen days, and, in the case of a second or subsequent offence, to a fine not exceeding four hundred and fifty penalty units or to imprisonment for a term not exceeding one month.

(As amended by Act No. 13 of 1994)

SCHEDULE

(Section 7 (1))

FORM OF SUMMONS

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IN THE HIGH COURT FOR ZAMBIA

*In the matter of the Settlement of Compensation payable under
section 7 (1) of the Extermination of Mosquitoes Act*

Let all parties attend at
on the day of, 19
at 'clock in the noon on the hearing of an application
on the part of for the
determination of the amount of compensation payable to
in respect of injury suffered by him in consequence of the prosecution of the measures authorised to be taken on the
lands shown on the plan attached to the scheme approved by
the Minister on the day of, 19,
a copy of which is attached hereto.

When the summons is taken out by the Attorney-General, the following words shall be added:

The Attorney-General is willing to pay as compensation the sum of

N.B.-If the said is willing to
accept the compensation above mentioned, he shall notify his assent to the Attorney-
General on or before the day of, 19

If the said is unwilling
to accept such compensation, he shall on or before the said day inform the Attorney-General of the amount which he is
willing to accept.

If the said fail to comply
with these instructions, the Court may order him to pay the costs of the proceedings.

Dated day of, 19

This summons was taken out by:

.....
Registrar of the High Court

To: (Insert names of the parties interested in the question to be decided.)

(As amended by G.N. No. 291 of 1964)

SUBSIDIARY LEGISLATION

EXTERMINATION OF MOSQUITOES

SECTION 1-APPLICATION OF ACT

Notices by the Minister

The Act is hereby applied to-

- (a) The areas within eight kilometres of the boundaries of-
City of Lusaka (No. 78 of 1950)

- City of Kitwe (No. 326 of 1953)

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Kabwe Municipality (No. 78 of 1950)

Livingstone Municipality (No. 78 of 1950)

Mufulira Mine Township (No. 235 of 1954)

Mufulira Municipality (No. 235 of 1954)

(b) The area within a radius of 11.263 kilometres from the Post Office at Chingola.
 (No. 190 of 1956)

(c) The area within eight kilometres of the boundaries of the City of Ndola, but excluding any part of a Reserve*(17) which may be within such area.

* Now referred to as "customary area"; see definition under section 2 of the Lands Act, Cap. 184.

(No. 252 of 1957)

SECTION 3-THE EXTERMINATION OF MOSQUITOES RULES

Rules by the Minister

Government Notices

45 of 1946

79 of 1950

124 of 1963

291 of 1964

PART I

PRELIMINARY

1. (1) These Rules may be cited as the Extermination of Mosquitoes Rules.

Title and application

(2) The Minister may, by statutory notice, declare that, on and after a date to be specified in such notice, the whole of these Rules, or only such provisions thereof as are mentioned in such notice, shall apply to the whole or such part of the area of any local authority as shall be defined in such notice.

(As amended by No. 291 of 1964)

2. In these Rules, unless the context otherwise requires-

Interpretation

"protected area" means an area of land which the Minister has declared, by statutory notice, to be a protected area for the purpose of the control of malaria or of the breeding of mosquitoes and may include any area in which anti-malaria works have already been completed or are in progress or are contemplated.

(As amended by No. 291 of 1964)

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PART II

PROTECTED AREAS

3. The following measures shall be taken by all owners and occupiers of land within a protected area: Measures to be taken by owners and occupiers in protected areas
- (a) no cattle shall be allowed to graze or to roam at large in the protected area;
 - (b) no road or path shall be made or established in the protected area except with the consent of the local authority and the concurrence of the Medical Officer of Health;
 - (c) the owner or occupier of land on which a road or path is situated or constructed shall take steps to ensure that such road or path does not interfere with the natural or artificial drainage of the protected area.
4. The local authority shall have power to close any road or path in a protected area if such a course is rendered necessary for the purpose of mosquito control. Power to close roads
5. Where any mining, quarrying, irrigation, water supply, railway or other works exist or are undertaken within a protected area, it shall be lawful for the Medical Officer of Health to require the person on whose land such works are situated to take such measures as may be necessary to link up with any anti-malaria works that are in existence or are being carried out or are contemplated. Mining, etc.
6. Where any works are in progress on land adjacent to the protected area which may interfere with or diminish the efficiency of anti-malaria or anti-mosquito works within the protected area, it shall be lawful for the Medical Officer of Health to require the owner or occupier of the land on which works are in progress to take such measures as are deemed necessary by the Medical Officer of Health to maintain the efficiency of the anti-malaria or anti-mosquito works in the protected area. Work adjacent to protected area

PART III

GENERAL

7. Where any local authority or any Government Department has constructed or carried out, whether before or after the commencement of these Rules, or is constructing or carrying out any anti-malaria works on any land or premises, every person who uses the said land or premises or permits or authorises them to be used in such manner as to lessen the efficiency or to bring about the deterioration of such works shall be guilty of an offence. Preservation of anti-malaria work

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8. The local authority may give directions to any owner or occupier of land for the purpose of controlling farming and cultivation in any municipal or township area. Such directions may include the prohibition of farming or cultivation in any specified area.

Farming

(As amended by No. 124 of 1963)

9. (1) No person shall excavate or permit or authorise any person to excavate holes or pits for the purpose of the recovery of ballast, sand, gravel, clay or soil for road surfacing, brickmaking or for any other purpose, except in a zone or zones set aside for the purpose by the local authority with the concurrence of the Medical Officer of Health.

Excavations

(2) In any such zone the following provisions shall apply:

- (a) the work shall not be commenced until the permission in writing of the local authority has been obtained;
- (b) the work shall be carried out in such manner as to comply with the requirements of the Medical Officer of Health relating to mosquito control;
- (c) on the completion or cessation of any work carried out in any such zone, the person concerned shall take such measures as the Medical Officer of Health may direct for the purpose of mosquito control.

(As amended by No. 79 of 1950)

10. The local authority may require the owner or occupier of any land to fill in or drain, to the satisfaction of the Medical Officer of Health, any existing borrow-pits or holes or pits excavated for the purpose of the recovery of ballast, sand, gravel, clay or soil for road surfacing, brickmaking or for any other purpose.

Borrow-pits and holes

11. No existing mine, quarry, irrigation, water supply or other works shall be abandoned or discontinued after the commencement of these Rules until such steps for the purpose of mosquito control have been taken by the owner or occupier as the Medical Officer of Health shall require.

Abandonment of mines, etc.

12. All water tanks shall be so constructed as to prevent the entry and emergence of mosquitoes.

Water tanks

13. Every owner and occupier of land shall comply with all lawful directions given by a local authority and Medical Officer of Health under these Rules.

Duties of owners and occupiers

14. Any person who fails to comply with any of the provisions of these Rules shall be liable to a fine not exceeding seven hundred and fifty penalty units or to imprisonment for a term not exceeding three months.

Penalties

(As amended by Act No. 13 of 1994)



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RULE 1 (2) OF THE EXTERMINATION OF MOSQUITOES RULES-APPLICATION

Notices by the Minister

1. The Rules shall apply as set out in the First Schedule to the protected areas in the Livingstone District defined in the Second Schedule.

(No. 93 of 1947)

2. The Rules shall apply to the City of Lusaka.

(No. 142 of 1947)

3. The Rules shall apply to the area within eight kilometres of the boundaries of the City of Lusaka.

(No. 80 of 1950)

4. The Rules shall apply to Kabwe Municipality.

(No. 210 of 1952)

5. The Rules shall apply to the City of Kitwe and to the area within eight kilometres of the boundaries of the City of Kitwe.

(No. 346 of 1953)

6. The Rules shall apply to Mufulira Municipality and to the area within eight kilometres of the boundaries of Mufulira Municipality, but excluding the area of the Kansuswa Township.

(No. 251 of 1954)

7. The Rules shall apply to Mufulira Municipality and to the area within eight kilometres of the boundaries of Mufulira Municipality.

(No. 251 of 1954)

8. The Rules shall apply to the area in the Chingola District defined in the Third Schedule.

(No. 191 of 1956)

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9. The Rules shall apply to the City of Ndola and to the area within eight kilometres of the boundaries of the City of Ndola, but excluding any part of a Reserve*(18) which may be within such area.

* Now referred to as "customary area"; see definition under section 2 of the Lands Act, Cap. 184.

(No. 266 of 1957)

FIRST SCHEDULE

Area A	Area B	Area C	Area D
All Rules, except rule 3 (a) which shall not apply to Maramba Farms Plots 401Å410 and 412Å418.	All Rules.	All Rules except 9 (1) and 9 (2).	All Rules except 9 (1) and 9 (2).

(No. 93 of 1947)

SECOND SCHEDULE

(Paragraph 1)

PROTECTED AREAS, LIVINGSTONE DISTRICT



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Area A.

Commencing at Beacon C.L.148 where the northern boundary of the Zambesi Saw Mills 91.44 metres Strip Reserve intersects the municipal boundary, the boundary runs in an easterly direction along the northern edge of the Strip and the Compound Reserve to its intersection with Plot 275; thence along the boundary with Maxwell Stuart Road to its junction with Jameson Road; thence in a southerly direction along the western edge of Jameson Road to a point opposite Beacon No. 0697, the south-western corner beacon of the Zambia Railways Station Reserve to Beacon No. 0706; thence in a north-easterly direction to Beacon Y.486 situated on the southern boundary of the Golf Course (Plot No. 440); thence eastwards along the southern boundary of Plot No. 440, Golf Course, to the inner edge of the Maramba River; thence following the municipal boundary along the Maramba and Zambezi Rivers to Beacon C.L.146; thence northwards along the municipal boundary to Beacon C.L. 148, the point of commencement.

Included in the boundaries defined above but excluded from Area A is that portion of the municipal area in use as an Aerodrome.

Area B.

Commencing at the south-eastern corner beacon of Plot No. 395, Abattoir Site, on the northern boundary of the Zambesi Saw Mills 91.44 metres Strip Reserve, the boundary follows the eastern side of Plot No. 395 to its north-eastern beacon; thence northwards along this line produced, to its intersection with the Katombora Road; thence along the southern edge of the Katombora Road in an easterly direction to its junction with the western edge of Williams Road; thence southwards along the western boundary of this road and this line produced to its intersection with the northern edge of Plot No. 275, subdivision; thence along the northern edge of this plot to its intersection with the Zambesi Saw Mills 91.44 metres Strip Reserve; thence westwards along the northern edge of this Strip Reserve and the Compound Reserve to the point of commencement.

Area C.

Commencing at a point on the western boundary of the Municipal Reserve 2,209.8 metres from Beacon No. C.L. 146, the boundary follows westwards along the left bank of the Zambezi River to a point opposite the western end of the large dambo lying inland; thence following the northern and western edges of the dambo to the point of commencement.

The above-described areas are shown upon a plan numbered 67A2 deposited in the office of the Director of Surveys and Land, signed by him, dated August, 1934, and thereon bordered red.

Area D.

Commencing at a point on the right bank of the Maramba River, half a mile upstream from the eastern boundary of the Zambia Railways 91.44 metres Strip Reserve, the boundary follows a line southwards and westwards parallel to, and 0.8045 kilometres from, the Zambia Railways 91.44 metres Strip Reserve to a point on the left bank of the Zambezi River; thence up the left bank of the Zambezi River to a point on the right bank of the Maramba River at its confluence with the former; thence up the right bank of the Maramba River to the point of commencement.

The above-described area, in extent approximately 849.87 hectares, is shown upon a plan numbered P.469 deposited in the office of the Director of Surveys and Land, signed by him, dated 6th September, 1946, and thereon bordered red.

Included within the above-described area but excluded from the provisions of rule 3 (a) of the Extermination of Mosquitoes Rules is that piece of land, approximately 34 acres in extent, bounded on the north and west by the left bank of the Maramba River, on the east by the western edge of the Livingstone-Victoria Falls Main Road Reserve, and on the south by the northern fence of the Livingstone Game Park produced on the west by a line to the left bank of the Maramba River and on the east by a line to the western edge of the Livingstone-Victoria Falls Main Road Reserve.

(No. 93 of 1947)

THIRD SCHEDULE

(Paragraph 8)

PROTECTED AREA, CHINGOLA DISTRICT

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All that area lying within a radius of 11.263 kilometres from Chingola Post Office but excluding the area of Kasompe Township.

Included within the boundary defined above but excluded from the area for the purposes of the application of rule 3 (a) are-

Farms Nos. 2028, 2041, 2103, 2160, 2308, 2310, 2345, 2468, 2469, 2585; the Cattle Grazing Area and the Mine Garden.

The above-described area is shown bordered brown and the portions to which rule 3 (a) is not applied are coloured green on Plan No. P.163 deposited in the office of the Director of Surveys and Land, signed by him and dated 6th December, 1955.

(No. 191 of 1956)

SECTION 6 (3)-MOSQUITO CONTROL SCHEME FOR KABWE

*Government Notice
235 of 1947*

Scheme approved by the Minister

1. A Mosquito Control Scheme for Kabwe was approved by the Minister on the 5th August, 1947.
2. A copy of such scheme and the plans and specifications incidental thereto have been deposited with the District Secretary, Kabwe Urban District, and are available for inspection without fee by the owner or occupier of any lands affected thereby.
3. The locality to which such scheme applies is shortly described as "the North-East Dambo, Kabwe".

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REPUBLIC OF ZAMBIA

THE FENCING ACT

CHAPTER 190 OF THE LAWS OF ZAMBIA

CHAPTER 190 THE FENCING ACTCHAPTER 190

THE FENCING ACT

ARRANGEMENT OF SECTIONS



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Section

1. Short title
2. Application
3. Interpretation
4. Fence between lands of different owners to be at cost of each
5. Notice to any person required to contribute towards construction of fence
6. Arbitration provided for
7. Construction of fence on failure to carry out agreement or award
8. When contributions may be paid by instalments
9. Proceedings in case of absent owners
10. Tenants to pay interest on cost of fences
11. Tenant, with right to purchase, to pay cost of fence in addition to purchase money
12. Repairs
13. Notice of required repairs to owner of adjoining land
14. Bush may be cleared for fencing
15. Construction of certain fences
16. Provision when river is boundary between lands
17. Damages against person neglecting to clear inflammable matter from boundary line
18. Right of way to construct fences
19. Landlord may defend proceedings against tenant
20. Subordinate courts to have jurisdiction
21. Penalty for wilful damage to fence or gate
22. Accidental injury
23. Regulations
24. Existing contracts not affected by this Act
25. Existing fences

FIRST SCHEDULE-Table of equal instalments payable for five years

SECOND SCHEDULE-Table of equal instalments payable for ten years

THIRD SCHEDULE-Aggregate value of unpaid instalments

FOURTH SCHEDULE-Roads affected by provisions of this Act

FIFTH SCHEDULE-Minimum standard fence

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CHAPTER 190

FENCING

An Act to regulate the erection and maintenance of dividing fences; and to provide for matters incidental thereto or connected therewith.

[1st October, 1949]

19 of 1949
32 of 1950
37 of 1953
16 of 1960
61 of 1963
69 of 1965
13 of 1994
Government Notices
319 of 1964
497 of 1964

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

Short title

2. (1) This Act shall apply to such areas as the Minister may, by statutory notice, declare.

Application

(2) (a) Before this Act is applied to any area, the Minister shall cause to be published in the *Gazette* notice of the intention to apply the provisions of the Act to that area.

(b) The Minister shall not apply this Act to any area unless the majority of owners of occupied farms in the area present and voting have expressed themselves in favour of such application at a meeting convened in accordance with the provisions of subsection (3).

(3) On the publication of such notice the District Secretary of the area concerned shall forthwith convene a meeting of all owners of occupied farms in the area concerned by serving a written notice by hand or registered post on such owners fixing a time and place for the holding of the meeting and setting forth the object of the meeting. The notice shall be given at least thirty days before the date fixed for the meeting.

(4) At the meeting the following provisions shall apply:

(a) the District Secretary, who shall have no vote, shall act as chairman;

(b) each owner shall be allowed one vote in respect of each farm occupied by him in the area concerned;

(c) each owner may vote either in person or by proxy;

(a) when the majority of owners present so desire a vote shall be by secret ballot; and

(e) a resolution shall be passed if a majority of the owners present in person or by proxy vote in favour thereof.

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(5) The District Secretary shall transmit to the Minister a certificate under his hand setting forth the result of the meeting.

(As amended by G.N. No. 319 of 1964)

3. (1) In this Act, unless the context otherwise requires-

Interpretation
Cap. 40

"arbitration" means arbitration in accordance with the provisions of the Arbitration Act or any Act substituted therefor;

"dividing fence" means a fence separating the lands of different owners and of a type which such owners may agree upon, or, in the event of disagreement, which may be settled by arbitration;

"owner" means-

- (a) any person holding land in fee simple or directly from the President under any grant, lease, licence or similar title;
- (b) a city council, a municipal council or township council in respect of land vested in it or set aside for its use;
- (c) any person lawfully holding land in accordance with the provisions of an agreement which entitles such person to obtain title thereto on the fulfilment by him of the conditions prescribed by such agreement;
- (d) the President in respect of unalienated State land and the roads or portions of roads set out in the Fourth Schedule;
- (e) the President in respect of unalienated *(7)former Trust Land.

* Now referred to as customary area. See Lands Act of 1995.

(2) The Minister may, by statutory notice, add to or amend the Fourth Schedule.

(As amended by No. 32 of 1950, G.N. No. 319 of 1964 and No. 69 of 1965)

4. The owners of adjoining lands not divided by a sufficient fence shall be liable to join in or contribute to the construction of a dividing fence between such lands in equal proportions.

Fence between lands of different owners to be at cost of each

5. Any person desiring any other person to contribute to the construction of a dividing fence under the provisions of section *four* may serve on such person a notice in writing to fence, which shall specify the boundary to be fenced and the type of fence proposed to be constructed, and shall contain a proposal for fencing the same.

Notice to any person required to contribute towards construction of fence

6. If within three months after the service of any notice to fence under the provisions of section *five*, the person serving and the person served with such notice do not agree as to the type of fence to be erected, and the position thereof, any of such matters as to which there is no agreement shall be settled by arbitration. In making any award, the arbitrator shall be guided, as to which type of fence such arbitrator may order or award to be constructed, by the minimum standard fence described in the Fifth Schedule.

Arbitration provided for

(As amended by No. 37 of 1953)

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* Now referred to as customary area. See Lands Act of 1995.

7. If the person serving and the person served with such notice agree as to the matters aforesaid relating to the construction of such fence, or if, in default of such agreement, an arbitrator is appointed and makes an award, and if in either case either of such persons fails within the time named in that behalf in such agreement or award, or, if no such time is named, within three months after the date of such agreement or award, to perform his part of such agreement or to comply with such award, then the other of such persons may construct the whole fence as agreed upon or awarded by such agreement or award, and may recover in any court of competent jurisdiction such part of the cost of constructing the same as may have to be contributed by the other of such persons.

Construction of fence on failure to carry out agreement or award

8. (1) If any person is called upon under this Act to join in or contribute to the construction of any dividing fence, and such person is unable or unwilling to pay forthwith the amount or any part thereof which he is or becomes liable to pay, and within one month after the amount which he is liable to pay has been fixed, gives notice to the person calling upon him to join in or contribute as aforesaid that he desires to pay such amount by instalments, the following provisions shall apply:

When contributions may be paid by instalments

- (a) the amount payable by such person, or such part thereof as he is not willing to pay as aforesaid, together with interest thereon at the rate of six per centum per annum shall be paid by equal yearly instalments;
- (b) the instalments shall be so calculated and fixed that the said capital amount and interest shall be paid off in a period of five years if such capital amount does not exceed two hundred kwacha, and of ten years if it does exceed two hundred kwacha;
- (c) the said periods of five or ten years, as the case may be, shall be calculated from the date of the notice to join in or contribute hereinbefore mentioned;
- (d) the instalments shall be paid in the manner more particularly set forth in the First and Second Schedules.

(2) Any owner who has become liable to pay instalments in accordance with the provisions of subsection (1) may at any time during the aforementioned periods of five or ten years, as the case may be, pay the value at that time of the unpaid instalments in one sum as shown in the Third Schedule.

9. (1) The owner of any land who requires the construction of a dividing fence between his land and any adjoining alienated land which is unoccupied, or the owner of which cannot be found, shall insert in the *Gazette* and in a newspaper (if any) published or circulating in the district in which such adjoining land is situated, at least once a month during three consecutive months, a notice addressed to the owner of such land, describing him as the owner of such land, requiring him to contribute to the construction of the fence, and may then proceed *ex parte* to obtain from a subordinate court of the first or second class an order authorising the construction of such fence, and specifying the type of fence to be constructed and the position thereof, and may construct a fence in compliance with such order.

Proceedings in case of absent owners

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(2) The owner of the land who requires the construction of a fence as aforesaid may, on the completion of such fence as aforesaid and on furnishing to the subordinate court such particulars as may be required by the said subordinate court, request that a certificate be prepared and furnished to him setting out the proportion of the cost of fencing regarded by the subordinate court as properly chargeable to the owner of the adjoining land.

(3) The Registrar of Deeds, on receiving a certificate from the owner of the land, shall make an entry thereof in respect of the land affected. Such entry shall constitute a charge on the land which shall-

- (a) rank from the date of entry; and
- (b) bear interest at six per centum per annum.

10. (1) When any fence is constructed under the provisions of this Act dividing any lands, held by any person as tenant of any owner, from any adjoining lands, such tenant shall pay to the owner- Tenants to pay interest on cost of fences

- (a) during the continuance of his lease or for a period of fifteen years, whichever period shall be the shorter, the interest calculated at the rate of six per centum per annum upon the proportion of the cost of construction paid by the owner from whom he holds his tenancy; or
- (b) forthwith a lump sum equal to the annual interest which the tenant would be liable to pay under paragraph (a) multiplied by fifteen:

Provided that no tenant whose unexpired term of lease does not exceed one year shall be liable to pay any such interest or lump sum.

(2) The interest which a tenant is liable to pay under paragraph (a) of subsection (1) may at any time be redeemed on payment of the sum specified in paragraph (b) of subsection (1), less any sums already paid by way of interest.

11. Any tenant having an option to purchase, or obtain an assignment of, any land occupied by him at a fixed rate shall, on completion of the purchase or assignment, pay to the owner, in augmentation and as part of the purchase money, the sum for which he would be entitled to redeem his liability to pay interest in accordance with the provisions of subsection (2) of section *ten*. Tenant, with right to purchase, to pay cost of fence in addition to purchase money

12. When any dividing fence, or any fence dividing the land of different owners erected prior to the commencement of this Act, is out of repair or has become insufficient, the owners of land on either side thereof shall be liable for the cost of repairing such fence in equal proportions. Repairs



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13. (1) The owner of any land separated from any adjoining land by a dividing fence may serve a notice upon the owner of such adjoining land, requiring him to assist in repairing such fence, and if such owner refuses or neglects after the space of one week after the service of such notice to assist in repairing such fence, such first mentioned owner may repair such fence and demand and recover of and from such owner his portion of the cost of repairing the same.

Notice of required repairs to owner of adjoining land

(2) If any dividing fence has been destroyed on account of the negligence of one of the adjoining owners, then the owner who has been responsible for such negligence shall be liable for the entire cost of repairing such fence.

14. Where any fence is to be erected on land covered with bush, the person erecting such fence shall be entitled to clear the bush for a width not exceeding 1.8288 metres on each side of the line of such fence, and may remove any tree standing in the direct line of such fence, and the cost of such clearing shall be added to and form part of the cost of the erection of such fence; and in case the person erecting such fence is entitled to recover in respect of such cost of erection from any other person, the cost of such clearing shall be apportioned accordingly.

Bush may be cleared for fencing

15. The owner of any land may, in making a ditch and bank fence dividing his land from any adjoining land, make a ditch on such adjoining land, and use the soil taken therefrom towards making a bank, or he may make the ditch on his own land, and place the bank on such adjoining land. Where a dividing fence is made of posts and rails, or wire, or paling, the posts of such fence shall be placed on or as near as possible to the boundary line.

Construction of certain fences

16. Where a river, creek, or natural water-course forms the boundary of contiguous lands, but is not capable of resisting the trespass of animals liable to be impounded, it shall be competent for the owners of such contiguous lands to agree upon such a line of fence on either side of such river, creek, or natural water-course as shall secure such fence from the action of floods. If the owners do not agree upon such a line of fence, the line of fence to be erected, and whether any or what compensation in the shape of an annual payment shall be paid to either of the parties owning such contiguous lands in consideration of loss of occupation of land, shall be settled by arbitration:

Provision when river is boundary between lands

Provided that the occupation of lands on either side of such line of fence shall not be deemed adverse possession, and shall not affect the title to or possession of any such lands, save for the purposes of this Act.

17. If the owner of any land clears the same of inflammable materials for the space of 9.144 metres from any fence dividing such land from the land of any other owner, and such other owner neglects or omits so to clear his land, and any damage from fire happens to such dividing fence through such neglect or omission, the owner so neglecting or omitting to clear shall, at his own cost and charge, cause such fence to be repaired and re-erected within the space of one month after the same has been so damaged, and in case he refuses or omits to repair or re-erect the said fence within such space of one month, the owner of the land contiguous to the said fence who has cleared the same of inflammable materials as aforesaid may repair or re-erect such dividing fence forthwith, and all sums of money which may be so expended or laid out under the provisions of this section shall be deemed and taken to be money paid to the use of the owner in default:

Damages against person neglecting to clear inflammable matter from boundary line



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Provided that nothing herein shall be deemed to take away or interfere with the right of any person to sue for and recover compensation for or in respect of any damage or injury to any fence occasioned by the reckless or negligent use of fire.

18. Every person engaged in constructing or repairing a fence under this Act, and his agents and servants, may, if there is no available access thereto over the land of such person at all reasonable times during such construction or repair, enter upon the contiguous lands with or without cattle, carts or other vehicles, and do thereupon such acts, matters and things as are necessary or reasonably required to carry into effect the construction or repair of such fence:

Right of way to construct fences

Provided that nothing herein contained shall authorise the entry for the purposes aforesaid upon any land in cultivation or in or upon any garden, plantation, or pleasure ground, without the consent of the owner, or shall authorise any person to cut down, lop, or injure any fruit or ornamental tree or shrub without such consent.

19. Any person may intervene and defend any proceedings under this Act against any tenant of such person, in consequence of which such person may ultimately incur any liability; and any defence which the person originally proceeded against might set up shall be available to the person intervening.

Landlord may defend proceedings against tenant

20. Proceedings for orders and for the recovery of sums of money not exceeding one thousand kwacha may be taken before a subordinate court of the first or second class, notwithstanding that the decision of any such question is beyond the ordinary jurisdiction of such court.

Subordinate courts to have jurisdiction

21. Any person who wilfully injures or removes any fence, gate or other appliance or contrivance forming part thereof, shall be guilty of an offence and liable to a fine not exceeding two thousand two hundred and fifty penalty units, or in default of payment to imprisonment for a period not exceeding six months, and shall in addition be ordered by the court by which he is convicted to pay the amount of damage sustained by the owner of such fence, gate or other appliance or contrivance, and such order shall be executed in the same way a judgment of such court in a civil case is executed.

Penalty for wilful damage to fence or gate

(As amended by Act No. 13 of 1994)

22. Any person who inadvertently or accidentally injures any fence shall forthwith repair the same, and in the event of his being unable to do so shall forthwith report the damage to the owner and deposit such sum as may be reasonably sufficient to cover the cost of repairing the same, and shall be entitled to receive a receipt therefor. Any person failing to repair such fence or give such notice and make such deposit as aforesaid, or any owner refusing to give a receipt therefor, shall be guilty of an offence and liable to a fine of three hundred penalty units, or in default of payment to imprisonment for a period not exceeding fourteen days, and shall in addition remain liable to pay the cost of repair.

Accidental injury

(As amended by Act No. 13 of 1994)



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23. The Minister may, by statutory instrument, make regulations relating to the provision of gates and cattle grids in fences adjoining roads and the insertion of cattle grids in roads. Regulations

(No. 32 of 1950 as amended by G.N. No. 319 of 1964)

24. Nothing in this Act shall be deemed or taken to affect any covenant, contract or agreement made, or hereafter to be made, relative to fencing, between landlord and tenant, or between owners of adjoining land. Existing contracts not affected by this Act

25. Nothing in this Act contained, other than the provisions of section *two/ve*, shall affect or apply to any fence erected before the application of this Act to the area in which the fence is erected. Existing fences



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The Laws of Zambia
FIRST SCHEDULE

(Section 8)

TABLE OF EQUAL INSTALMENTS PAYABLE FOR FIVE YEARS

Table of equal instalments payable at the end of each year for five years, in accordance with the provisions of section 8:

Amount payable K	Equivalent amounts payable at the end of each year for 5 years K
1	0.24
2	0.48
3	0.71
4	0.95
5	1.19
6	1.43
7	1.66
8	1.90
9	2.14
10	2.38
20	4.75
30	7.12
40	9.50
50	11.87
60	14.25
70	16.62
80	18.99
90	21.37
100	23.74

Yearly instalments for any sum not mentioned in this table, such as K89.25, may be ascertained as follows:

	K
K80.00 gives	18.99
K9.00 gives	2.14
K0.25, or 1/4 of K1	0.06

Therefore K89.25 gives	K21.19
	=====



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The Laws of Zambia
SECOND SCHEDULE

(Section 8)

TABLE OF EQUAL INSTALMENTS PAYABLE FOR TEN YEARS

Table of equal instalments payable at the end of each year for ten years, in accordance with the provisions of section 8:

<i>Amount Payable</i>								<i>Equivalent amounts payable at the end of each year for 10 years</i>
K								K
1	..	..	..	..	..	..	..	0.14
2	..	..	..	..	..	..	..	0.28
3	..	..	..	..	..	..	..	0.41
4	..	..	..	..	..	..	..	0.55
5	..	..	..	..	..	..	..	0.68
6	..	..	..	..	..	..	..	0.82
7	..	..	..	..	..	..	..	0.95
8	..	..	..	..	..	..	..	1.09
9	..	..	..	..	..	..	..	1.23
10	..	..	..	..	..	..	..	1.36
20	..	..	..	..	..	..	..	2.72
30	..	..	..	..	..	..	..	4.08
40	..	..	..	..	..	..	..	5.44
50	..	..	..	..	..	..	..	6.80
60	..	..	..	..	..	..	..	8.16
70	..	..	..	..	..	..	..	9.51
80	..	..	..	..	..	..	..	10.87
90	..	..	..	..	..	..	..	12.23
100	..	..	..	..	..	..	..	13.59
200	..	..	..	..	..	..	..	27.18
300	..	..	..	..	..	..	..	40.76
400	..	..	..	..	..	..	..	54.35
500	..	..	..	..	..	..	..	67.94

Yearly instalments for any sum not mentioned in this table, such as K1,274.50, may be ascertained as follows:

								K
K1,000.00 gives	..	..	..	..	..	..	..	135.88
K200.00 gives	..	..	..	..	..	..	..	27.18
K70.00 gives	..	..	..	..	..	..	..	9.51
K4.00 gives	..	..	..	..	..	..	..	0.55
K0.50, or 1/2 of K1	..	..	..	..	..	..	..	0.07

Therefore K1,274.50 gives	K173.19

THIRD SCHEDULE

(Section 8)

AGGREGATE VALUE OF UNPAID INSTALMENTS



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Aggregate value of unpaid instalments, each K100 in amount, of which the first is payable at once, and the remainder at yearly intervals:

Number of Instalments K100 each	Aggregate value K
1	100.00
2	194.34
3	283.34
4	367.30
5	446.51
6	521.24
7	591.74
8	658.24
9	720.98
10	780.17

NOTE.-The aggregate value of instalments of any other amount may be readily ascertained from the above table, by simple proportion.

FOURTH SCHEDULE

(Section 3)

ROADS AFFECTED BY PROVISIONS OF THIS ACT

Classification of Road	Serial No. of Road	Portion of Road affected
Main ..	F2 ..	From the junction with Road F1 to the 80.5 kilometre point from Lusaka on the Kabwe Road. (138.46 kilometres.)
Main ..	F2 ..	From its intersection with the south-west boundary of Farm No. 2112, Kabwe Urban District, that is the 94.99 kilometre point from Lusaka, to its junction with the north-eastern boundary of Farm No. 1453, Kabwe Urban District, that is the 128.8 kilometre point from Lusaka. (33.81 kilometres.)
Main ..	F2 ..	From its intersection with the northern boundary of Kabwe, that is the 6.44 kilometre point from Kabwe, to its intersection with the Mulungushi River, that is the 22.64 kilometre point from Kabwe. (16.1 kilometres.)
Main ..	F4 ..	From Lusaka to the Chalimbana turn-off. (49.69 kilometres.)
Main ..	F1 ..	The portion included in the Monze and Maza-buka Road Board Areas. (159.39 kilometres.)
Main ..	F1 ..	From the northern boundary of the Livingstone Municipality to its junction with the southern boundary of the Monze Road Board Area.
Main ..	M9 ..	From the junction of the Great North Road to a point 48.3 kilometres along Road M9. (48.3 kilometres.)
Main ..	M11 ..	From its junction with Road F1 to where it crosses the Mbabala River. (28.98 kilometres.)
District ..	D176 ..	From the Chisamba turn-off on Road F2 to Chisamba station. (19.32 kilometres.)
District ..	D188 ..	From its junction with Road F2 to its junction with Road M9. (24.955 kilometres.)
District ..	D176 ..	From Chisamba station as far as the turn-off to Farm No. 366a. (11.27 kilometres.)
District ..	D191 ..	From its junction with Road F2 to its intersection with the southern boundary of Farm No. 962, Kabwe District. (17.71 kilometres.)
District ..	D392 ..	From its junction with Road D393 to its junction with Road D395. (37.03 kilometres.)

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District	..	D392	..	From the point where it meets Road D393 to the boundary at Mazabuka Township. (24.15 kilometres.)
District	..	D392	..	Remainder of Road D392 from its junction with Road D395 south of Nega Nega for 7.889 kilometres to its junction with Road D391.
District	..	D391	..	From Mazabuka Township to Lubombo Siding. (12.88 kilometres.)
District	..	D393	..	From Lubombo to the Kafue Railway Bridge Road D392. (9.66 kilometres.)
District	..	D391	..	From Lubombo to Road F1. (28.98 kilometres.)
District	..	D386	..	From its junction with Road F1 to Mount Kennedy Farm. (40.25 kilometres.)
District	..	D387	..	From Road F1 to the turn-off of Road D390. (28.98 kilometres.)
District	..	D394	..	From its junction with Road F2 to its junction with Road 391. (10.948 kilometres.)
District and Branch		D189 (part only last 4.3 kilometres of previously known Road C438 excluded), D605, C30 and C437		These four roads which total 24.794 kilometres in ranch length follow on each other and start at the junction with Road D188 some 13.041 kilometres west of the junction with Road F2. The first 9.66 kilometres is the first part of Road D189 (the second part of which was previously known as Road C438 being excluded), the second 8.221 kilometres is Road D605, the third 3.703 kilometres is the part previously known as Road C30 and the fourth 3.22 kilometres was previously known as Road C437 which is the extension to the former Lenje Reserve No. XV boundary.
District	..	D164	..	From its junction with Road F2 at a point 2.576 kilometres south of the Lusaka Municipal Boundary in a westerly direction for 33.166 kilometres to the boundary between the Lusaka District and the Mumbwa District.
District	..	D167	..	From its junction with Road D164 to its junction with Road D166. (10.304 kilometres.)
District	..	D176	..	From its junction with Road F2 at a point 5.152 kilometres north of the Lusaka Municipal Boundary in an easterly and north-easterly direction for 33.327 kilometres (excluding 2.415 kilometres through Ngwerere) to the boundary between the Lusaka District and the Chibombo District.
District	..	D601	..	From its junction with Road D176 in an easterly direction for 14.8925 kilometres to the Luano-Lala Reserve No. XIV boundary.
District	..	D166	..	From the Lusaka Municipal Boundary in a westerly direction for 53.935 kilometres to the Mwembeshi River which forms the boundary between the Lusaka District and the Chibombo District.
District	..	D176	..	From the boundary between the Lusaka District and the Chibombo District to the turn-off to Farm No. 366a. (19.32 kilometres.)
District	..	D152	..	From the Lusaka Municipal Boundary in an easterly direction for 54.74 kilometres to the Soli Wa Manyika Reserve No. XVII boundary.
District	..	D153	..	From its junction with Road F4 in a southerly direction for 38.64 kilometres to the Soli Wa Manyika Reserve No. XVII boundary.
District	..	D162	..	From its junction with Road F2, 6.118 kilometres south of the Lusaka Municipal Boundary for 10.304 kilometres to its junction with Road D575.
District	..	D575	..	From its junction with Road D162 in an easterly and southerly direction for 33.005 kilometres to the Kafue Township Boundary.
District	..	D379	..	From Monze Township to the Magoye River. (9.66 kilometres.)
District	..	D365	..	From Monze Township to the Keemba Hill turn-off, Road D372. (12.88 kilometres.)
District	..	D381	..	From the railway crossing near Tambero Siding to the Magoye River. (6.0375 kilometres.)

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The Laws of Zambia

District	..	D374	..	From its junction with Road F1 in a westerly direction for a distance of 8.533 kilometres.
District	..	D384	..	From Magoye Siding to the eastern boundary of Farm No. 214a "Dora". (17.71 kilometres.)
District	..	D359	..	From its junction with Road F1 in a southerly direction for 13.041 kilometres to the Tonga (Choma) Reserve No. XXI boundary.
District	..	D354 and D355	..	From its junction with Road F1 in a westerly direction to its junction with Road BR27 and continuing westwards as Road D355 for a total distance of 21.735 kilometres to the Trust Land No. I boundary.
District	..	D370	..	From its junction with Road D368 to a point where it enters Trust Land No. XIII on the boundary of Farm No. 262a R.E. (4.43 kilometres.)

(No. 32 of 1950 as amended by G.N. Nos. 87 and 203 of 1961, G.N. Nos. 129 and 333 of 1963, S.I. Nos. 431 and 443 of 1966 and S.I. No. 277 of 1969)



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The Laws of Zambia
FIFTH SCHEDULE

(Section 6)

MINIMUM STANDARD FENCE

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For the purpose of section 6, a minimum standard fence shall consist of-

- (a) four strands of barbed or plain galvanised iron or steel wire of not less than 427.5 kg breaking strain, the top strand being a minimum of 1220 mm from the ground;
- (b) poles or standards of wood or iron placed at intervals of not more than 13.725 metres and substantially and well planted with a minimum of 450 mm deep in soil, with droppers placed at regular intervals of not more than 3.66 metres between such poles or standards in such a way that such droppers are at all times well clear of the ground; and
- (c) substantial straining posts not more than 366 metres apart; with recognised iron frames erected where necessary.

Where wooden poles are used-

- (a) poles made from trees known as-
 - Afromosia angolensis* (mubanga),
 - Colophospermum mopane* (mopani),
 - Baikiaea plurijuga* (mukusi),
 - Diospyros mespiliformis* (muchenje),
 - Dichrostachys cinerea* (katenge),
 - Erythrophleum africanum* (kayimbi, kabulwebulwe),
 - Monotes* sp. (mutembo),
 - Swartzia madagascariensis* (mukuleti),

may be used provided that:

- (i) poles shall be at least 1.524 metres in diameter under bark at the narrowest part;
 - (ii) all bark shall be removed before planting; and
 - (iii) poles shall be notched to the depth of the hard core and the wire of the fence shall be fastened in the notches with wire of at least fourteen gauge or with fencing staples;
- (b) poles made from trees of the Eucalyptus species may be used, provided that:
 - (i) poles shall be chemically treated so as to be effectively protected against attack by termites, other insects and fungus;
 - (ii) poles shall be at least 75 mm in diameter under bark at the narrowest part;
 - (iii) all bark shall be removed before chemical treatment;
 - (iv) poles shall be notched to such depth as is necessary to secure the wire of the fence adequately and such wire shall be fastened in the notches with wire of at least fourteen gauge or with fencing staples; and
 - (v) the notches shall not enter the wood beyond the depth of penetration of the chemical used in treatment;
 - (c) poles made from trees other than those specified in (a) and (b) above may be used, provided that:
 - (i) poles shall be chemically treated so as to be effectively protected against attack by termites, other insects and fungus;
 - (ii) poles shall be at least 125 mm in diameter under bark at the narrowest part;
 - (iii) all bark shall be removed before chemical treatment;
 - (iv) poles shall be notched to such depth as is necessary to secure the wire of the fence adequately and such wire shall be fastened in the notches with wire of at least fourteen gauge or with fencing staples; and
 - (v) the notches shall not enter the wood beyond the depth of penetration of the chemical used in treatment.

(No. 61 of 1963)

SUBSIDIARY LEGISLATION

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FENCING

SECTION 2-APPLICATION

Notices by the Minister

Government Notices

169 of 1950
165 of 1951
203 of 1952
237 of 1953
26 of 1954
64 of 1954
65 of 1954
103 of 1957
147 of 1959
497 of 1964

It is hereby declared that the provisions of the Act shall apply to-

- (a) the Chibombo district excluding former reserves and trust land except for a belt 91.44 metres in depth contiguous with the boundary between State and alienated land on the one hand and former reserves and trust land on the other;
- (b) the Lusaka District excluding townships, and excluding former reserves and trust land except for a belt 91.44 metres in depth contiguous with the boundary between State and alienated land on the one hand and former reserves and trust land on the other;
- (c) the whole of the area comprised in the Mazabuka and Monze Road Board Areas, excluding those parts of former reserves and trust land within the area except for a belt 91.44 metres in depth contiguous with any boundary between a former reserve or trust land and State or alienated land. Where the Road Board boundaries follow the boundary between State or alienated land within the area and former reserve or trust land outside the area, a strip 91.44 metres in depth contiguous with such boundary and within the former reserve or trust land shall be deemed to be included in the area;
- (d) the whole of the area comprised in the Choma Road Board Area, excluding those parts of former reserves and trust land within the area save for a belt 91.44 metres in depth contiguous with any boundary between a former reserve or trust land and State or alienated land. Where the Road Board boundaries follow the boundary between State or alienated land within the area and former reserve or trust land outside the area, a strip 91.44 metres in depth contiguous with such boundary and within the former reserve or trust land shall be deemed to be included in the area;
- (e) the whole of the Kabwe (North) Intensive Conservation Area as set out in General Notice No. 73 of 1952. Where the boundaries of the area described above follow the boundary between State and alienated land within the area and the former Lenje Reserve No. XV or trust land outside the area, a strip 91.44 metres in depth contiguous with such boundary and within the former reserve or trust land shall be deemed to be included in the area;



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- (f) the Kalomo District excluding former reserves and trust land except for a belt 91.44 metres in depth contiguous with the boundary between State or alienated land on the one hand and former reserves or trust land on the other;
- (g) that part of the Pemba Road Board Area lying within the Choma District, excluding former reserves and trust land except for a belt 91.44 metres in depth contiguous with the boundary between State and alienated land on the one hand and former reserves or trust land on the other;
- (h) that part of the Pemba Road Board Area lying within the Mazabuka District, excluding former reserves and trust land except for a belt 91.44 metres in depth contiguous with the boundary between State or alienated land on the one hand and former reserves or trust land on the other;
- (i) that part of the Kabwe District lying south of the following line:

Commencing at the point where the Kabwe-Mulungushi Road crosses the boundary of Forest Reserve No. 31: Kabwe (Part 1); thence in a westerly direction along the forest reserve boundary to its common boundary with Farm No. 1826 (Tarr); thence westerly along the forest reserve common boundary with the farms to the point where the forest reserve boundary meets the Zambia Railways Reserve; thence westerly along the northern boundaries of Government Reserve 924 and Farm No. 1453 (Godwin) to the Great North Road; thence southwards along the Great North Road to its junction with the northern boundary of Farm No. 1445 (Moresby-White); thence westerly along the northern boundary of Farm No. 1445 to the common boundary beacon of Farms Nos. 1445, 1548 and 1818; thence northerly along the eastern boundary of Farm No. 1818 (Loxton) to Beacon L640; thence westerly along the northern boundary of Farms Nos. 1818 and 1810 (Wayland) to the point where it meets the eastern boundary of Farm No. 1820 (Thick); thence south-westerly along the western boundary of Farms Nos. 1810 and 1542-North Extension (Dix) to the common boundary beacon of Farms Nos. 1542, 1440, 1822 and 1821; thence in a westerly direction along the northern boundary of Farm No. 1822 (Whidborne) to its junction with the Kabwe District boundary.

Where the boundaries of the area described above follow the boundary between State and alienated land within the area and the former Lenje Reserve No. XV or former trust land outside the area, a strip 91.44 metres in depth contiguous with such boundary and within the former reserve or trust land shall be deemed to be included in the area;

- (j) Area 1 of the Livingstone District, as defined in Proclamation No. 4 of 1953, together with such portion of the Kalomo District as lies within 91.44 metres of the boundary between the Kalomo District on the one hand and Area 1 of the Livingstone District on the other, but excluding-
 - (i) the Livingstone Municipal Area;
 - (ii) the area of the Victoria Falls Trust except for a belt eighty metres in depth contiguous with the boundary of the Victoria Falls Trust.

NB. Reserves were abolished by the Lands Act of 1995 - Act No. 29 of 1995 - in September 1995 (Cap. 184)

REPUBLIC OF ZAMBIA

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THE FISHERIES ACT, 2011

ARRANGEMENT OF SECTIONS

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2. Interpretation

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4. Functions of Department
5. Honorary fisheries officers
6. Powers of authorised officers
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*Copies of this Act can be obtained from the Government Printer,
P.O. Box 30136, 10101 Lusaka. Price K20,000 each.*



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41. Application for licence
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GOVERNMENT OF ZAMBIA

ACT

No. 22 of 2011

Date of Assent: 15th April, 2011

An Act to provide for the appointment of the Director of Fisheries and fisheries officers and provide for their powers and functions; promote the sustainable development of fisheries and a precautionary approach in fisheries management, conservation, utilisation and development; establish fisheries management areas and fisheries management committees; provide for the regulation of commercial fishing and aquaculture; establish the Fisheries and Aquaculture Development Fund; repeal and replace the Fisheries Act, 1974; and provide for matters connected with, or incidental to, the foregoing

[18th April, 2011

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Fisheries Act, 2011. Short title
2. In this Act, unless the context otherwise requires— Interpretation
 - “aquaculture ” means the cultivation, propagation or farming of fish, aquatic vegetation, or other living aquatic resources whether from eggs, spawn, spat or seed or by rearing fish lawfully taken from the wild or lawfully imported into the country, or by other similar process;
 - “Aquaculture Development Plan ” means the Plan prepared under section *fifty-one*;
 - “aquaculture facility ” means any equipment, construction, enclosure, place or area, whether on land or in water, in which aquaculture is conducted;



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Act No. 12
of 1998

“ authorised officer ” means the Director, an officer of the Department of Fisheries authorised by the Director and any other person authorised, in writing, by the Director;

“ boat ” means any water craft, whether powered or unpowered, used for, or in connection with, commercial fishing, but does not include a canoe;

“ commercial fishing ” means fishing which is undertaken in a commercial fishing area as a regular or occasional occupation for the supply of fish to any market or industry;

“ committee ” means a fisheries management committee constituted under section *twenty-nine*;

“ community resources board ” has the meaning assigned to it in the Zambia Wildlife Act, 1998;

“ conveyance ” means an aircraft, ship, boat, vessel, train, vehicle, carriage, cart or other conveyance of whatever kind, including the fittings and equipment of the conveyance;

“ Department ” means the Department of Fisheries;

“ Director ” means the person appointed as such under section *three*;

“ disease ” means a deviation from the state of complete physical or social well being of an organism involving a well defined set of symptoms and ichthyology that leads to an impairment of the organism’s normal function;

“ ecologically sustainable development ” means using, conserving and enhancing the fisheries resources and fish habitats so that—

(a) the ecological processes on which life depends are maintained; and

(b) the total quality of life, both now and in the future, can be improved;

Act No.12
of 2011

“ Environmental Management Agency ” has the meaning assigned to it in the Environmental Management Act, 2011;

Act No. 12
of 2011

“ environmental impact assessment ” has the meaning assigned to it in the Environmental Management Act, 2011;

“ fish ” means any vertebrate fish alive or dead and any part thereof, whether or not preserved in any form, and includes fin, shell fish, the young and eggs but does not include a genetically modified organism;



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“ fish product ” means any product or part thereof, including oil, obtained by fish processing and intended for use as human food, animal feed or raw material ingredient in the manufacture of other commodities of commercial or ornamental value;

“ fishing ” includes any act directed at or intended for the harvesting, taking, killing or injuring of any fish;

“ fishing gear ” means any instrument, equipment, net, cork, buoy or other article including any part thereof used for purposes of fish finding, congregating fish or fishing;

“ fisheries management area ” means any fishery waters or part thereof or any geographical area, whether or not connected to any fishery water, declared to be a fisheries management area under section *twenty-six*;

“ fisheries management plan ” means a plan for the management and development of a fisheries management area prepared pursuant to section *twenty-eight*;

“ fishery waters ” means water in any river, stream, watercourse, lake, lagoon, swamp, pond, dam or reservoir, whether natural or man-made, but does not include water in aquaria or ornamental ponds unconnected with any natural water;

“ Fund ” means the Fisheries and Aquaculture Development Fund established under section *fifty-three*;

“ game management area ” has the meaning assigned to it in the Zambia Wildlife Act, 1998;

“ genetically modified organisms ” has the meaning assigned to it in the Biosafety Act, 2007

“ honorary fisheries officer ” means any person appointed as such under section *five*;

“ Local Forest ” has the meaning assigned to it in the Forests Act;

“ National Forest ” has the meaning assigned to it in the Forests Act;

“ National Park ” has the meaning assigned to it in the Zambia Wildlife Act, 1998;

“ precautionary approach ” means the principle that, if there is a threat of serious or irreversible environmental damage, lack of scientific certainty should not be used as a reason to postpone measures to prevent environmental degradation, or possible environmental degradation, because of the threat;

Act No. 12
of 1998

Act No. 7
of 2007

Cap. 199

Cap. 199

Act No. 12
of 1998



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“ prescribed area ” means such area as may be prescribed by the Minister for the purpose of this Act; and

“ weir ” means any fence, bank or similar obstruction erected in or across water for the purpose of taking fish, obstruction of free fish movement or migration, and includes any basket traps or similar devices therein.

PART II

DEPARTMENT OF FISHERIES

Director of Fisheries and other staff

3. (1) The Public Service Commission shall appoint, as public officers, a Director, a Deputy Director, fisheries officers and such other staff, for the Department within the Ministry responsible for fisheries development, as shall be necessary for the proper administration of this Act.

(2) The Director shall be responsible for the administration of this Act and the exercise of the Department's functions as provided under this Act.

(3) The Director may, in writing, delegate the exercise of any of the powers and functions conferred upon the Director by this Act to such authorised officers as the Director may think fit.

(4) The Director may, in writing, revoke or vary any delegation made, under subsection (3), of any power included in the delegation instrument.

(5) The Minister may, by statutory order, confer any power and any duties of an authorised officer under this Act, on any public officer or class of public officers.

Functions of Department

4. (1) The functions of the Department are to—

(a) conserve, manage and develop fishery resources and waters in a sustainable manner;

(b) manage, develop and protect aquaculture, aquatic vegetation and fish habitats;

(c) take such measures as are necessary for the protection of fish stocks from the effects of pollution and from any other effects which are harmful or potentially harmful to fish stocks;

(d) regulate the conduct of fishing operations including aquaculture and operations ancillary thereto;



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- (e) manage, control and eliminate diseased fisheries resources;
 - (f) take appropriate measures, in consultation with the Environmental Management Agency, for the safeguard against extinction of protected species;
 - (g) issue, vary, suspend and revoke any permits and licences for fishing, equipment used for fishing, aquaculture and other activities for which permits or licences are required under this Act;
 - (h) ensure the fair access to fisheries resources for commercial, recreational and indigenous use;
 - (i) conduct and support fisheries research and development;
 - (j) allocate money from the Fund;
 - (k) create an environment of cooperation and consultation with other public institutions so as to enable the other public institutions to perform their functions that impact on this Act, within the context of this Act and the ambit of their respective powers and functions;
 - (l) liaise or interface with similar organs in other countries or international institutions dealing with fisheries conservation and management; and
 - (m) perform any other functions as are necessary or incidental to the carrying out of its functions under this Act.
- (2) The Director shall, in carrying out the functions of the Department, as specified under subsection (1)—
- (a) promote a community-based natural resource management approach in respect of fisheries management;
 - (b) facilitate and simplify the issuance of licences and permits to those who are entitled to them;
 - (c) create a climate of cooperation with communities and organs of civil society so as to encourage them to cooperate with the Department in the application and implementation of this Act;
 - (d) ensure the uniform application of this Act;
 - (e) ensure the efficient and effective operation of the Department;



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- (f) administer the prescribed fees, fines and other payments that the Department exacts or receives in such a manner as to defray the overall cost of the Department's operations; and
- (g) conduct any other activity specified under this Act or that is necessary for or conducive to its implementation.
- (3) The functions of the Director are to—
- (a) supervise and control the manner, extent and conditions of producing, harvesting, treating, transporting and selling of fisheries resources;
- (b) ensure that economic efficiency is taken into account in developing management arrangements for fisheries resources;
- (c) supply or support fisheries educational programs and codes of practice for fisheries management;
- (d) examine and advise the Minister on issues affecting fisheries resources and fish habitat;
- (e) examine and advise the Minister on the administration of this Act and make any recommendations the Director considers appropriate;
- (f) assess fish stocks and collect statistics including details of catches;
- (g) maintain a record of fishing boats, their masters, captains, crew and any other person working on them;
- (h) monitor and control fishing operations; and
- (i) perform any other functions conferred on the Director under this Act.
5. (1) The Minister may, in consultation with the Director, by notice in the *Gazette*, on such terms and conditions as the Minister may specify in the notice, appoint any person to be an honorary fisheries officer.
- (2) The appointment of an honorary fisheries officer may be—
- (a) general, so that the honorary fisheries officer is empowered to act in any part of the Republic, including any fishery waters as may be specified in the instrument of appointment; or

Honorary
fisheries
officers



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(b) limited, so that the honorary fisheries officer is empowered to act in areas of their residence including any fishery waters as may be specified in the instrument of appointment.

(3) Subject to the other provisions of this Act and to the terms of the instrument of appointment, an honorary fisheries officer shall, within the terms of appointment, exercise the functions and perform the duties of an authorised officer.

6. (1) Subject to, and for the purposes of, this Act, an authorised officer may—

Powers of authorised officers

(a) at any reasonable time, enter upon and inspect any land, tent, conveyance, fish processing establishment, aquaculture facility, building or premises where any fish or fish product may be found or processed, or where any traps, weirs, stakes, fences or other contrivances may be found for the purposes of inspection and data collection;

(b) open and examine any container, conveyance, package or wrapping suspected to contain any fish or fish product, to ensure sanitary compliance;

(c) inspect any fish or fish product destined for import into or export from Zambia to determine whether the consignment is sanitary compliant;

(d) inspect and examine any conveyance which the authorised officer has reasonable grounds to believe is transporting any fish or fish product to ensure sanitary compliance;

(e) require the person in charge of any conveyance entering in Zambia to furnish a list of the names of all persons in the conveyance and such other prescribed information as it is within the power of such person to furnish;

(f) search any person whom the authorised officer has reasonable grounds to believe is carrying any fish or fish product or carrying out activities contrary to this Act;

(g) require any person to produce for inspection any fish, fish product, net, trap, line, poison, document, explosive, appliance, article, device or anything in relation to or in connection with which, the authorised officer has reason to believe, an offence has been committed or is likely to be committed;



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- (h) seize any fish, fish product, net, trap, line, poison, explosive, appliance, equipment, device or material in connection with which an offence appears to have been committed;
 - (i) apply or order the application of measures which are necessary or prescribed for the control or prevention of the spread of a disease;
 - (j) destroy or order the destruction at any time of any fish or fish product which is diseased, moved or used contrary to the provisions of this Act;
 - (k) order the adoption of measures prescribed to ensure the protection of fish; and
 - (l) seize or order the seizure of a conveyance carrying any fish or fish product in contravention of this Act or any other law.
- (2) An owner of any land, building or premises or of any conveyance shall afford an authorised officer access thereto and shall give such information and provide such reasonable assistance as the authorised officer may require for the purposes of data collection and carrying out an inspection.
- (3) An authorised officer may, in the performance of any functions under this section, be accompanied and assisted by a police officer.
- (4) An authorised officer may, in the course of an inspection carried out under this section—
- (a) seize, re-call, destroy, detain, or otherwise dispose of any fish or fish product or order that any such action be taken, at the expense of the owner;
 - (b) obtain any sample of any fish or fish product as the authorised officer considers necessary;
 - (c) order any person to produce for inspection, or for purposes of obtaining extracts or copies, any book, document or other information concerning any matter relevant to the administration of this Act;
 - (d) suspend one or more activities or temporarily, partially or completely close an inspected premises; and
 - (e) suspend or withdraw any permit or licence issued under this Act.



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(5) Where an authorised officer detains, disposes of or destroys any fish or fish product under subsection (1) or (4), the authorised officer shall, as soon as is practicable, notify in writing, the owner of the fish or fish products of the steps taken and the reasons therefor.

(6) Where—

- (a) at any place within Zambia, any fish, fish product or conveyance is infected or is suspected of being infected with any disease; or
- (b) any fish, fish product or conveyance has been introduced into any place in Zambia without the permit required for such introduction, or having been introduced under a permit is moved or dealt with otherwise than in accordance with such permit;

an authorised officer may make such order as the authorised officer considers necessary for all or any of the following purposes:

- (i) to direct that such fish, fish product or conveyance be seized or detained;
- (ii) to direct that such fish, fish product or conveyance be disposed of or destroyed, as the case may be; or
- (iii) to direct that such fish, fish product or conveyance be dealt with in such manner as is considered necessary to prevent the spread of any disease.

(7) A person who contravenes an order made pursuant to this section commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(8) Where a person fails or refuses to do anything which that person is required to do under an order made under this section, an authorised officer may do or cause such thing to be done.

(9) The cost of anything which an authorised officer does or causes to be done under subsection (8) shall be recoverable by the Director from the person who failed or refused to comply with the order.

(10) The Government shall not be liable for any loss or damage which occurs to any property during an act of seizure by an authorised officer or whilst the property is detained under this Act unless the authorised officer caused the damage negligently, maliciously or fraudulently.



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Power to carry out tests and to take statistics

7. (1) An authorised officer may, for the purposes of this Act—
- (a) take or cause to be taken from any fish or fish product, any sample or specimen;
 - (b) take or cause to be taken from a building, place or conveyance, any sample or specimen; and
 - (c) apply such other tests as the authorised officer considers necessary.

(2) An authorised officer may, for the purpose of obtaining fish statistics, weigh, measure and check any fish, and any person in charge of the fish shall, on demand being made to that person by an authorised officer produce such fish to the authorised officer for that purpose.

Release, seizure and destruction

8. (1) Where an authorised officer reasonably believes that it is not necessary to destroy any fish or fish product seized, the authorised officer shall—

- (a) release the fish or fish product, to its lawful owner; or
- (b) release the fish or fish product, to its lawful owner on conditional payment of any charges incurred, in connection with its impounding or other measures taken by the authorised officer.

(2) An authorised officer shall, at the time of release referred to in subsection (1), by order in writing, require an owner of any fish or fish product, to take measures to eliminate any risk associated with a disease.

Arrest without warrant

9. (1) An authorised officer may arrest a person, without warrant, where the authorised officer has reasonable grounds to believe that the person—

- (a) has committed an offence under this Act;
- (b) is about to commit an offence under this Act and there is no other way to prevent the commission of the offence; or
- (c) is willfully obstructing the authorised officer in the execution of the authorised officer's duties.

(2) An authorised officer who makes an arrest under subsection (1) shall, without undue delay, have the person so arrested brought before a court of competent jurisdiction to be dealt with accordingly.



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10. A person who—

- (a) wilfully delays or obstructs an authorised officer or an honorary fisheries officer in the carrying out of their duties;
- (b) knowingly or negligently gives an authorised officer or an honorary fisheries officer false or misleading information orally, in writing or otherwise; or
- (c) impersonates or falsely represents oneself to be an authorised officer, or to be a person acting under an authorised officer's orders;

Obstruction of authorised officer or honorary fisheries officer

commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

11. An action shall not lie against an authorised officer or an honorary fisheries officer in respect of any act done by the authorised officer or honorary fisheries officer in good faith and without negligence in the execution of the powers vested in them under this Act.

Immunity

12. In exercising powers under and in relation to this Act, the Minister, Director or persons to whom the Minister or Director, as the case may be, has delegated their responsibilities under this Act, shall have regard to—

General principles of management

- (a) the principle that the country's aquatic environment shall be managed as an asset for succeeding generations;
- (b) the need to apply the precautionary approach to the utilisation, management, development and conservation of the fisheries resources and waters taking into account the best scientific evidence available;
- (c) the utilisation of the country's fisheries resources and aquaculture development to achieve a sound ecological balance;
- (d) any relevant obligations under applicable rules of international law or international agreements;
- (e) the need to achieve optimum utilisation and ecologically sustainable development of fisheries resources;
- (f) the need to conserve fisheries living resources for both present and future generations;



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- (g) the need to utilise fisheries living resources to achieve economic growth, human resource development, capacity building within fisheries, employment creation and a sound ecological balance;
- (h) the need to protect the ecosystem as a whole, including species which are not targeted for exploitation;
- (i) the need to preserve biodiversity in fishery waters;
- (j) the need to minimise pollution of fishery waters; and
- (k) the need to achieve to the extent practicable a broad and accountable participation in the decision-making processes provided for in this Act.
- 13.** The Director shall, in co-operation with other appropriate agencies and other departments of Government, promote the development of fisheries, fish culture and related industries through—
- (a) providing extension and training services;
- (b) conducting research and surveys;
- (c) promoting co-operation among fishermen;
- (d) providing infrastructure facilities; and
- (e) stocking waters with fish and supplying fish for stocking.
- 14.** (1) The Minister may, by notice in the *Gazette*, impose any of the following measures:
- (a) closed seasons for designated areas, species of fish or methods of fishing;
- (b) prohibited fishing areas for all or designated species of fish or methods of fishing;
- (c) limitations on the methods or fishing gear, including mesh sizes of nets, that may be used for fishing;
- (d) limitations on the amount, size, age and other characteristics and species or composition of species of fish that may be caught, landed or traded;
- (e) regulate the landing of fish and provide for the management of fish landing areas;
- (f) control the introduction into, or harvesting or removal from any fishery waters of any aquatic plant; and
- (g) any other measures that are necessary for the proper management of fishery.



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(2) Where the use of any fishing gear is prohibited in any area, the Minister may, by notice in the *Gazette*, prohibit the possession of the fishing gear in that area.

(3) A person who contravenes the provisions of a notice issued under this section commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

PART III

PROTECTION OF FISH

15. (1) A person shall not—

Prohibited
methods of
fishing

(a) use, or have in that person's possession, any explosive or firearm for fishing;

(b) possess, use, attempt or cause to be used for fishing, any trawl net or bottom drag net or other fishing net of similar nature;

(c) alter or interfere with the natural configuration of the terrain or cause any such alteration or interference in such a manner as to enable the isolation from the main water of any fish in subsidiary water, whether or not such isolation takes place immediately or through the natural rise or fall of the water;

(d) fish by means of any net towed through the water behind or between boats, or by driving or directing fish towards a stationary net;

(e) set any net across the width of any river, channel or lagoon, measured from bank to bank;

(f) permit to be used, use, or attempt to use any poison or other noxious substance for the purpose of killing, stunning, injuring, disabling or catching fish, or in any way rendering fish more easily caught;

(g) carry or have in that person's possession or control any explosive, firearm, poison, chemical or other noxious substance in circumstances indicating an intention of using such substance for any of the purposes referred to in paragraph (f);

(h) use any electrical device for fishing or carry or have in that person's possession or control, or have on board any conveyance, an electrical device in circumstances which indicate an intention to use it for fishing;



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- (i) use equipment for fishing which does not conform to any standard prescribed for that type of fishing equipment, including any net or trap the mesh size of which does not conform to the prescribed minimum mesh size for that type of net or trap either generally or in a prescribed area;
- (j) use any weir or fishing equipment which is prohibited under this Act; or
- (k) use for fishing, fishing nets that are of a number and size exceeding that which is permitted under this Act.

(2) Any explosive, firearm, poison, chemical or other noxious substance found in or on any person, fishing boat, or fishing equipment in a commercial fishing area shall be presumed, unless the contrary is proved, to be intended for the purposes referred to in subsection (1).

(3) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Fish processing and storage vessels

16. (1) A person shall not permit to be anchored a fish processing and storage vessel which does not conform to the sanitary standards for vessels used for such purposes in any commercial fishing area.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Importation of fishing gear

17. (1) A person shall not import, manufacture or trade in any fishing gear or equipment which is prohibited by this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Power to restrict methods of fishing

18. The Minister may, where it appears to the Minister that any method of fishing is likely to prove unduly destructive under any circumstances, by order, in respect of any area, for a period to be stated in such order—

- (a) prohibit the use of such method; or
- (b) subject the use of such method to such conditions as the Minister may consider appropriate.



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19.(1) A person shall not without the written permission of the Director—

Restriction on introduction of fish

- (a) introduce or cause to be introduced into any water any fish of a species not native either to the water into which it is introduced or to other waters naturally connected therewith;
- (b) import into the Republic any live fish;
- (c) stock, cause to be stocked or attempt to stock any fishery waters or any part thereof with live fish;
- (d) translocate, transfer, cause to be translocated or attempt to translocate live fish from one fishery area to another or from one place to another; or
- (e) land fish or attempt to land fish at any site other than at the designated landing site.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

20. Where at any place within or outside Zambia there exists, or is suspected to exist, any disease which is likely to affect fish in Zambia, the Minister or Director may make such order as the Minister or Director considers necessary for all or any of the following purposes:

Power to control introduction and spread of fish disease

- (a) to prohibit or prevent the introduction of the disease from such place into Zambia or any part of Zambia;
- (b) to prohibit or regulate the entry and movement of any fish, fish product or conveyance within or out of any part of Zambia named in the order;
- (c) to regulate the quarantine, isolation, disinfection or treatment of any fish, fish product or conveyance in any part of Zambia named in the order;
- (d) to prohibit or regulate the sale of any fish or fish product and control agricultural show grounds, stock markets or sale yards in any area specified in the order; or
- (e) to provide for the establishment of check points on roads and such other areas as may be necessary to control diseases.



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Offences
related to fish
disease

21. A person who—

- (a) unlawfully communicates a disease to live fisheries resources or fish habitat;
- (b) unlawfully sells any fish or fish product knowing the fish or fish product is infected with or contains a disease;
- (c) leaves any fish or fish product in a place knowing the fish or fish product is infected with or contains a disease;
- (d) unlawfully brings any fish or fish product into the Republic knowing the fish or fish product is infected with or contains a disease;

commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Emergency
measures

22. The Director may, where an emergency occurs that endangers or may endanger stocks of fish or aquatic life, or any species or class of fish or aquatic life in any fishery or part of a fishery—

- (a) suspend all or any of the fishing in that fishery or any specified part of it;
- (b) restrict the number of boats fishing in that fishery;
- (c) restrict the mass of fish which may be taken from that fishery; or
- (d) specify or order the taking of such measures as may be necessary.

Import of
fish or fish
product

23. (1) A person shall not import any fish or fish product without an import permit issued by the Director.

(2) The Minister may, by statutory instrument, provide for the prohibition, restriction and regulation of the importation of any fish and fish product.

(3) Without derogating from the generality of subsection (1), the Minister may, by regulation—

- (a) provide for the disinfection or treatment of any imported fish or fish product, or their containers;
- (b) designate ports of entry, routes and methods of transportation;
- (c) provide for the detention of any fish or fish product which is imported and the measures to be taken during the detention;



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(d) provide for the imposition and recovery of fees for disinfecting or treating any fish or fish product, which is imported; and

(e) provide for the disposal of any imported fish or fish product in respect of which prescribed fees are not paid and of the proceeds resulting from their disposal.

24. The Minister may, in consultation with the Director, authorise the entry of any fish or fish product for scientific or research purposes, subject to such terms and conditions as the Minister may consider necessary.

Importation for scientific, educational or research purposes

25. (1) A person shall not export any fish or fish product without an export permit issued by the Director.

Export of fish or fish product

(2) The Minister may, by statutory instrument, prohibit the export of any fish or fish product from Zambia, or any part of Zambia, in general or to one or more designated countries of destination, unless and until all regulations with regard to their export have been complied with.

(3) The Minister may, by statutory instrument, make regulations for the purposes of regulating and controlling the export of any fish or fish product from Zambia or any part of Zambia and prescribing the fees to be paid.

(4) The Minister shall take into account, in the regulations prescribed under subsections (2) and (3), the requirement to fulfill international treaties and agreements and the requirements of the countries of destination.

PART IV

FISHERIES MANAGEMENT AREAS

26. (1) The Minister may, after consultation with the Minister responsible for environmental protection and management, national heritage conservation and management and wildlife management and with the Director and the local riparian community, by statutory order, declare any area of water to be a fisheries management area for the management and sustainable utilisation of such species of fish as may be specified in the order.

Declaration of fisheries management area

(2) The Minister may, in like manner, define, alter or extend the boundaries of a fisheries management area or order the area to cease to be a fisheries management area.



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Restriction
on fishing in
fisheries
management
area

Fisheries
management
plan

Act No. of
2011

(3) Where a fisheries management area is in a Local Forest, National Forest or National Park, the exercise or enjoyment of any fishing right or interest in the area shall be consistent with sustainable forest management or wildlife conservation and management, as the case may be.

27. Except as otherwise provided by this Act, any person who, without a fishing licence, fishes in any fisheries management area commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

28. (1) The Director shall, in consultation with a committee appointed under section *twenty-nine*, prepare a fisheries management plan for the conservation and management of fish and the development of the fisheries management area.

(2) A fisheries management plan shall—

- (a) identify the fishery to which it relates and state its characteristics and its current state of exploitation;
- (b) specify the objectives to be achieved in the conservation, management and development of the fisheries management area;
- (c) specify the strategies to be adopted for the effective management and development of the fishery;
- (d) determine fishing quotas, the amount of fish which may be harvested and the number of fishing licences which may be issued in respect of the fishery, in any fishing season;
- (e) identify any possible adverse effects that fishing activities in the fishery may cause to the environment and provide solutions for the management of those effects in accordance with the provisions of the Environmental Management Act, 2011;
- (f) specify the statistical and other data to be submitted by the committee to the Director for purposes of monitoring the management and development of the fishery; and
- (g) where necessary, identify and recommend any international cooperation that may be needed to achieve the management and development objectives of the fishery.

(3) The Director shall, during the preparation of a fisheries management plan, consult as appropriate, with other Government departments and agencies affected by the fisheries management plan.



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(4) Where a fisheries management area includes any waters where any fish endemic in the Republic are found, the Director shall, before preparing a fisheries management plan for the area—

- (a) consult with any Government or other relevant authority concerned with general conservation and biodiversity matters; and
- (b) shall give due regard to any advice given by the authorities referred to in paragraph (a) in relation to the endemic fish.

(5) A fisheries management plan shall be reviewed and revised as necessary.

(6) A fisheries management plan and any revision thereof shall be submitted to the Minister for approval, and shall only enter into force when such approval is given.

29. (1) The Minister may, by statutory instrument, appoint a committee for a fisheries management area declared under section *twenty-six*:

Fisheries
management
committee

Provided that where the fisheries management area is in a game management area, the Minister shall appoint the committee in consultation with the community resources board for that area.

(2) A committee appointed under subsection (1) shall comprise—

- (a) six representatives from the local riparian fishing community who shall be elected by the local community;
- (b) a representative of the local authority in the fisheries management area;
- (c) one representative of the chief:

Provided that where a fisheries management area covers two or more chiefdoms, each chief shall nominate a representative to the committee;

- (d) one representative of a non-governmental organisation operating in the fisheries management area;
- (e) one representative of the commercial fishing operators in the area;
- (f) one representative from the aquaculture industry; and
- (g) two other persons.



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(3) The Minister shall appoint the Chairperson and Vice-Chairperson of a committee from among the members of the committee.

(4) Subject to the other provisions of this Act, a member of a committee shall hold office for a period of three years and may be re-appointed for one further period of three years.

(5) The office of a member shall become vacant—

(a) if without reasonable excuse that member is absent from three consecutive meetings of the committee of which the member had notice;

(b) upon the member's death;

(c) if the member is adjudged bankrupt;

(d) if the member becomes mentally or physically incapable of performing the duties of a member of the committee; or

(f) if the member is convicted of an offence under this Act or any other written law and sentenced therefor to imprisonment for a period of six months or more without the option of a fine.

(6) The Minister shall, on such terms and conditions as the Minister may determine, appoint an officer of the Department of Fisheries to be the secretary to a committee.

(7) The Minister may dissolve a committee constituted under subsection (1) if satisfied that the committee—

(a) has mismanaged the natural resources in the fisheries management area; or

(b) has engaged in activities which are inconsistent with their functions.

(8) Where the Minister dissolves a committee under subsection (7), the assets of the committee shall become the property of the State and;

(9) The provisions of the Schedule apply to a committee.

Functions of
fisheries
management
committee

30. (1) The functions of a committee are to promote and develop an integrated approach to the management and sustainable utilisation of natural and fisheries resources in a fisheries management area under its jurisdiction.

(2) Without prejudice to the generality of subsection (1), a committee shall have power to—



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- (a) negotiate, in conjunction with the Director, co-management agreements with industrial fishing companies operating in the fisheries management area under its jurisdiction;
 - (b) manage the fisheries resources under its jurisdiction, within fishing quotas specified by the fisheries management plan;
 - (c) in consultation with the Director, develop and implement management plans which reconcile the various uses of water in the fisheries management area under its jurisdiction;
 - (d) cooperate with the Department in the management of the fisheries management area under its jurisdiction;
 - (e) facilitate the involvement of non-governmental organisations providing support to fisheries management and conservation efforts in the fisheries management area under its jurisdiction;
 - (f) recommend to the Director the measures, plans and programmes required for fisheries development in the fisheries management area under its jurisdiction;
 - (g) monitor the development of aquaculture in the fisheries management area under its jurisdiction;
 - (h) submit to the Director, on a regular basis, reports on the status of the fisheries management area under its jurisdiction; and
 - (i) perform such other functions as the Minister may direct.
- (3) A committee shall prepare and implement the fisheries management plan referred to in section *twenty-eight* in accordance with such regulations as the Minister may, by statutory instrument, prescribe.

31. A person who misuses or misappropriates any money belonging to a committee—

- (a) is liable to a surcharge; and
- (b) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.

Misuse of
money of
committee



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Submission of report and minutes

- 32.** A committee shall submit—
- (a) to the Director, minutes of each meeting of the committee; and
 - (b) to the Minister, an annual report of its activities; within two weeks after such minutes or report are adopted by the committee.

Zone and village fisheries management committee

- 33.** (1) The Director may, under a fisheries management committee, appoint a zone and village fisheries management committee for the purpose of fisheries and aquaculture development in the area.
- (2) The Minister may, by statutory instrument, provide for—
- (a) the composition, functions and procedure of the zone and village fisheries management committees; or
 - (b) any other matters necessary for purposes of the zone and village fisheries management committees.

PART V

SPECIAL FISHING AREAS

Prescribed areas

- 34.** (1) The Minister may, for the purposes of recreational, subsistence or research fishing, by statutory order, declare any area of water to be a prescribed area and shall in such order specify for which of the purposes the area is so declared.
- (2) The Minister may, in respect of any area designated as a prescribed area under subsection (1), regulate the method of fishing to be used in the prescribed area and may prohibit the use of nets.

Special fishing licence

- 35.** (1) Notwithstanding the provisions of this Act, the Director may, upon such conditions as the Director may consider necessary, and upon payment of such fee as may be prescribed, grant to any person, or persons collectively, a special fishing licence which shall authorise the holder thereof to fish in any specified area or specified waters for any of the following purposes:
- (a) scientific research or the collection of specimens for aquaria, museums and similar institutions;
 - (b) collecting live fish for stocking specified waters;
 - (c) the supply of food in cases of emergency if no other adequate food supply is available; or
 - (d) experiment subject to the direction of the Director.
- (2) A special fishing licence may authorise the holder to fish by any means or method of fishing subject to such conditions as the Director may consider necessary to impose.



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PART VI

COMMERCIAL FISHING

- 36.** (1) The Minister may, by statutory order, declare any area of water to be a commercial fishing area. Declaration of commercial fishing area
- (2) The Minister may, in respect of any commercial fishing area declared as such under subsection (1), make regulations—
- (a) prohibiting, restricting or regulating fishing;
 - (b) controlling the methods of fishing;
 - (c) prescribing that during any period of the year it shall be an offence to fish whether generally or for any particular species of fish;
 - (d) prescribing the licences to be held by any person fishing in a commercial fishing area; and
 - (e) prescribing the records to be kept, and the information to be provided, by any person fishing in a commercial fishing area.
- 37.** (1) A person shall apply to the Director for the registration of the boat intended to be used by the person for the purpose of commercial fishing in the prescribed manner and form upon payment of a prescribed fee. Registration of boats
- (2) A person who fails to register a boat commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.
- 38.** (1) A boat registered under the provisions of this Act shall be allocated a number or identification mark corresponding to the number or identification mark entered in the register. Boat identification marks
- (2) The number or identification mark of a boat shall be clearly painted on the hull of such boat in such manner as the Minister may prescribe.
- 39.** (1) The Minister may, in consultation with the Director, a committee, a local authority and the chief, by notice in the *Gazette*, declare any area of a commercial fishing area as a fisheries reserve if the Minister considers that special measures are necessary to— Declaration of fisheries reserves
- (a) preserve the aquatic environment;



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- (b) protect, preserve or rehabilitate the fish habitat, related ecosystems including wetlands, lakes, lagoons, nursery and spawning areas, which are essential to maintaining the integrity of an ecosystem, species or assemblages of species;
- (c) promote re-generation of fish stocks; or
- (d) protect fisheries resources and their environment from destruction, degradation, pollution and any other adverse impacts through human activities that threaten their health and viability.
- (2) A person shall not, in a fisheries reserve declared under subsection (1), without the written permission of the Director—
- (a) engage in any activity for fishing; or
- (b) dredge or extract any material or discharge or deposit any waste or other polluting matter or in any other way destroy, disturb or interfere with the natural environment of fish and related ecosystems.
- (3) The Minister may, where the sustainable utilisation of fish is threatened, by notice in the *Gazette*, prohibit or limit the number of licences that may be issued in respect of any one or both types of regulated fishing gear either in general or in respect of a particular area or for a specified period.

PART VII

AQUACULTURE

Prohibition of engaging in aquaculture without licence

40. (1) Subject to section *forty one*, a person shall not engage in aquaculture except in accordance with this Act and under the authority of a licence issued under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Application for licence

41. (1) An application for a licence to engage in aquaculture shall be made to the Director or such other officer designated for that purpose by the Director in the prescribed manner and form and shall be accompanied by a prescribed fee, an environmental impact assessment report prepared pursuant to section *forty-five* and such other information as may be prescribed.



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(2) The Director shall, within sixty days of receiving an application, reject the application if the application does not meet the requirements of this Act and shall notify the applicant stating the reasons for the rejection.

(3) An applicant for a licence who is aggrieved by a decision of a Director not to grant the licence under subsection (2) may appeal to the Minister, subject to a further appeal to the High Court within thirty days of receiving the notification.

42. (1) The Director shall, within thirty days of receiving an application for a licence under section *forty-one*, issue a licence, subject to any condition specified under section *forty-three*.

Aquaculture
licence

(2) Subject to section *forty-three*, a licence issued under this section shall be valid for such period as may be specified therein.

(3) An aquaculture licence confers on the holder thereof exclusive rights to harvest the products of the aquaculture facility named in the licence within the area specified in the licence.

(4) A holder of an aquaculture licence may, at least three months before its expiry, apply for the renewal of the licence.

43. An aquaculture licence may contain conditions—

Conditions
of
aquaculture
licence

- (a) relating to the siting, design, equipment and materials to be used in the construction of the aquaculture facility;
- (b) relating to the control of the species of aquatic life that may be introduced into the aquaculture facility;
- (c) intended to promote sanitary conditions in the handling of fish and in the preparation and processing of fisheries and fish products;
- (d) to prevent the escape of fish from an aquaculture facility;
- (e) to prevent and control the spread of diseases of fish;
- (f) to regulate the marketing of fish and fish products of an aquaculture facility;
- (g) stipulating measures to be taken to minimise the escape of waste products and the pollution of the water in, or the land surrounding, an aquaculture facility;
- (h) regulating the disposal of dead fish or waste from an aquaculture facility operated by the licensee including consents and notifications required in respect thereof;



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- (i) respecting the control and monitoring of the water quality in the aquaculture facility;
- (j) prohibiting or controlling the use of any chemical or pharmaceutical preparation, drug or antibiotic, in an aquaculture facility; or
- (k) prescribed by regulations under section *fifty-two*.
- 44.** An aquaculture licence shall not be transferred without the prior written approval of the Director:
- Restriction on transfer of licence
- Provided that the Director may authorise the transfer of a licence on such conditions as the Director may determine.
- 45.** A person who intends to engage in aquaculture shall conduct an environmental impact assessment in accordance with the provisions of the Environmental Management Act, 2011, and prepare a report thereon for the purposes of this Act.
- Environmental impact assessment Act No. of 2011
- 46.** An authorised officer may inspect any site proposed for the establishment of an aquaculture facility to determine the suitability or otherwise of such site for use as an aquaculture facility upon payment of such inspection fee as the Minister may, by regulations, prescribe.
- Inspection of proposed site for aquaculture
- 47.** (1) A person shall not—
- (a) interfere with or harvest the products of an aquaculture facility without the authority of the licensee;
- (b) place any object in the water of an aquaculture facility, or promote or undertake any activity in a manner so as to obstruct an aquaculture operation being carried out by another person;
- (c) destroy, damage, displace or alter the position of any equipment lawfully deployed in connection with an aquaculture facility; or
- (d) without lawful excuse, cause the release of any product of an aquaculture facility.
- (2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.
- Prohibition of interfering with aquaculture facility



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48. (1) A person shall not use any drug, chemical or substance for the treatment of fish diseases or for the enhancement of fish growth in an aquaculture facility or for the disinfection of any equipment used in an aquaculture facility, except a drug, chemical or substance approved by the Director for such purpose in consultation with the Environmental Management Agency.

Restriction on use of chemicals, etc. in aquaculture facility

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

49. (1) The Director may cancel or suspend an aquaculture licence where—

Cancellation and suspension of licence

(a) it is necessary to do so in order to give effect to this Part or any programme specified in a fisheries management plan; or

(b) the licence holder has contravened any provision of this Act or any conditions of the licence.

(2) The Director shall, before suspending or cancelling a licence under this section, notify the licence holder of the intention to suspend or cancel the licence giving reasons for such intention and inviting the licence holder to make representations to the Director within such period as may be specified in the notice.

(3) Where a licence is suspended or cancelled on the grounds specified in paragraph (a) of subsection (1), the fees or such proportion of the fees paid for the licence representing the unexpired period of that licence shall be reimbursed to the licence holder within sixty days of such suspension or cancellation.

50. Any licence holder who is aggrieved by a decision of the Director to suspend or cancel the licence under section *forty-nine* may appeal to the Minister, subject to a further appeal to the High Court, within thirty days of receiving the notification of the suspension or cancellation of the licence.

Appeal against suspension or cancellation of licence

51. (1) The Director shall, in consultation with a committee, prepare an Aquaculture Development Plan for the sustainable development of aquaculture in Zambia, for the approval of the Minister.

Aquaculture Development Plan

(2) The Aquaculture Development Plan shall be for a period of three years and shall be designed to promote the sustainable development of aquaculture in accordance with sound principles of fisheries management.



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- (3) The Aquaculture Development Plan shall include—
- (a) a statement of the objectives of the plan and a strategy for achieving those objectives;
 - (b) performance indicators to monitor the extent to which the objectives of the plan are being attained;
 - (c) an evaluation of the implementation of the aquaculture plan that preceded it;
 - (d) a description or identification of any area of water which is suitable for aquaculture and the type of aquaculture for which the area is suitable;
 - (e) a description of suitable methods for undertaking any type of aquaculture;
 - (f) the identification of suitable or unsuitable species of fish for aquaculture; and
 - (g) any other matter concerning aquaculture which the Director considers appropriate.

Aquaculture regulations

52. The Minister may, by statutory instrument, make regulations to—

- (a) prescribe the forms to be used for an application for an aquaculture licence under this Part;
- (b) prescribe the fees to be paid by an applicant for a licence under this Part;
- (c) provide for the control, management and improvement of any aquaculture facility;
- (d) prescribe matters to be considered in determining applications under this Part;
- (e) prescribe the duration and other conditions of an aquaculture licence; and
- (f) make or give any direction generally for the better carrying out of the purposes of this Part.



Ministry of Agriculture
and Livestock



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PART VIII

THE FISHERIES AND AQUACULTURE DEVELOPMENT FUND

- 53.** (1) There is hereby established a Fisheries and Aquaculture Development Fund. Establishment of Fisheries and Aquaculture Development Fund
- (2) The Fund shall consist of —
- (a) such monies as may be appropriated by Parliament for the purposes of the Fund;
- (b) fifty percent of the monies collected from fishing and aquaculture licences and other fees payable under this Act; and
- (c) such moneys as may accrue to or vest in the Fund.
- 54.** The Fund shall be vested in the Minister responsible for finance and shall be managed and administered by the Minister responsible for fisheries. Administration of Fund
- 55.** The Ministers referred to in section *fifty-four* shall apply the moneys of the Fund for the purposes of developing the fisheries and aquaculture sector and facilitating a community-based approach to fisheries management and development. Application of moneys of Fund
- 56.** The Ministers referred to in section *fifty-four* shall cause an annual statement of income and expenditure relating to the Fund to be prepared and laid before the National Assembly. Statement of income and expenditure

PART IX

GENERAL PROVISIONS

- 57.** The Mutual Legal Assistance in Criminal Matters Act applies to offences under this Act, except where the provisions of that Act are inconsistent with this Act. Mutual legal assistance Cap. 98
- 58.** (1) This Act shall have effect within as well as outside Zambia and notwithstanding where any offence is committed by any person, that person may be dealt with in respect of such offence as if it has been committed within Zambia. Offences committed outside Zambia
- (2) Any proceedings against any person under this section which would be a bar to subsequent proceedings against such person for the same offence, if such offence had been committed in Zambia, shall be a bar to further proceedings against that person under any written law for the time being in force relating to the extradition of persons, in respect of the same offence outside Zambia.



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Extraditable
offences
Cap. 94

59. An offence under this Act shall be deemed to be an extraditable offence under the provisions of the Extradition Act.

General
offences

60. A person who—

- (a) without reasonable excuse has in that person's possession or deals in any fish or fish product taken contrary to the provisions of this Act;
- (b) contravenes any restriction, condition or order made under this Act;
- (c) transfers any licence or permit issued under this Act without the prior written consent of the Director;
- (d) casts adrift or otherwise interferes with any fishing equipment or aquaculture facility;
- (e) places any object in any fishery waters or aquaculture facility, or undertakes any activity in a manner so as to obstruct a valid fishing or aquaculture operation being carried out by another person;
- (f) destroys, damages, displaces or alters the position of any fishing equipment, aquaculture facility or any buoy, float or other marker attached to it;
- (g) removes fish from any fishing equipment belonging to some other person without the consent of that person;
- (h) dumps or allows to enter or permits to be dumped or discharged in fishery waters anything which is or may be injurious to fish, or which may disturb or alter the ecological balance in such waters, or hinders the catching of fish;
- (i) without reasonable excuse, fails to furnish any information required under this Act or provides false or misleading information;
- (j) conceals or destroys any fish, fish product, fishing equipment and aquaculture equipment, explosive, firearm, poison, noxious substance, chart, log, document or other thing with intent to avoid the seizure thereof or the detection of any offence under this Act; or
- (k) alters or defaces any licence or permit issued under this Act;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.



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61. A person who is convicted of an offence under the provisions of this Act is, unless some other penalty is specifically provided therefor, liable to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

General penalty

62. Where an offence under this Act is committed by a body corporate or unincorporate body, every director or manager of the body corporate or unincorporate body shall be liable, upon conviction, as if the director or manager has personally committed the offence, unless the director or manager proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director or manager or that the director or manager took reasonable steps to prevent the commission of the offence.

Offences by body corporate or unincorporate body

63. (1) Upon the conviction of any person of an offence under this Act, the court may, in addition to any other penalty imposed, declare the fish, fish products, net, trap, line, poison, explosive, firearm, appliance or device or subject to subsections (2) to (8), any conveyance with which the offence was committed, or which was used in, or for the purpose of, or in relation to, or in connection with, the commission of the offence, to be forfeited to the State without compensation and shall order the same to be disposed of as the State considers fit.

Forfeiture provisions on conviction

(2) Where the prosecution requests a declaration of forfeiture in respect of any conveyance, the court shall make an order, to the effect that unless any person other than the convicted party claims, under this section, any right of ownership in the conveyance within three months of the date referred to in subsection (5), the prosecution may apply to the court, *ex parte*, for a declaration for forfeiture under subsection (1), and the court shall make the declaration.

(3) Upon the making of an order under subsection (2), the Director shall, within one month thereafter, cause to be published in the *Gazette* and in at least one daily newspaper of general circulation in the place where the offence was committed, a notice of the making of the order, which notice shall be in the prescribed form, or if no such form is prescribed, in a form approved by the court.

(4) If under any written law requiring the registration of any conveyance referred to in subsections (1) and (2), the conveyance is registered in Zambia in the name of any person other than the person convicted, the Director shall, within seven days after



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publication of the notice in the *Gazette*, cause a copy to be sent by registered post in a sealed envelope addressed to the person at the address appearing on the register, and the registration of the letter shall be conclusive evidence of service of the notice upon such person.

(5) Any person who claims any right of a conveyance may, within three months after the making of the order referred to in subsection (2), serve upon the Director and lodge with the clerk of the court an application in writing for the discharge of the order setting out the claim of ownership in the conveyance, whereupon the clerk of the court shall fix a date, not less than one month after the lodgement of the application for a hearing and shall, within seven days after the lodgement, cause notice of the hearing of the application to be served upon the Director.

(6) In any proceedings brought under subsection (5), the burden of proof shall be on the applicant and no order discharging the order shall be made unless the applicant has adduced evidence and proved to the satisfaction of the court that the applicant was not in any way privy to the offence and that the conveyance was, at the time of the commission of the offence, being used for such purpose without the knowledge or consent of the applicant and without any negligent disregard on the part of the applicant, of its use by the convicted person.

(7) Where, upon an application made under subsection (5), the court is satisfied that the conveyance is owned jointly by the claimant and the convicted party, or is the subjectmatter of a hirepurchase agreement between the claimant and the convicted party, and the claimant has discharged the burden of proof referred to under subsection (6), the court shall declare forfeited all of the estate or interest of the convicted person in and to the conveyance, or all of the rights therein accrued to that person under the hire purchase agreement or pursuant to the Hire Purchase Act and order the estate, or interest or rights to be disposed of as the State may consider fit.

(8) Except with the consent of the State, any right vested in any claimant under any hirepurchase agreement or pursuant to the Hire Purchase Act to repossess any conveyance which is subject to an order made under subsection (2), shall be suspended pending the determination of any application brought under subsection (5), and in the event of the court declaring the rights therein accrued to the convicted party to be forfeited, the accrued right to repossess the conveyance shall not be exercisable against the State.

Cap. 399

Cap. 399



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64. Where a person is convicted of an offence under this Act, the court may order that any licence or permit held by such person under the provisions of this Act be cancelled and that such person shall not be issued with any further licence or permit for such period not exceeding six months as it may deem fit.

Cancellation of licence or permit by court order

65. The Director or any authorised officer may, subject to the directions of the Director of Public Prosecutions, conduct a prosecution for an offence under this Act and shall for that purpose have the powers of a prosecutor appointed under the National Prosecution Authority Act, 2010.

Conduct of prosecution

Act No. 34 of 2010

66. Nothing contained in this Act shall affect the liability in trespass of any person who enters upon the land of another person for the purpose of fishing without the permission of the owner or occupier thereof.

Trespass upon private property

67. (1) The Minister may, by statutory instrument, make regulations for the better carrying into effect of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), regulations under that subsection may make provision for—

- (a) anything which by this Act may or is required to be prescribed;
- (b) the registration of boats used for commercial fishing;
- (c) the procedure to be followed and the records to be kept by a committee;
- (d) the methods of fishing in any prescribed area;
- (e) the control, management and improvement of any commercial fishing area;
- (f) the methods of curing, preserving, processing or storing of fish at any commercial fishing area;
- (g) the fees to be paid for anything to be done under this Act;
- (h) the trade in and the sale and export of fish;
- (i) the forms to be used for any application, permit, licence or other document issued or kept under the provisions of this Act;
- (j) the keeping of records of fish taken under licence or removed from the Republic or exported;



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- (k) the regulation and control of aquaculture;
 - (l) the regulation and control of aquaculture, sport fishing and fishing for ornamental purposes;
 - (m) placing limits on the amounts of fish to be caught or the number of licences, permits or other document to be issued in respect of a fisheries management area;
 - (n) the keeping of records or requiring the provision of statistical and other information relating to a fisheries management area by a committee or any person authorised to carry on any activity under this Act;
 - (o) establishing and regulating community-based or other decentralised fisheries management and any aspect of their operation;
 - (p) financial management and the granting or delegating of power to any person, class or group of persons to enforce or implement regulations relating to fisheries conservation and management;
 - (q) the control, development and management of any fisheries management area including the development, establishment and implementation of integrated community projects among communities within fisheries management areas; and
 - (r) making or giving any order or direction generally for the better carrying out of the purposes of this Act.
- (3) Any regulations made under this section may provide that any person who contravenes or fails to comply with such regulations commits an offence under this Act and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.
68. (1) The Fisheries Act, 1974, is hereby repealed.
- (2) Notwithstanding subsection (1), any permit or licence issued under the repealed Act shall be valid for a period of six months after which the holder thereof shall apply for a permit or licence, as the case may be, in accordance with the provisions of this Act.

Repeal of
Cap. 200

Act No. 21 of
1974



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SCHEDULE

(Section 29(8))

ADMINISTRATION

1. (1) Subject to the other provisions of this Act, a committee may regulate its own procedure. Proceedings of committee
- (2) A committee shall meet for the transaction of business at such places and at such times as the Chairperson may determine:
- Provided that the first meeting of a committee shall be called by notice given and at a place determined by the Director.
- (3) Upon giving notice of not less than fourteen days, a meeting of a committee may be called by the Chairperson and shall be called if not less than one- third of the members so request in writing:
- Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.
- (4) The quorum at any meeting of a committee shall be seven members.
- (5) There shall preside at any meeting of a committee—
- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson; or
- (c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from amongst their number for the purpose of that meeting.
- (6) A decision of a committee on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.
- (7) A committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the committee but such person shall have no vote.
- (8) The validity of any proceedings, act or decision of a committee shall not be affected by any vacancy in the membership of the committee or by any defect in the appointment of any member or by reason that any person not entitled so to do, took part in the proceedings.



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Financial provisions relating to Fund

(9) A committee shall cause minutes to be kept of the proceedings of every meeting of the committee.

2. (1) A committee shall establish a fund to enhance the economic and social well being of the local riparian community within a fisheries management area.

(2) There shall be paid into the fund of a committee referred to in subparagraph (1)—

(a) such moneys from the revenues payable in respect of fishing and aquaculture licences issued under this Act and services rendered from the use of fisheries resources within a fisheries management area as the Minister may, after consultation with the Minister responsible for finance by regulations prescribe; and

(b) such moneys as the committee may, with the approval of the Minister, accept by way of grants and donations from any source within or outside Zambia.

(3) A committee shall cause to be kept proper books of accounts and other records relating to its accounts.

(4) The accounts referred to in subparagraph (3) shall be open for inspection by the Director or any member of the local riparian community concerned.

(5) The financial year of a committee shall be a period of twelve months ending on 31st December.

(6) A committee shall, not later than ninety days after the end of the financial year submit to the Minister—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) a report concerning its activities during the financial year.



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The Laws of Zambia
GOVERNMENT OF ZAMBIA

THE DAIRIES AND DAIRY PRODUCE REGULATIONS

FORM 6
(Regulation 21 (2))

CERTIFICATE OF REGISTRATION OF PREMISES

I hereby certify that the premises detailed below have been duly registered as a dairy under the Dairies and Dairy Produce Act. The registration number is.....

.....
*Permanent Secretary,
Ministry of Agriculture, Food and Fisheries.*

Name of Owner.....

Description of Premises

No. of Plot or Farm

District

Postal Address.....

.....

(No. 323 of 1950 as amended by G.N. No. 158 of 1964)

REPUBLIC OF ZAMBIA

THE NOXIOUS WEEDS ACT

CHAPTER 231 OF THE LAWS OF ZAMBIA

CHAPTER 231 THE NOXIOUS WEEDS ACTCHAPTER 231

THE NOXIOUS WEEDS ACT

ARRANGEMENT OF SECTIONS

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Section

1. Short title
2. Interpretation
3. Declaration of noxious weeds
4. Duty of occupiers to report the occurrence of and to eradicate noxious weeds
5. Duty of rural councils
6. Power of inspector to enter on land
7. Power of inspector to issue notice
8. Power of inspector to eradicate noxious weeds
9. Eradication of noxious weeds at public expense
10. Local authorities may incur expenditure
11. Power to prohibit importation, etc., of noxious weeds or seeds
12. Jurisdiction of subordinate courts
13. Obstruction of inspector
14. General penalty

CHAPTER 231

NOXIOUS WEEDS

59 of 1953
19 of 1959
35 of 1963
59 of 1963
69 of 1965
46 of 1969
Government Notice
277 of 1964
497 of 1964
Statutory Instrument
30 of 1964
Act No.
13 of 1994

An Act to provide for the eradication of noxious weeds; and to provide for matters incidental thereto.

[7th December, 1953]

1. This Act may be cited as the Noxious Weeds Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"Chairman" means the Chairman of the Natural Resources Board established by the Natural Resources Act; Cap. 197

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"eradicate", in relation to any noxious weed, means dig up and burn or pull up and burn, or employ such other method of destruction as may be authorised either generally or specially by the Chairman;

"inspector" means any person authorised in writing by the Chairman to perform the duties and exercise the powers of an inspector under the provisions of this Act;

"local authority" means a local authority established under the local government act

"noxious weed" means any plant declared to be a noxious weed under the provisions of section *three*; Cap. 281

"occupier"; in relation to land, means-

- (a) a person lawfully occupying such land;
- (b) in the case of unoccupied alienated land, the registered owner thereof;
- (c) in the case of a mining area, as defined in section *two* of the Mines and Minerals Act, the registered holder thereof;
- (d) in the case of State Land over which grazing or other rights have been granted, the holder of such rights;
- (e) in the case of land under the control of or vested in a local authority, the local authority concerned;

"specified area" means an area in respect of which any plant has been declared to be a noxious weed under the provisions of section *three*.

(As amended by No. 35 of 1963, No. 69 of 1965 and No. 46 of 1969)

3. The Minister may, from time to time by statutory notice, declare any plant to be a noxious weed in any area which may be specified in such notice, and may at any time vary or revoke such notice.

Declaration of noxious weeds

(As amended by No. 35 of 1963)

4. (1) It shall be the duty of every occupier of land within any specified area-

Duty of occupiers to report the occurrence of and to eradicate noxious weeds

(a) to report forthwith to an inspector or to the Chairman the presence of any noxious weed within the boundaries of such land; and

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The Laws of Zambia

- (b) to take reasonable steps to eradicate such noxious weed occurring within the boundaries of such land.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence:

Provided that it shall be a defence for the occupier to prove that he did not know, and did not have reasonable cause to know, of the presence of such noxious weed within the boundaries of the land occupied by him.

(As amended by No. 35 of 1963 and S.I. No. 30 of 1964)

5. Where all or any part of a specified area is situate in the area of a rural council, the rural council shall-

Duty of rural councils

- (a) report the presence of any noxious weed within such area or part thereof to an inspector; and
(b) cause such noxious weed to be eradicated.

(No. 69 of 1965)

6. An inspector may, at all reasonable times, enter upon any land within any specified area for the purposes of ascertaining whether any noxious weed exists within the boundaries of such land.

Power of inspector to enter on land

(As amended by No. 35 of 1963)

7. (1) An inspector may, by notice in writing, require the occupier of any land within the boundaries of which a noxious weed is growing to eradicate such noxious weed within such reasonable time as may be specified in such notice.

Power of inspector to issue notice

(2) A notice given under the provisions of subsection (1) shall state the particular noxious weed which has been found within the boundaries of the land and, so far as practicable, the place or places within such boundaries at which the noxious weed has been found.

(3) Any notice given to an occupier under the provisions of subsection (1) shall be in writing and shall be served-

- (a) personally upon the occupier; or
(b) by leaving it addressed to the occupier at his usual or last known place of abode; or
(c) by registered letter addressed to the occupier at his usual or last known place of abode.

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The Laws of Zambia

(4) Any person who fails without reasonable cause to comply with the requirements of any notice given under the provisions of this section shall be guilty of an offence.

(As amended by No. 35 of 1963)

8. (1) If an occupier fails to eradicate any noxious weeds within the time specified in a notice given under section seven, an inspector may, upon receiving a written authority from the Chairman in that behalf and after giving fourteen days' written notice to the occupier, enter upon the land for the purpose of eradicating any noxious weed found within the boundaries thereof, and for the purpose aforesaid may take with him upon the land such labourers, animals, vehicles, instruments, appliances, chemicals or other things as may, in his opinion, be necessary for the said purpose.

Power of inspector to eradicate noxious weeds

(2) In the exercise of the rights conferred by subsection (1), as little damage as possible shall be caused to the land and compensation shall be paid by the Minister for any unnecessary damage. The amount of compensation, if not mutually agreed upon, shall be determined by arbitration.

(As amended by No. 35 of 1963)

9. (1) If the Minister is satisfied that the occupier of any land within a specified area is unable to eradicate any noxious weed occurring within the boundaries of such land, the Minister may, out of funds provided for the purpose by Parliament-

Eradications of noxious weeds at public expense

- (a) cause such noxious weed to be eradicated by an inspector at the public expense and recover from the occupier the whole or such portion of the expense incurred in respect of such eradication as the Minister may determine; or
- (b) render, upon such conditions, as to payment, repayment or otherwise, as the Minister may determine, such financial or other assistance in connection with the eradication of noxious weeds by the occupier as is, in the opinion of the Minister, required by such occupier.

(2) An inspector referred to in paragraph (a) of subsection (1) shall have the same powers as an inspector referred to in subsection (1) of section eight.

(As amended by No. 35 of 1963 and G.N. No. 277 of 64)

10. Notwithstanding the provisions of any other written law, a local authority is hereby empowered to incur such expenditure as may be necessary for the purpose of eradicating any noxious weed which such local authority, as the occupier of the land within the boundaries of which it is growing, is required by or under this Act to eradicate.

Local authorities may incur expenditure

(As amended by No. 35 of 1963)

11. (1) The Minister may, by regulation, prohibit or restrict the importation, distribution, conveyance or sale of any noxious weed or any part thereof or of any seed with which the seed of any particular noxious weeds has become mixed, and such regulations may prescribe the powers and duties of officers in relation to the enforcement of such regulations.

Power to prohibit importation, etc., of noxious weeds or seeds



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(2) Any person who contravenes or fails to comply with the provisions of any regulation made under subsection (1) shall be guilty of an offence.

(As amended by No. 35 of 1963 and G.N. No. 277 of 1964)

12. (1) Any of the following amounts shall be deemed to be civil debts recoverable from an occupier at the suit of the Chairman: Jurisdiction of subordinate courts

- (a) all reasonable expenses incurred in the exercise of the powers conferred by section *eight*;
- (b) all reasonable expenses recoverable from the occupier by virtue of paragraph (a) of subsection (1) of section *nine*;
- (c) any reasonable amount to be paid or repaid by the occupier in consideration of any assistance rendered under paragraph (b) of subsection (1) of section *nine*.

(2) A subordinate court of the first or second class shall have jurisdiction to determine any action for the recovery from an occupier within the areas of its jurisdiction of any of the amounts referred to in subsection (1), notwithstanding anything to the contrary contained in the Subordinate Courts Act and whether or not such amounts exceed the amount ordinarily within the jurisdiction of such court. Cap. 28

(3) The recovery of any amount under the provisions of this section shall not relieve an occupier of any penalty incurred by reason of any contravention of or failure to comply with any of the provisions of this Act.

(As amended by No. 35 of 1963)

13. Any person who wilfully obstructs or interferes with any inspector, or with the assistant or agent of any inspector, in the execution of any duty or exercise of any power imposed or conferred by the provisions of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding six months, or to both. Obstruction of inspector

(As amended by Act No. 13 of 1994)

14. Any person who is guilty of an offence against the provisions of this Act, for which no other penalty is provided, shall on conviction be liable to a fine not exceeding one thousand five hundred penalty units. General penalty

(As amended by Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

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The Laws of Zambia

NOXIOUS WEEDS

CAP. 231

SECTION 3-DECLARATION OF NOXIOUS WEEDS

Notices by the Minister

Lantana camara is hereby declared to be a noxious weed in the areas specified in the Schedule.

Government Notices

216 of 1961

78 of 1962

303 of 1963

480 of 1964

Statutory Instrument

61 of 1966

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The Laws of Zambia SCHEDULE

Lusaka City Area.
Kitwe City Area.
Ndola City Area.
Chingola Municipal Area.
Kabwe Municipal Area.
Livingstone Municipal Area.
Luanshya Municipal Area.
Mufulira Municipal Area.
Chambishi Township.
Chililabombwe Township.
Chipata Township.
Choma Township.

Garneton Township.
Kabulonga Township.
Kalomo Township.
Kalulushi Township.
Kasama Township.
Mazabuka Township.
Mbala Township.
Monze Township.
Nchanga Mine Township.
Nkana Mine Township.
Pemba Township.



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The Laws of Zambia

Lantana camara is hereby declared to be a noxious weed in the Intensive Conservation Areas specified in the Schedule. *Government Notice 35 of 1963*



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The Laws of Zambia
SCHEDULE

Zimba.
Choma.
Pemba.
Mazabuka.
Nega Nega.
Magoye.
Lower Kaleyia.
Upper Kaleyia.
Chilanga.
Mwomboshi.
Livingstone.

West Lusaka.
East Lusaka.
North Lusaka.
South Kabwe.
North Kabwe.
Mkushi.
Kitwe/Mufulira.
Chingola/Chililabombwe.
Ndola/Luanshya.
Kalomo.



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The Laws of Zambia

Eichhornia crassipes (water hyacinth) is hereby declared to be a noxious weed in Zambia.

Government Notice
304 of 1961

Salvinia auriculata is hereby declared to be a noxious weed in the areas specified in the Schedule.

Government Notice
176 of 1963



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The Laws of Zambia SCHEDULE

INTENSIVE CONSERVATION AREAS

Zimba.	West Lusaka.
North Kalomo.	East Lusaka.
North Choma.	North Lusaka.
South Choma.	Mwomboshi.
Monze/Pemba.	South Kabwe.
Magoye.	North Kabwe.
Mazabuka.	Mkushi.
Lower Kaleya.	Ndola/Luanshya.
Upper Kaleya.	Kitwe/Mufulira.
Nega Nega.	Chingola/Chililabombwe.
Chilanga.	

OTHER AREAS

Lusaka City Area.	Kabulonga Township.
Kitwe City Area.	Kalomo Township.
Ndola City Area.	Kalulushi Township.
Chingola Municipal Area.	Kasama Township.
Luanshya Municipal Area.	Mazabuka Township.
Mufulira Municipal Area.	Mbala Township.
Chililabombwe Township.	Monze Township.
Chipata Township.	Nchanga Mine Township.
Choma Township.	Pemba Township.
Garneton Township.	



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The Laws of Zambia

Argemone mexicana (subfusiformis) is hereby declared to be a noxious weed in all areas of Zambia. *Statutory Instrument 70 of 1968*

Xanthium Pungens Wall is hereby declared to be a noxious weed in all areas of Zambia.

REPUBLIC OF ZAMBIA

THE AGRICULTURAL PRODUCTS LEVY ACT

CHAPTER 232 OF THE LAWS OF ZAMBIA

CHAPTER 232 THE AGRICULTURAL PRODUCTS LEVY ACT CHAPTER 232

THE AGRICULTURAL PRODUCTS LEVY ACT

ARRANGEMENT OF SECTIONS

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The Laws of Zambia

THE PIG INDUSTRY ACT

CHAPTER 251 OF THE LAWS OF ZAMBIA

CHAPTER 251 THE PIG INDUSTRY ACT CHAPTER 251

THE PIG INDUSTRY ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

IMPOSITION AND COLLECTION OF LEVY ON PIGS

3. Application of Part II
4. Imposition of levy on pigs
5. Withdrawal or suspension of the levy
6. Establishment of Pig Levy Account
7. Disposal of the levy
8. Summary judgment for the levy in criminal proceedings
9. Recovery of the levy
10. Legal costs of Minister



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The Laws of Zambia

PART III

DEVELOPMENT OF THE PIG INDUSTRY IN ZAMBIA

11. Certain pig carcasses to be graded throughout Zambia
12. Minister may define areas in Zambia within which all carcasses to be graded
13. Duties of Government graders
14. Bacon factories to be licensed
15. Application for and issue of licences
16. Extension of licences
17. Conditions of licences

PART IV

GENERAL PROVISIONS

18. Appointment of Government graders and inspectors
19. Regulations
20. Offences and penalties

CHAPTER 251

PIG INDUSTRY

An Act to provide for the imposition and collection of levies on pigs produced in Zambia; for the development of the pig industry and for matters incidental thereto.

[1st February, 1960]

28 of 1959
15 of 1960
Act
9 of 1964
13 of 1994
Government Notices
89 of 1964
497 of 1964
Statutory Instrument
176 of 1965

PART I

PRELIMINARY

1. This Act may be cited as the Pig Industry Act.

Short title

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

Interpretation



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"bacon" means any part of the carcass of a pig, excluding the feet and the offal and all parts of the head except the chaps, which has been salted or smoked or salted and smoked or pickled and smoked;

"bacon factory" means premises where pig carcasses are dressed and cured for the making of bacon or ham for sale or for export from Zambia;

"dealer" includes-

- (a) an auctioneer, broker, purchaser, seller or exporter of pigs or pig carcasses and a person engaged in the pig industry as defined in paragraph (b) of the definition of pig industry or in any other trade or industry in which pig carcasses are utilised or treated; and
- (b) a market master and a local authority;

and cognate expressions shall be construed by reference, amongst other things, to transactions or operations such as are carried on by persons referred to in paragraph (a) of this definition;

"Government grader" means a Government grader appointed in terms of subsection (1) of section *eighteen* and includes a person exercising or performing any of the powers or duties of a Government grader conferred or imposed upon him in terms of subsection (2) of that section;

"ham" has the meaning assigned to bacon;

"inspector" means an inspector appointed in terms of subsection (1) of section *eighteen* and includes a person exercising or performing any of the powers or duties of an inspector conferred or imposed upon him in terms of subsection (2) of that section;

"the levy" means the levy prescribed in terms of section *four*;

"licence" means a licence issued in terms of section *fifteen*;

"pig carcass" means the carcass or any part of the carcass of a pig;

"pig industry" includes anything and everything connected with-

- (a) the production, handling, treatment, processing and preparation for market or for export from Zambia of pigs and pig carcasses; and
- (b) the dressing and curing of pig carcasses for the making of bacon or ham;

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"Pig Levy Account" means the Pig Levy Account established in terms of section six;

"pig products" means pork, bacon, ham and other products for human consumption which are derived from pig carcasses;

"producer" means a person who, by himself or by means of his agents or servants, produces pigs in Zambia and "produced" shall be construed accordingly;

"regulation" includes an order or notice;

"sell" includes to exchange or dispose of for valuable consideration and cognate expressions shall be construed accordingly.

(As amended by No. 15 of 1960, G.N. No. 89 of 1964 and S.I. No. 176 of 1965)

PART II

IMPOSITION AND COLLECTION OF LEVY ON PIGS

3. The provisions of this Part shall not apply in relation to pigs which are-

Application of Part II

- (a) *obsolete*;
- (b) produced by a producer and consumed by him, members of his household or his servants.

(As amended by No. 15 of 1960 and G.N. No. 89 of 1964)

4. (1) Subject to the provisions of this Act, there shall be a levy at such rate as the Minister may prescribe on all pigs produced and slaughtered in Zambia. Imposition of levy on pigs

(2) The Minister shall prescribe the persons who shall be responsible for the payment of the levy and the persons who shall be responsible for the collection and remittal of the levy and the manner in and the times at which the levy shall be paid, collected and remitted.

(3) The levy shall be remitted to the Permanent Secretary.

(4) In prescribing the matters which by this section are required or are permitted to be prescribed, the Minister may-

- (a) make different provision in respect of different classes of pigs; and

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- (b) make no provision in respect of particular classes of pigs; and
- (c) *obsolete*;
- (d) provide that the levy may be collected or remitted by different methods or at different times; and
- (e) provide for exemptions from the levy.

(5) In classifying pigs for the purposes of paragraphs (a) and (b) of subsection (4), the Minister may have regard, amongst other things, to the purposes for which or the manner or the places or areas in which pigs are produced, slaughtered, consumed or dealt in.

(6) The levy shall not exceed-

- (a) one-quarter of one ngwee per pound dead weight; or
- (b) fifty ngwee in respect of any one pig.

(As amended by No. 15 of 1960 and G.N. No. 89 of 1964)

5. The Minister may at any time, by statutory order-

- (a) withdraw the levy; or
- (b) suspend the collection of the levy;

in whole or in part.

Withdrawal or suspension
of the levy

6. On the 1st February, 1964, there shall be established in respect of the levy a special account to be known as the Pig Levy Account into which shall be paid the proceeds of the levy.

(G.N. No. 89 of 1964 as amended by S.I. No. 176 of 1965)

Establishment of Pig Levy
Account

7. The Minister shall from time to time dispose of the amount standing to the credit of the Pig Levy Account in such manner as is in his opinion calculated to promote the development of the pig industry.

(Act No. 9 of 1964)

Disposal of the levy

8. (1) On the conviction of a person for an offence of failing or refusing to pay or to collect, or to remit to the Permanent Secretary, the levy in terms of this Act, the court convicting the accused may, on the application of the prosecutor and, in addition to any penalty which it may inflict, give summary judgement against the accused in favour of the Minister for the amount of the levy to which the offence relates.

Summary judgment for
the levy in criminal
proceedings

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(2) A judgment given by a court in terms of subsection (1) shall have the same force and effect and may be executed in the same manner as if the judgment had been given in a civil action instituted in the court.

(As amended by No. 15 of 1960 and G.N. No. 89 of 1964)

9. The Minister may, by civil action in a competent court, recover the amount of the levy which is due in terms of this Act from a person required in terms of this Act to pay the levy or to collect and remit the levy to the Permanent Secretary.

Recovery of the levy

(As amended by No. 15 of 1960 and G.N. No. 89 of 1964)

10. The costs payable by the Minister in an action referred to in section *nine* shall be paid from the funds in the Pig Levy Account.

Legal costs of Minister

PART III

DEVELOPMENT OF THE PIG INDUSTRY IN ZAMBIA

11. The carcasses of all pigs slaughtered in Zambia for-

- (a) export or sale as carcasses; or
- (b) making into bacon, ham or other products for human consumption;

Certain pig carcasses to be graded throughout Zambia

shall be graded immediately after slaughter in accordance with the provisions of this Act.

(As amended by No. 15 of 1960 and G.N. No. 89 of 1964)

12. The Minister may, by statutory notice, define areas in Zambia within which the carcasses of all pigs slaughtered for sale or export in any form whatsoever shall be graded immediately after slaughter in accordance with the provisions of this Act.

Minister may define areas in Zambia within which all carcasses to be graded

(As amended by No. 15 of 1960, Act No. 9 of 1964, G.N. No. 89 of 1964 and S.I. No. 176 of 1965)

13. A Government grader shall-

- (a) examine the quality of each pig carcass liable to be graded in accordance with the provisions of this Act; and
- (b) grade the pig carcass and mark the grade on the carcass in the prescribed manner.

Duties of Government graders

14. (1) No person shall use premises as a bacon factory-

Bacon factories to be licensed

- (a) unless he holds a licence to use those premises as a bacon factory issued by the Minister; and

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(b) otherwise than in accordance with the conditions, if any, contained in the licence.

(2) A person who contravenes the provisions of subsection (1) shall be guilty of an offence and all pig carcasses found on the premises shall be forfeited.

15. (1) An application for a licence referred to in subsection (1) of section *fourteen* shall be made to the Permanent Secretary in the form and in the manner prescribed.

Application for and issue of licences

(2) The Minister shall issue a licence-

(a) if the premises in respect of which the application for the licence is made conform with the specifications and standards prescribed by regulations providing for the matters referred to in paragraph (m) of subsection (2) of section *nineteen*; and

(b) if, after taking into account the number of licences issued and the annual pig production in Zambia, the Minister is of the opinion that the issue of the licence will not adversely affect the development of the pig industry.

(3) A licence shall, subject to the provisions of section *sixteen*, cease to be of force on the 31st December in the year in which it is issued.

(4) A person using premises as a bacon factory immediately before the 1st February, 1960, shall for the purposes of paragraph (a) of subsection (1) of section *fourteen* be deemed to be the holder of a licence issued on that date.

(As amended by Act No. 9 of 1964, G.N. No. 89 of 1964 and S.I. No. 176 of 1965)

16. (1) Subject to the provisions of subsection (3), the Minister shall, on the application of the holder of a licence, extend the licence from year to year to the 31st December.

Extension of licences

(2) An application for the extension of a licence shall be made to the Permanent Secretary in the form and in the manner prescribed.

(3) The Minister shall not, unless he is of the opinion that there are special circumstances justifying the extension of the licence, extend a licence if the premises in respect of which the licence was issued-

(a) no longer conform with the specifications and standards prescribed by regulations providing for the matters referred to in paragraph (m) of subsection (2) of section *nineteen*; or

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- (b) have not been used by the holder of the licence for dressing and curing pig carcasses for the making of bacon or ham during the period of six months ending on the date application for the extension of the licence is made.

(4) If the holder of a licence applies for an extension of the licence before the 31st December in any year, the licence shall be treated as being of force until the holder is notified in writing by the Permanent Secretary that the Minister has refused the application or has extended the licence.

(As amended by G.N. No. 89 of 1964)

17. In issuing or extending a licence the Minister may impose such conditions, including a condition requiring the holder of the licence to dress and cure annually a maximum or a minimum number or not more than a maximum or less than a minimum number of pig carcasses for the making of bacon or ham, as in his opinion are necessary to assist the development of the pig industry in Zambia.

Conditions of licences

(As amended by No. 15 of 1960 and G.N. No. 89 of 1964)

PART IV

GENERAL PROVISIONS

18. (1) Subject to the provisions of any written law governing the public service, the Minister may, for the purposes of this Act, appoint persons as Government graders or inspectors or as Government graders and inspectors.

Appointment of
Government graders and
inspectors

(2) With the consent of the President, the Minister may confer all or any of the powers and impose all or any of the duties of a Government grader or an inspector under this Act upon any person or class of persons in the public service or in the Zambia Police Force.

(As amended by No. 15 of 1960 and G.N. No. 89 of 1964)

19. (1) The Minister may by regulation prescribe all matters which by this Act are required or are permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

Regulations

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may in the exercise of the power conferred upon him by that subsection provide for-

- (a) the registration of producers, dealers and persons who slaughter pigs and the information to be supplied in connection with applications for registration; and

- (b) the keeping of books, registers and accounts, the furnishing of returns and the supply of information relating to the production and slaughter of and dealings in pigs, pig carcasses and pig products; and

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- (c) the inspection by inspectors of-
 - (i) pigs, pig carcasses and pig products wherever they may be; and
 - (ii) books, registers and accounts referred to in paragraph (b); and
 - (iii) piggeries, bacon factories, land and other premises where pigs, pig carcasses and pig products are produced, handled, treated, processed, prepared, dressed, cured, dealt in or stored; and
- (d) the seizure by an inspector of books, documents, pigs, pig carcasses or pig products which, in the opinion of the inspector, may afford evidence of a contravention of the provisions of this Act, and the doing of such other things as may appear to the inspector necessary for ascertaining whether compliance has been made with the provisions of this Act; and
- (e) the production to inspectors of licences and of books, registers and accounts, pigs, pig carcasses, and pig products referred to in paragraph (c); and
- (f) the manner in which the levy shall be assessed and paid and the collection of and the remittal to the Permanent Secretary of the levy, including the collection and the remittal to the Permanent Secretary of the levy by dealers and persons who slaughter pigs; and
- (g) the grading and marking of pig carcasses and the names and designations of the various grades; and
- (h) the marks to be used by Government graders and the manner of grading and marking pig carcasses; and
- (i) the grading, marking, packing or invoicing of pig products and the manner in which pig products shall be wrapped or packed so as to indicate the grade of pig from which they are derived; and
- (j) the prohibition or regulation of the sale, distribution, consignment or delivery of pig carcasses and pig products which have not been graded, marked, packed, wrapped or invoiced in accordance with regulations; and
- (k) the form and manner in which applications for licences and extensions of licences are to be made and the information to be supplied in connection therewith; and
- (l) the form of licences and circumstances in which and the conditions subject to which licences shall be issued or extended; and
- (m) the construction, layout and equipment of bacon factories; and
- (n) the fixing of maximum, minimum or specified prices determined by reference to dead weight and grade or live weight and grade which shall be paid for pigs.

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(3) The Minister may in the exercise of the power conferred upon him by subsection (1) make different provision with respect to different classes of pigs, pig carcasses and pig products and in respect of different producers, dealers who slaughter pigs or classes of producers, and dealers who slaughter pigs.

(As amended by No. 15 of 1960 and G.N. No. 89 of 1964)

20. A person who-

Offences and penalties

- (a) fails or refuses when required to do so in terms of this Act to register as a producer, dealer or person who slaughters pigs; or
- (b) fails or refuses to furnish a return, or to supply information in the manner and in the time prescribed, or furnishes a false or incomplete return or supplies false or incomplete information; or
- (c) obstructs a Government grader or inspector in the performance of his duties or the exercise of powers conferred by or under a provision of regulations or, on being directed to do so, does not produce to an inspector for inspection a licence or pigs, pig carcasses or pig products, and any books, registers or accounts relating thereto, which are in his possession or under his control; or
- (d) marks on a pig carcass or pig product a mark identical with a Government grader's mark, or a mark so nearly resembling a Government grader's mark as to be likely to be mistaken for it, or forges a Government grader's mark on a pig carcass or pig product graded in terms of this Act; or
- (e) contravenes or fails to comply with a provision of this Act or of regulations or with an order or direction made or given thereunder with which it is his duty to comply;

shall be guilty of an offence and liable-

- (i) for a contravention of subsection (1) of section *fourteen* or of paragraph (a)-
 - A. on first conviction, to a fine not exceeding three thousand penalty units or, in default of payment, to imprisonment for a period not exceeding one year, or to such imprisonment without the option of a fine, or to both; and
 - B. on the second or a subsequent conviction, to a fine not exceeding six thousand penalty units or, in default of payment, to imprisonment for a period not exceeding two years, or to such imprisonment without the option of a fine, or to both;
- (ii) for an offence not referred to in sub-paragraph (i)-
 - A. on first conviction, to a fine not exceeding seven hundred and fifty penalty units or, in default of payment, to imprisonment for a period not exceeding one month, or to such imprisonment without the option of a fine, or to both; and
 - B. on the second or a subsequent conviction, to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding two months, or to such imprisonment without the option of a fine, or to both.

(As amended by No. 15 of 1960 and Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

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PIG INDUSTRY

CAP. 251

SECTION 5-THE PIG INDUSTRY LEVY (WITHDRAWAL) ORDER

*Statutory Instrument
59 of 1966*

Order by the Minister

1. This Order may be cited as the Pig Industry Levy (Withdrawal) Order.
2. The Levy imposed in pursuance of the Act on pigs is hereby wholly withdrawn.

Title

Withdrawal of levy

SECTION 12-THE PIG INDUSTRY (DEFINITION OF AREAS) NOTICE

*Federal Government
Notice
368 of 1960
Government Notice
497 of 1964*

Notice by the Minister

1. This Notice may be cited as the Pig Industry (Definition of Areas) Notice.
2. The areas within-
 - (a) 11.2 kilometres of the Lusaka Post Office;
 - (b) 8 kilometres of the Kitwe, Livingstone, Luanshya, Mufulira and Ndola Post Offices;

Title

Definition of areas

are hereby defined as areas in Zambia within which the carcasses of all pigs slaughtered for sale or export in any form whatsoever shall be graded immediately after slaughter in accordance with the provisions of the Pig Industry (Grading) Regulations.

SECTION 19-THE PIG INDUSTRY (GRADING) REGULATIONS

*Federal Government
Notices
138 of 1960
140 of 1961
362 of 1962
52 of 1963
285 of 1963
Government Notice
89 of 1964
Statutory Instrument
47 of 1975
Act No.
13 of 1994*

Regulations by the Minister

1. These Regulations may be cited as the Pig Industry (Grading) Regulations.

Title



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2. In these Regulations, unless the context otherwise requires-

Interpretation

"dead weight" means cold dressed weight as determined in accordance with regulation 3;

"defined area" means an area defined under section *twelve* of the Act;

"registered exporter" means any person registered or deemed to be registered in terms of regulation 4 of the Pig Industry (Prices) Regulations;

"slaughter-house" means a slaughter-house operated by a local authority, or a bacon factory.
(As amended by F.G.N. No. 140 of 1961 and G.N. No. 89 of 1964)

3. The cold dressed weight of a pig carcass shall be determined by weighing the carcass within one hour of slaughter and by deducting three per centum to the nearest kilogram from the weight so obtained. Cold dressed weight

4. (1) The carcasses of pigs liable to be graded in terms of the Act shall be graded by a Government grader at a slaughter-house in accordance with the provisions of the First Schedule in one or other of the grades there specified. Grading of pig carcasses

(2) The carcasses of pigs which have been graded in terms of sub-regulation (1) shall be marked by a Government grader with a roller-mark in accordance with the provisions of the Second Schedule:

Provided that-

(i) the carcasses of pigs slaughtered for export from Zambia by a registered exporter;

(ii) internal cuts of meat;

shall not be so marked.

(F.G.N. No. 140 of 1961 as amended by G.N. No. 89 of 1964)

5. A Government grader may regrade a carcass if-

Regrading of pig carcasses

(a) a defect caused by-

(i) soft and oily fat; or



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- (ii) fishy flavour or other taint;
was not apparent when the carcass was graded; or
- (b) the pig was slaughtered as a casualty; or
- (c) in the opinion of a senior grader, the original grading was inaccurate.

(F.G.N. No. 285 of 1963)

6. No person shall sell at, distribute in or consign or deliver to any place within a defined area the carcass of any pig slaughtered in Zambia-

Dealing in pig carcasses
in defined areas

- (a) liable to be graded in terms of the Act which has not been graded and marked in accordance with the provisions of these Regulations; or
- (b) slaughtered outside that defined area unless it has been graded and marked in accordance with the provisions of these Regulations as though it was a pig carcass liable to be graded in terms of the Act.

(F.G.N. No. 56 of 1963 as amended by G.N. No. 89 of 1964)

7. No person other than the consumer shall remove the skin of a pig carcass graded in terms of regulation 4 or interfere in any way with the marking thereon.

Interference with
markings on pig
carcasses

8. A Government grader shall, in respect of every pig carcass graded by him in terms of regulation 4, furnish to the person who slaughtered the pig a return, in duplicate, in the form prescribed in the Third Schedule. One copy of such return shall be forwarded by the person who slaughtered the pig to the seller when payment is made and one copy shall be retained by the person who slaughtered the pig.

Returns to be furnished
by Government graders

9. (1) Any person whose pig carcass has been classified and graded in terms of regulation 4 and who is dissatisfied with the decision of the Government grader in regard to the classification or grading of such carcass shall, subject to the provisions of sub-regulation (2), be entitled to appeal to the Chief Animal Husbandry Officer of the Department of Agriculture against such decision.

Appeals against decisions
of Government graders

(2) No appeal shall lie in terms of this regulation unless such person (hereinafter referred to as the appellant)-

- (a) notifies the Government grader on the same day as the decision in regard to the classification or grading of the carcass is given and before the carcass is removed from the place of grading, of this intention to appeal;
- (b) within seventy-two hours of notifying the Government grader of his intention to appeal, lodges with the Permanent Secretary a notice of appeal and a deposit in the sum of three hundred fee units.

(3) An appeal lodged in terms of this regulation shall be decided by the Chief Animal Husbandry Officer of the Department of Agriculture or by a person with a special knowledge of meat grading nominated by him, and the decision of such officer or person shall be communicated to the appellant within ten days of the date on which the appeal was lodged with the Permanent Secretary.

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(4) If an appeal lodged in terms of this regulation-

- (a) is upheld, the sum of three hundred fee units deposited in respect thereof shall be refunded to the appellant;
- (b) is dismissed, the sum of three hundred fee units deposited in respect thereof, shall, unless the Chief Animal Husbandry Officer of the Department of Agriculture otherwise directs, be forfeited by the appellant and paid into the general revenues of the Republic in aid of the costs of the appeal.

(As amended by G.N. No. 89 of 1964 and Act No. 13 of 1994)

10. Any person who slaughters a pig, the carcass of which is liable to be graded in terms of the Act, shall-

- (a) institute a system of serial numbers;
- (b) clearly mark the pig carcass with the appropriate serial number before it is graded by a Government grader;
- (c) keep a record of the serial number marked on such pig carcass;
- (d) furnish a return to the Government grader showing, in respect of such pig carcass, the serial number marked thereon, the dead weight thereof and the name of the seller.

(As amended by F.G.N. No. 140 of 1961)



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FIRST SCHEDULE

(Regulation 4)

CLASSES AND GRADES OF PIG CARCASSES

1. A pig carcass which weighs-
 - (a) less than 30 kg shall be classified as an Underweight Pig;
 - (b) not less than 30 kg and not more than 55.5 kg shall be classified as a Porker;
 - (c) more than 55.5 kg but not more than 74.5 kg shall be classified as a Baconer;
 - (d) more than 74.5 kg but not more than 95 kg shall be classified as a Heavy Hog;
 - (e) over 95 kg shall be classified as a Manufacturing Pig.
2. An Underweight Pig carcass shall be graded as B Manufacturing.
3. Subject to the provisions of paragraph 4, a Porker shall be graded as follows:

Grade 1-Carcass very well fleshed; side long; good depth of loin; shoulder, head and collar light; hams broad and well fleshed; back fat neither excessive nor deficient; fat reasonably white and firm; suitable fat covering over breast bone; fine bone with well sprung ribs; skin thin and smooth. Skin pigmentation may be present if it is so faint that it does not distract from the value of the carcass. Excellent all-round suitability for pork.

Grade 2-Of good all-round suitability for pork but lacking Grade 1 standard as defined above.

Grade 3-Below standard of Grade 1 or 2 on account of excessive fatness or under finish.
4. A Porker shall be Grade 3 or Manufacturing if-
 - (a) it has faulty conformation;
 - (b) the carcass has a fishy flavour or other taint;
 - (c) it was before slaughter-
 - (i) a male pig not castrated within twelve weeks of birth;
 - (ii) a pig suffering from disease or injury rendering it unsuitable for the fresh pork trade.
5. A Baconer shall be graded as follows:

	Maximum Fat Measurements			Minimum Fat Measurements
	Mid Back	Shoulder	Rump	Mid Back
Super Grade A ..	25 mm	40 mm	25 mm	15 mm
Grade A ..	30 mm	45 mm	30 mm	15 mm
Grade B ..	35 mm	55 mm	35 mm	15 mm

6. A Heavy Hog shall be graded as follows:

	Maximum Fat Measurements			Minimum Fat Measurements
	Mid Back	Shoulder	Rump	Mid Back
Grade A ..	40 mm	60 mm	40 mm	20 mm
Grade B ..	45 mm	65 mm	45 mm	20 mm
Grade C ..	50 mm	70 mm	50 mm	20 mm

METHOD OF DETERMINING PAYMENT GRADES



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7. A Baconer which is-
- (a) Super Grade A on the middle of the back and Super Grade A at one other point but is one or more grades below Grade A at the remaining point shall be graded as Super Grade A;
 - (b) Grade A on the middle of the back and either Super Grade A or Grade A at one other point shall be graded as Grade A;
 - (c) Super Grade A, Grade A or B on the basis of carcass measurement but which has a split-back that reduces the value of the carcass, may be down-graded one or more grades according to the extent to which the value of the carcass has, in the opinion of the grader, been reduced but it shall not be graded below Grade B:
Provided that if the loss of value is less than the equivalent of one grade the weight for payment may be reduced to cover the loss.
8. A Baconer shall be graded as either B or Manufacturing if-
- (a) in the opinion of the Government grader it is unsuitable for the making of bacon on account of-
 - (i) faulty conformation;
 - (ii) softness or oiliness;
 - (b) it was before slaughter-
 - (i) a male pig which has not been castrated within twelve weeks of birth;
 - (ii) a rig pig of which the carcass is unsuitable for the making of bacon;
 - (iii) a sow;
 - (iv) a gilt which has reached a stage of pregnancy which renders the carcass unsuitable for the making of bacon;
 - (v) a pig suffering from disease or injury rendering the carcass unsuitable for the making of bacon;
 - (c) the carcass has a fishy flavour or other taint.
9. For the purpose of determining the fat measurements of a Baconer or Heavy Hog-
- (a) the measurements shall be taken with a standard pattern gauge approved by the Minister;
 - (b) the mid back measurement shall be taken at the middle of the back where the fat is thinnest;
 - (c) the shoulder measurement shall be taken at the fattest part of the shoulder;
 - (d) the rump measurement shall be taken at the middle of the rump muscle.
10. A Baconer or Heavy Hog shall be graded according to the highest grade applicable to its measurements.
11. A Heavy Hog which is-
- (a) Grade A on the middle of the back and Grade A at one other point but is one or more grades below Grade B at the remaining point shall be graded as Grade A;
 - (b) Grade B on the middle of the back and either Grade A or B at one other point shall be graded as Grade B;
 - (c) Grade A, B or C on the basis of carcass measurement but which has a split-back that reduces the value of the carcass, may be down-graded one or more grades according to the extent to which the value of the carcass has in the opinion of the grader, been reduced but it shall not be graded below Grade C:
Provided that if the loss of value is less than the equivalent of one grade the weight for payment may be reduced to cover the loss.
12. A Heavy Hog shall be graded as either C or Manufacturing if-
- (a) in the opinion of the Government grader it is unsuitable for processing on account of softness or oiliness;
 - (b) it was before slaughter-
 - (i) a male pig which has not been castrated within twelve weeks of birth;
 - (ii) a rig pig of which the carcass is unsuitable for processing;
 - (iii) a gilt which has reached a stage of pregnancy which renders the carcass unsuitable for processing;
 - (iv) a sow;
 - (v) a pig suffering from disease or injury rendering the carcass unsuitable for processing;
 - (c) the carcass has a fishy flavour or other taint.
13. A Manufacturing Pig shall be graded as either A, B or Inferior on the Government grader's assessment of the general appearance and quality of the carcass.
14. Any reference in this Schedule to the weight of a pig carcass shall be construed as a reference to the cold dressed
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The Laws of Zambia

CAP. 251



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SECOND SCHEDULE

(Regulation 4)

ROLLER-MARKINGS FOR PIG CARCASSES

<i>Class and Grade</i>	<i>Roller-mark</i>
Underweight Pig:	
Grade B Manufacturing	B Manufacturing
Porker:	
Grade 1	1
Grade 2	2
Grade 3	3
Baconer:	
Super Grade A	AA
Grade A	A
Grade B	B
Manufacturing Pig:	
Grade A	AMFR
Grade B	BMFR
Inferior	Inferior
Heavy Hog:	
Grade A	HA
Grade B	HB
Grade C	HC

(As amended by S.I. No. 47 of 1975)



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THIRD SCHEDULE

(Regulation 8)

PIG CARCASS GRADING RETURN

(To be completed by Government Grader in triplicate)

Name of Seller Register No. of Seller
Address Number of Pigs Graded
..... Slaughtered at
..... Date of slaughter
..... Factory Lot No.

Factory Serial No.	Ear No.	Cold Dressed Weight	Class	Back Fat Grades			Payment Grade
				Rump	Mid Back	Shoulder	
Total							
Deductions							

Abbreviations: "Class Column", B = Baconer U/P = Underweight Pig H = Heavy Hogg
P = Porker MFR = Manufacturing

Date....., 19.....

Signature of Government Grader
(This signature confirms particulars relating only to grading)



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SECTION 19-THE PIG INDUSTRY (POWERS OF INSPECTORS) REGULATIONS

Regulations by the Minister

*Federal Government
Notice
140 of 1960
Government Notice 89
of 1964*

1. These Regulations may be cited as the Pig Industry (Powers of Inspectors) Regulations. Title

2. An inspector may inspect- Inspection of premises
 - (a) any slaughter-house or bacon factory;
 - (b) any premises where pig carcasses or pig products are sold;
 - (c) any boarding-house, hospital, hotel, restaurant or school hostel;for the purpose of ascertaining whether any pig carcass or pig product therein has been graded and roller-marked in accordance with the Pig Industry (Grading) Regulations.
(As amended by G.N. No. 89 of 1964)

3. (1) An inspector may demand the production of- Production of documents
 - (a) any bacon factory licence;
 - (b) any book, register or account relating to the slaughter of pigs and the sale of pig carcasses and pig products.(2) An inspector may seize any licence, book, register or account referred to in sub-regulation (1).

4. When exercising any powers conferred by these Regulations, an inspector shall, if so required, produce a written authority from the Minister to exercise such powers. Written authority

REPUBLIC OF ZAMBIA

THE STOCK DISEASES ACT

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Unlocking Zambia's Potential

Plant Breeder's Rights [No. 18 of 2007 239

THE PLANT BREEDER'S RIGHTS ACT, 2007

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*Copies of this Act can be obtained from the Government Printer,
P.O. Box 30136, 10101 Lusaka. Price K8,000 each.*



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GOVERNMENT OF ZAMBIA

ACT

No.18 of 2007

Date of Assent: 30th August, 2007

An Act to provide for the protection of plant breeder's rights; the registration of plant varieties; and for matters connected with or incidental to the foregoing.

[31st August, 2007

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Plant Breeder's Rights Act, 2007.

Short title

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

“Appeals Board” means the Appeals Board established under section *fifty-five*;

Interpretation

“assignee” in relation to a variety, means a person who has derived a title to the variety, directly or indirectly, from a breeder or owner thereof, or the legal representative of that person;

“breeder” in relation to a protected variety means—

(a) the person who or organisation which has bred, discovered and developed the plant variety;

(b) the employer of the person referred to in paragraph (a) if that person is an employee whose duties are such that the variety was bred, discovered and developed in the performance of the employee's duties; or

(c) the successor in title of the person referred to in paragraph (a) or the employer referred to in paragraph (b);



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- “denomination” means the name of a variety in relation to an approved variety;
- “derivative” means a product developed or extracted from a plant genetic resource;
- “essential characteristics” in relation to a plant variety, means heritable traits that are determined by the expression of one or more genes, or other heritable determinants, that contribute to the principal feature, performance or value of the variety;
- “farmer” means
- (a) any person who cultivates crops for subsistence or commercial purposes, directly or through another person; or
 - (b) any person who conserves or reserves, severally or jointly with any person, any wild species or traditional variety or adds value to any wild species or traditional variety through the selection or identification of their useful properties;
- “genera” means any small group of plants which have in common many fundamental features;
- “genetic material” means any material of plant, animal, microbial or other origin containing functional units of heredity;
- “genetic resource” means any genetic material of actual or potential value;
- “genotype” means the combination of genes that a plant possesses;
- “grantee” in relation to a plant breeder’s right in a plant variety means—
- (a) the person currently entered on the Register as the holder of the right in the variety; and
 - (b) where the plant variety is declared to be an essentially derived variety of another plant variety, the person currently on the Register as the holder of the right in relation to that other variety;
- “holder” in relation to a plant breeder’s right means a person to whom a right has been granted in terms of section *thirty*;
- “Institute” means the Seed Control and Certification Institute;
- “kind” in relation to a plant, means a related species, sub-species or variety of any plant which is known by a common name;



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“ licence ” means a licence issued under Part V of this Act;

“ National Biosafety Authority ” means the National Biosafety Authority established under the Biosafety Act, 2007;

Act No. 10 of
2007

“ owner ” in relation to a variety, includes any person having for the time being the possession of that variety;

“ plant ” includes any fungi and algae but does not include any bacteria, bacteroid, mycoplasma, virus, viroid or bacteriophage;

“ plant breeder's right ” means a right granted in terms of section *seven*;

“ plant genetic resource ” means any material of plant origin and the reproductive propagating material that contains functional units of heredity of actual or potential value to food and agriculture;

“ propagation ” in relation to a living organism or its components, means the growth, culture or multiplication of that organism or component whether by sexual or asexual means;

“ propagating material ” in relation to a plant of a particular plant variety, means any part or product from which, whether alone or in combination with other parts or products of that plant, another plant with the same essential characteristics can be produced;

“ protected variety ” means a variety in respect of which a grant of a plant breeders' right is made;

“ Registrar ” means the Registrar of the Institute appointed under section *five*;

“ royalty ” means the amount of money, in Kwacha equivalent, payable for the utilisation of a plant breeder's right;

“ seed ” means the part of a plant, customarily referred to as a seed, intended for planting and includes a seed potato;

“ sell ” includes to exchange, barter, offer, hire, advertise, keep, expose, transmit, convey or deliver for or in pursuance of a commercial purpose;

“ species ” means a natural plant grouping that is capable of breeding within itself but does not interbreed with a member of another plant species;

“ successor ” means—

- (a) in relation to a breeder of a plant variety, a person to whom the right of the breeder to make an application for a breeder's right in the variety is assigned or transmitted by will or by operation of law; and



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(b) in relation to a grantee of a plant breeder's right, a person to whom the right has been assigned, or transmitted by will or by operation of law;

"taxonomy" means a classified group of plants; and

"variety" means a plant grouping that is contained within a single botanical taxon of the lowest known rank and that, irrespective of whether the conditions for the grant of a breeder's right are fully met—

(a) can be defined by the expression of the characteristics resulting from the genotype or combination of genotypes;

(b) can be distinguished from another plant grouping by the expression of at least one of the characteristics; and

(c) can be considered as a functional unit because of its suitability for being propagated unchanged.

PART II

ADMINISTRATION

Designation
of plant
variety
protection
authority

3. The Seed Control and Certification Institute within the Ministry responsible for agriculture is hereby designated as the plant variety protection authority and shall be responsible for the administration of this Act.

Functions of
Institute

4. The functions of the Institute are to—

(a) register plant varieties;

(b) promote and encourage the development of new plant varieties;

(c) protect the rights of plant breeders with respect to varieties of plants;

(d) document the characterisation of varieties;

(e) maintain catalogues of registered varieties of plants, seeds and germplasm;

(f) issue licences in accordance with this Act;

(g) compile and maintain statistics with regard to plant varieties, seeds and germplasm; and

(h) do all such things connected with or incidental to the foregoing.



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5. (1) There shall be a Registrar of the Institute who shall be a public officer and who shall be responsible for the carrying out of the provisions of this Act. Registrar of Institute.

(2) There shall be a Deputy Registrar who shall be a public officer and who shall exercise such functions and duties as are delegated to the Deputy Registrar by the Registrar.

PART III

PLANT BREEDER'S RIGHTS

6. The Institute shall recognise and protect the plant breeder's rights enumerated under this Part. Protection of plant breeder's

7. (1) A plant breeder's right in respect of a plant variety is the exclusive right, subject to the other provisions of this Act, to do, or to licence another person to do, any of the following acts in relation to propagating material of the variety: Rights of plant breeder

- (a) produce or reproduce the material;
- (b) condition the material for the purpose of propagation;
- (c) offer the material for sale;
- (d) sell the material;
- (e) import the material;
- (f) export the material; or
- (g) stock the material for any purposes described in paragraphs (a) to (f).

(2) The provisions of subsection (1) shall apply to—

- (a) any variety which is essentially derived from the protected variety, where the protected variety is not in itself an essentially derived variety;
- (b) any variety that is not clearly distinguishable from the initial variety;
- (c) any variety that cannot be reproduced except by the repeated use of the initial variety or of a variety referred to under paragraph (b).

(3) A variety shall be deemed to be essentially derived from another variety if—

- (a) it is predominantly derived from the initial variety, or from a variety that is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of the genotypes of the initial variety;



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(b) it does not exhibit any important features that differentiate it from that other variety;

(c) it is clearly distinguishable from the initial variety; and

(d) except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

(4) An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of any variant individual from any plant of the initial variety, back crossing, or transformation by genetic engineering.

Exemptions
to rights of
breeder

8. (1) Notwithstanding the existence of a plant breeder's rights in respect of a plant variety, any person or farmer may—

(a) propagate, grow and use any plant of the variety for purposes other than commerce;

(b) sell any plant or propagating material of the variety as food or for another use that does not involve the growing of the plant or the propagation of that variety;

(c) sell within a farm or any other place at which any plant of the variety are grown, any plant or propagating material of the variety at that place;

(d) use any plant or propagating material of the variety as an initial source of variation for the purposes of developing another new plant variety except where the person makes repeated use of the plant or propagating material of the first mentioned variety for the commercial production of another variety;

(e) sprout the protected variety as food for home consumption or for the market;

(f) use the protected variety for further breeding, research or teaching; and

(g) obtain, with the conditions of utilisation, the protected variety from a gene bank or plant genetic resource centre.

(2) A farmer may save, exchange or use part of the seed from the first crop of a plant which the farmer has grown for sowing in the farmer's farm to produce a second and subsequent crop.

(3) Any act done in relation to a plant variety covered by a plant breeder's right that is done for any of the following purposes does not infringe any plant breeder's right:



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- (a) privately and for a non-commercial purpose;
- (b) for any experimental purpose; or
- (c) for the purpose of breeding another variety.

9. (1) A plant breeder's right is personal property and, subject to any conditions imposed under this Act, is capable of assignment or of transmission by will or by operation of law.

Nature of
plant
breeder's
rights

(2) An assignment of a plant breeder's right does not have effect unless it is in writing, signed by or on behalf of the assignor.

(3) If a grantee of a plant breeder's right in a plant variety gives another person a licence in that right, the licence binds any successor in title to the interest of the grantee to the same extent as it bound the grantee.

10. (1) A plant breeder may assign the plant breeders rights to any person.

Assignment
of plant
breeder's
rights

(2) Where a plant breeder's rights are assigned or transmitted to any person, the person shall, within thirty days after acquiring them, inform the Registrar in writing that the person has acquired the plant breeders rights, giving particulars of the manner in which the rights are acquired.

(3) The Registrar shall, where satisfied that any rights are assigned or transmitted, enter the name of the person to whom the rights are assigned or transmitted on the Register as the grantee of the plant breeders rights.

(4) The Registrar shall, where the Registrar enters on the Register as the grantee of a plant breeder's rights the name of a person who claims to have acquired the plant breeder's rights, within thirty days after entering the name in the Register, give written notice to the person newly entered and to the person who was the grantee before the new entry was made stating that the entry has been made.

(5) Where the Registrar is not satisfied that a plant breeder's rights are assigned or transmitted to a person who has informed the Registrar in accordance with subsection (1), the Registrar shall—

- (a) give written notice to the claimant—
 - (i) stating that the Registrar is not satisfied; and
 - (ii) setting out the grounds on which the Registrar is not satisfied; and
- (b) give written notice to the person entered on the Register as the holder of the right—



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- (i) setting out particulars of the information given by the claimant;
- (ii) telling the claimant that the Registrar is not satisfied; and
- (iii) setting out the grounds on which the Registrar is not satisfied.

(6) A person who informs the Registrar in accordance with subsection (2) that a plant breeder's rights have been assigned or transmitted to that person, shall give written notice to the Registrar of an address in Zambia for the service of any documents.

(7) Where the Registrar enters the name of the grantee on the Register in accordance with subsection (1) and the address is different from the address entered in the Register, the Registrar shall amend the Register so that the address so given is entered in the Register as the address for the service of any documents on the grantee for purposes of this Act.

(8) Where the Registrar is not satisfied that the rights have been assigned or transmitted to another person, the notice to the person under paragraph (a) of subsection (5) shall be given by post.

Duration of
plant
breeder's
rights

11. (1) A plant breeder's rights in respect of a plant variety shall exist for a period of twenty years in the case of any annual crop and twenty five years in the case of any tree and any other perennial commencing on the date on which the successful application for a plant breeder's rights in respect of the plant variety is granted in accordance with this Act.

(2) Any plant breeder's right in a plant variety that is a dependant plant variety of another plant variety commences on—

- (a) the day that the grant of a right in the other plant variety is made; or
- (b) the day that dependant variety comes into existence whichever occurs last, and ends when a plant breeder's right in the other variety ceases.

Restrictions
to plant
breeder's
rights

12. (1) The Institute may, where it considers it necessary in the public interest, subject a plant breeder's rights in respect of a new variety to conditions restricting the realisation of the rights.

(2) A plant breeder's rights on a new variety may be subject to restriction with the objective of protecting food security, health, biological diversity and any other requirement of the farming community for propagating material of a particular variety.



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- (3) Restrictions may be imposed where—
- (a) problems with competitive practices of a rights holder are identified;
 - (b) food security or public nutritional or health needs are adversely affected;
 - (c) a high proportion of the plant variety offered for sale is being imported;
 - (d) the requirements of the farming community for propagating material of a particular variety are not met; and
 - (e) where it is considered important to promote the public interest for socio-economic reasons and for developing indigenous and other technologies.
- (4) The Institute shall, where restrictions are imposed on a plant breeder's rights within fourteen days thereof—
- (a) give the grantee a copy of the instrument setting out the conditions of the restriction and the reasons therefor;
 - (b) give a public notice to that effect; and
 - (c) specify the compensation to be awarded to the holder of the affected rights.
- (5) Any rights holder affected by any restriction under subsection (1) or (2) may appeal against the decision to the Appeals Board.
- (6) The Institute may convert any exclusive plant breeder's rights granted under this Act to non-exclusive plant breeder's rights.
13. (1) A plant breeder's right does not extend to any act concerning the propagation of material of any protected variety, or of a variety covered under sub-section (2), which has been sold or otherwise marketed by the breeder or with the breeder's consent in Zambia, or any material derived from the propagating material, unless the act—
- (a) involves a further propagation of the variety in question; or
 - (b) involves an exportation of the material of any variety which enables the propagation of the variety into any country which does not protect variety of any plant genera or species to which the variety belongs, except where the exported material is for consumption purposes.
- (2) For purposes of sub-section (1), "material" means, in relation to a variety—

Exhaustion
of plant
breeder's
right



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- (a) propagating material of any kind;
- (b) harvested material, including an entire plant or any part of a plant; and
- (c) any product made directly from any harvested material.

PART IV

REGISTRATION OF PLANT BREEDER'S RIGHTS

Application
for plant
breeder's
rights

14. (1) A breeder of a new plant variety may apply to the Institute for a plant breeder's right in respect of the variety in the prescribed manner and form upon payment of a prescribed fee.

(2) A breeder of a new variety, or the breeder's successor, may apply for a plant breeder's right in respect of the variety, whether or not the breeder is a citizen or foreigner, is resident in Zambia or not and whether the variety was bred locally or abroad.

(3) Where two or more persons are entitled to apply for a plant breeder's rights in respect of a new variety whether by reason that they bred the plant variety jointly or independently or otherwise, the persons or some of those persons may make a joint application for the rights.

(4) Where two or more persons breed a new plant variety jointly, one of the breeders or a successor of one of the breeders shall not make an application for a plant breeder's rights in respect of the variety otherwise than jointly with, or with the consent in writing of, the other person, or each of the other persons, entitled to an application for those rights.

(5) Where an applicant is a public financed or private institution, the applicant shall make the application in the name of the institution.

Plant variety
denomination

15. (1) An applicant shall assign a single and distinct denomination to a variety in respect of which an application is made, in the prescribed manner and form.

(2) No right in the designation registered as the denomination of any variety shall prevent a person from using the denomination in connection with the variety, even after the expiration of the applicant's rights.

(3) The Registrar shall not register any denomination that fails to meet the requirements of this Act.

(4) The Registrar may, where the Registrar rejects a plant variety denomination, request the applicant to submit another denomination within a prescribed period.



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(5) If by reason of a prior right, the use of any denomination of a variety is prohibited by a person who, in accordance with subsection (1), is obliged to use it, the Registrar shall require an applicant to submit another denomination.

(6) Any person who offers for sale or markets a propagating material of a protected variety may use the denomination of the variety after the expiration of any applicant's right in that variety, except where, in accordance with sub-section (5), a prior right prevents such use.

(7) Where a variety is offered for sale or otherwise marketed, the use of the registered variety denomination in association with a trademark, trade name or other similar indication shall be permitted, subject to the denomination remaining easily recognisable.

16. (1) The effective date of an application is the date on which the application is lodged with the Registrar.

Priority of application

(2) If two or more applications are made in respect of the same plant variety, the Registrar shall first consider the application having the earlier priority date.

17. (1) Where an application for the protection of a variety is filed in a country which is a party to a bilateral or multilateral agreement concerning plant variety protection to which Zambia is a party and, an application in respect of the same variety is filed within twelve months of the date of the earlier application, the application filed with the Registrar shall enjoy a right of priority and its effective date shall be the date of lodgement of the foreign application.

Priority dates arising from foreign application

(2) The Registrar shall treat the date of lodgement of any foreign application as the priority date for the purposes of any local application if—

(a) the applicant submits to the Registrar, within three months of making the local application, a copy of the document constituting the foreign application, certified by the relevant Authority that received the foreign application, to be a true copy of the document; and

(b) the applicant provides such further particulars in relation to the plant variety as are required to complete the consideration of the local application.

18. (1) Subject to the other provision of this Act, the Registrar shall, within twenty one days from the date an application is lodged in a plant variety, accept or reject the application.

Acceptance or rejection of application



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(2) The Registrar shall accept an application if—

- (a) no other application has or would have an earlier priority date in the variety;
- (b) the application complies with the requirements of this Act; and
- (c) the application establishes a prima facie case for treating the plant variety as distinct from other varieties.

(3) The Registrar shall reject an application which does not meet the preliminary requirements referred to under subsection (2).

(4) The Registrar shall if the Registrar accepts or rejects the application—

- (a) give written notice to the applicant informing the applicant that the application has been accepted or rejected; and
- (b) within seven days of notifying the applicant, give public notice of the acceptance or rejection of the application, as the case may be.

(5) The Registrar shall, where the Registrar rejects an application under this section, give reasons therefor to the applicant.

Amendment
of
application

19. (1) An applicant may, with the approval of the Registrar, at any time after the acceptance of the application but before the conclusion of the examination of the application and of any objection to the application, amend the application or the proposed denomination of the plant variety.

(2) Where, before the conclusion of the examination of any application, the right of an applicant to apply for a plant breeder's right in a particular plant variety is assigned to, or is transmitted by will or operation of law to another person, the other person may apply to the Registrar, in the prescribed manner and form, to vary the application so that person is shown as the applicant.

(3) The Registrar shall vary an application where upon an application made under subsection (2), it is shown that the right to apply for a plant breeder's right in any particular plant variety has been assigned to, or has been transmitted by will or operation of law to another person so that that person is shown as the applicant.

(4) The Registrar shall, where the Registrar rejects any application under this section, inform the applicant and give reasons for the rejection.

(5) The Registrar shall, where the Registrar varies an application under this section, give written notice to the applicant that the application has been so varied.



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- 20.** (1) An applicant may withdraw an application at any time. Withdrawal of application
- (2) The Registrar shall, where an application is withdrawn after its publication in the Gazette, but before the grant of any breeder's rights, publish the withdrawal.
- 21.** (1) Where an application for the grant of a plant breeder's right is accepted, the Registrar shall, within fourteen days from the date of the application, publish in the *Gazette* a notice calling for any objection from the members of the public. Publication of notice
- (2) The publication under subsection (1) shall give a detailed description of the plant variety to which the application relates.
- (3) The detailed description referred to under subsection (2) shall contain—
- (a) particulars of the characteristics that distinguish the variety from other plant varieties the existence of which is a matter of common knowledge;
 - (b) particulars of—
 - (i) any test growing carried out to establish that the variety is distinct, uniform and stable; and
 - (ii) any test growing carried out as required for essential derivation;
 - (c) if the variety was bred outside Zambia, particulars of any test growing outside Zambia that establish that the variety will, if grown in Zambia, be distinct, uniform and stable; and
 - (d) a certificate in the prescribed form verifying the particulars of the detailed description, completed by the applicant.
- 22.** (1) Any person may, within sixty days from the date of publication of the notice referred to under section *twenty-one*, object, in writing, to the application for a plant breeder's rights on any of the following grounds: Objection to application for plant breeder's right
- (a) that the person's commercial interest would be negatively affected by the grant of the rights to the applicant;
 - (b) that the person objecting to the application is entitled to the plant breeder's rights as against the applicant;
 - (c) that the variety does not meet the requirements for granting a plant breeder's rights; or
 - (d) that the grant of the right would negatively impact on the public interest.



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(2) The Registrar shall, where an objection to the grant of a plant breeder's rights is lodged under this section, cause a copy of the objection to be given to the applicant.

(3) An applicant for a plant breeder's rights may contest any of the grounds of objection and shall, within thirty days, or such further period as the Registrar may permit from the date of the receipt of the objection, lodge with the Registrar a counter statement setting out the particulars of the grounds upon which the applicant contests the objection.

(4) The Registrar shall serve a copy of the counter statement on the person who gives the notice of objection.

Hearing of
objection

23. (1) The Registrar shall, within fourteen days of receipt of any objection under section *twenty-two*, inform the person who filed the notice of objection and the applicant of the date and place for the hearing of the objection.

(2) The Registrar may for the purpose of hearing an objection –

(a) summon any person who, in the Registrar's opinion, may give material information concerning the subject of the hearing or who the Registrar believes has in the person's possession, custody or control any document which has any bearing upon the subject of hearing, to appear before the Registrar at a time and place specified in the summons and to produce any document;

(b) administer an oath to any person or accept an affirmation from any person called as a witness at the hearing; and

(c) call any person present at the hearing as a witness and request that person to produce any document in that person's possession, custody or control.

(3) The procedure at the hearing of an objection shall be as prescribed under regulations made under this Act.

(4) Any party to the hearing may be represented by an advocate.

(5) The Registrar shall, after the hearing of an objection, inform the person who filed a notice of objection and the applicant for the grant of a plant breeder's right, in writing of the decision and the grounds on which the decision is made by the Registrar.

(6) An application in respect of which the Registrar upholds an objection shall lapse, and the Registrar shall, by notice in the Gazette, publish such particulars relating to the lapse as may be prescribed.



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24. Any person may inspect an application or any objection lodged, at any reasonable time and shall, upon payment of a prescribed fee, be given a copy of the application or of the objection by the Registrar.

Inspection
of
application
and
objection

25. (1) The Institute may carry out a trial—

Plant variety
trials

(a) for the purpose of determining whether any plant variety is distinct, uniform or stable; and

(b) for the purpose of determining whether the variety will, if grown in Zambia, exhibit the claimed distinctiveness, uniformity and stability.

(2) The Institute may, for purposes of sub-section (1), require the applicant to supply sufficient seed or propagating material of the variety, as the case requires, and with any necessary information, to enable the variety to be test grown for the purpose so specified.

(3) After the completion of the trials on a plant variety, any plant or propagating material of any plant used in, or resulting from, the trials that are capable of being transported shall be removed by the applicant.

(4) The Institute shall protect any genetic material of a new variety under testing so as to prevent its use for any non-research purposes.

26. (1) The Institute shall determine the quantity of seed or planting material that should be made available by an applicant for any trial or testing.

Uniformity
testing and
assessment
procedures

(2) The Institute shall arrange to get statistically any valid trials conducted to evaluate the suitability of any variety for national release.

(3) The assessment criteria for any trial or evaluation for suitability shall include important economic, physiological, ecological and nutritive quality attributes.

(4) The fees with respect to a plant breeder's rights shall be fixed on the basis of the administrative and examination costs incurred.

(5) Where the Institute determines that a plant variety is genetically modified, the Institute shall refer the variety to the National Biosafety Authority and the provisions of the Biosafety Act, 2007, shall apply to the variety.

Act No. 10
of 2007

27. For the purpose of this Act, where a plant variety in respect of which an application is made originates from outside Zambia, the variety shall not be taken to have a particular characteristic unless—

Characteristics
of plant
varieties
originating
from outside
Zambia



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- (a) statistically valid, multi-locational, variety trials carried out in the country for at least three growing seasons demonstrate that the variety has the specific characteristic as claimed by the applicant; or
- (b) an exceptional crisis in food production so requires and the Institute is satisfied that—
 - (i) statistically valid trials on the variety carried out outside the country demonstrate that the variety has that specified characteristic; and
 - (ii) the natural environment outside the country under which the statistically valid trials were carried out is similar to the environment in Zambia.

Provisional protection

28. (1) The Institute shall grant provisional protection to a plant breeder's variety from the date of acceptance of an application, to the date of grant or rejection of the application whichever occurs first.

(2) The Institute may notify an applicant, in writing, that this section shall cease to apply to a variety in respect of which an application is made on the date specified in the notice where—

- (a) the plant breeders rights will not be granted or are not likely to be granted to the applicant giving reasons therefor;
- (b) the Institute has, in the public interest, taken a decision not to proceed with the application; or
- (c) the application has been withdrawn.

(3) The Institute shall, within fourteen days from the date that any person ceases to hold any provisional protection under this section, give public notice of the fact.

Registrable plant varieties

29. (1) A plant breeder's rights shall be granted in respect of any variety which is—

- (a) new;
- (b) distinct;
- (c) uniform; and
- (d) stable.

(2) For purposes of subsection (1), a plant variety is—

- (a) new, if at the date of the filing of an application for the registration of the right in the variety, the propagating or harvested material of the variety has not been sold or otherwise disposed of, to another person by or with the consent of its breeder, or the breeder's assignee for purposes of the exploitation of the variety—



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- (i) in Zambia, for more than one year;
 - (ii) outside Zambia, for more than six years in the case of any tree or vine; or
 - (iii) outside Zambia, for more than four years in the case of other varieties;
- before the date of filing an application for the registration of a plant breeder's right;
- (b) distinct, if it is clearly distinguishable by at least one essential characteristic from any other variety whose existence is a matter of common knowledge at the time of the application;
 - (c) uniform, if subject to the variation that may be expected from the particular features of its propagation, the variety is uniform in its relevant characteristics on propagation; and
 - (d) stable, if a variety's relevant characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.
- (3) The disposal of a propagating or harvested material of a variety referred to in paragraph (a) of subsection (2)—
- (a) to a person for statutory purposes, or on the basis of a contractual or other legal relationship solely for production, reproduction, active multiplication, conditioning or storage shall not be considered to be a disposal within the meaning of subsection (2):
 - Provided that the breeder reserves the exclusive right to dispose of the material, and no further disposal is made;
 - (b) shall be deemed to be a disposal if the material is repeatedly used in the reproduction of a hybrid variety or there is a disposal of propagating or harvested material of the hybrid; and
 - (c) shall not be deemed to be an exploitation of the variety unless reference is made to the variety for purposes of the disposal, where the variety has been produced from plants grown for the purposes of testing or trials or which is a surplus to the plant breeder's requirements and is not used for further reproduction or multiplication.
- (7) No variety of any genera or species which involves any technology that is injurious to the life or the health of human beings, animals or plants shall be registered under this Act.



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Grant of
plant
breeder's
rights

30. (1) The Institute shall grant a plant breeders rights in respect of a plant variety where it is satisfied that—

- (a) there is such a plant variety and the application conforms to the requirement of this Act;
- (b) the plant variety is a registrable plant variety within the meaning of section *twenty-nine*;
- (c) the applicant is entitled to make the application;
- (d) the grant of the rights to the applicant is not prohibited by this Act;
- (e) the rights have not been granted to another person;
- (f) the application is not subject to any objection;
- (g) there has been an earlier application for the rights that has not been withdrawn or otherwise disposed of; and
- (h) all fees payable under this Act in relation to the application have been paid.

(2) Where the Institute is not satisfied that the conditions in subsection (1) are met, the Institute shall not grant any plant breeder's rights to the applicant.

(3) The Institute shall not grant any plant breeders rights in respect of a plant variety unless a period of six months has elapsed since the publication of the application in the gazette, or if the application has been varied in any manner that the Institute considers to be significant, a period of six months has elapsed since the publication of any particulars of the variation, or of the last variation.

(4) The Institute shall not refuse to grant a plant breeders rights unless it has given the applicant a reasonable opportunity to make a written submission in relation to the application.

(5) Where an objection to the grant of a plant breeders rights is lodged, the Institute shall not grant the plant breeder's rights unless it gives the person who lodged the objection a reasonable opportunity to make a written submission in relation to the objection.

(6) A plant breeder's rights shall be granted and issued by the Institute to the applicant in a prescribed form.

(7) Where the Authority refuses to grant a plant breeders rights in respect of a plant variety, the Institute shall, within thirty days give written notice of the refusal to the applicant clearly setting out the grounds for the refusal.

Joint holders
of breeder's
rights

31. (1) Where a plant breeder's rights over one variety is granted to a group of persons, the plant breeder's rights shall be granted to those persons jointly and the rights of each person shall be subject to any written agreement between them.



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(2) Where a plant breeder's rights are granted to a public or private institution, the rights shall accrue to the institution represented by the designated person or persons.

(3) The agreement referred to under subsection (1), shall be submitted by the joint holders to the Registrar at the time of grant of the plant breeder's rights.

32. (1) A plant breeder's right shall only be granted in respect of *genera* and *species* of a prescribed kind.

Genera and species to be protected

(2) The Minister may, by notification in the *Gazette*, extend the application of this Act to genera and species of any kind of plant specified in the notification.

33. (1) The Registrar shall keep a Register for purposes of this Act.

Register

(2) Where the Institute grants a plant breeder's rights in respect of a plant variety, it shall enter into the Register--

(a) a description, or a description and photograph, of the plant variety and the denomination of the variety;

(b) the name and other particulars of the variety;

(c) the pedigree of the variety;

(d) the name of the grantee;

(e) the name and address of the breeder or holder of the plant breeder's right;

(f) the name and address of the person to whom any plant breeder's rights have been transferred;

(g) the address for the service of documents on the grantee for the purpose of this Act, which is shown on the application for the rights;

(h) the date on which the plant breeder's rights are granted and the date of expiry; and

(i) such other particulars relating to the grant as the Institute considers necessary.

(3) The Register shall be available for inspection by the public upon payment of the prescribed fee.

(4) The Register shall be *prima facie* evidence of any matter entered in the Register.

34. Where a plant breeder's rights are granted, the Institute shall, within thirty days after granting the rights, publish the plant breeder's rights in the *Gazette*.

Publication of grant of plant breeder's right



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Payment of
annual
fee

35. Any holder of a plant breeder's right shall, for the duration of the plant breeder's right, pay to the Registrar the prescribed annual fee.

Effect of
grant on
certain
persons

36. (1) Where the plant breeder's rights in respect of a plant variety have been granted to a person, another person who was entitled to make an application for that plant breeder's rights, whether or not a person who developed that variety independently of the breeder, or the successor of the other person, is not entitled to any interest in that plant breeder's rights because of the entitlement to make the application or because of the grounds of the entitlement, but nothing in this section prevents a person from applying to the Institute for the revocation of that plant breeder's rights or from instituting proceedings before a court in respect of that plant breeder's rights.

(2) Where a plant breeder's rights in respect of a new plant variety are granted to a person and another person (in this paragraph referred to as the "eligible person") is entitled, in law or in equity to make the application for the plant breeder's rights assigned to the eligible person, then the eligible person may have the plant breeder's rights assigned to that person.

Plant Genetic
Resource
Centre

37. The Institute may designate a Plant Genetic Resource Centre as a centre for storage and maintenance of germplasm material for the purpose of this Act.

Supply of
propagating
material

38. (1) A plant breeder's rights in respect of a plant variety is subject to the condition that the grantee of the rights shall comply with any notice given to the grantee by the Institute.

(2) Where a plant breeder's rights are granted in respect of a plant variety, the Institute may give the grantee of the plant breeder's rights written notice requiring the grantee, within fourteen days of the giving of the notice or any other time that is allowed, to cause a specified quantity of propagating material of that variety to be delivered, at the expense of the grantee, to a specified plant genetic resource centre or a herbarium.

(3) The quantity of the propagating material of a variety specified in a notice under subsection (2) shall be the quantity that the Institute considers would be sufficient to enable that variety to be kept in existence if there were no other propagating material of that variety.

(4) Where the propagating material is delivered to a plant genetic resource centre in accordance with the conditions imposed on the plant breeder's rights by subsection (1), the Institute shall, subject to subsection (6), cause that material to be stored at a specified plant genetic resource centre.



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(5) Any delivery or storing of any propagating material in accordance with this subsection does not affect the ownership of the material and the material shall not be dealt with otherwise than for the purposes of this Act.

(6) The Institute may use any propagating material stored at a plant genetic resource centre for the purposes set out in this Act.

(7) Without limiting subsections (5) and (6), where any propagating material is stored at a plant genetic resource centre, the material shall not form part of the national collection, and shall not be used for the purposes of that collection, until a decision on the application for a plant breeder's rights is taken.

(8) Where a variety is accorded recognition, the propagating material may be provided for purposes of any further research and breeding under the intimation of the depositor of the material.

39. (1) A plant breeder's right in a plant variety is infringed by any person who—

Infringement
of right

(a) not being the breeder of the plant variety registered under this Act, or a registered agent or licensee of that variety, undertakes any act stipulated under sub-section (1) of section *seven* in relation to the variety without the permission of the variety's breeder, or within the scope of a registered agent or licensee without permission of the registered agent or licensee as the case may be;

(b) uses, sells, exports, imports or produces any other variety or gives a variety a denomination identical with or deceptively similar to the denomination of a variety registered under this Act, in such a manner that may cause confusion in the mind of the general public in identifying the variety that is registered.

(2) A person who infringes a plant breeder's right may be sued in any court of competent jurisdiction by the holder of a plant breeder's right for an injunction or damages or both.

(3) A court may, in addition to the costs of an action under this Act, grant an injunction or damages or both as may appear to be reasonable or just in the circumstances of the case.

(4) Any action or proceeding for an infringement of a plant breeder's rights may be instituted in writing in a court or, where agreeable to both parties, be submitted to arbitration in accordance with the Arbitration Act.

Act No. 11 of
2000

(5) A defendant in an action or proceeding for an infringement of plant breeder's rights in respect of a variety may apply by way of counter-claim for the revocation of that plant breeder's rights on the grounds that—



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Revocation
of plant
breeder's
right

- (a) the variety was not a new plant variety; or
- (b) facts exist which, if known to the Institute before the grant of that plant breeder's rights, would have resulted in the refusal of the grant.
- (6) The court may, where it is satisfied that a grant for revocation of a plant breeder's right exists, make an order revoking that right.
- (7) The court shall, where it makes an order under subsection (6), order the defendant to serve on the Registrar a copy of the order revoking that right.
40. (1) The Institute shall revoke a plant breeder's rights in respect of a plant variety where—
- (a) it is satisfied that the plant variety was not new or that facts exist which, if known before the grant of the plant breeder's right would have resulted in the refusal of the grant;
- (b) the grant of the plant breeder's right is based on incorrect information furnished by the applicant;
- (c) the grant of the plant breeder's right has been granted to a person who is not eligible for protection under this Act;
- (d) the breeder did not provide the Registrar with the information, documents or material required for registration under this Act;
- (e) the breeder did not provide the necessary seed or propagation material to the person to whom a compulsory licence has been issued under this Act regarding the variety in respect of which the plant breeder's right has been issued to a breeder;
- (f) a person to whom the plant breeder's rights are assigned or transmitted has failed to comply with the provisions of this Act;
- (g) the breeder has not complied with any provision of this Act;
- (h) the breeder has failed to provide the passport data of the parent lines from which the variety, in respect of which the plant breeder's right has been issued to a breeder, is derived;
- (i) the breeder has failed to comply with the directions of the Registrar issued under this Act;
- (j) the grant of the plant breeder's right is against public interest; and
- (k) the breeder has not paid the prescribed annual fees.



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(2) The Institute shall not revoke a plant breeder's right unless the breeder is given a reasonable opportunity to file an objection within thirty days before being heard in the matter.

(3) Where the Institute revokes a plant breeder's rights in respect of a plant variety in accordance with this section, it shall, within seven days after the decision is taken, give written notice of the revocation.

(4) The Institute shall not revoke a plant breeder's rights unless it has given the grantee and any person to whom it believes that plant breeder's rights has been assigned or transmitted, particulars of the grounds for the proposed revocation and given the grantee and the person a reasonable opportunity to make a written submission in relation to the proposed revocation.

(5) The revocation of a plant breeder's rights in respect of a plant variety takes effect--

(a) subject to subsection (3), at the expiration of the period within which an application may be made to a court for a review of the revocation; or

(b) where an application is made to the court, at the time when the application is withdrawn or finally determined by a court.

(6) Any person whose interests are affected by the grant of a plant breeder's rights in respect of a plant variety may apply to the Institute for the revocation of that plant breeder's rights in accordance with this section.

(7) The Institute shall consider any application made under subsection (6) for the revocation of a plant breeder's rights.

(8) The decision of the Institute not to revoke the plant breeder's rights shall be communicated to the applicant by a written notice within seven days after the decision is taken, setting out the grounds for the decision.

41. (1) A holder of any plant breeder's right who intends to surrender a plant breeder's right may apply, in writing, to the Registrar for the surrender of the plant breeder's right.

Surrender of
plant
breeder's
right

(2) Where an offer to surrender a right is made under subsection (1), the Registrar shall, within thirty days, give notice in the *Gazette* to any interested person, registered agent or licensee of the plant breeder's right.

(3) Any person who is aggrieved by the proposed surrender of a plant breeder's right, may within sixty days from the date of the notice in the *Gazette*, give notice to the Registrar specifying, in writing, the grounds for the objection.



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(4) The Registrar may, after giving public notice of the offer to surrender and giving all interested parties an opportunity to be heard, accept the offer and revoke the right to which the offer relates.

(5) The Registrar shall, where the Registrar revokes any right under subsection (4)—

(a) note in the Register that the right has been revoked;

(b) call upon the holder to surrender the certificate of registration issued in terms of this Act; and

(c) publish the revocation of the plant breeder's right in the *Gazette*.

(6) Where an action or any proceeding in respect of any plant breeder's right is pending in a court, the Registrar shall not accept any offer for the surrender of, or revoke, the plant breeder's right, except by way of leave of the court or by consent of the parties to the action or proceeding.

Transfer of
plant
breeder's
right

42. (1) A holder of a plant breeder's right who intends to transfer the right shall—

a) notify the Registrar;

b) indicate the name and address of the person to whom the plant breeder's right or any part thereof is a subject of a transfer; and

c) furnish the Registrar with proof that a notice of a transfer of a plant breeder's right has been served on any person who is licenced in respect of that plant breeder's right.

(2) The Registrar shall, upon receipt of any notice of transfer of any plant breeder's right, by notice in the *Gazette*, publish the particulars relating to the transfer of a plant breeder's right.

PART V

LICENCES

Licensing of
plant
breeder's
rights

43. (1) A holder of plant breeder's rights may licence the rights to another person.

(2) An application for a licence under this section shall be made in the prescribed manner and form.

(3) A licence shall contain the following information:

(a) the quantity of the propagating material of the relevant variety to be supplied to the holder of the licence, and the price thereof;



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- (b) the royalty payable in respect of the exploitation of the licence;
- (c) the information to be furnished to the holder of the relevant plant breeder's rights regarding the extent to which the licence is being exploited;
- (d) the period of validity of the licence, which shall not exceed the term of the relevant breeder's rights;
- (e) the punitive measures applicable with reference to any conditions which is not complied with; and
- (f) any other matter which the parties may agree to.

(4) The holder of a plant breeder's rights shall, within fourteen days of the grant of a licence, notify the Registrar of the details and particulars of the licence and shall furnish the Registrar with a copy of the licence.

44. (1) A person may apply to the Registrar for the grant of a compulsory licence to a plant breeder's rights where—

- (a) the person is aggrieved with the refusal by the holder of the plant breeder's rights to grant that person a licence;
- (b) the holder of the plant breeder's rights has imposed an unreasonable condition for the issuance of a licence; or
- (c) the person has reasonable grounds to believe that the reasonable requirements of the public for seed or other propagating material of the variety are not being met or will not be met.

Application
for
compulsory
licence

(2) An application for a compulsory licence shall be made in the prescribed manner upon payment of a prescribed fee.

(3) The Registrar shall, within seven days of receipt of an application under subsection (1), furnish the holder of the plant breeder's right in respect of which the application is made with a copy of the application and the particulars accompanying the application.

(4) The holder of any plant breeder's rights in respect of which an application is made under subsection (1) may object to the application within fourteen days of the notification of the application.

(5) The Registrar shall, where a holder of the plant breeders rights lodges an objection under subsection (4)—

- (a) furnish the applicant for a compulsory licence with a copy of the objection;
- (b) set a date for the hearing of the application and notify the applicant and the holder of the plant breeder's rights.



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Grant of
compulsory
licence

45. (1) The Registrar shall issue a compulsory licence to an applicant where after giving the holder of the plant breeder's rights an opportunity to be heard, the Registrar has reasonable grounds to believe that—

- (a) the holder of the plant breeder's right has unreasonably refused to grant the licence, to the applicant;
- (b) the holder of the plant breeder's rights has imposed unreasonable conditions for the issue of the licence; and
- (c) the reasonable requirements of the public with regard to the new variety are not being met or will not be met.

(2) The Registrar shall not grant a compulsory licence unless the applicant is financially competent to perform and comply with the obligations of the compulsory licence.

(3) A compulsory licence may be granted to any person whether or not the holder of the plant breeder's right has granted a licence to another person.

(4) The issue of a compulsory licence does not prevent the holder of the plant breeder's rights from granting an additional licence.

(5) The Registrar shall, where a compulsory licence is granted, provide the licensee with information on the reproductive material of the variety relating to the compulsory licence.

Royalty

46. The Registrar shall, in determining the terms and conditions of a compulsory licence, secure a royalty and other remuneration for the holder of the plant breeder's rights having regard to the following:

- (a) the nature of the plant variety;
- (b) the expenditure incurred by the plant breeder in breeding or developing the variety; and
- (c) any other relevant factors.

Condition of
licence

47. (1) The Registrar shall determine the terms and conditions of a compulsory licence issued under this Part.

(2) Without limiting the generality of subsection (1), the conditions of a compulsory licence may include—

- (a) requiring the payment to the Institute and the plant breeder of a fee on the grant of the compulsory licence and of any annual or other periodic licence fees;
- (b) requiring the licensee to comply with the directions of the Institute and the plant breeder in relation to specified matters;



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- (c) providing for the arbitration of disputes in connection with the terms and conditions of the compulsory licence; and
- (d) requiring the licensee to refer specified matters to the Institute for determination.

48. (1) A compulsory licence remains in force for the period specified in the licence and may be renewed or varied on payment to the Institute of such fees as may be prescribed. Duration of compulsory licence

(2) The Registrar shall, in determining the duration of a licence have regard to the gestation period of a variety and any other factors relevant for purposes of this Act.

49. A licence is not capable of being bought, sold, leased, mortgaged or charged or in any manner assigned, demised or encumbered. Licence not transferable

50. (1) The Registrar may revoke a licence or reject an application where— Revocation of licence

- (a) the licensee contravenes any terms or conditions of the licence;
- (b) it is not appropriate to grant or continue the licence in the public interest; or
- (c) the licence is a subject of any complaint by the public and affects the national food security, public health and the environment.

(2) The Registrar shall not revoke a licence without giving the licensee an opportunity of being heard before the revocation.

51. A licensee may, by notice in writing to the Registrar, surrender a licence. Surrender of licence

52. The Registrar shall where the Registrar grants, renews, rejects or revokes a licence notify the public in the *Gazette*. Publication of grant, renewal, etc

PART VI
APPEALS

53. (1) A person who is aggrieved by any decision of the Registrar or the Institute under this Act may, within thirty days of the receipt of the decision of the Registrar or the Institute as the case may be, appeal to the Appeals Board. Appeal against decision of Registrar or Institute

(2) An appeal under subsection (1) shall be made in the prescribed manner and form.

54. (1) Subject to subsection (2), the Minister shall, for the purpose of hearing and determining an appeal, appoint an Appeals Board comprising of three members of whom— Appeals Board



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(a) one member, who shall be the chairperson, shall be a legal practitioner; and

(b) two other members which persons shall be experts with not less than five years experience and knowledge in matters relevant to this Act.

(2) The Minister shall not appoint an Appeals Board unless the appellant deposits with the Minister such sum as the Minister considers will be sufficient to pay the costs, including the allowances payable to the members of the Appeals Board, likely to be incurred in connection with the appeal.

(3) The powers, rights and privileges of an Appeals Board shall be the same as those conferred upon Commissioners by the Inquiries Act, and the provisions of that Act shall, with the necessary modifications apply in relation to the hearing and determination of an appeal by the Appeals Board in terms of this section and to a person summoned to give evidence before the Appeals Board.

(4) The Minister shall, on the determination of an appeal, refund to the appellant the sum deposited by the appellant in terms of subsection (2) less the amount of the costs, if any, payable by the appellant in terms of subsection (5).

(5) If an appeal is dismissed, the Appeals Board may order the appellant to pay to the Government the costs incurred by the Government in connection with the appeal.

(6) A member of the Appeals Board shall be paid out of moneys appropriated for the purpose by Parliament, such allowances to meet the reasonable expenses incurred by the member in connection with an appeal as the Minister may prescribe.

(7) The Appeals Board shall, within fourteen days of determining the appeal, inform the appellant and the Institute in writing of its decision and the reasons therefor.

(8) A determination by the Appeals Board under subsection (2) shall not prejudice the right of any aggrieved party to seek recourse in a court of competent jurisdiction within thirty days of the determination.



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PART VII
GENERAL

55. (1) A person who—

Offences and
penalties

- (a) makes a false entry in the Register or causes a false entry to be made in the Register;
- (b) produces, tenders or causes to be produced or tendered as evidence any false entry or any false copy purporting to be an entry in the Register;
- (c) provides false, misleading or deceptive information to secure a licence or registration under this Act;
- (d) for the purpose of obtaining, whether for that person or another person, the registration of the plant breeder's rights or the issuance of a licence, makes a false declaration or statement which the person knows to be false in any material particular or does not believe to be true or knowingly makes use of a declaration, statement or document containing the same; or
- (e) willfully interferes with, obstructs or hinders the Registrar or any officer of the Institute in the discharge of the Registrar's or officer's duties under this Act;

commits an offence and is liable, upon conviction, to a fine not exceeding forty thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

(2) A person who—

- (a) in the sale of propagating material for the purpose of propagation or multiplication, uses a denomination which is not registered or that is different from the denomination registered under this Act;
- (b) uses the registered denomination of another variety of the same kind of plant or uses a denomination which corresponds so closely to a registered denomination in a manner that is misleading in a material particular; or
- (c) holds out to be the holder of any plant breeder's rights or a licence issued under this Act;

commits an offence and is liable, on conviction, to a fine not exceeding one hundred and ten thousand penalty units or to imprisonment for a term not exceeding ten years, or to both.



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Regulations

56. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

(2) Without derogating from the generality of sub-section (1), the regulations may provide for—

- (a) the form of any application, description, drawing, objection, counter statement or other document which may be lodged with the Registrar and the furnishing of copies of any such document;
- (b) the procedure to be followed in connection with any application, request or any proceedings before the Registrar, Institute or the Appeals Board;
- (c) the information and facilities to be afforded by an applicant and the reproductive material and other plant material to be submitted to the Registrar for any application under this Act;
- (d) the tests, trials, examinations and other steps to be taken by the applicant or the Registrar before any plant breeder's rights are granted and the time within which any such steps are to be taken;
- (e) the keeping of records, the form and manner of making any returns for purposes of this Act;
- (f) the fees to be paid in respect of—
 - (i) applications for or the grant of a plant breeder's rights or any licence;
 - (ii) the examination of a sample of a reproductive material or any plant grown from the sample of a reproductive material; and
 - (iii) the inspection of the Register or the provision of a certified copy of any entry in the register;
- (g) the rights and duties of any holder of a licence or any plant breeder's rights in connection with the institution of an action for infringement of the plant breeder's rights; and
- (h) the prevention of the use of a false or misleading statement in any advertisement of a variety or the plant breeder's rights granted in respect of the variety under this Act; and
- (i) anything required to be prescribed under this Act.



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THE PLANT PESTS AND DISEASES ACT

CHAPTER 233 OF THE LAWS OF ZAMBIA

CHAPTER 233 THE PLANT PESTS AND DISEASES ACTCHAPTER 233

THE PLANT PESTS AND DISEASES ACT

ARRANGEMENT OF SECTIONS

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CONTROL OF THE IMPORTATION OF GROWING MEDIA, INJURIOUS ORGANISMS, INVERTEBRATES AND PLANTS

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THE PLANT PESTS AND DISEASES ACT

Act No.
11 of 1958
13 of 1994

An Act to provide for the eradication and prevention of the spread of plant pests and diseases in Zambia, for the prevention of the introduction into Zambia of plant pests and diseases, and for matters incidental thereto.

Government Notices
90 of 1964
497 of 1964
Statutory Instruments
57 of 1965
176 of 1965

[1st January, 1959]

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Plant Pests and Diseases Act.

Short title

(As amended by G.N. No. 90 of 1964)

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Interpretation

2. (1) In this Act, unless the context otherwise requires-

"alternate host" means a plant which is declared to be an alternate host of a pest in terms of paragraph (b) of subsection (2);

"board" means a board appointed in terms of subsection (5) of section *twenty-five*;

"container" means a case, package, pot, sack or other article containing a growing medium, injurious organism, invertebrate or plant and includes a covering, wrapping or packing material used in the packing of a growing medium, injurious organism, invertebrate or plant;

"cured tobacco" means tobacco which is not-

(a) cigars, cigarettes, pipe tobacco, plug or rolled tobacco, snuff or any like product; or

(b) tobacco leaves, flowers or stalks in a green state; or

(c) living tobacco plants;

"disease" means a pathological condition of plants communicable or believed to be communicable by the transfer of a causative agent or by the propagation of an infected plant;

"grower", in relation to tobacco, means a person who by himself or his agents grows tobacco;

"growing medium" means a medium, including soil, capable of being used for the propagation or culture of plants;

"host plant" means a plant which is capable of being the host of a pest;

"infested area" means an area declared in terms of this Act to be an infested area;

"injurious organism" means any organism or like agent whatsoever, including a virus, which is-

(a) inimical to the growth or existence of living plants; or

(b) injurious to plant products; or

(c) capable of producing a disease of plants;

in whatever stage of development it may be;

"inspector" means an inspector appointed in terms of section *twenty-two*;

"invertebrate" means a living invertebrate animal organism in whatever stage of development it may be;

"nursery" means land or premises where nursery stock is grown or cultivated and includes other land or premises adjacent thereto, held by the same owner, where plants are grown;

"nursery man" means the owner or other person responsible for the management of a nursery;

"nursery stock" means plants grown or cultivated for the purpose of trade, and with the intention of their being sold or distributed for the purpose of their being grown elsewhere than on the land or premises on which they stand, but does not include vegetables, annuals, herbaceous plants or ferns;

"owner", in relation to land or premises, includes a joint owner, part owner, lessee or occupier or the agent of an owner, joint owner, part owner, lessee or occupier;

"Permanent Secretary" means the Permanent Secretary, Ministry of Agriculture;

"pest" means an injurious organism which is declared to be a pest in terms of paragraph (a) of subsection (2);

"plant" means a member of the vegetable kingdom whether living or dead and includes-

(a) tubers, bulbs, corns, roots, cuttings, grafts, seeds and fruits; and

(b) any part of a plant whether severed there-from or not; and

(c) an unmanufactured plant product;

"premises", in relation to cured tobacco, means a warehouse, building or structure in which
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(2) For the purposes of this Act, the Minister may by regulation, statutory order or statutory notice-

(a) declare an injurious organism to be a pest either generally or in respect of a particular type of plant and either with a view to its complete eradication or its control or the prevention of its spread or for some other purpose; and

(b) declare a plant to be an alternate host of a pest.

(As amended by G.N. No. 90 of 1964 and S.I. No. 57 of 1965)

3. The provisions of this Act bind the Republic.

(G.N. No. 90 of 1964 as amended by S.I. No. 57 of 1965)

This Act binds the Republic

PART II ERADICATION AND PREVENTION OF THE SPREAD OF PESTSPART II

ERADICATION AND PREVENTION OF THE SPREAD OF PESTS

4. (1) The Minister may by regulation, statutory order or statutory notice provide for the eradication of pests or the prevention or control of attacks by or the spread of pests.

Regulatory powers to eradicate pests, etc.

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may in regulations, orders or notices made in terms of that subsection provide for-

(a) the disinfection, treatment, destruction or disposal of-

(i) pests; or

(ii) plants infested or appearing to be infested with a pest; or

(iii) anything whatever whether similar in nature to a plant or not which, in the opinion of the Minister, is liable to infest a plant with a pest;

(b) the prohibition, restriction and regulation of the removal or transport of pests, plants or things referred to in paragraph (a);

(c) the control and destruction of host plants not under cultivation for the current season's crop and of alternate hosts;

(d) the prohibition, restriction and regulation of the cultivation and harvesting of plants if, in the opinion of the Minister, a pest cannot otherwise be readily or adequately controlled or eradicated;

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- (e) the reporting of the occurrence of a pest and the collection and transmission of specimens of a pest;
 - (f) the methods of planting, cleaning, cultivating and harvesting to be adopted and the precautions and measures, including the destruction of plants, to be taken by an owner of land for the purpose of preventing or controlling attacks by or the spread of a pest;
 - (g) the destruction after harvest of a particular kind of plant by a specified date;
 - (h) the registration and inspection of nurseries and the imposition of registration fees, the regulation of the sale or removal of plants from nurseries and the prohibition of the sale or exposure for sale of nursery stock not grown in registered nurseries;
 - (i) the disinfection, fumigation and treatment of land, warehouses, buildings and structures suspected of being or having been used for the storage of anything likely to infest a plant with a pest;
 - (j) the declaration of areas infested with a pest as infested areas and of areas around infested areas as quarantine areas and the prohibition, restriction and regulation of the removal of compost, growing media, manure, plants and other things whatsoever to or from infested or quarantine areas;
 - (k) the payment and recovery of fees for a disinfection, fumigation or treatment carried out by an inspector, or for services rendered by an inspector in connection with a disinfection, fumigation or treatment, or for an inspection carried out by an inspector at the request of an owner of land, warehouses, buildings, structures, plants or other things;
 - (l) the power of an inspector if he reasonably suspects the presence of a pest on land, or in premises, to declare the area in which the land or premises is situate an infested area and by order to prohibit for a period not exceeding fourteen days, the removal from the land or premises of compost, growing media, manure, plants and other things whatsoever capable of spreading a pest.
- 5.** The Minister may, by regulation, provide for-
- (a) the inspection, disinfection or fumigation of vehicles which are suspected of harbouring an injurious organism;
 - (b) the payment and recovery of fees for the inspection, disinfection or fumigation of vehicles referred to in paragraph (a) or for services rendered by an inspector in connection therewith.

Regulatory powers to inspect, disinfect and fumigate vehicles



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- 6.** In regulations, orders or notices made in terms of section *four* or *five*, the Minister may make-
- Minister may make different regulations, etc.
- (a) different provision in respect of different growing media, injurious organisms, pests, plants, vehicles, areas and types and classes of land, warehouses, buildings and structures;
 - (b) provision exempting, subject to such conditions as he may specify, any person or classes of persons from complying therewith.

- 7.** (1) An owner of land or premises shall take all measures prescribed and such additional or such alternative measures as are reasonably necessary for the eradication, reduction or prevention of the spread of a pest which an inspector may, subject to the provisions of subsection (2), by notice in writing order him to take.
- Duty of owner to eradicate pests

(2) An inspector shall not order the destruction of a living plant in terms of subsection (1) unless authorised to do so by regulation, order or notice made in terms of section *four*.

(3) If an owner of land or premises fails to take all or any of the measures which he is required to take in terms of subsection (1), an inspector may-

- (a) on giving the owner not less than seven days' notice in writing of his intention so to do, cause the measures to be taken; or
- (b) if he is satisfied that the measures must be taken without delay, cause the measures to be taken immediately without giving the notice referred to in paragraph (a).

(4) An owner of land or premises shall, without prejudice to any penalty incurred by reason of his failure to take the measures which he is required to take in terms of subsection (1), be liable to pay the costs of the measures which an inspector causes to be taken in terms of subsection (3).

(5) The Minister may by civil action in a competent court recover from an owner of land or premises the costs of measures which an inspector causes to be taken in terms of subsection (3).

PART III CONTROL OF THE IMPORTATION OF GROWING MEDIA, INJURIOUS ORGANISMS, INVERTEBRATES AND PLANTS

CONTROL OF THE IMPORTATION OF GROWING MEDIA, INJURIOUS ORGANISMS, INVERTEBRATES AND PLANTS

- 8.** In this Part, "importation", in relation to growing media, injurious organisms, invertebrates or plants, means the importation into or the transit through Zambia of growing media, injurious organisms, invertebrates or plants, and cognate expressions shall be construed accordingly.
- Interpretation of term in Part III

(As amended by G.N. No. 90 of 1964)

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9. (1) The Minister may by regulation, statutory order or statutory notice provide for the prohibition, restriction and regulation of the importation of any-

Regulatory powers to control import of growing media, etc.

- (a) growing media; and
- (b) injurious organisms and invertebrates; and
- (c) plants and the growing media in which plants are growing or to which plants are attached or which may be adhering to plants;

together with their containers.

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may in regulations, orders or notices made in terms of that subsection-

- (a) authorise or require the detection and inspection on importation of growing media and plants and their containers;
- (b) direct or authorise the disinfection, fumigation or treatment of imported growing media and plants and their containers;
- (c) authorise the immediate destruction, without compensation, of imported growing media and plants which on inspection appear to be infested with an injurious organism and of any plants included in the same container, if the injurious organism is of a specially dangerous character or in the opinion of the inspector-
 - (i) disinfection is impracticable or will not be a complete safeguard; or
 - (ii) the delay caused by disinfection would give rise to the risk of the introduction or spread of the injurious organism;
- (d) authorise the immediate destruction, without compensation, of an imported invertebrate if, in the opinion of an inspector, the invertebrate might be a potential danger to agriculture;
- (e) prohibit the importation of growing media, invertebrates and plants except by specified ports or places of entry and routes and by specified methods of transport;
- (f) direct or authorise the detention of imported growing media, invertebrates and plants for observation and prescribe the precautions to be taken during detention;
- (g) provide for the imposition and recovery of fees for sorting, disinfecting, fumigating or treating growing media and plants on importation;

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- (h) provide for the disposal of imported growing media and plants in respect of which prescribed fees are not paid and of the proceeds, if any, resulting from their disposal;
- (i) provide for the issue of permits as a pre-requisite to the importation of growing media, injurious organisms, invertebrates and plants;
- (j) provide for the production of certificates signed by responsible persons or authorities in the country or territory of origin relating generally or specifically to-
 - (i) the freedom of imported growing media, invertebrates and plants or the area in which they were produced or grown from injurious organisms; and
 - (ii) the fumigation or other processes of disinfection or treatment of imported growing media and plants before despatch;
- (k) provide for the production of certificates of origin of imported growing media, injurious organisms, invertebrates and plants and for the furnishing by the importer of particulars relating to imported growing media, injurious organisms, invertebrates and plants.

(3) In regulations, orders or notices made in terms of subsection (1) the Minister may make different provision in respect of different growing media, injurious organisms, invertebrates and plants and in respect of different countries and territories from which growing media, injurious organisms, invertebrates and plants are imported.

10. (1) An inspector may-

Powers of inspectors in relation to imported growing media, etc.

- (a) at all reasonable times enter upon and inspect land, buildings, structures or vehicles on or in which growing media, injurious organisms, invertebrates and plants and their containers are kept or conveyed on importation; and
- (b) inspect growing media, injurious organisms, invertebrates and plants referred to in paragraph (a) and, for the purpose of detecting injurious organisms, expose the roots of plants, remove bark or cut any plant or the fruit or flowers or other part of a plant, or open any container or package or wrapping reasonably suspected to contain growing media, invertebrates or plants liable to harbour an injurious organism.

(2) An importer of growing media, injurious organisms, invertebrates or plants and his servants and agents shall afford an inspector access thereto and shall give such information and provide such labour and facilities as the inspector may require for the purposes of carrying out any inspection, sorting, disinfection, fumigation or treatment of the growing media, injurious organisms, invertebrates or plants.

11. (1) Subject to the provisions of subsection (2), an inspector may order the seizure, detention and destruction without compensation of-

Seizure, detention and destruction of growing media, etc., unlawfully imported

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- (a) a growing medium; or
 - (b) an injurious organism or invertebrate; or
 - (c) a plant and the growing medium in which a plant is growing or to which a plant is attached or which is adhering to a plant;
- together with its container, which-
- (i) is not accompanied at the time of importation by such a certificate of origin or other document as may be prescribed or is accompanied by a certificate of origin or other document which is incorrect in a material particular;
 - (ii) is imported otherwise than in accordance with the conditions of a permit issued in terms of this Act;
 - (iii) is imported in contravention of the provisions of this Act.

(2) If an importer or owner of a growing medium or plant referred to in subsection (1), which has not been declared by an inspector to be infested with an injurious organism, gives notice of his intention to appeal to a board in terms of subsection (1) of section *twenty-five* against the order of destruction, the order shall not have effect unless and until the period specified for lodging notice of appeal has elapsed, and no notice of appeal has been lodged, or the appeal is dismissed, withdrawn or abandoned.

PART IV SPECIAL PROVISIONS RELATING TO CURED TOBACCO PART IV

SPECIAL PROVISIONS RELATING TO CURED TOBACCO

12. Save as is provided in this Act, no person shall-

Handling, storing and removal of cured tobacco

- (a) handle or store cured tobacco in or remove cured tobacco to or from or take delivery of cured tobacco removed from premises which are not licensed in terms of subsection (1) of section *thirteen*; or
- (b) handle or store cured tobacco in or remove cured tobacco to or from or take delivery of cured tobacco removed from premises in respect of which an order made in terms of subsection (1) of section *fifteen* has effect.

13. (1) Subject to the provisions of subsection (2), the Minister shall, on the application in the manner prescribed by an owner of premises, issue to the owner a licence authorising the handling or storing in and the removal to or from his premises of cured tobacco.

Licensing of premises

(2) The Minister shall not issue a licence in respect of premises referred to in subsection (1) unless he is satisfied on the report of an inspector that the premises are suitable for the handling and storing of cured tobacco and are free from pests.

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14. The provisions of paragraph (a) of section *twelve* and of section *thirteen* shall not apply in relation to premises owned by a grower unless the premises are used not only for handling or storing cured tobacco grown by the grower or his agents but also for handling or storing cured tobacco grown by other persons.

Section 12(a) and section 13 to apply to premises of certain growers only

15. (1) If, in the opinion of the Minister, premises are or have become unsuitable for the handling or storing of cured tobacco, the Minister may by order in writing prohibit the handling and storing of cured tobacco in and the removal of cured tobacco to or from the premises.

Orders prohibiting handling and storing in and removal to or from premises of cured tobacco

(2) The Minister shall notify the owner of premises in respect of which he has made an order in terms of subsection (1) of the repairs and alterations to the premises which the owner shall make in order to render the premises suitable for the handling and storing of cured tobacco.

(3) An inspector may order-

(a) the removal of cured tobacco from premises in respect of which an order made in terms of subsection (1) has effect to a place specified in the order; or

(b) if circumstances so require, the removal of cured tobacco from premises referred to in paragraph (a) and its delivery to a person specified in the order;

to facilitate the making of the repairs and alterations to the premises which are referred to in subsection (2).

(4) The Minister shall, subject to the provisions of section *nineteen*, cancel an order made in terms of subsection (1) when he is satisfied that the reason for making the order no longer exists.

16. (1) If an inspector discovers premises or cured tobacco stored in premises to be infested with a pest or confirms the existence of an infestation reported by an owner of premises in terms of subsection (2), the owner of the premises shall, within fourteen days of the date he is ordered to do so by the inspector, disinfect, fumigate or treat the premises and their contents in the manner ordered by the inspector.

Discovery of pests on premises

(2) An owner of premises who knows or has reason to believe that his premises or the cured tobacco stored therein are infested with a pest shall, within seven days, report the infestation in writing to the Permanent Secretary.

(As amended by S.I. No. 57 of 1965)

17. (1) No person shall, unless he is authorised to do so by order made in terms of subsection (2) or a permit issued in terms of section *eighteen*-

Removal of cured tobacco from pest infested premises, etc., prohibited

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(a) remove cured tobacco or take delivery of cured tobacco removed from premises which are infested with a pest; or

(b) remove from premises cured tobacco which is infested with a pest or take delivery of any such cured tobacco.

(2) An inspector may order-

(a) the removal of cured tobacco from premises which are infested with a pest or the removal from premises of cured tobacco which is infested with a pest to a place specified in the order; or

(b) if circumstances so require, the removal of cured tobacco referred to in paragraph (a) and its delivery to a person specified in the order;

to facilitate the disinfection, fumigation or treatment of the cured tobacco or the premises.

18. (1) The Minister may issue a permit authorising, subject to such conditions as the Minister may specify in the permit-

Permits for removal of cured tobacco from pest infested premises, etc.

(a) the removal of cured tobacco from premises which are infested with a pest; or

(b) the removal from premises of cured tobacco which is infested with a pest;

and, if circumstances so require, the delivery of such cured tobacco to a person named in the permit, for such purposes as the Minister may approve.

(2) The Minister may at any time cancel a permit issued in terms of subsection (1).

19. An owner of premises shall be liable to pay the costs of an inspection of his premises made by an inspector in connection with-

Costs of inspection

(a) the cancellation of an order made in terms of subsection (1) of section *fifteen*; or

(b) an application for a permit referred to in subsection (1) of section *eighteen*;

and the Minister may refuse to cancel an order made in terms of subsection (1) of section *fifteen* or to issue a permit referred to in subsection (1) of section *eighteen* until the costs of the inspection have been paid.

20. An inspector may seize and detain and the Minister may order the destruction without compensation of cured tobacco which is handled or stored in or removed to or from premises otherwise than in accordance with the provisions of this Part or an order made thereunder or the conditions of a permit referred to in subsection (1) of section *eighteen*.

Destruction of cured tobacco handled or stored or removed in contravention of Part IV



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21. (1) Without derogation from the generality of the provisions of section *four*, the Minister may by regulation- Regulatory powers in connection with pests

- (a) provide for the compulsory disinfection, fumigation or treatment by such methods as he may specify of premises and of cured tobacco handled or stored therein;
- (b) prohibit the keeping in or authorise the removal from premises of-
 - (i) products other than cured tobacco which are liable to be infested with a pest; or
 - (ii) anything, including products referred to in subparagraph (i), which renders the proper inspection of the premises impracticable;
- (c) prescribe measures to be taken for the purpose of protecting or facilitating the protection of cured tobacco from infestation with a pest.

(2) In regulations made in terms of subsection (1) the Minister may make different provision in respect of different premises and pests and different classes and types of cured tobacco.

PART V GENERALPART V

GENERAL

22. The Minister may appoint persons as inspectors for the purposes of this Act. Appointment of inspectors
(G.N. No. 90 of 1964)

23. (1) An inspector may- Powers of inspectors

- (a) at all reasonable times enter upon and inspect lands, buildings, or structures on or in which growing media or plants may be found; and
- (b) inspect growing media and plants and, for the purpose of detecting pests, expose the roots of plants, remove bark or cut any plant or the fruit or flowers or other part of a plant, or open any container or package or wrapping reasonably suspected to contain growing media or plants liable to harbour a pest; and
- (c) order the application of measures which are reasonably necessary or prescribed for the eradication or prevention of the spread of a pest; and
- (d) order the destruction at any time of alternative hosts and any plant which is growing on land contrary to the provisions of this Act; and

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- (e) give instructions for the adoption of measures prescribed for the purpose of protecting cured tobacco from infestation with a pest of tobacco or of facilitating such protection; and
- (f) declare a nursery infested with a pest or such portion thereof as he deems sufficient to be an infested area until such time as the nursery or portion thereof is free from the pest.

(2) An owner of any land, building or structure or of a growing medium or plant and his servants and agents shall afford an inspector access thereto and shall give such information and provide such labour and facilities as the inspector may require for the purposes of carrying out an inspection.

(As amended by G.N. No. 90 of 1964)

24. If, within three days of the delivery to him of plants sold by a nurseryman, the purchaser of the plants finds the plants to be infested with a pest, he may return the plants to and at the expense of the nurseryman and shall thereupon be freed from liability to pay for the plants or, if he has paid for the plants, he may recover the purchase price.

Sale of pest infested plants by nurserymen

25. (1) Subject to the provisions of subsection (2), the importer or owner of a growing medium or plant the destruction of which has been ordered in terms of this Act may, within seven days of the date of the order, lodge with the Minister a notice of his intention to appeal against the order.

Appeals against orders of destruction

(2) There shall be no right of appeal against-

- (a) an order for the destruction of a growing medium or plant declared by an inspector to be infested with an injurious organism or pest; or
- (b) an order of destruction made in terms of paragraph (a) of subsection (1) of section *twenty-three*.

(3) A notice of intention to appeal lodged in terms of subsection (1) shall be in writing and shall specify in detail the grounds upon which it is given.

(4) The Minister shall transmit to a board a notice lodged with him in terms of subsection (1).

(5) For the purpose of hearing and determining an appeal against an order of destruction the Minister shall, subject to the provisions of subsection (6), appoint a board consisting of three members of whom-

- (a) one member, who shall be the chairman, shall be a legal practitioner or magistrate; and

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(b) not less than two members shall be persons who are not public officers.

(6) The Minister shall not appoint a board unless and until the appellant deposits with the Minister such sum as the Minister considers will be sufficient to pay the costs, including the remuneration and allowances payable to the members of the board, likely to be incurred by the Government in connection with the appeal.

(7) The powers, rights and privileges of a board shall be the same as those conferred upon commissioners by the Inquiries Act, and the provisions of that Act shall, *mutatis mutandis*, apply in relation to the hearing and determination of an appeal by a board in terms of this section and to a person summoned to give evidence or giving evidence before a board. Cap. 42

(8) The decision of a board shall be final.

(9) On the determination of an appeal the Minister shall refund to the appellant the sum deposited by the appellant in terms of subsection (6) less the amount of the costs, if any, payable by the appellant in terms of subsection (10).

(10) If an appeal is dismissed, a board may order the appellant to pay to the Government the costs incurred by the Government in connection with the appeal.

(11) Members of a board who are not public officers shall be paid out of moneys appropriated for the purpose by Parliament such remuneration as the Minister may prescribe.

(12) All members of a board shall be paid out of moneys appropriated for the purpose by Parliament such allowances to meet the reasonable expenses incurred by them in connection with an appeal as the Minister may prescribe.

(As amended by G.N. No. 90 of 1964)

26. (1) Subject to the provisions of this Act, the Minister may, out of moneys appropriated for the purpose by Parliament, pay compensation to the owner of a growing medium or plant destroyed under the powers conferred by this Act. Compensation

(2) Compensation payable in terms of subsection (1) shall, if the owner of the growing medium or plant so requires, be assessed by two persons of whom one shall be appointed by the Minister and the other by the owner.

(3) If the persons appointed as assessors in terms of subsection (2) fail to agree as to the amount of compensation to be paid to the owner of a growing medium or plant referred to in subsection (1), they shall choose an umpire whose decision shall be final.

(As amended by G.N. No. 90 of 1964)

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27. No claim shall lie against the State or the Minister or an inspector, servant or agent of the State for anything done in good faith and without negligence under the powers conferred by this Act. Limitations of actions against the State

(As amended by G.N. No. 90 of 1964 and S.I. Nos. 57 and 176 of 1965)

28. (1) A person who-

Offences

- (a) wilfully obstructs, impedes or hinders an inspector in the carrying out of his duties under this Act; or
- (b) contravenes or fails to comply with a provision of this Act or the regulations, orders or notices made or issued in terms of this Act, or an order or direction made or given under the provisions of this Act or of regulations, orders or notices made in terms of this Act with which it is his duty to comply; or
- (c) without reasonable cause contravenes or fails to comply with the condition or a permit or a licence issued in terms of this Act or of regulations, orders or notices made in terms of this Act; or
- (d) maliciously introduces a pest on to land; or
- (e) on being required to do so fails or refuses to produce to an inspector, police officer or other authorised person a permit, certificate or licence; or
- (f) fails or refuses without reasonable cause to give information to an inspector or a police officer when required to do so in terms of this Act or gives false or incomplete information; or
- (g) for the purpose of obtaining whether for himself or any other person the issue of a permit, certificate or licence, makes a declaration or statement which he knows to be false in any particular or does not know or believe to be true or knowingly makes use of a declaration, statement or document containing the same;

shall be guilty of an offence and liable-

- (i) for a contravention of paragraph (a), to a fine not exceeding twelve thousand penalty units or, in default of payment, to imprisonment for a period not exceeding four years, or to such imprisonment without the option of a fine, or to both;
- (ii) for any other offence, to a fine not exceeding three thousand penalty units or, in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both.



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(2) An inspector may seize and detain and the Minister may order the destruction without compensation of a growing medium, plant or other thing whatsoever which is removed from an infested or quarantine area in contravention of the provisions of this Act or an order made in terms of this Act.

(3) The confiscation or destruction of a growing medium, plant or other thing in terms of subsection (2) shall not free the person responsible for its illegal removal from liability to prosecution.

(As amended by G.N. No. 90 of 1964 and Act No. 13 of 1994)

29. (1) The Minister may by regulation, statutory order or statutory notice prescribe all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act. General regulatory powers

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may in regulations, orders or notices made or issued in terms of that subsection provide for-

- (a) the form and manner in which applications for registration, permits, certificates and licences are to be made and the information to be supplied in connection therewith;
- (b) the form of permits, certificates and licences, the conditions to be contained in permits, certificates and licences and the periods for which permits and licences shall remain in force;
- (c) the persons by whom, the circumstances in which and the conditions subject to which permits, certificates and licences shall be issued;
- (d) the circumstances in which and the conditions, including the payment of a fee, subject to which copies of permits, certificates and licences may be obtained;
- (e) the cancellation, suspension and amendment of permits, certificates and licences and the surrender or delivery of permits, certificates and licences for those purposes.

30. In issuing a permit in terms of this Act, an issuer of permits may impose conditions which are not prescribed and in so doing may exclude or vary, as circumstances require, any prescribed condition. Conditions contained in permits

31. Has had its effect.



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32. (1) Notwithstanding the repeal of the Plant Pests and Diseases Act, Chapter 100 of the 1957 Edition of the Laws, (hereinafter in this section referred to as "such legislation") a permit, special permit, licence, certificate or authority issued, application, approval or exemption made or given, examination, inspection, treatment or test taken or made, or other thing done under the provisions of such legislation which, immediately before the commencement of this Act was subsisting or was of force or effect or capable of acquiring force or effect, shall, subject to the terms and conditions on which it was issued or, as the case may be, the provisions of such legislation, continue to subsist or to be of force or effect, or as the case may be, acquire force or effect and shall be treated for the purposes of this Act as having been issued, made, given, taken or done under the corresponding provisions of this Act. Saving

(2) Any permit, special permit, licence, certificate or authority issued, order, application, approval or exemption made or given, examination, inspection, treatment or test taken or made or other thing done or commenced under this Act which immediately before the 31st January, 1964, was subsisting or was of, or was capable of acquiring, force or effect, shall continue to have or acquire force or effect, as the case may be, and shall on and after that date, be deemed to have been issued, made, given, taken or done under this Act as modified and adapted by Government Notice No. 90 of 1964.

(As amended by G.N. No. 90 of 1964)

SUBSIDIARY LEGISLATION

PLANT PESTS AND DISEASES

SECTION 2 (2)-THE PLANT PESTS AND DISEASES (PESTS AND ALTERNATE HOSTS) ORDER

Order by the Minister

*Federal Government
Notices
325 of 1958
87 of 1962
198 of 1963*

1. This Order may be cited as the Plant Pests and Diseases (Pests and Alternate Hosts) Order. Title



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2. The following injurious organisms are declared to be pests with a view to their control and the prevention of their spread:

Declaration of pests

Anthraxnose of tobacco	<i>Colletotrichum tabacum</i> Bšning
Bacterial blight of grapes	<i>Erwinia vitivora</i> (Baccarini) Du Plessis
Bacterial blight of peas	<i>Pseudomonas syringae pr pisi</i>
Bacterial canker of tomato	<i>Corynebacterium michiganense</i> (E.F.S.) Jensen <i>sub sp. michiganensis</i>
Bacterial ring-rot of potato	<i>Corynebacterium michiganensis sp. sepedonicum</i> (Spieck & Koth.) Slaptason & Burkholder
Bacterial streak of sugar cane	<i>Xanthomonas albilineans</i> (Ashby) Downson
Blister blight of tea	<i>Exobasidium vexans</i> Massee
Blue mould of tobacco	<i>Peronospora hyoscyamia</i> Adam
Cercospora leaf spot of banana	<i>Mycosphaerella figiansis</i> Leach
Cereal foot rots	<i>Helminthosporium spp.</i>
Chestnut canker	<i>Cryphonectria parasitica</i> (Murr.) Anderson & Anderson
Chlorotic streak virus of sugar cane	
Citrus black fly	<i>Aleurocanthus woglumi</i> Ashby
Citrus black spot	<i>Guignardia citricarpa</i> Kiely
Citrus canker	<i>Xanthomonas campestris pr citri</i> (Hasse) Dowson
Crown gall	<i>Agrobacterium tumefaciens</i> (Smith & Townsend) Conn.
Crown wart of lucerne	<i>Urophlyctics alfalfae</i> (Lagerh.) Magnus
Dodder	<i>Cuscuta spp.</i>
Dutch elm disease	<i>Ceratocystis ulmi</i> (Buism.) C. Moreau
Ergot of rye	<i>Claviceps purpurea</i> Fr. (Tul.)
Fiji disease virus of sugar cane	<i>Sugar cane fiji disease-fiji virus 2.</i> Smith
Fireblight	<i>Erwinia amylovora</i> (Burrill) Winslow et al.
Internal cork virus disease of sweet potato	
Lucerne wilt	<i>Clavibacter muchiga nensis sp. insidirsum</i> (McCulloch) Jensen
Onion smut	<i>Urocystis cepulae</i> Frost
Banana panama disease	<i>Fusarium oxysporum f. cubense</i> (E.F.S.) Synder & Hansen
Pierce's disease of the grape	<i>Xylella fastidiosa virus 3.</i> Smith (lucerne dwarf virus)
Rose mosaic virus	<i>Rosa virus 1.</i> Smith
Rose streak virus	<i>Rosa virus 4.</i> Smith
Rose wilt	<i>Rose wilt disease 3.</i> Smith
Stewart's disease of maize	<i>Erwinia stewartii</i> (E.F.S.) Dowson
Strawberry red core	<i>Phytophthora vas fragariae</i> Hickman
Tomato spotted wilt virus (kromnek)	<i>Lycopersicum virus 3.</i> Smith
Wart disease of potato	<i>Synchytrium endobioticum</i> (Schilb.) Percival
Potato root eelworm (golden nematode)	<i>Globodera rostochiensis</i> Wollenw.
Root knot eelworm	<i>Meloidogyne spp.</i>
Stem and bulb eelworm	<i>Ditylenchus dipsaci</i> (K hn)
American bollworm	<i>Helico verpa armigera HŸbn.</i>

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3. The following injurious organisms are declared to be pests in respect of living tobacco with a view to their control and the prevention of their spread: Declaration of pests of living tobacco

Tobacco leaf curl	Tobacco streak virus
Tobacco rosette	
Tobacco white fly	<i>Bemisia tabaci</i> Gennadius

4. The following injurious organisms are declared to be pests in respect of cured tobacco with a view to their control and the prevention of their spread: Declaration of pests of cured tobacco

Cigarette beetle	<i>Lasioderma serricorne</i> (F.)
Tobacco moth	<i>Ephestia elutella</i> Walk.

5. The following injurious organisms are declared to be pests in respect of cotton with a view to their control and the prevention of their spread: Declaration of pests of cotton

Cotton jassid	<i>Jacobiasea lybica</i> (de Besgerin)
Cotton stainers	<i>Dysdercus fasciatus</i>
Red bollworm	<i>Diparopsis castanea</i> Hmps.

6. The following injurious organisms are declared to be pests of nursery stock with a view to their control and the prevention of their spread: Declaration of pests of nursery stock

Circular purple scale	<i>Chrysomphalus ficus</i> Ashm.
Egyptian black scale	<i>Chrysomphalus aonidium</i> (L.)
False circular purple scale	<i>Chrysomphalus pinnulifera diversicolor</i> Green
False red scale (Spanish red scale)	<i>Chrysomphalus dictyospermi</i> Morg.
Large red scale	<i>Selenaspidus silvaticus</i> Lind.
Long scale	<i>Lepidosaphes gloverii</i> (Pack.) Kirk.
Oleander scale	<i>Aspidiotus hederae</i> (Nal.) Sign.
Purple scale (mussel scale)	<i>Lepidosaphes beckii</i> (Pack.) Kirk.
Ross's black scale	<i>Chrysomphalus rossi</i> Mask.
White peach scale	<i>Aulacaspis pentagona</i> (Targ.)
Woolly aphid (American blight)	<i>Erisoma pemphigidae</i> (Hsm.)

7. The following injurious organisms are declared to be pests of coffee with a view to their control and the prevention of their spread: Declaration of pests of coffee

Coffee berry borer	<i>Hypothenemus hampei</i> Ferr.
Coffee bug	<i>Antestiopsis orbitalis</i> Stal
Kenya mealy bug	<i>Planococcus kenyae</i> le Pelley

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8. The following injurious organisms are declared to be pests of unmanufactured plant products with a view to their control and the prevention of their spread:

Declaration of pests of unmanufactured plant products

Firebrat	<i>Thermobia domestica</i> (Packard)
Silverfish	<i>Lepisma saccharina</i> L.
American cockroach	<i>Periplaneta americana</i> (L.)
Common cockroach	<i>Blatta orientalis</i> L.
German cockroach	<i>Blatella germanica</i> (L.)
Angoumois grain moth	<i>Sitotroga cerealella</i> (01.)
Brown house moth	<i>Hofmannophila pseudospretella</i> (Stnt.)
Carpet moth	<i>Trichophaga tapetzella</i> (L.)
Case-making clothes moth	<i>Tinea pellionella</i> (L.) <i>Tinea columbariella</i> Wocke
Clothes moth	<i>Tineola bisselliella</i> (Humm.)
Corn moth	<i>Tinea granella</i> (L.)
Dried-current moth	<i>Cadra cautella</i> (Wlk.)
Indian meal moth	<i>Plodia interpunctella</i> (Hb.)
Lesser wax moth	<i>Achroia grisella</i> (F.)
Mediterranean flour moth	<i>Anagasta kuehniella</i> (Zell.)
Raisin moth	<i>Cadra figulilella</i> (Gregson)
Rice moth	<i>Corcyra cephalonica</i> (Stnt.)
Tapestry moth	<i>Trichophaga tapetzella</i> (L.)
Wax moth	<i>Galleria mellonella</i> (L.)
African spider beetle	<i>Stethomezium squamosum</i> Hinton <i>Mesium affine</i> Boield.
American seed beetle	<i>Acanthoscelides obtectus</i> (Say)
Australian carpet beetle	<i>Anthrenocerus australis</i> (Hope)
Australian spider beetle	<i>Ptinus tectus</i> Boield. <i>Ptinus sexpunctatus</i> Panz.
Bacon beetle	<i>Dermestes lardarius</i> (L.)
Biscuit beetle	<i>Stegobium paniceum</i> (L.) <i>Dorcatoma bibliophagum</i> Magalh.
Black carpet beetle	<i>Attagenus megatoma</i> (F.)
Black fungus beetle	<i>Alphitobius laevigatus</i> (F.)
Broad-horned flour beetle	<i>Gnathocerus cornutus</i> (F.) <i>Gnathocerus maxillosus</i> (F.)
Cadelle	<i>Tenebroides mauritanicus</i> (L.)
Confused flour beetle	<i>Tribolium confusum</i> Duv.
Copra beetle	<i>Necrobia rufipes</i> (Deg.)
Corn sap beetle	<i>Carpophilus dimidiatus</i> (F.) <i>Carpophilus ligneus</i> Murray
Cowpea beetle	<i>Callosobruchus chinensis</i> (L.) <i>Callosobruchus analis</i> (F.)
Dark flour beetle	<i>Tribolium destructor</i> Uytt.
Dark mealworm	<i>Tenebrio obscurus</i> (F.)
Depressed flour beetle	<i>Palorus subdepressus</i> (Woll.)
Dried fruit beetle	<i>Carpophilus hemipterus</i> (L.)
Flat grain beetle	<i>Cryptolestes pusillus</i> (01.)
Foreign grain beetle	<i>Ahasverus advena</i> (Waltl.)
Fur beetle	<i>Attagenus pellio</i> (L.)
Furniture carpet beetle	<i>Anthrenus vorax</i> Waterh.

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9. The plants specified in the first column of the Schedule are declared to be alternate hosts of the pests specified opposite thereto in the second column of the Schedule. Declaration of alternate hosts

(F.G.N. No. 87 of 1962)



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The Laws of Zambia
SCHEDULE

(Paragraph 9)

ALTERNATE HOSTS

Plants

Abelmoschus esculentus
(L.) Moench

Dahlia spp.

Hibiscus dongolensis Del.

Pests

Pink bollworm

Kromnek
(*lycopersicum virus 3*. Smith)

Pink bollworm

(F.G.N. No. 87 of 1962)



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SECTION 4-THE PLANT PESTS AND DISEASES (PEST CONTROL)
 REGULATIONS

Regulations by the Minister

*Federal Government
 Notice
 331 of 1958
 Government Notice
 90 of 1964*

- | | |
|---|--|
| <p>1. These Regulations may be cited as the Plant Pests and Diseases (Pest Control) Regulations.</p> | <p>Title</p> |
| <p>2. In these Regulations-</p> <p>"scheduled pest" means a pest listed in the Schedule.</p> | <p>Interpretation</p> |
| <p>3. (1) An inspector may destroy or order by notice in writing the destruction of any plant, or such portion thereof as he considers necessary, which is infested or appears to be infested with a scheduled pest.</p> <p>(2) In ordering the destruction of a plant or any portion thereof in terms of sub-regulation (1), the inspector may specify the manner in which the plant or portion thereof is to be destroyed.</p> | <p>Destruction of infested plants</p> |
| <p>4. (1) The Minister may, by order-</p> <p>(a) declare an area infested with a scheduled pest as an infested area and any area around such infested area as a quarantine area;</p> <p>(b) prohibit, restrict or regulate the removal of any compost, growing media, manure, plants and other things whatsoever to or from an infested or quarantine area.</p> <p>(2) The Minister may exempt, subject to such conditions as he may specify, any person from complying with any order made in terms of paragraph (b) of sub-regulation (1).</p> | <p>Declaration by Minister of infested or quarantine areas</p> |
| <p>5. An inspector may, if he reasonably suspects the presence of a scheduled pest on land or in premises-</p> <p>(a) declare the area in which the land or premises is situate an infested area;</p> <p>(b) by order, prohibit for a period not exceeding fourteen days, the removal from the land or premises of compost, growing media, manure, plants and other things whatsoever capable of spreading the pest.</p> | <p>Declaration by inspector of infested areas</p> |

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The Laws of Zambia

6. An inspector may by notice in writing order the owner of any land within an infested or quarantine area to destroy any plant on such land for the purpose of controlling attacks by or the spread of a scheduled pest. Destruction of plants in infested or quarantine areas
7. An owner of land who knows or has reason to believe that a scheduled pest is present on his land shall immediately report the occurrence in writing to an inspector. Duty to furnish information



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SCHEDULE

(Regulation 2)

SCHEDULED PESTS

Bacterial blight of grapevine	<i>Xylophilus ampelinus</i> (Baccarini) Du Plessis
Bacterial canker of tomato	<i>Claribacter michiganensis supob michiganensis</i> (E.F.S.) Jensen
Bacterial ring-rot of potato	<i>Claribacter michiganensis</i> ssp. <i>sepedonicus</i> (Spieck & Kotth.) Skaptason & Burkholder
Bacterial streak of sugar cane	<i>Xanthomonas albilineans</i> (Ashby) Dowson
Blister blight of tea	<i>Exobasidium vexans</i> Masee
Blue mould of tobacco	<i>Peronospora hyoscyami</i> Adam
Chestnut canker	<i>Cryphonectria parasitica</i> (Murr.) Anderson & Anderson
Chlorotic streak virus of sugar cane	
Citrus black spot	<i>Guignardia citricarpa</i> Kiely
Citrus canker	<i>Xanthomonasi campestris pr citri</i> (Hasse) Dowson
Crown wart of lucerne	<i>Physoderma alfalfae</i> (Lagerh.) Magnus
Dutch elm disease	<i>Ceratocystis ulmi</i> (Buism.) C. Moreau
Fiji disease virus of sugar cane	<i>Sugar cane fiji disease-fiji virus 2</i> . Smith
Fireblight	<i>Erwinia amylovora</i> (Burrill) Winslow et al.
Internal cork virus disease of sweet potato	
Lucerne wilt	<i>Claribacter michiganensis</i> sp. <i>insidiosus</i> (McCulloch) Jensen
Onion smut	<i>Urocystis cepulae</i> Frost
Pierce's disease of the grape (lucerne dwarf virus)	<i>Medicago virus 3</i> . Smith
Stewart's disease of maize	<i>Erwinia stewartii var fragariae</i> (E.F.S.) Dowson
Strawberry red core	<i>Phytophthora fragariae</i> Hickman
Tomato spotted wilt virus (kromnek)	<i>Lycopersicum virus 3</i> . Smith
Wart disease of potato	<i>Synchytrium endobioticum</i> (Schilb.) Percival
Potato root eelworm (golden nematode)	<i>Heterodera rostochiensis</i> Wollenw.
Stem and bulb eelworm	<i>Ditylenchus dipsaci</i> (K uhn)
Cereal midges	<i>Contarinia</i> spp. and <i>Sitodiplosis</i> spp.
Cherry fruit-fly	<i>Rhagoletis cerasi</i> (L.)
Chrysanthemum midge	<i>Diarthronomyia chrysanthemi</i> Ahlb.
Coffee berry borer	<i>Hypothenemus hampei</i> Ferr.
Colorado beetle	<i>Leptinotarsa decemlineata</i> (Say)
Japanese beetle	<i>Popillia japonica</i> Newm.
Oriental fruit-fly	<i>Bactrocera dorsalis</i> Hend.
Oriental fruit-moth	<i>Cydia molesta</i> Busck.
Pink bollworm	<i>Pectinophora gossypiella</i> (Saund.)
San José scale	<i>Quadraspidiotus perniciosus</i> (Comst.)

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SECTION 29-THE PLANT PESTS AND DISEASES (COFFEE) REGULATIONS

*Federal Government
 Notice
 330 of 1958
 Government Notice
 90 of 1964*

Regulations of the Minister

1. These Regulations may be cited as the Plant Pests and Diseases (Coffee) Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"borer" means the coffee berry borer (*Stephanoderes hampei* Ferr.);

"coffee" means any species of the genus *Coffea*;

"plantation" includes any land on which a coffee plant is growing, whether the land is used solely as a coffee plantation or not;

"sell" includes to offer or expose for sale.

3. No person shall-

Sale or removal of infested plants

(a) sell or cause or permit to be sold;

(b) remove or cause or permit the removal of from his premises; or

(c) transport or cause or permit the transportation of;

any coffee plant infested or appearing to be infested with borer, unless he has written permission from an inspector to do so.

4. The owner of a plantation who knows or has reason to believe that any coffee plant on his land is infested with a pest of coffee shall immediately report the infestation in writing to an inspector.

Reporting of infestation

5. An inspector may by notice in writing order the owner of a plantation

Orders to eradicate pests from plantations



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which is infested with a pest of coffee, to-

- (a) destroy, by burning or by any other method specified by the inspector, all or any coffee plants on the plantation;
- (b) spray, fumigate or otherwise treat all or any coffee plants on the plantation;
- (c) take such other steps as the inspector may consider necessary for the purpose of controlling attacks by or the spread of the pest.

6. An inspector may destroy or order in writing the destruction of any plant infested or appearing to be infested with a pest of coffee. Destruction of infested plants

7. (1) The owner of a plantation shall not leave his plantation without that supervision necessary for- Supervision of plantations

- (a) the detection of any infestation by a pest of coffee; and
- (b) the carrying out of any measures required by or in terms of these Regulations.

(2) If, in the opinion of an inspector, a plantation is habitually left without that supervision required by subregulation (1) he may, subject to the provisions of sub-regulation (3), by notice in writing order the owner of the plantation to destroy all coffee plants on that plantation.

(3) An inspector shall not order the destruction of a coffee plant in terms of sub-regulation (2) unless authorised to do so by the Permanent Secretary.

(As amended by G.N. No. 90 of 1964)

8. Every person who has had in possession or under his charge any coffee infested with borer shall, if so required in writing by an inspector, give the inspector all such information as he possesses as to the person in whose possession or under whose charge such coffee is or has been. Duty to furnish information

SECTION 31-THE PLANT PESTS AND DISEASES (COTTON) REGULATIONS

Regulations by the Minister

*Federal Government
Notice
84 of 1960
Government Notice
90 of 1964*

1. These Regulations may be cited as the Plant Pests and Diseases (Cotton) Regulations. Title

2. In these Regulations- Interpretation



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"cotton" means the linted species of the genus *Gossypium*.

3. (1) Subject to the provisions of regulation 4, an owner of land cultivated for the production of cotton shall destroy all cotton plants on his land- Cotton lands to be cleared annually

(a) on or before the 1st August in each year if that land is situated in an infested area or in a quarantine area;

(b) on or before the 1st October in each year if that land is situated outside an infested area or a quarantine area.

(2) Subject to the provisions of regulation 4, an owner of land in an infested area or in a quarantine area shall not plant cotton on such land before the 1st October in any year.

(As amended by G.N. No. 90 of 1964)

4. The Minister may, upon receipt of a written application, exempt, subject to such conditions as he may specify, any person or class of persons from complying with the provisions of sub-regulation (1) or (2) or both sub-regulations of regulation 3. Exemptions

SECTION 31-THE PLANT PESTS AND DISEASES (IMPORTATION) REGULATIONS

Regulations by the Minister

*Federal Government
Notices
144 of 1960
217 of 1963
Government Notices
90 of 1964
497 of 1964*

1. These Regulations may be cited as the Plant Pests and Diseases (Importation) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"additional declaration", in relation to a phytosanitary certificate, means an endorsement by a plant protection officer on that certificate;

"approved" means approved by the Permanent Secretary;

"coniferous timber" means timber derived from trees of the order *Coniferales* and includes all softwood timbers, whether sawn or unsawn, planed or otherwise fashioned or processed, but excludes any timber which has been treated with a preservative in an approved manner;

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"Convention" means the Phytosanitary Convention for Africa South of the Sahara, signed at London in the United Kingdom on the 29th July, 1954, or any other international Phytosanitary Convention for Africa South of the Sahara to which the Government may be a party;

"Convention country" means-

- (a) the metropolitan territory situated in Africa to the south of the Sahara of a government which is a party or has acceded to the Convention; or
- (b) a territory situated in Africa to the south of the Sahara for whose international relations a government which is a party or has acceded to the Convention is responsible;

"cotton" means the linted species of the genus *Gossypium*;

"does not occur", in relation to the incidence of an injurious organism in a country outside Zambia or in any area or district of that country, means does not occur, to the knowledge of the plant protection authority of that country, in that country, area or district, as the case may be, and "do not occur" shall be construed accordingly;

"during active growth", in relation to an inspection for the purposes of an additional declaration, means during the last period of active growth of the plants prior to their exportation;

"fee" means the appropriate fee prescribed in the First Schedule;

"forest tree" means any tree which is commonly grown for the production of timber and not solely for ornamental purposes;

"form" means the appropriate form prescribed in the Second Schedule;

"import" means to bring or cause to be brought into Zambia, and cognate expressions shall be construed accordingly;

"non-Convention countries" means territories other than Convention countries;

"pests and diseases", in relation to a phytosanitary certificate of an additional declaration, means injurious organisms;

"phytosanitary certificate" means a statement issued by a plant protection officer certifying that he has before despatch thoroughly examined the plants, parts of plants or plant products, to which the statement relates, or representative samples of them, and found them substantially free from pests and diseases;

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"plant", in relation to an inspection for the purposes of an additional declaration, means-

- (a) if the declaration relates to a growing plant, the growing plant;
- (b) if the declaration relates to a part of a plant such as budwood, bulbs, corns, cuttings, fruit, grafts, rhizomes, rooted material, seeds, suckers or tubers, the growing parent plant from which such part was directly derived or which produced such part;

"plant protection authority" means the department of the government of a country which is responsible for the administration of the plant protection law in force in that country;

"plant protection law" means a law providing for the protection of plants against injurious organisms;

"plant protection officer" means an officer of a plant protection authority who is authorised by that authority to issue phytosanitary certificates;

"protective treatment" means the sorting, disinfecting, fumigation, treatment or quarantine of growing media, plants or containers in terms of these Regulations, and cognate expressions shall be construed accordingly;

"quarantine" means the detention and culture of plants in isolation under the supervision of the Department of Agriculture under such conditions, at such place and for such period as the Permanent Secretary may determine;

"soil" means a growing medium which is neither sterilised nor inert;

"South Africa" means the Republic of South Africa;

"South African nursery" means a nursery in South Africa which is registered in terms of the plant protection law in force in that country;

"submit", in relation to a permit or phytosanitary or other certificate relating to a consignment of growing media, injurious organisms, invertebrates or plants, means the submission of the permit or certificate at the place of inspection or port of entry of the consignment, and cognate expressions shall be construed accordingly;

"supervised importation only", in relation to a plant listed in the first column of the Sixth or Seventh Schedule, means importation of the plant by or under the direct supervision of the Department of Agriculture with subsequent quarantine of the plant;

"vegetative material" means-

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- (a) any growing plant; or
- (b) any part of a plant, other than the seed or fruit, which can be used to propagate the plant and includes budwood, cuttings, grafts, rooted material, suckers and dormant parts such as bulbs, bulbils, cornns, rhizomes and tubers.

(As amended by G.N. No. 90 of 1964)

3. The provisions of these Regulations shall not apply to any growing medium, invertebrate or plant in transit through Zambia which is consigned by rail or by an approved airline.

Application of Regulations

(As amended by G.N. No. 90 of 1964)

4. (1) Save as is provided in regulation 8, no person shall import any growing medium or plant, including any unmanufactured plant product specified in the Fourth Schedule or seed specified in the Fifth Schedule, unless a permit authorising the importation of that growing medium or plant is submitted.

Import of growing medium or plant under permit

(2) No person shall import any growing medium or plant otherwise than through a port of entry specified in the Third Schedule or an approved place, or, if quarantine is one of the conditions governing the importation of the growing medium or plant, otherwise than through Lusaka.

(As amended by G.N. No. 90 of 1964)

5. (1) Subject to the provisions of sub-regulation (2), no person shall import an invertebrate, the importation of which is not governed by the provisions of another law, unless a permit authorising the importation of that invertebrate is submitted.

Import of invertebrate or injurious organism under permit

(2) No person shall import an injurious organism unless-

- (a) the importation is made-
 - (i) for scientific purposes; and
 - (ii) under the direct supervision of the Department of Agriculture; and

(b) a permit authorising the importation of that injurious organism is submitted.

6. Application for a permit to import a growing medium, injurious organism, invertebrate or plant shall be made to the Permanent Secretary and, if the Permanent Secretary so requires, shall be made in Form No. 1.

Applications for permits

(As amended by G.N. No. 90 of 1964)

7. (1) A permit authorising the importation of a growing medium, injurious organism, invertebrate or plant shall be issued by the Permanent Secretary in Form No. 2.

Issue, refusal, etc., of permits

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(2) The Permanent Secretary may-

- (a) refuse to issue a permit; or
- (b) cancel, suspend or amend any permit which has been issued.

(As amended by G.N. No. 90 of 1964)

8. Subject to the provisions of these Regulations, no permit shall be required for the importation of- Imports without permit

- (a) cut flowers, other than heather, holly, mistletoe or shamrock, not intended for propagation;
- (b) dormant underground parts, such as bulbs, corns, rhizomes and tubers, of ornamental plants;
- (c) fruit from Convention countries;
- (d) herbaceous ornamental plants produced in South Africa;
- (e) potato tubers produced in South Africa;
- (f) unmanufactured plant products which are not listed in the Fourth Schedule;
- (g) seeds which are not listed in the Fifth Schedule;
- (h) vegetables, other than potatoes, from Convention countries, which are intended for consumption;
- (i) any plant other than-

(i) a plant specified in the Sixth Schedule; or

(ii) a plant specified in item 2, 4 or 9 of the Eighth Schedule;

which is produced in a South African nursery and is despatched in accordance with the provisions of the plant protection law in force in South Africa.

9. Subject to the provisions of these Regulations, an inspector may-

General powers of inspectors

(a) cause any vehicle in Zambia suspected or known to have brought into Zambia-

(i) an injurious organism; or



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- (ii) a plant or container suspected or known to be diseased or infested with an injurious organism;
to be disinfected or fumigated;
- (b) detain and inspect any growing medium, plant or container on importation;
- (c) cause any growing medium, plant or container detained and inspected in terms of paragraph (b) to be disinfected, fumigated or treated whether or not the growing medium, plant or container is diseased or infested with an injurious organism;
- (a) cause any imported growing medium or plant which on inspection appears to be infested with an injurious organism and any plant in the same container to be destroyed immediately without compensation if the injurious organism is of a specially dangerous character or, in the opinion of the inspector-
 - (i) disinfection is impracticable or will not be a complete safeguard; or
 - (ii) the delay caused by disinfection would give rise to the risk of the introduction or spread of the injurious organism.

(As amended by G.N. No. 90 of 1964)

10. A consignment of fruit found by an inspector on importation to be infested with living caterpillars of the apple codling moth (*Cydia pomonella* (L.)) shall be destroyed without compensation: Imported fruit found to be infested

Provided that the inspector may-

- (a) if less than five per centum of the fruit is infested, cause the infested fruit in such consignment to be separated from the uninfested fruit and permit the release to the importer of the uninfested fruit;
- (b) if five per centum or more of the fruit is infested-
 - (i) in consignments of not more than two containers of not more than one bushel each, believed by the inspector not to be for re-sale, cause the infested fruit to be separated from the uninfested fruit and release the uninfested fruit to the importer; or
 - (ii) in other consignments in which, owing to the immature development of the caterpillars there is in the opinion of the inspector no immediate risk of the introduction or spread of that moth within Zambia, permit the importer or consignor, within such period as the inspector may fix, to cause such consignment to be returned to the country of last export.

(As amended by G.N. No. 90 of 1964)

11. A consignment of potatoes found by an inspector on importation to be infected with wart disease (*Synchytrium endobioticum* (Schilb.) Percival) and a consignment of seed potatoes found by an inspector on importation to be infested with the root knot eelworm (*Meloidogyne javanica* (Treub)) or with any other species of eelworm injurious to plants shall be- Imported potatoes found to be infected or infested

- (a) destroyed without compensation; or
- (b) if the inspector so permits, returned to the country of last export.

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12. Unless the Permanent Secretary otherwise directs, the protective treatment of any imported growing medium, plant or container shall be carried out on Government premises. Protective treatment

(As amended by G.N. No. 90 of 1964)

13. (1) No imported growing medium or plant which has been protectively treated shall be released to the importer unless he pays the fee for such treatment. Fee for protective treatment

(2) If an importer fails to pay the fee in respect of a growing medium or plant referred to in sub-regulation (1) within seven days of the date of a noticed demanding the payment of the fee, an inspector shall, subject to the provisions of sub-regulation (3), cause that growing medium or plant to be sold by auction at such time and place as he may fix.

(3) The sale of a growing medium or plant in terms of sub-regulation (2) shall be subject to a reserve sufficient to cover the estimated costs of such sale.

(4) A growing medium or plant not purchased at a sale in terms of sub-regulation (2) shall be-

- (a) sold immediately out of hand; or
- (b) destroyed without payment of compensation if the Minister so directs; or
- (c) disposed of in such manner as the Minister may direct.

(5) If a plant referred to in sub-regulation (1) is, in the opinion of the inspector, of such nature that only the immediate sale of the plant would realise an amount sufficient to cover-

- (a) the cost of the sale; and
- (b) the fee; and
- (c) any charges payable to the Controller of Customs and Excise;

the plant shall be disposed of in the manner described in paragraph (a), (b) or (c) of sub-regulation (4).

(6) The inspector shall pay to the importer the amount realised by the sale of a growing medium or plant in terms of this regulation less the charges referred to in paragraphs (a), (b) and (c) of sub-regulation (5).



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14. (1) No person shall import-

Import of certain plants and fruits

- (a) any plant which is packed in soil and which is not the product of a South African nursery; or
- (b) fresh fruits from Asia or the Pacific Islands; or
- (c) any plant specified in the Sixth Schedule;

without the consent in writing of the Minister.

(2) The Minister shall not give his consent to the importation of a plant mentioned in paragraph (a), (b) or (c) of sub-regulation (1) unless he is satisfied that the importation is made-

- (a) for scientific purposes; and
- (b) under the direct supervision of the Department of Agriculture.

15. (1) Subject to the imposition of conditions in terms of section *thirty* of the Act, the conditions governing the importation from a country other than South Africa of a plant listed in the first column of the Seventh Schedule shall be the conditions specified opposite thereto in the second column of the Schedule.

Conditions for import of plants listed in Seventh Schedule

(2) Any reference in the second column of the Seventh Schedule to a phytosanitary certificate shall be construed as a reference to a phytosanitary certificate in Form No. 3.

16. Subject to the imposition of conditions in terms of section *thirty* of the Act, the conditions governing the importation from South Africa of a plant listed in the first column of the Eighth Schedule shall be the conditions specified opposite thereto in the second column of the Schedule.

Conditions for import of plants listed in Eighth Schedule



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FIRST SCHEDULE

(Regulation 2)

PRESCRIBED FEE UNITS

<i>Nature of Protective Treatment</i>	<i>Fee Units</i>
1. Fumigation of living plants in a fumigation chamber with hydrogen cyanide, methyl bromide or other approved fumigant.	Ten ngwee for each container. The minimum fee units for each use of the fumigation chamber shall be eight fee units and the maximum fee sixty fee units.
2. The treatment of tobacco and against disease.	Two fee units for each gram treated.
3. Delinting of cotton seed or ginning and delinting of seed cotton.	Two fee units for each kilogram weight of cotton seed delinted or seed cotton ginned and delinted. The minimum fee for any one consignment shall be fifteen fee units.
4. Sorting and packing of fruit	Two fee units for each tray or eight fee units for each bushel. No fee shall be payable if the importer provides his own labour.
5. Any protective treatment not specified in items 1 to 4.	Such fee, sufficient to cover the cost of the treatment as the Minister may fix.

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SECOND SCHEDULE

(Regulation 2)

FORM No. 1

REPUBLIC OF ZAMBIA

THE PLANT PESTS AND DISEASES (IMPORTATION) REGULATIONS

Application for a Permit for the Importation of Plants

The Permanent Secretary, Ministry of Agriculture,
(Plant Importation Permits),
P.O. Box RW.195,
Lusaka.

I,.....
(State full name)

of.....
(State postal and residential addresses)

hereby apply to import by.....
(State mode of importation, i.e., whether by post, rail, road or air freight)

from.....
(State full name of consignor)

of.....
through.....
(State port of entry into Zambia if mode of importation is not by post)

the following plants:
(State number and
kinds of plants)

for the purpose of.....
(State which one or more of the following applies: sale, private use,
manufacturer, consumption or propagation for sale)

I intend to grow these plants at.....
(State exact locality if plants are to be grown)

No. of Currency Import Licence.....
(If plants are to be imported from France, South America or U.S.S.R.
and other Eastern European countries)

Date.....

.....
(Signature of applicant)

(As amended by G.N. No. 90 of 1964)



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FORM NO. 2

REPUBLIC OF ZAMBIA

THE PLANT PESTS AND DISEASES (IMPORTATION) REGULATIONS

PERMIT AUTHORISING THE IMPORTATION OF GROWING MEDIA/INJURIOUS

ORGANISMS/INVERTEBRATES/PLANTS

(This permit is to be sent by the importer to the supplier who shall ensure that it accompanies the growing media/injurious organisms/invertebrates/plants.)

Permission is granted to.....

of.....

to import in one consignment, within six months of the date of this permit,

by.....

from.....

of.....

through.....

the following:.....

.....

subject to the following conditions:.....

.....

Date.....

.....
*for Permanent Secretary,
Ministry of Agriculture
(As amended by G.N. No. 90 of 1964)*



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FORM NO. 3

PHYTOSANITARY CERTIFICATE

THIS IS TO CERTIFY-
 that the plants, parts of plants or plant products described below or representative samples
 of them were thoroughly examined on.....
 by.....
 an authorised officer of the.....
 (Insert name of plant protection authority)
 and were found to the best of his knowledge to be substantially free from injurious diseases and pests, and that the
 consignment is believed to conform with the current phytosanitary regulations of the importing country both as stated in
 the additional declaration hereon and otherwise.

Fumigation or disinfection treatment (if required by importing country)
 Date..... Treatment.....
 Duration of exposure.....
 Chemical and concentration.....

Additional declaration:

19.....

(Official Stamp)

(Signature)

(Rank)

DESCRIPTION OF THE CONSIGNMENT

Name and address of exporter.....
 Name and address of consignee.....
 Number and description of packages.....
 Distinguishing marks.....
 Origin (if required by importing country).....
 Means of conveyance.....
 Point of entry.....
 Quantity and name of produce.....
 Botanical name (if required by importing country).....

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THIRD SCHEDULE

(Regulation 4 (2))

PORTS OF ENTRY

Chipata.
Chirundu.
Kabwe.
Kariba.
Kasumbelesa.
Kitwe.

Livingstone.
Lusaka.
Mbala.
Mokambo.
Nakonde.
Ndola.

(G.N. No. 90 of 1964)



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FOURTH SCHEDULE

(Regulations 4 and 8)

PLANT PRODUCTS FOR THE IMPORTATION OF WHICH A PERMIT IS REQUIRED

1. Broom corn
2. Citrus peel, fresh or dried, other than candied
3. Clover fodder
4. Coffee beans for consumption
5. Cotton lint
6. Lucerne hay
7. Tobacco, cured, unmanufactured

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FIFTH SCHEDULE

(Regulations 4 and 8)

SEEDS FOR THE IMPORTATION OF WHICH A PERMIT IS REQUIRED

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1. *Abutilon* seed
2. *Acacia* seed from non-Convention countries
3. Acorns from countries other than South Africa
4. Banana seed
5. Beech seed from non-Convention countries
6. Birch seed from non-Convention countries
7. *Capsicum* (Pepper or Chillies) seed from non-Convention countries
8. Cereals, seed of the following, barley, oats, rice, rye and wheat, from countries other than South Africa
9. Chestnuts from countries other than South Africa
10. Citrus seed from countries other than South Africa or Portuguese East Africa
11. Clover seed
12. Cocoa seed
13. Coffee seed
14. Cotton seed from countries other than South Africa
15. Conifers, seeds of, from non-Convention countries
16. Elm seed from non-Convention countries
17. *Eucalyptus* spp. seed from non-Convention countries
18. Grape vine seed
19. Grass seed for propagation from countries other than South Africa
20. Groundnut (*Arachis* spp.) seed
21. *Hibiscus* seed
22. Hickory seed from non-Convention countries
23. Hollyhock seed
24. Lettuce seed
25. Lucerne seed
26. Maize seed from non-Convention countries
27. Mango seed from countries other than South Africa
28. Maple seed from non-Convention countries
29. Oil-palm seed from countries other than South Africa
30. Pea (*Pisum sativum*) seed from countries other than South Africa
31. Peach, including nectarine, stones and seed from non-Convention countries
32. Pepper (*Piper nigrum*) seed from countries other than South Africa
33. Plane seed from non-Convention countries
34. Poplar seed from non-Convention countries
35. Pyrethrum seed from non-Convention countries
36. Rubber (*Hevea brasiliensis*) seed
37. Sisal (*Agave* and *Furcraea* spp.) seed from non-Convention countries
38. Soya bean seed from non-Convention countries
39. Sugar cane seed from non-Convention countries
40. Sunflower (*Helianthus* spp.), including Jerusalem artichoke, seed from countries other than South Africa
41. Tea seed
42. Tobacco seed
43. Tomato seed.
44. Tung (*Aleurites* spp.) seed from countries other than South Africa
45. Willow seed from non-Convention countries
46. Forest trees of species not specified elsewhere in this Schedule, seed of, from non-Convention countries
47. Malvaceous plants of species not specified elsewhere in this Schedule, seed of, from non-Convention countries

(As amended by F.G.N. No. 217 of 1963 and S.I. No. 217 of 1972)



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SIXTH SCHEDULE

(Regulations 2, 8 and 14)

PLANTS, THE IMPORTATION OF WHICH IS PROHIBITED

1. *Acacia*, vegetative material of, from non-Convention countries
2. Banana leaves severed from the plant, whether used as packing or other-wise, and banana fruits from non-Convention countries, and vegetative material of banana from Natal
3. *Capsicum* spp., such as chillies and peppers, vegetative material of, from non-Convention countries
4. Cereals, small, such as barley, oats, rice, rye and wheat, vegetative material of, from non-Convention countries
5. Chestnut, and all other species of *Castanea*, plants from North America or from any other country where chestnut canker (*Endothia parasitica* (Murr.) Anderson & Anderson) is known by the Permanent Secretary to exist
6. Citrus fruits, fresh and dried citrus peel, but not including candied citrus peel, from any territory where citrus black spot (*Guignardia citricarpa* Kiely) or citrus canker (*Xanthomonas citri* (Hase) Dowson) is known by the Permanent Secretary to exist
7. Citrus, rooted vegetative material of, from non-Convention countries
8. Clover (*Trifolium* spp.), fodder or vegetative material of, from non-Convention countries
9. Cocoa (*Theobroma cacao*), fruits of, from non-Convention countries
10. Coconut plants from non-Convention countries
11. Coffee, fruits (coffee cherries) of, from non-Convention countries
12. Conifers, vegetative material of, from non-Convention countries. (Note: This will include most "Christmas trees".)
13. Cotton, vegetative material of, from non-Convention countries
14. Dahlia, vegetative material of, from South Africa
15. Elm, and all other species of *Ulmus* and *Zelkova*, plants from Europe or any country where Dutch elm disease (*Ceratocystis ulmi* (Buism.) C. Moreau) is known by the Permanent Secretary to exist
16. *Eucalyptus* spp., vegetative material of, from non-Convention countries
17. Grape vine, and all other species of Vitaceae, plants from China, Japan, Korea or Manchuria
18. *Hibiscus* and all other species of Malvaceae, vegetative material of, from North and Central America
19. Lucerne, hay and vegetative material of, from non-Convention countries
20. Maize, vegetative material of, and straw for packing from non-Convention countries, and seed of, from Asia
21. Oak (*Quercus* spp.), vegetative material of, from non-Convention countries
22. *Opuntia* spp., including spineless cactus, vegetative material, seed and fruit of, for propagation
23. Pea (*Pisum*, *Dolichos*, *Lathyrus* and *Vicia* spp.), vegetative material of, from non-Convention countries
24. Peach, including nectarine, stones and seed from non-Convention countries
25. Plane (*Platanus* spp.), vegetative material of, from non-Convention countries
26. Potato, vegetative material of, except tubers from non-Convention countries
27. Rice, seed with husk and vegetative material of, from any country where rice leaf (white tip) nematode (*Aphelenchoides besseyi*) is known by the Permanent Secretary to exist;
28. Rose, and all other species of Rosaceae, plants from Asia or the Pacific Islands
29. Rubber (*Hevea* spp.) plants from South and Central America
30. Soya bean, seed from any country where soya bean cyst nematode (*Heterodera glycines*) or bacterial wilt (*Corynebacterium flaccumfaciens*) is known by the Permanent Secretary to exist, and vegetative material from non-Convention countries;
31. Sunflower (*Helianthus* spp.), including Jerusalem artichoke, vegetative material of, from non-Convention countries
32. Sweet potato tubers for consumption from non-Convention countries
33. Tea plants from non-Convention countries
34. Tobacco and flowering plants of the genus *Nicotiana*, seed and vegetative material of, from non-Convention countries;
35. Tomato, seed, vegetative material and fruit of, from any country where bacterial canker (*Cornebacterium michiganense*) is known by the Permanent Secretary to exist.
36. Forest trees of species not specified elsewhere in this Schedule, vegetative material of, from non-Convention countries

(Amended by G.N. No. 90 of 1964 and S.I. No. 217 of 1972)

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SEVENTH SCHEDULE

(Regulations 2 and 15)

PLANTS, THE IMPORTATION OF WHICH FROM TERRITORIES OTHER THAN
SOUTH AFRICA IS SUBJECT TO SPECIAL CONDITIONS

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Conditions

On importation to be submitted to an inspector for examination and, if necessary, fumigation.

Description of Plant

1. Vegetative material of host plants of San José scale (*Quadraspidiotus perniciosus* (Comst.)), including all woody perennials of the Rosaceae, including the genera *Amelanchier*, *Chaenomeles*, *Cotoneaster*, *Crataegus*, *Cydonia*, *Malus*, *Mespilus*, *Pirus* (*Pyrus*), *Prunus*, *Rosa*, *Sorbus*, and all species of the genera *Acacia*, *Acer*, *Euonymus*, *Fagus*, *Juglans*, *Ligustrum*, *Maclura*, *Populus*, *Ptelea*, *Ribes*, *Salix*, *Symphoricarpus*, *Syringa*, *Tilia*, *Ulmus*, from any country where San José scale is known by the Permanent Secretary to exist.
2. Avocado (*Persea* spp.), vegetative material of, from non-Convention countries.
 - (a) Supervised importation only;
 - (b) Submission of a phytosanitary certificate with additional declaration that the plants have been inspected during active growth and found free from pests and diseases.
3. Banana and plantain (*Musa* vegetative material of, from non-Convention countries.
 - (a) Quarantine; spp.),
 - (b) Submission of a phytosanitary certificate with additional declaration that Panama disease (*Fusarium oxysporum* f. *cubense* (E.F.S.) Snyder & Hansen) and cercospora leaf spot (*Mycosphaerella musicola* Leach) do not occur in the district of origin.
4. Broom corn, unmanufactured, derived from sorghum.
 - (a) The straws to be detached from the crowns;
 - (b) No part of the crown to remain with the straws on importation.
5. Cassava (*Manihot* spp.), vegetative material of, from non-Convention countries.
 - (a) Quarantine;
 - (b) Submission of a phytosanitary certificate with additional declaration that the plants have been inspected during active growth and found free from pests and diseases.
6. Cereals, seed of the following, barley, oats, rye and wheat, from non-Convention countries.

Submission of a phytosanitary certificate with additional declaration that the seed has been-

 - (i) inspected and found free from ergot (*Claviceps purpurea* Fr. (Tul.)); and
 - (ii) treated against *Helminthosporium* spp. in an approved manner.
7. Cereals of species not specified elsewhere in this Schedule, vegetative material of.
 - (a) Supervised importation only;
 - (b) Submission of a phytosanitary certificate with additional declaration that the plants have been inspected during active growth and found free from pests and diseases.
8. Chestnuts, seed and vegetative material of, for propagation.

Submission of a phytosanitary certificate with additional declaration that chestnut canker (*Endothia parasitica* (Murr.) Anderson & Anderson) does not occur in the country of origin.
9. Chrysanthemum, vegetative material of.

Submission of a phytosanitary certificate with additional declaration that-

 - (i) the plants have been inspected during active growth and found free from chrysanthemum midge (*Diarthronomyia chrysanthemi* Ahlb.); or
 - (ii) chrysanthemum midge does not occur in the country of origin.
10. Citrus cuttings and budwood
 - (a) Quarantine;

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EIGHTH SCHEDULE

(Regulations 8 and 16)

PLANTS, THE IMPORTATION OF WHICH FROM SOUTH AFRICA IS SUBJECT TO SPECIAL CONDITIONS

<i>Description of Plant</i>	<i>Conditions</i>
1. Vegetative material of host plants of San José scale (<i>Quadraspidiotus perniciosus</i>) (Comst.), including all woody perennials of the Rosaceae, including the genera <i>Amelanchier</i> , <i>Chaenomeles</i> , <i>Cotoneaster</i> , <i>Crataegus</i> , <i>Cydonia</i> , <i>Malus</i> , <i>Mespilus</i> , <i>Pirus</i> (<i>Pyrus</i>), <i>Prunus</i> , <i>Rosa</i> , <i>Sorbus</i> , and all species of the genera <i>Acacia</i> , <i>Acer</i> , <i>Euonymus</i> , <i>Fagus</i> , <i>Juglans</i> , <i>Ligustrum</i> , <i>Maclura</i> , <i>Populus</i> , <i>Ptelea</i> , <i>Ribes</i> , <i>Salix</i> , <i>Symphoricarpus</i> , <i>Syringa</i> , <i>Tilia</i> , <i>Ulmus</i> .	On importation to be submitted to an inspector for examination and, if necessary, fumigation.
2. Citrus, vegetative material of, from the Provinces of Natal, Transvaal and the Orange Free State.	Supervised importation only.
3. Coniferous timber which has been in the Magisterial District of Bellville, Caledon, Cape Town, Durban, East London, Estcourt, Malmesbury, Paarl, Port Elizabeth, Simonstown, Somerset West, Stellenbosch, Tulbagh, Uitenhage, Wellington, Worcester or Wynberg at any time during the period from the 1st November in any year to the 31st March of the following year.	The importer shall- (a) notify the Permanent Secretary in writing within seven days of the date of despatch of any such coniferous timber to Zambia; and (b) cause all such coniferous timber to be sterilised by an approved method before such timber is sold or otherwise disposed of or used, caused to be used or processed in any manner whatsoever within Zambia, and in any event within 180 days of its arrival in Zambia.

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Description of Plant

4. Grape vines, Virginia creeper and all other species of *Ampelidaceae* (*Vitaceae*), vegetative material of, grown in the Magisterial District of Caledon Paarl, Robertson, Somerset West, Stellenbosch, Worcester or Wynberg.
5. Lucerne seed.
6. Pea (*Pisum sativum*) seed for propagation produced in South Africa.
7. Poplar (*Populus*), vegetative material of.
8. Potato tubers for propagation.
9. Potato tubers for consumption.
10. Plants of all kinds with roots, and all bulbs, corns, tubers or other underground parts of a plant, for propagation or consumption.
11. Sugar cane, vegetative material of, propagation.

Conditions

- Submission of a certificate issued by an officer of the plant protection authority authorising the removal from the district of origin of that material.
- Submission of a phytosanitary certificate with additional declaration that the consignment is free from dodder (*Cuscuta* spp.)
- The seed to be in an unbroken container sealed by an officer of the plant protection authority.
- All leaves and leaf-stalks to be removed before importation.
Submission of a phytosanitary certificate with additional declaration that-
- (i) wart disease (*Synchytrium endobioticum* (Schilb.) Percival) does not occur within ten kilometres of the place where the potatoes were grown; and
 - (ii) no case of wart disease has been observed in that area by the plant protection authority during the ten years preceding the date of the certificate.
 - (iii) Golden Nematode (*Heterodera rostochiensis*) is not known to occur within fifty kilometres of the growing site.
- Submission of a phytosanitary certificate with the additional declaration that Golden Nematode (*H. rostochiensis*) is not known to occur within 50 kilometres of the growing site.;
- Unless from a registered nursery, submission of a phytosanitary certificate with the additional declaration that Golden Nematode (*H. rostochiensis*) is not known to occur within 50 kilometres of the growing site.;
- Supervised importation only.

(As amended by G.N. No. 90 of 1964 and S.I. No. 217 of 1972)

SECTION 29-THE PLANT PESTS AND DISEASES (KROMNEK) REGULATIONS

*Federal Government
Notice
327 of 1958
Government Notice
90 of 1964*

Regulations by the Minister

1. These Regulations may be cited as the Plant Pests and Diseases (Kromnek) Regulations. Title
2. (1) Every person who grows or cultivates dahlia tubers for sale and every person who sells dahlia tubers shall make application to the Permanent Secretary, Ministry of Agriculture, P.O. Box RW, Lusaka, for the registration of his premises. Registration of premises

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(2) A person referred to in sub-regulation (1) shall, before the 1st January in each subsequent year, make a further application to the Permanent Secretary for the registration of his premises.

(3) On receipt of an application for registration in terms of sub-regulation (1) or (2), the Permanent Secretary shall register the premises in a register to be kept for the purpose.

(As amended by G.N. No. 90 of 1964)

3. (1) Every person who has registered his premises in terms of regulation 2 shall keep a register, in the form prescribed in the Schedule, of all sales of dahlia tubers made by him. Register of sales

(2) Such register shall be kept on the registered premises and shall be available for inspection by any inspector.

4. (1) An inspector may-

Destruction of infested plants

(a) destroy or order by notice in writing the destruction of any plant infested or appearing to be infested with kromnek (*Lycopersicum virus 3. Smith*); or

(b) by notice in writing order the destruction of any plants for the purpose of preventing or controlling attacks by, or the spread of, kromnek.

(2) Any plant destroyed in terms of sub-regulation (1) shall be destroyed by-

(a) burning;

(b) boiling; or

(c) a method approved by an inspector.



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SCHEDULE

(Regulation 3)

FORM OR REGISTER OF SALES

Date	Name and address of grower	Name and address of buyer	Premises on which to be grown	Quantity	Varieties



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SECTION 29-THE PLANT PESTS AND DISEASES (NURSERY)
 REGULATIONS

Regulations by the Minister

*Federal Government
 Notices
 286 of 1961
 364 of 1962
 Government Notices
 90 of 1964
 497 of 1964
 Act No.
 13 of 1994*

1. These Regulations may be cited as the Plant Pests and Diseases (Nursery) Regulations. Title

2. (1) Every nurseryman shall, before the 1st January each year, apply to the Permanent Secretary, Ministry of Agriculture, P.O. Box RW, Lusaka, for the registration of his nursery. Registration of nurseries
 - (2) The owner or other person responsible for the management of a nursery which is established after the 1st January of any year shall make the application referred to in sub-regulation (1) within sixty days of the date on which it was established.
 - (3) A registration fee of one hundred and fifty penalty units shall be submitted with each application for registration.
 - (4) On receipt of an application for registration and the registration fee, the Permanent Secretary shall-
 - (a) if he agrees to register the nursery, register the nursery in a register to be kept for the purpose and notify the nurseryman of the fact that he has been registered;
 - (b) if he refuses to register the nursery, return the registration fee to the nurseryman and notify the nurseryman of the reason for the refusal to register the nursery.

(As amended by F.G.N. No. 364 of 1962, G.N. No. 90 of 1964 and Act No. 13 of 1994)

3. No person shall, without special written authority from the Minister, sell or expose for sale nursery stock grown or cultivated in Zambia unless- Sale of nursery stock
 - (a) it has been grown or cultivated in a registered nursery;
 - (b) it is labelled in accordance with the provisions of regulation 10.

(As amended by G.N. No. 90 of 1964)



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4. Where a nursery or portion thereof has been declared an infested area, no person, other than an inspector, shall remove, cause to be removed or allow the removal of any compost, growing media, manure or plants from that infested area unless such removal is-

Removal of plants, etc., from infested nurseries

- (a) ordered by an inspector;
- (b) effected for the purpose of treating or destroying the compost, growing media, manure or plants.

5. (1) Where a nursery or portion thereof has been declared an infested area, the nurseryman may apply to the Permanent Secretary for such infested area or any portion thereof to be inspected by an inspector for the purpose of ascertaining whether or not it is free from the infestation.

Inspection of infested nurseries

(2) An inspection in terms of sub-regulation (1) shall not be carried out unless the nurseryman certifies that-

- (a) all nursery stock on the premises, or the portion thereof which has been ordered to be treated by the inspector at the time of the declaration of the infested area, has been fumigated in the manner set out in the First Schedule; or
- (b) a period of six weeks has elapsed since the remedial treatment, other than fumigation, ordered by the inspector has last been applied to the area to be inspected.

(3) The cost of an inspection in terms of sub-regulation (1), or of such portion thereof as the Minister determines, shall be paid by the nurseryman.

*(As amended by F.G.N. No. 364 of 1962
and G.N. No. 90 of 1964)*

6. An inspector may-

Destruction of infested plants

- (a) destroy or order by notice in writing the destruction of any plants in a nursery which are infested, or appear to be infested, with any pest liable to be disseminated with nursery stock; or
- (b) by notice in writing order the destruction of any plants in a nursery for the purpose of preventing or controlling attacks by, or the spread of, a pest.

7. (1) No person shall remove or cause or permit the removal of nursery stock from a nursery unless such stock has been fumigated-

Fumigation of nursery stock

- (a) in a chamber complying with the provisions of regulation 8;
- (b) in a manner complying with the provisions of regulation 9;

not more than forty-eight hours before removal from the nursery.

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(2) The Minister may, upon receipt of a written application, exempt, subject to such conditions as he may specify, any person or class of persons from complying with the provisions of sub-regulation (1).

8. (1) A chamber for the fumigation of nursery stock in terms of regulation 7 shall be air-tight and shall be constructed of brick, concrete or other strong, durable, gas-proof and rigid material. Chamber for fumigation

(2) The chamber referred to in sub-regulation (1) shall be provided with racking or other means to ensure the free circulation of the fumigant around and beneath nursery stock contained therein.

9. (1) Nursery stock to be fumigated in terms of regulation 7 shall be fumigated in the manner set out in the First Schedule. Manner of fumigation

(2) The Minister may, upon receipt of a written application, exempt, subject to such conditions as he may specify, any person or class of persons from complying with the provisions of sub-regulation (1).

10. (1) A nurseryman shall label nursery stock despatched from his nursery with a label in one of the forms set out in the Second Schedule. Labelling of nursery stock

(2) A nurseryman may use either Form 1 or Form 2 or both forms:

Provided that if the nurseryman uses Form 2 only he shall label each item of nursery stock despatched from his nursery with that label.



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FIRST SCHEDULE

(Regulations 5 and 9)

MANNER OF FUMIGATING NURSERY STOCK

1. Hydrocyanic acid gas or methyl bromide shall be used in the following quantities-
 - (a) where hydrocyanic acid gas is used, for every 1,000 cubic feet of space in the fumigation chamber-
 - (i) 70.88 grams of hydrocyanic acid gas, in the case of dormant, leafless nursery stock;
 - (ii) 1.4 ounces of hydrocyanic acid gas, in the case of leafy plants; shall be introduced;
 - (b) where methyl bromide is used, for every 1,000 cubic feet of space in the fumigation chamber-
 - (i) 1.4 kilograms of methyl bromide, in the case of dormant, leafless nursery stock;
 - (ii) 1.13 kilograms of methyl bromide, in the case of leafy plants; shall be introduced.
2. The plants shall be placed so that the gas has access to every portion of their surfaces which grow above ground.
3. The chamber shall be securely closed as soon as or before the generation of gas begins and shall be kept closed-
 - (a) where hydrocyanic acid gas is used, for at least 45 minutes;
 - (b) where methyl bromide is used, for at least two hours.
4. Fumigation shall be carried out at a temperature of between 65 degrees and 75 degrees Fahrenheit, with an optimum temperature of 70 degrees Fahrenheit.

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SECOND SCHEDULE

(Regulation 10)

FORM 1

THE PLANT PESTS AND DISEASES (NURSERY) REGULATIONS

This label may be used for consignments of nursery stock containing several plants as well as for single items

I certify that the plants herewith consigned, namely-

(1) for

(2).....

of (3) are produced from a nursery registered under the Plant Pests and Diseases (Nursery) Regulations, and that the provisions of those Regulations, including those relating to fumigation, have been complied with.

Registered nursery

.....
Nurseryman

Address

Date

(1) State number of bales or other containers and kinds of plants.

(2) Give consignee's name.

(3) Give consignee's address.

(As amended by G.N. No. 90 of 1964)



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FORM 2

THE PLANT PESTS AND DISEASES (NURSERY) REGULATIONS

This label may be used for single items of nursery stock only

This plant is produced at the
Nurseries, registered under the Plant Pests and Diseases (Nursery) Regulations, the provisions of which have been
complied with.

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SECTION 29-THE PLANT PESTS AND DISEASES (POTATO AND TOBACCO GROWING) REGULATIONS

*Federal Government
Notice*

Regulations by the Minister

199 of 1963

1. These Regulations may be cited as the Plant Pests and Diseases (Potato and Tobacco Growing) Regulations. Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"farm" means a continuous area of land-

(a) under the ownership of the same person or group of persons; and

(b) on which potatoes or tobacco or both are cultivated;

"field potatoes" means potatoes-

(a) in active growth so that growing parts of the plants are visible above the ground; and

(b) growing on a farm or part of a farm in an area greater than one-quarter of an acre;

"field tobacco" means tobacco which is growing on a farm, but does not include tobacco which has been sown in seed-beds from which it has not been transplanted into fields.

3. (1) Subject to the provisions of sub-regulation (2), no person shall grow field potatoes and field tobacco at the same time on a farm between the 1st October and the 31st March in any growing season.

Growing of potatoes and tobacco

(2) The Minister may, upon receipt of a written application, exempt, subject to such conditions as he may specify, any person or class of persons from complying with the provisions of sub-regulation (1).

4. Any person who knows or suspects that the disease known as tobacco vein-browning virus is present on his farm shall inform the Minister without delay.

Duty to furnish information

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SECTION 29-THE PLANT PESTS AND DISEASES (TOBACCO) REGULATIONS

Regulations by the Minister

Federal Government Notices

328 of 1958

354 of 1960

114 of 1962

Government Notices

90 of 1964

497 of 1964

Statutory Instrument

91 of 1979

1. These Regulations may be cited as the Plant Pests and Disease (Tobacco) Regulations. Title

2. In these Regulations- Interpretation

"tobacco premises licence" means a licence issued in terms of subsection (1) of section *thirteen* of the Act authorising the handling or storing in and the removal to or from premises of cured tobacco.

3. (1) Subject to the provisions of sub-regulation (2), an owner of land shall- Tobacco lands to be cleared annually

(a) on or before the 31st May in each year destroy, in accordance with the provisions of regulation 4, all tobacco plants of a type other than Turkish, including stalks and roots thereof, which are growing on any of his land cultivated for the production of tobacco;

(b) on or before the 15th August in each year destroy, in accordance with the provisions of regulation 4, all tobacco plants of the Turkish type, including stalks and roots thereof, which are growing on any of his land cultivated for the production of tobacco;

(c) at all times keep his land, other than that cultivated for the production of tobacco for the current season's crop, free from living tobacco plants; and

(d) destroy all living tobacco plants in his seed-beds as soon as such plants are no longer required for transplanting into lands for the production of tobacco for the current season's crop.

(2) The Minister may, upon receipt of a written application, exempt, subject to such conditions as he may specify, any person or class of persons from complying with the provisions of sub-regulation (1).

(As amended by F.G.N. No. 354 of 1960, G.N. No. 90 of 1964 and S.I. No. 91 of 1979)

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4. Tobacco plants, including stalks and roots thereof, shall be destroyed by-

Manner of clearance

- (a) burning;
- (b) conversion into manure by a process approved by an inspector;
- (c) ploughing or discing; or
- (d) any other method of destruction approved in writing by an inspector.

(As amended by F.G.N. No. 114 of 1962)

5. (1) Cured tobacco from the current season's crop, which has not been sold across the tobacco auction floors, shall not be stored in the same room as cured tobacco from a previous season's crop.

Storage of cured tobacco

(2) Subject to the provisions of sub-regulation (4), an owner of premises where cured tobacco is handled or stored shall remove all waste tobacco scrap and refuse from any warehouse, building or structure in which cured tobacco is handled and stored and shall treat with limewash or a material approved by an inspector the interior surfaces of the walls of such warehouse, building or structure-

- (a) in the case of premises licensed in terms of section *thirteen* of the Act, on or before the 31st December each year;
- (b) in the case of any other premises, on or before the 31st October each year.

(3) If it appears to an inspector that any treatment in terms of sub-regulation (2) has not been carried out satisfactorily, he may order it to be repeated.

(4) The Minister may, upon receipt of a written application, exempt, subject to such conditions as he may specify, any person or class of persons from complying with the provisions of sub-regulation (2).

(F.G.N. No. 114 of 1962)

6. An inspector may order the removal from any warehouse, building or structure in which cured tobacco is handled or stored of-

Clearance of tobacco premises

- (a) products other than cured tobacco which are liable to be infested with a pest; or
- (b) anything, including products referred to in paragraph (a), which renders the proper inspection of the warehouse, building or structure impracticable.

7. The Minister may order the destruction of any cured tobacco which is infested with a pest of cured tobacco if, within fourteen days of the discovery of such infestation by an inspector-

Destruction of infested tobacco

- (a) the owner of the tobacco has not been traced; or
- (b) the tobacco has not been claimed.

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8. Application for a tobacco premises licence shall be made to the Permanent Secretary in the form prescribed in the First Schedule. Application for tobacco premises licence

(As amended by G.N. No. 90 of 1964)

9. A tobacco premises licence shall be issued in the form prescribed in the Second Schedule and shall remain in force until the 31st December of the year for which it was issued. Issue of tobacco premises licence



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FIRST SCHEDULE

(Regulation 8),

REPUBLIC OF ZAMBIA

THE PLANT PEST AND DISEASES ACT

APPLICATION FOR TOBACCO PREMISES LICENCE

The Permanent Secretary,
Ministry of Agriculture,
P.O. Box RW,
Lusaka.

Applicant's name in full.....

Applicant's postal address.....

Name of premises.....

Address of premises.....

Railway station or halt used.....

Type of tobacco to be handled or stored on the premises (Turkish, Virginia, etc.)

Calendar year for which licence is required.....

.....
(Signature of applicant)

Date.....

(As amended by G.N. No. 90 of 1964)



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SECOND SCHEDULE

(Regulation 9)

REPUBLIC OF ZAMBIA

THE PLANT PESTS AND DISEASES ACT

TOBACCO PREMISES LICENCE

This licence is issued in terms of subsection (1) of section 13 of the Plant Pests and Diseases Act, to.....
authorising him/them to handle or store cured tobacco in, and to remove cured tobacco to or from, his/their premises known as.....
.....at.....

This licence is issued for the year..... and shall remain in force until the 31st December of that year.

.....
for Minister of Agriculture

Date Stamp.

(As amended by G.N. No. 90 of 1964)



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(2) As from the date of establishment of the Board, any such contract as is mentioned in subsection (1) shall not be enforceable against the person who entered into the contract on behalf of the Board and that person is hereby, as from the aforesaid date, released from all liability under the contract.

REPUBLIC OF ZAMBIA

THE PLANT VARIETY AND SEEDS ACT

CHAPTER 236 OF THE LAWS OF ZAMBIA

CHAPTER 236 THE PLANT VARIETY AND SEEDS ACT CHAPTER 236

THE PLANT VARIETY AND SEEDS ACT

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ADMINISTRATION-REGISTRATION OF SEED IMPORTERS AND SEED CLEANERS

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FIRST SCHEDULE-Fees payable on first registration as registered seed importer or registered seed cleaner and on renewal thereof

SECOND SCHEDULE-Fees payable on registration of a transferee or successor in interest

CHAPTER 236

PLANT VARIETY AND SEEDS

14 of 1967
13 of 1994
21 of 1995

An Act to provide for the regulation and control of the production, sale and import of seed for sowing and of the export of seed, and to provide for the testing and for minimum standards of germination and purity thereof, and further to provide for the certification of seed and for matters incidental to or connected with the foregoing.

[1st December, 1968]



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PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Plant Variety and Seeds Act.

Short title

(As amended by Act No. 21 of 1995)

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

Interpretation

"aggrieved party" means any person whose application for registration under Part II has been refused or made subject to any condition by the Certifying Authority, or any person who had been registered under Part II and whose registration has been cancelled by the Certifying Authority;

"authorised officer" means an officer appointed under section *three*.

"certified seed" means any prescribed seed which is certified under the provisions of Part VIII;

"contract of sale" includes an agreement to sell;

"Certifying Agency" means any seed company or institution licenced as a seed testing station under Part II.

"Certifying Authority" means the person designated as such in pursuance of the provisions of section *three*;

"court" means a subordinate court, save where otherwise appears;

"duly authorised officer" means any public officer authorised by the Minister under section *twenty-four* to exercise the powers of an inspector of seeds under this Act;

"future goods", in relation to a contract of sale of prescribed seed, means prescribed seed to be acquired by the seller after the making of the contract of sale;

"imported certified seed" means any prescribed seed certified in the country of its origin imported by a registered seed importer and certified as imported certified seed under the provisions of Part VIII;

"inspector" means a person designated as an inspector of seeds under section *twenty-three*;

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"licensed seed seller" means any seed seller licensed as such under Part V;

"official seed-tester" means a person approved by the Certifying Authority as an official seed-tester under section *eighteen*;

"owner", in relation to any seeds, includes any person having for the time being the possession thereof;

"prescribed seed" means any seed to which this Act applies by virtue of a regulation made under section *thirty-five*;

"purity" means analytical purity expressed as a percentage by weight;

"registered seed cleaner" means any seed cleaner registered as such for the time being under Part II;

"registered seed importer" means any seed importer registered as such for the time being under Part II;

"registered seed producer" means any seed producer registered as such for the time being under Part VIII;

"restricted seed" means any seed to which a regulation made under section *thirty-nine* applies;

"sale in sealed containers" means any sale of prescribed seed in containers sealed for the purposes of sale and sold at a price stated and fixed for each container of equal weight, quantity or volume, or any multiple thereof; or any such sale where each container is expressed to contain a specific weight, quantity or volume of seed and the price is calculated on the basis of such weight, quantity or volume, as the case may be;

"sealed container" means any sack, bag, barrel, box, package, carton, envelope or other receptacle which is closed by means of sewing, stitching, stapling, nailing, heat sealing, gumming or glueing;

"seed" means the part of any plant, customarily referred to as seed, intended for planting and includes seed potatoes;

"seed cleaner" means any person engaged in the trade or business of eliminating impurities from seed;

"seed cleaning plant" means any premises used for the elimination of impurities from seed;

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"seed importer" means any person who, either exclusively or in conjunction with any other trade or business, imports seed into Zambia for re-sale;

"seed producer" means any person who, either exclusively or in conjunction with any other trade or business, produces seed for sale;

"seed seller" means any person who, either exclusively or in conjunction with any other trade or business, sells seed for sowing;

"seed-testing station" means any premises, suitably equipped therefor, where seed is tested for its purity and germination capacity;

"sell" includes to exchange or barter or to offer, advertise, keep, expose, transmit, convey or delivery for or in pursuance of a sale, exchange or barter, and cognate words shall be construed accordingly;

"specified variety" means any variety of prescribed seed which has been specified by the Minister pursuant to section *forty-nine* for the purposes of Part VIII;

"variety" means a subdivision of any kind which can be differentiated from other subdivisions of that kind by growth, plant, fruit or other characteristics and any uniform group which is a first generation hybrid (F1) reconstituted on each occasion by crossing two or more breeding stocks maintained by inbreeding;

"Zambia certified seed" means any prescribed seed produced by a registered seed producer and certified pursuant to the provisions of Part VIII.

(As amended by Act No. 21 of 1995)

PART II ADMINISTRATION REGISTRATION OF SEED IMPORTERS AND SEED CLEANERS PART II

ADMINISTRATION-REGISTRATION OF SEED IMPORTERS AND SEED CLEANERS

3. (1) The Seed Control and Certification Institute is hereby designated as the Certifying Authority and shall be responsible for the administration of this Act. Control and Certification Institute

(2) The Certifying Authority may, subject to the general or specific direction of the Minister, delegate any of its functions under this Act to any authorised officer in the public service.

(As amended by Act No. 21 of 1995)

4. The Certifying Authority shall cause to be kept- Registers

(a) a Register of Seed Importers which shall contain-

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- (i) the names and addresses, and the principal business addresses in Zambia, of all seed importers registered under this Act;
- (ii) such other particulars as may be prescribed;
- (b) a Register of Seed Cleaners which shall contain-
 - (i) the names and addresses, and the principal business addresses in Zambia, of all seed cleaners registered under this Act;
 - (ii) such other particulars as may be prescribed.

5. (1) Application for the registration of any seed importer or any seed cleaner shall be made to the Certifying Authority in the prescribed form and shall be accompanied by the prescribed registration fee.

Application for registration of seed importer or seed cleaner

(2) As soon as practicable after the receipt of such application the Certifying Authority shall-

- (a) if he is satisfied that the applicant complies with the prescribed requirements, enter the name and address and principal business address of the applicant in the appropriate register as a registered seed importer, or registered seed cleaner, as the case may be;
- (b) if he is not satisfied that the applicant complies with the prescribed requirements, refuse to register the applicant.

(3) Any registration under this section shall be valid until cancelled under the provisions of this Act, or until and including the 31st March next after the date of such registration, whichever is the earlier.

(4) The Certifying Authority may impose such conditions with regard to any registration under this section as it may deem to be necessary in order to ensure that the applicant complies with the provisions of this Act or with the prescribed requirements.

(5) The refusal of an application under this section for the registration of a seed importer or seed cleaner shall not prevent the making under this section of a fresh application for the registration of the same person as such seed importer or seed cleaner at any subsequent time.

(6) Any person who, having obtained registration as a seed importer or as a seed cleaner, subject to any condition imposed under subsection (4) or as amended by the Minister under section *thirteen*, fails to comply with such condition shall be guilty of an offence.

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6. (1) Where an application is made under this Act for registration as a registered seed importer of registered seed cleaner, as the case may be, and the business sought to be registered is a partnership firm, the partners shall nominate one member of the firm, who shall, upon the application being granted by the Certifying Authority, be registered as registered seed importer or registered seed cleaner, as the case may be, in respect of the said partnership business.

Registration in cases of partnership business of seed importers or seed cleaners

(2) Registration of any person as a registered seed importer or registered seed cleaner in pursuance of the provisions of this section shall not be construed as affecting or limiting any liability present or future existing or arising between such partners, or between them and any third person.

7. (1) Upon application being made under this Act for first registration of any seed importer, the Certifying Authority may, if it deems it necessary for the purposes of its consideration of the said application, cause an inspector to inspect and report on such warehousing, storage and other facilities which the applicant proposes to use in and about the business of the importation of seeds.

Inspection on application for registration

(2) Upon application being made under this Act for first registration of any seed cleaner, the Certifying Authority may, if it deems it necessary for the purposes of its consideration of the said application, cause an inspector to inspect and report on such premises, equipment and other facilities which the applicant proposes to use in and about the business of the cleaning of seeds.

(As amended by Act No. 21 of 1995)

8. (1) Upon the registration of any seed importer or any seed cleaner under this Act, the Certifying Authority shall issue a certificate of registration of a seed importer, or a certificate of registration of a seed cleaner, as the case may be, in the form prescribed, and shall furnish such certificate to the person registered under such registration, or his agent.

Certificate of registration of seed importer or seed cleaner

(2) The registered seed importer or registered seed cleaner, as the case may be, shall cause the said certificate to be displayed in a prominent place within his principal place of business in Zambia and shall keep the same so displayed during the continuance of such registration.

(3) Any person who fails to comply with the provisions of subsection (2) shall be guilty of an offence.

(As amended by Act No. 21 of 1995)

9. (1) Any person registered under this Act as a registered seed importer or a registered seed cleaner, as the case may be, may apply to the Certifying Authority, in the form prescribed, for a renewal of his registration.

Renewal of registration

(2) Any application for renewal of any registration under this Act must be made to the Certifying Authority not more than three months and not less than one month before the expiry of such registration. The Certifying Authority may, at any time, extend the time herein prescribed for making such application for renewal of registration.

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(3) Any such application for renewal of registration shall be accompanied by the fee prescribed.

(4) In the event of the death of the person registered under this Act as a registered seed importer or a registered seed cleaner within six months before the date of expiry of such registration, the Certifying Authority shall extend the time herein prescribed for making an application for renewal of such registration to a date not more than six months from the date of the death of the person so registered.

(5) In the event of an extension of time for the making of an application for renewal having been granted by the Certifying Authority under any provision of this section and the time granted extends beyond the date of expiry of the registration, the said registration shall be deemed for all of the purposes of this Act to have been extended to the date to which the said extension of time extends:

Provided, however, that upon renewal of such registration being granted the renewed registration shall relate back to the date of the expiry of the former registration, and the duration of the renewed registration shall be calculated from that date.

(As amended by Act No. 21 of 1995)

10. (1) Where a registered seed importer or a registered seed cleaner, as the case may be, dies, the following provisions shall have effect:

Devolution and transfer of
business of registered
seed importer or
registered seed cleaner

- (a) the death of the registered seed importer or registered seed cleaner shall not of itself render unlawful the carrying on, during the period of six months from such death, of the business theretofore carried on by the said deceased;
- (b) the personal representative of the said deceased or, with the consent of such personal representative, any other person shall (subject to the provisions of this section) be entitled, on application to the Certifying Authority in the form and manner prescribed, to be registered as registered seed importer or registered seed cleaner, as the case may be, in respect of the business formerly carried on by the said deceased;
- (c) where the said deceased has been registered under the provisions of section six, the surviving partner or joint owner, or the nominee of the surviving partners or joint owners, as the case may be, shall (subject to the provisions of this section) be entitled, on application to the Certifying Authority in the form and manner prescribed, to be registered for the purposes of this Act as the registered seed importer or as the registered seed cleaner, as the case may be, in respect of the business formerly registered in the name of the said deceased:



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Provided, however, that such registration under this paragraph shall be provisional only, until such time as the Certifying Authority is satisfied as to the identity of the person, or persons, actually entitled, in the events which have happened, to the ownership of the said business; whereupon the Certifying Authority may-

- (i) confirm the said provisional registration as full registration, if the person so provisionally registered is entitled to such full registration under this Act; or
 - (ii) may cancel the said provisional registration and register in lieu thereof the person entitled to be so registered in respect of the said business;
- (d) from the death of the said deceased registered seed importer or registered seed cleaner, as the case may be, until the registration of another person as such, the person actually carrying on the business of the said deceased shall be deemed to be the registered seed importer or registered seed cleaner, as the case may be, for the purposes of so much of this Act as relates to things to be done in the course of carrying on the said business, and for the purpose of notices required by this Act to be given to the registered seed importer or registered seed cleaner, as the case may be, and the service of such notices.

(2) Where a registered seed importer or registered seed cleaner, as the case may be (in this subsection referred to as the transferor), transfers on sale or otherwise the business carried on by him in respect of which he is so registered under this Act to another person (in this subsection referred to as the transferee), the following provisions shall have effect:

- (a) the transferee shall (subject to the provisions of this section) be entitled, on application to the Certifying Authority in the form and manner prescribed, and on satisfying the Certifying Authority that he has become the proprietor of the said business, to be registered as registered seed importer or registered seed cleaner, as the case may be, in respect of the said transferred business;
- (b) until the transferee is so registered, the transferor shall, notwithstanding the said transfer, continue to be, for all of the purposes of this Act, the registered seed importer or the registered seed cleaner, as the case may be.

(3) Where an application is made to the Certifying Authority under this section for the registration of a person (in this subsection referred to as the applicant) as a registered seed importer or registered seed cleaner, as the case may be, the following provisions shall apply:

- (a) where the applicant is the personal representative of a deceased registered seed importer or of a deceased registered seed cleaner, as the case may be, and is applying under subsection (1) for registration solely in his capacity as such personal representative, and the application is duly made in accordance with the said subsection, the Certifying Authority shall not refuse the application;

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- (b) in every other case it shall be lawful for the Certifying Authority, if it so thinks proper, to refuse the application on the ground that the applicant was previously registered under this Act, and while he was so registered the said registration was cancelled by the Certifying Authority under and pursuant to this Act; and it shall further be lawful for the Certifying Authority to refuse such application upon any other ground which he deems to be a reasonable ground for refusal to register a person as a registered seed importer or a registered seed cleaner, as the case may be, upon application for first registration as such under this Act.

(As amended by Act No. 21 of 1995)

11. If the Certifying Authority is satisfied-

Cancellation of registration

- (a) that any registered seed importer or registered seed cleaner fails or has ceased to comply with any provision of this Act or with any condition or requirement imposed or prescribed under this Act; or
- (b) that any such registered seed importer or registered seed cleaner has ceased to carry on business as such, or has been convicted of an offence under this Act, or has been adjudicated or is an undischarged bankrupt; or, if an incorporated body, has been wound up; or
- (c) that any such registered seed importer or registered seed cleaner, being an individual, has died and no other person has, within six months after such death, been registered in lieu of the said deceased; or
- (d) that any such registered seed importer or registered seed cleaner, being an incorporated body, has been dissolved and no other person has, within three months after such dissolution, been registered under this Act in respect of the business formerly carried on by the said dissolved registered seed importer or registered seed cleaner;

he may cancel the registration of such registered seed importer or registered seed cleaner, as the case may be:

Provided that nothing shall be construed to oblige or impose a duty on the said Certifying Authority at any time to exercise the powers by this section conferred upon it.

(As amended by Act No. 21 of 1995)

12. (1) Any aggrieved party may, within twenty-one days after such refusal, imposition of condition upon, or cancellation of any registration under this Part, in writing request the Certifying Authority to furnish his reasons for refusing to register the applicant or for imposing conditions upon or cancelling such registration.

Reasons for refusal to register or for cancellation: when to be furnished

(2) Within fourteen days after the receipt of such request, the Certifying Authority shall furnish in writing to the aggrieved party the reasons-

- (a) why it refused the registration applied for; or
- (b) why it imposed conditions upon such registration; or



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(c) why it cancelled such registration.

(As amended by Act No. 21 of 1995)

13. (1) Any aggrieved party may, within twenty-one days after his receipt of the reasons furnished pursuant to section *twelve*, appeal to the Minister against the decision of the Certifying Authority. Appeal to Minister

(2) Such appeal must be in writing.

(3) In determining such appeal the Minister may consult with the Certifying Authority, and may affirm the decision of the Certifying Authority, or may order the Certifying Authority-

(a) to register the person, as applied for in the application for registration; or

(b) to strike out all or any of the conditions imposed by the Certifying Authority, or to amend or alter such conditions in such manner as the Minister may direct, or to impose new or further conditions; or

(c) to restore the registration;

and the Certifying Authority shall comply with such order.

(4) No appeal shall lie to any court from the decision of the Minister.

(As amended by Act No. 21 of 1995)

14. (1) The Certifying Authority may, at any time, alter any registration of any registered seed importer or registered seed cleaner upon application by the registered seed importer or registered seed cleaner, as the case may be, or by the personal representative of a deceased registered seed importer or registered seed cleaner or, in the case of an incorporated body being the registered seed importer or registered seed cleaner, as the case may be, by the managing director or the liquidator of such registered seed importer or registered seed cleaner. Alteration of registration of seed importer or seed cleaner

(2) The Certifying Authority, at any time, without an application under subsection (1), may alter any registration of any registered seed importer or registered seed cleaner in any respect in which such registration appears to it to be erroneous or misleading.

(3) The following provisions shall apply and have effect in relation to any proposed alteration under subsection (2):

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- (a) the Certifying Authority shall not make any such alteration unless it has given to the registered seed importer or registered seed cleaner, as the case may be, or his personal representative, or its managing director or liquidator, as the case may be, at least fourteen days' notice in writing that the Certifying Authority has under its consideration the making of such alteration and stating the grounds on which such alteration is so under consideration;
- (b) the Certifying Authority shall consider any representations, in relation to such alteration, made to it before the expiration of the said notice by any person interested;
- (c) the Certifying Authority may, if it thinks fit, cause an inquiry to be held in relation to such alteration;
- (d) such alteration, if made at all, shall be made within three months after the expiration of the said notice.

(As amended by Act No. 21 of 1995)

15. (1) The Minister may from time to time, as he deems fit, exempt any class of seed importer or seed cleaner from any or all of the provisions of this Part. Exemption from registration

(2) Any exemption granted under this section shall be in writing and shall be published in one issue of the *Gazette* and shall be effective from the date of such publication.

(3) The Minister may at any time revoke any exemption granted under this section, which revocation shall be in writing and shall be effective from the date therein stated, and notice thereof shall be published in one issue of the *Gazette*.

16. (1) Subject to the provisions of this section, there shall be payable to the Certifying Authority by any person- Registration fees

- (a) on first registration of such person as a registered seed importer under this Act;
 - (b) on first registration of such person as a registered seed cleaner under this Act;
 - (c) on the annual renewal of any registration as a registered seed importer under this Act;
 - (d) on the annual renewal of any registration as a registered seed cleaner under this Act;
- the respective registration fees prescribed in the First Schedule.

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(2) Subject to the provisions of this section, there shall be payable to the Certifying Authority by any transferee from or successor in interest to any registered seed importer or any registered seed cleaner, as the case may be, on any registration of such transferee or successor in interest as registered seed importer or registered seed cleaner, as the case may be, the respective fees prescribed in the Second Schedule.

(3) Where the personal representative of a deceased registered seed importer or of a deceased registered seed cleaner, as the case may be, is registered as registered seed importer or registered seed cleaner under the provisions of paragraph (b) of sub-section (1) of section *ten*, solely in his capacity as such personal representative, no registration fee shall be charged for such provisional registration, but the fee prescribed by the Second Schedule for renewal of provisional registration shall be payable in the event of any renewal thereof.

(4) Where a surviving or nominated joint owner or partner of a deceased registered seed importer or of a deceased registered seed cleaner, as the case may be, is registered provisionally as such registered seed importer or as such registered seed cleaner under the provisions of paragraph (c) of subsection (1) of section *ten*, no registration fee shall be charged for such provisional registration, but the fee prescribed by the Second Schedule for renewal of provisional registration shall be payable in the event of any renewal thereof.

(As amended by Act No. 21 of 1995)

PART III TESTING OF SEEDS CERTIFYING AUTHORITY AND CERTIFYING AGENCY OFFICIAL SEED-TESTERS PART III

TESTING OF SEEDS-CERTIFYING AUTHORITY AND CERTIFYING AGENCY-OFFICIAL SEED-TESTERS

17. (1) The Certifying Authority may licence any seed company or institution as a certifying agency in any kind of seed and plant variety.

Power to licence certifying agency

(2) The applications for a licence referred to in subsection (2) shall be made in such form and under such conditions as may be prescribed by the Certifying Authority.

(As amended by Act No. 21 of 1995)

18. (1) The Certifying Authority may approve any person to be an official seed inspector, sampler or tester for a certifying agency for the purposes of this Act.

Designation of seed inspectors or testers

(2) The application for approval as an official seed inspector, sampler or tester shall be in such form and shall be granted on such conditions as may be prescribed by the Certifying Authority.

(As amended by Act No. 21 of 1995)

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19. The Certifying Authority shall cause the following rolls to be kept:

- (a) a roll of official seed-testers, which shall contain-
 - (i) the name and address of each official seed-tester appointed under this Act;
 - (ii) such other particulars as may be prescribed;
- (b) a roll of Certifying Agencies, which shall contain-
 - (i) the name and address of each Certifying Agency established under this Act, together with its post office box number, if any;
 - (ii) such other particulars as may be prescribed.

(As amended by Act No. 21 of 1995)

Rolls of official seed-testers, Certifying Authority and Certifying Agency stations

20. (1) Any person who tests, or purports to test, for the purposes of this Act, any prescribed seed, in any place not being Certifying Agencies shall be guilty of an offence.

Prohibition against testing of prescribed seed except in Certifying Authority or Certifying agency stations

(2) Upon conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any machinery, equipment and chemicals and any such prescribed seed found in such place to be forfeited or order them to be destroyed, without compensation; or may both declare them to be so forfeited and order them to be so destroyed, without compensation.

21. (1) Save as provided by section *seventy-eight*, any person who, having produced or acquired any prescribed seed which has not been tested pursuant to this section, or deemed to have been tested under the provisions of subsection (4) of section *forty-four*, intends to sell the same for sowing, shall, prior to offering the same for sale, cause a sample thereof to be taken in the manner prescribed, and shall cause the said sample to be delivered to a Certifying Agency together with a statement in writing specifying the origin, kind, variety and quantity of the said prescribed seed, and such other particulars as may be prescribed, and upon such delivery shall pay the prescribed fees.

Delivery of samples for official test

(2) Upon receipt at the certifying agency of any sample taken pursuant to subsection (1), the official seed-tester shall cause the said sample to be tested in the manner prescribed and shall furnish to the person who sought the test a report thereof in the form prescribed, setting out the date upon which the test was made, the findings resultant thereon, and such other particulars as may be prescribed.

22. Any reports, licences, certificates, approvals or other documents issued, granted or furnished, as the case may be, by a Certifying Authority for the purposes of this Act shall be in such form as may be prescribed.

Reports, licences, and other document of Certifying Authority

(As amended by Act No. 21 of 1995)

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PART IV INSPECTORS OF SEEDSPART IV

INSPECTORS OF SEEDS

23. (1) There shall be inspectors of seeds, who shall be designated as such by the Minister and shall be inspectors for the purposes of this Act. Inspectors of seeds

(2) The Minister shall cause a certificate of authority to be issued to each inspector.

(3) An inspector shall produce for inspection his certificate of authority upon the demand of any person affected by the exercise by him of any of his powers under this Act.

24. (1) The Minister may, from time to time, and as often as he deems it necessary, authorise any public officer (herein referred to as a duly authorised officer) to exercise the powers of an inspector of seeds under this Act. Duly authorised officers

(2) An authorisation made under this section may be-

- (a) general: whereby the duly authorised officer shall be empowered to exercise all of the powers of an inspector of seeds anywhere in Zambia; or
- (b) limited: either-
 - (i) as to the specific powers exercisable by the duly authorised officer; or
 - (ii) as to the place or district in which such powers are exercisable by him; or
 - (iii) as to both sub-paragraphs (i) and (ii).

(3) An authorisation made under the provisions of this section shall be in writing.

25. (1) An inspector or a duly authorised officer may take samples of any seed for any of the following purposes: Powers of inspectors or duly authorised officers to take samples of seed

- (a) for test or examination to determine whether the said seed is prescribed or restricted seed under this Act; or
- (b) for test to determine whether, if it is prescribed seed, it conforms to the standards of purity and germination prescribed therefor under this Act; or

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(c) for such other purposes as may be prescribed.

(2) Any sample of seed taken by an inspector or duly authorised officer under this Act shall be taken in the manner prescribed.

26. (1) An inspector or any duly authorised officer may, for any of the purposes of this Act, and at all reasonable times, enter upon-

Powers of inspectors or duly authorised officers to search premises and seize certain goods

(a) any land, building, premises or plant, not being the land, building, premises or plant of a registered seed cleaner, which he has reasonable cause to believe is being used in the cleaning of prescribed seed in contravention of this Act, and inspect the same and any machinery and equipment found therein; and he may seize and remove therefrom and detain any such machinery or equipment, or any prescribed seed, or any book, record or document found therein, which would afford evidence of a contravention of this Act;

(b) any land, building, premises or plant, being used by a registered seed cleaner as a seed cleaning plant, for the purpose of inspecting the same as prescribed by regulations under this Act; and if, upon such inspection, he has reasonable cause to believe that the said seed cleaning plant, or any machinery or equipment to be found therein, is being maintained, operated or used in contravention of this Act, he may seize and remove therefrom and detain any such machinery or equipment or any prescribed seed or any book, record or document found therein, which would afford evidence of a contravention of this Act; and if he has reasonable cause to believe that any of the machinery or equipment found therein is, because of a mechanical or operational defect, contributing to the distribution from the said plant of any prescribed seed which is not cleaned to the standards therefor prescribed, he may by notice in writing require the registered seed cleaner to rectify the said machinery or equipment within seven days of the receipt of such notice, and in the event of the registered seed cleaner failing to comply with the said notice, the inspector or duly authorised officer shall notify the Certifying Authority of such failure to comply;

(c) any land, building, premises or vehicle at, or in which, he has reasonable cause to believe any prescribed or restricted seed is being stored, sold or transported for sale in contravention of this Act, or is being packed in packages or other containers which are marked or labelled, or are being marked or labelled, with any description, mark or date in contravention of this Act, and in the manner prescribed take, without payment, for testing, samples of any prescribed or restricted seed found therein, and the owner of the said land, building, premises or vehicle, or his agent, or the person in custody or control thereof, shall, on demand, furnish to the inspector or duly authorised officer a statement in writing containing such particulars with respect thereto as are prescribed; and he may seize and remove therefrom and detain any prescribed or restricted seed, or any package or container, or any label, stamp or device for marking, stamping or labelling, or any book, record or document found therein, which would afford evidence of a contravention of this Act.

(2) Any duly authorised officer shall, on demand by the owner, or the person having custody of such land, building, premises, plant or vehicle, produce his authority to enter upon such land, building, premises, plant or vehicle.

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(3) Any such inspector or duly authorised officer who, under the provisions of subsection (1), seizes and detains any vehicle, equipment, prescribed or restricted seed, or any package, label, stamp or device for marking, stamping or labelling, or any book, record or document, shall give to the person from whom they were seized a receipt, signed by such inspector or officer, for such vehicle, machinery, equipment, prescribed or restricted seed, package, label, stamp or device for marking, stamping or labelling, or for such book, record or document so seized.

(4) In the event of-

- (a) the Certifying Authority being advised in writing by the Director of Public Prosecutions that no prosecution consequent upon any such inspection made under subsection (1) should be instituted under this Act; or
- (b) any such prosecution having been finally concluded; then, in either such event, any vehicle, machinery, equipment, prescribed or restricted seed, book, record or document, package, label, stamp or device for marking, stamping or labelling, seized during the course of such inspection and detained under the provisions of subsection (1), shall be returned to the owner thereof, or to the person from whose custody they were taken, and shall be so returned within ten days from the date of the receipt by the Certifying Authority of such advice that no prosecution should be instituted, or from the date any such prosecution has been finally concluded, as the case may be:

Provided that any such vehicle, machinery, equipment, prescribed or restricted seed, package, label, stamp or device for marking, stamping or labelling, shall not be returnable under this subsection if they have been declared by the court to be forfeited, or ordered to be destroyed, under any provision of this Act.

(As amended by Act No. 21 of 1995)

27. Any person who-

- (a) obstructs or impedes an inspector or a duly authorised officer in the exercise of any of the powers conferred upon him by or under this Act; or
- (b) refuses to furnish to an inspector or a duly authorised officer, on request, any particulars or information to which the said inspector or duly authorised officer is entitled by or under this Act; or
- (c) wilfully or recklessly gives to an inspector or a duly authorised officer any false or misleading particulars or information with respect to any fact or particular to which the said inspector or duly authorised officer is entitled by or under this Act;

Prohibition against obstruction, etc., of inspectors and duly authorised officers

shall be guilty of an offence.

PART V LICENSING OF SEED SELLERSPART V

LICENSING OF SEED SELLERS

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28. This Part shall not apply to seed producers or to registered seed importers.

Non-application of this Part to seed producers or to registered seed importers

29. (1) A licence issued under this Part shall entitle the licensee to sell, for sowing, prescribed seed, within the terms of the licence, which shall be known as a seed seller's licence.

Seed seller's licence

(2) A seed seller's licence may be-

- (a) general: which licence shall be exercisable by the licensee anywhere in Zambia; or
- (b) limited: which licence shall be exercisable by the licensee in any place or premises specified in the licence; or
- (c) restricted: which licence shall be a general or a limited licence restricted to the sale of prescribed seed-
 - (i) by wholesale only; or
 - (ii) by retail only; or
- (a) unrestricted: which licence shall be a general or a limited licence empowering the licensee to sell prescribed seed whether by wholesale or retail within the terms of the licence.

(3) A seed seller's licence shall be valid for the period of time expressed therein or until revoked, whichever is the earlier.

30. (1) Application for a seed seller's licence shall be made to the Certifying Authority in the prescribed form and shall be accompanied by the prescribed fee.

Application for seed seller's licence

(2) As soon as practicable after the receipt of such application, the Certifying Authority shall consider the application and may grant or refuse the same.

(3) The Certifying Authority may impose such conditions with regard to the granting of any licence under this Part as it may deem to be necessary in order to ensure that the applicant complies with the provisions of this Act or with the prescribed requirements.

(As amended by Act No. 21 of 1995)



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31. The Certifying Authority may refuse to issue a seed seller's licence when-

Refusal to issue seed seller's licence

- (a) it is satisfied that the applicant has failed to comply with any prescribed condition precedent to the granting of an application for, or to the issue of, such licence; or
- (b) the applicant, having formerly been a licensed seed seller or a registered seed importer under this Act, has been convicted of an offence under this Act; or
- (c) it is satisfied that the applicant is not a fit or proper person to hold a seed seller's licence.

(As amended by Act No. 21 of 1995)

32. (1) A seed seller's licence shall be revoked by the death or in the case of a company licensee by the dissolution, of the licensee.

Revocation of seed seller's licence

(2) The Certifying Authority may revoke a seed seller's licence at any time, and shall revoke the said licence when-

- (a) the licensee has violated the terms of the licence; or
- (b) the licensee has failed to comply with any prescribed condition attaching to the said licence; or
- (c) the licensee has been convicted of more than one offence under this Act; or
- (a) the licensee has failed or refused to comply with any reasonable direction as regards the sale or storage of any prescribed seed given to him in writing by an inspector or by the Certifying Authority.

(3) The Certifying Authority shall notify the licensee in writing, in the form and manner prescribed, of any revocation of his licence under the provisions of subsection (2).

(As amended by Act No. 21 of 1995)

33. (1) Any applicant for a seed seller's licence whose application has been refused or upon whom any condition has been imposed under subsection (3) of section *thirty* by the Certifying Authority, and any former licensee whose licence has been revoked, may, within one month after receipt of notice of such refusal, imposition of condition, or revocation, appeal to the Minister against the decision of the Certifying Authority:

Appeal to Minister

Provided, however, that no appeal to the Minister shall lie against any revocation of any licence under the provisions of paragraphs (a) to (d), inclusive, of subsection (2) of section *thirty-two*.

(2) Every appeal under this section shall be in writing.



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(3) In determining such appeal the Minister may consult with the Certifying Authority, and may uphold the decision of the Certifying Authority, or may make an order instructing the Certifying Authority-

- (a) to issue the licence, as applied for in the application; or
- (b) to strike out all or any of the conditions imposed by the Certifying Authority, or to amend or alter such conditions in such manner as the Minister may direct; or
- (c) to cancel the revocation of the licence and to restore the same to the former licensee; as the case may be.

(As amended by Act No. 21 of 1995)

34. (1) When a seed seller's licence has expired or has been revoked by the Certifying Authority under the provisions of subsection (2) of section *thirty-two*, the former licensee may apply to the Certifying Authority for a new seed seller's licence.

Right of former licensee under expired or revoked licence to apply for new licence

(2) Any licence issued pursuant to such an application shall not be deemed to be a renewal of the expired or revoked seed seller's licence formerly held by the applicant.

(As amended by Act No. 21 of 1995)

PART VI PRESCRIBED SEEDPART VI

PRESCRIBED SEED

35. (1) The Minister may from time to time by regulation prescribe any seed, including seed potatoes, to be seed to which this Act shall apply, and may from time to time by regulation revoke any such regulation.

Power of Minister to declare seed to be prescribed seed

(2) In this Act, "prescribed seed" means seed which is, by virtue of a regulation made by the Minister under this section, for the time being prescribed seed for the purposes of this Act.

36. (1) If, upon made pursuant to section *twenty-one*, it is found and reported by an official seed-tester that any prescribed seed does not conform to the prescribed standards of germination or purity, or both, the owner thereof may cause the said prescribed seed to be treated or cleaned.

Treating and cleaning of prescribed seed



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(2) Where any prescribed seed has been treated or cleaned in pursuance of subsection (1), the said owner may request an inspector to take, and the inspector thereupon shall take a further sample thereof in the manner prescribed, which sample shall be sent by the inspector to a Certifying Authority for further test, and the said owner may, as often as he so desires, cause further treatments or cleanings of the said prescribed seed to be effected and further tests to be made, as herein provided, until such time as the said prescribed seed is found and reported by the official seed-tester to conform to the said standards of germination and purity prescribed therefor.

(3) The report furnished by the official seed-tester upon any such further test of such prescribed seed shall supersede any earlier report of any previous test of the said prescribed seed.

(As amended by Act No. 21 of 1995)

37. (1) Save as provided by section *seventy-eight*, and subject to the provisions as to date of test of subsection (4) of section *forty-four*, any person who sells, for sowing, any prescribed seed which has been tested or deemed to have been tested in accordance with the provisions of this Act and found to conform to the standards prescribed shall-

Duties of seller on sale of prescribed seed

- (a) if the said prescribed seed is sold in sealed containers, cause to be printed or stamped upon each such container, or upon a label attached thereto or enclosed therein and legible without opening the said container, in clear and legible letters and figures, the words "quality declared seed" and the date upon which the said prescribed seed was tested, together with such other particulars as may be prescribed;
- (b) if the said prescribed seed is sold in bulk quantities-
 - (i) and the seller is the person who caused the said test to be made, furnish to the buyer at the time of sale a statement in writing in the form prescribed containing the name and address of the Certifying Agency where the test was made, the date of the test, and a declaration by the seller that the bulk quantity sold by him is all or part of that from which the sample tested was taken, together with such other particulars as may be prescribed;
 - (ii) and the seller is not the person who caused the said test to be made, furnish to the buyer at the time of sale a copy of the statement furnished, under the provisions of sub-paragraph (i), by the person who caused such test to be made, and shall endorse thereupon a declaration that the bulk quantity sold by him is all or a part of that to which the said statement was related at the time he procured the same, together with a statement by the seller containing such other particulars as may be prescribed.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(3) The validity of a contract for the sale of prescribed seed, or the right to enforce such a contract, shall not be affected by non-compliance with this section.

(4) For the purposes of this section-

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- (a) the expression in "in bulk quantities" includes any quantity of seed taken, for the purpose of a particular sale, from any larger quantity of seed, but does not include seed which is packed and sold in sealed containers;
- (b) the word "sale" includes "gift", and cognate words shall be construed accordingly.

(As amended by Act No. 21 of 1995)

38. (1) Subject to the provisions of section *thirty-six*, if any sample, taken in the manner prescribed, of any prescribed seed, is, upon test, found and reported by an official seed-tester not to conform to the standards of germination and purity prescribed for such prescribed seed-

Disposal of sub-standard prescribed seed

- (a) the Minister may, if the said prescribed seed is seized and detained under the provisions of this Act-
 - (i) subject to such conditions as to its sale and use, and to such other conditions as he may impose, direct its return either to the owner thereof, or to the person from whose custody and control it was taken; or
 - (ii) with the consent of the owner thereof, order it to be destroyed without compensation; or
 - (iii) bring proceedings in the manner prescribed by subsection (2) for its forfeiture and destruction; or
 - (iv) if, upon such test, the said prescribed seed is also found and certified to be in a dangerous state or injurious to the health of human beings, animals or plants, and the Minister deems it reasonably necessary so to do, order the said prescribed seed to be forfeited and destroyed, without compensation;
- (b) the Minister may, if the said prescribed seed has not been seized or detained under the provisions of this Act-
 - (i) subject to such conditions as to its sale and use and to such other conditions as he may impose, permit the owner thereof to retain the said prescribed seed; or
 - (ii) with the consent of the owner thereof, order it to be destroyed without compensation;
 - (iii) bring proceedings in the manner prescribed by subsection (2) for its forfeiture and destruction; and may, if he deems it necessary so to do, at any time prior to or after the commencement of the said proceedings, direct that the said prescribed seed be seized and detained pending the determination of the said proceedings; or
 - (iv) if, upon such test, the said prescribed seed is also found and certified to be in a dangerous state or injurious to the health of human beings, animals or plants, and the Minister deems it reasonably necessary so to do, order the said prescribed seed to be forfeited and destroyed, without compensation; and may for the purposes of this sub-paragraph, if he deems it necessary so to do, order the seizure and detention of the said prescribed seed.



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- (2) (a) Where the Minister elects to act in pursuance of sub-paragraph (iii) of paragraph (a) of subsection (1) or of subparagraph (iii) of paragraph (b) of subsection (1), he may, in his name, bring, or cause to be brought, civil proceedings in the court against the owner of the said prescribed seed or against the person from whose custody or control the same was taken, or in whose custody or control the same is found, as agent of the owner; and in the said proceedings the Minister shall claim for a declaration by the court that the said prescribed seed does not conform to the minimum standards of germination or purity prescribed under this Act for such prescribed seed; and for an order that it be forfeited to the Government and destroyed, without compensation.
- (b) Such proceedings shall be commenced by filing with the clerk of the court an affidavit, made by a public officer duly authorised by the Minister in that behalf, setting forth the relevant facts and exhibiting the report or certificate or reports or certificates upon which the declaration and order are sought.
- (c) (i) Upon the filing of the said affidavit the clerk of the court shall assign a date for the hearing of the claim not less than six weeks from the date of issue of the writ of summons in accordance with the provisions of sub-paragraph (ii).
- (ii) The clerk of the court shall thereupon issue a writ of summons in the form prescribed setting forth therein the date assigned for the hearing of the claim by the court.
- (d) The said writ of summons shall be served upon the party named as party defendant therein in the manner prescribed in paragraph (e); and notice of the proceedings in the form prescribed shall be published in the *Gazette* not less than fourteen days prior to the date assigned for the hearing of the claim.
- (e) For the purposes of this section, any writ of summons issued under the provisions of this section shall be deemed to have been served upon the party defendant if, not less than fourteen days prior to the date assigned for the hearing of the claim by the court, a true copy thereof is-
- (i) delivered to the said defendant personally; or
- (ii) addressed to him and left or forwarded by post to him at his usual or last known place of abode or business; or
- (iii) addressed to him and forwarded by registered post to his usual or last known post office box number; or
- (iv) where he is unknown, or where he has no address within Zambia, or his address is unknown, published in one issue of the *Gazette*
- (f) If any party defendant served with the said writ of summons as provided in paragraph (e) wishes to defend or oppose or contest the said proceedings, he shall, in the form prescribed, give notice of his intention so to do the clerk of the court not less than five days before the date assigned in the said writ of summons for the hearing of the said claim.
- (g) If any person, who is not a party defendant, desires to defend or oppose or contest the said proceedings, he shall, not less than seven days after the publication of the notice of proceedings provided for in paragraph (a), give to the clerk of the court notice in writing of his intention so to do; whereupon he shall be entitled to appear at the hearing of the claim as if he were in every respect a party defendant.

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- (h) If any party defendant fails to comply with the provisions of paragraph (f), or if he, or any person who has given the notice provided for by paragraph (g), fails to appear at the hearing of the claim on the date assigned therefor, the court shall enter his default and may thereupon proceed to hear and determine the claim forthwith on the evidence of the affidavit filed under paragraph (b), and the reports or certificates exhibited therein, or may adjourn such hearing and determination to a date not more than two weeks from the date assigned for the hearing of the claim.
- (i) Upon hearing the evidence adduced the court may make the declaration and order sought; or may dismiss the claim and make such order as to costs, consequential upon such dismissal, as the court deems meet.
- (j) In the event of a dismissal of the claim by the court, the Minister may elect to dispose of the said prescribed seed in any other manner thereunto provided by subsection (1).

(3) It is hereby declared that anything done or any proceeding taken in terms of this section shall not prevent the institution of criminal proceedings under this Act, or under any other written law, against the owner of the said prescribed seed or his agent, or the person from whose custody and control it was taken, or in whose custody or control it is found, as the case may be, or against any other person.

(4) Any person who fails to comply with any order made or condition imposed under paragraph (a) or (b) of subsection (1) shall be guilty of an offence.

PART VII IMPORT AND EXPORT OF SEEDPART VII

IMPORT AND EXPORT OF SEED

39. (1) The Minister may, from time to time and as often as he deems it expedient so to do, by regulation, restrict, limit, make subject to conditions, or prohibit the importation of any particular variety or class of seed into Zambia and may from time to time, by regulation, amend or revoke any such regulation.

Restricted seed

(2) Any regulation made under subsection (1) may include any particular variety or class of prescribed seed.

(3) In this Act, "restricted seed" means any seed the importation of which is, by virtue of a regulation made by the Minister under this section, for the time being restricted, limited, subject to condition or prohibited.

40. (1) Any person who, without a permit from the Minister as provided by section *forty-one*, imports any restricted seed into Zambia in contravention of any regulation made by the Minister under section *thirty-nine*, shall be guilty of an offence.

Prohibition against importation of restricted seed

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(2) Upon conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such imported restricted seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

41. (1) Notwithstanding the provisions of any regulation made under section *thirty-nine*, the Minister may, at any time and as often as he deems it expedient, permit the importation into Zambia of any specific restricted seed, or of any specific variety or class of restricted seed.

Power of Minister to permit importation of restricted seed

(2) Any permit granted under subsection (1) shall be in writing, and may be subject to any conditions which the Minister may deem fit to impose.

(3) Where, under the provisions of this section, the Minister permits the importation of any restricted seed which is also prescribed seed, the provisions of this Act applicable to the importation, testing, sale and disposal of prescribed seed shall apply thereto as if the said prescribed seed had not been restricted seed under this Act.

(4) Any person who fails to comply with any conditions imposed by the Minister under this section shall be guilty of an offence.

42. (1) No person may import into Zambia for purposes of sale any prescribed seed for sowing, unless he is a registered seed importer.

Prohibition against importation of prescribed seed except by registered seed importer

(2) Any person who imports any prescribed seed into Zambia in contravention of the provisions of subsection (1) shall be guilty of an offence.

(3) Upon the conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such imported prescribed seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

43. (1) No registered seed importer shall import any prescribed seed into Zambia unless-

Conditions for importation of prescribed seed

(a) such seed is not restricted seed, the importation of which has been prohibited by regulation made under section *thirty-nine*;

(b) such seed is not restricted seed, the importation of which has been made subject to conditions or limitations prescribed by regulation made under section *thirty-nine* and such prescribed conditions or limitations have not been fulfilled or performed;

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- (c) such seed being restricted seed, the importation of which has been prohibited by regulation made under section *thirty-nine*, a permit for its importation has issued under the provisions of section *forty-one*;
 - (d) such seed being restricted seed, the importation of which has been made subject to conditions or limitations prescribed by regulation made under section *thirty-nine* and such prescribed conditions or limitations have not been fulfilled or performed, a permit for its importation has issued under the provisions of section *forty-one*;
 - (e) such seed conforms to the standards of germination and purity and other requirements prescribed therefor;
 - (f) if such seed is packed in a container or containers, such container or containers comply with the requirements prescribed;
 - (g) the genus, species and variety of such seed, and the country of its origin, is shown on an invoice or delivery note accompanying such seed at the time of its importation.
- (2) The Minister may exempt any registered seed importer, or any particular species, variety or class of prescribed seed, from all or any of the provisions of subsection (1).
- (3) Any exemption granted by the Minister under subsection (2) may be subject to such conditions in respect of such prescribed seed as the Minister may, in his discretion, impose.
- (4) Any person who fails to comply with the provisions of this section or with any condition imposed by the Minister thereunder shall be guilty of an offence.
- (5) Upon the conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such imported prescribed seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

44. (1) Upon importation into Zambia of any prescribed seed, the registered seed importer to whom the prescribed seed was consigned shall, within thirty days of its delivery to him, cause a sample thereof to be taken in the manner prescribed and sent for test to a Certifying Agency.

Required test of imported
prescribed seed

(2) Any such imported prescribed seed shall not be sold or otherwise disposed of by any person prior to the receipt, by the registered seed importer who imported the said prescribed seed, of a report on such test from the Certifying Authority confirming that the said imported prescribed seed conforms to the standards of germination and purity prescribed.

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(3) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(4) This section shall not apply if, at the time of importation of the said prescribed seed, the registered seed importer to whom it was consigned submits to the Certifying Agency for inspection a report of analysis from the country of origin certifying that the said seed is of a standard which conforms to the standards prescribed for such seed under this Act, and the Certifying Agency is satisfied to accept such report; whereupon the said prescribed seed shall be deemed to have been tested in accordance with this Act, and the date of test shown in such report shall be the date of test for the purposes of section *thirty-seven* and of paragraph (b) of subsection (1) of section *sixty-three*.

(As amended by Act No. 21 of 1995)

45. Nothing contained in this Act shall apply to or operate to prevent the importation by any registered seed importer, by post, of a sample of any prescribed seed, the importation of which has not been prohibited by regulation made under section *thirty-nine*, where such sample does not exceed one pound in weight and is accompanied by a declaration by the exporter that it is being imported into Zambia solely as a trade sample and is of no commercial value.

Importation of trade samples of prescribed seed

46. (1) Any restricted seed brought to any part of Zambia for purposes of importation in contravention of any of the provisions of this Act or of any particular restriction, limitation or condition of importation thereunder prescribed may, wherever found, be seized and may be detained by the Certifying Agency or an inspector or duly authorised officer, subject to the disposal thereof under the provisions of subsection (2).

Seizure and disposal of unlawfully imported restricted seed

(2) If such restricted seed is detained under the provisions of subsection (1) the Minister may-

- (a) order such restricted seed-
 - (i) to be removed from Zambia within such time as may be specified in the order; or
 - (ii) with the consent of the person to whom the said restricted seed was consigned, or his agent, or of the owner thereof, to be destroyed without compensation; or
- (b) bring proceedings in the manner prescribed by subsection (3) for its forfeiture and destruction; or
- (c) permit the removal thereof subject to such conditions as he may impose; or



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- (d) if the said restricted seed is also prescribed seed under this Act, order such samples of such restricted seed to be taken and tested in the manner prescribed and-
- (i) if, upon such test, the said restricted seed is found and certified to conform to the standards prescribed for such prescribed seed, permit the importation thereof into Zambia, subject to such conditions as he may impose; or
 - (ii) if, upon such test, the said restricted seed is found and certified not to conform to the said standards prescribed, permit the importation thereof into Zambia, subject to such conditions as he may impose; or bring proceedings in the manner prescribed by subsection (3) for its forfeiture and destruction; or
 - (iii) if, upon such test, the said restricted seed is found and certified to be in a dangerous state or injurious to the health of human beings, animals or plants, and the Minister deems it to be reasonably necessary so to do, order the said restricted seed to be destroyed forthwith, without compensation.
- (3) (a) Where the Minister elects to bring proceedings in pursuance of paragraph (b) of subsection (2) or of sub-paragraph (ii) of paragraph (a) of subsection (2), he may, in his name, bring civil proceedings in the court against the owner of the restricted seed, or against the person to whom it was consigned, as agent of the owner, and in the said proceedings the Minister shall claim for a declaration by the court that the said restricted seed was imported into Zambia in contravention of the provisions of this Act, and for an order that it be forfeited to the Government and destroyed.
- (b) Such proceedings shall be commenced by filing with the clerk of the court an affidavit, made by a public officer duly authorised by the Minister in that behalf, setting forth the relevant facts and exhibiting any certificate or certificates upon which the declaration and order are sought.
- (c) (i) Upon the filing of the said affidavit, the clerk of the court shall assign a date for the hearing of the claim not less than three weeks and not more than six weeks from the date of issue of the writ of summons in accordance with the provisions of sub-paragraph (ii).
- (ii) The clerk of the court shall thereupon issue a writ of summons in the form prescribed setting forth therein the date assigned for the hearing of the claim by the court.
- (d) The said writ of summons shall be served upon the party named as party defendant therein in the manner prescribed in paragraph (e); and notice of the proceedings in the form prescribed shall be published in the *Gazette* not less than fourteen days prior to the date assigned for the hearing of the claim.
- (e) For the purposes of this section, any writ of summons issued under the provisions of this section shall be deemed to have been served upon the party defendant if, not less than fourteen days prior to the date assigned for the hearing of the claim by the court, a true copy thereof is-
- (i) delivered to the said defendant personally; or
 - (ii) addressed to him and left or forwarded by post to him at his usual or last known place of abode or business; or
 - (iii) addressed to him and forwarded by registered post to his usual or last known post office box number; or
 - (iv) where he is unknown, or where he has no address within Zambia, or his address is unknown, published in one issue of the *Gazette*.

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- (f) If any party defendant served with the said writ of summons as provided in paragraph (e) wishes to defend or oppose or contest the said proceedings, he shall, in the form prescribed, give notice of his intention so to do to the clerk of the court not less than five days before the date assigned in the said writ of summons for the hearing of the said claim.
- (g) If any person, who is not a party defendant, desires to defend or oppose or contest the said proceedings, he shall, not less than seven days after the publication of the notice of proceedings provided for in paragraph (a), give to the clerk of the court notice in writing of his intention so to do; whereupon he shall be entitled to appear at the hearing of the claim as if he were in every respect a party defendant.
- (h) If any party defendant fails to comply with the provisions of paragraph (f), or if he, or any person who has given the notice provided for by paragraph (g), fails to appear at the hearing of the claim on the date assigned therefor, the court shall enter his default and may thereupon proceed to hear and determine the claim forthwith on the evidence of the affidavit filed and of any certificate exhibited under paragraph (b), or may adjourn such hearing and determination to a date not more than two weeks from the date assigned for the hearing of the claim.
- (i) Upon hearing the evidence adduced, the court may make the declaration and order sought; or may dismiss the claim and make such order as to costs, consequential upon such dismissal, as the court deems meet.
- (j) In the event of a dismissal of the said claim, the Minister may elect to dispose of the said restricted seed in any other manner thereunto provided by subsection (1).
- (4) It is hereby declared that any act done or ordered or permitted to be done in terms of this section shall not-
- (a) prevent the institution of criminal proceedings under this Act or under any other written law against the person to whom the said restricted seed was consigned, or his agent, or the owner thereof, or any other person; or
- (b) curtail or limit in any way whatsoever the powers or duties of the Controller of Customs and Excise or of any customs officer under the Customs and Excise Act; or
- (c) affect the liability of any person for the payment of customs duty in respect of the said restricted seed; or
- (d) entitle any person to claim a refund of customs duty paid in respect of any restricted seed seized and dealt with in terms of this section.
- (5) Any person who fails to comply with any order made or conditions imposed under this section shall be guilty of an offence.

(As amended by Act No. 21 of 1995)

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47. (1) The Minister may, from time to time and as often as he deems it expedient so to do, by regulation, prohibit, limit, control or make subject to conditions, the exportation of any specific species, variety or class of prescribed seed from Zambia.

Power of Minister to control export of prescribed seed

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

PART VIII CERTIFIED SEEDPART VIII

CERTIFIED SEED

48. This Part applies to prescribed seed which has been certified by the Minister under this Part as Zambia certified seed or imported certified seed, as the case may be.

Certified seed

49. The Minister may from time to time, by statutory notice, specify any particular variety of prescribed seed (hereinafter called a specified variety) which may be cultivated for the purpose of producing seed for certification as Zambia certified seed, or which may, if imported, be certified as imported certified seed under this Part.

Power of Minister to specify specified varieties for certification

50. Zambia certified seed means any prescribed seed of a specified variety which is produced in Zambia by a registered seed producer under and in accordance with the provisions of this Part, and certified by the Minister under this Part as Zambia certified seed.

Zambia certified seed

51. Imported certified seed means any prescribed seed of a specified variety which has been certified as certified seed under the laws of the country of its origin, which has been imported into Zambia, and which has been certified by the Minister under this Part as imported certified seed.

Imported certified seed

52. (1) Any seed producer who desires to cultivate any specified variety or varieties for purposes of certification as Zambia certified seed, shall apply to the Certifying Authority for registration as a registered seed producer.

Registered seed producers

(2) Application for registration as a registered seed producer shall be in the prescribed form and shall be accompanied by the prescribed registration fee.

(As amended by Act No. 21 of 1995)



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53. For the purposes of this Part, the Certifying Authority shall cause to be kept a register of seed producers which shall contain-

Register of seed producers

- (a) the names and addresses of all registered seed producers;
- (b) particulars of the specified variety or varieties to be grown by each registered seed producer;
- (c) particulars of the location and area of the land where each such specified variety is to be grown by each registered seed producer;
- (d) particulars of the duration of the registration;
- (e) such other particulars as may be prescribed.

(As amended by Act No. 21 of 1995)

54. (1) As soon as practicable after the receipt of an application for registration as a registered seed producer, the Certifying Authority shall-

Registration of seed producers

- (a) if he is satisfied that-
 - (i) the applicant is a person suitably qualified and experienced in seed production and capable of producing, to the standards prescribed for Zambia certified seed, seed of the specified variety or varieties set out in the application; and
 - (ii) the land proposed to be used for the production of such specified variety or varieties is reasonably suited to the production of such crop;

register the applicant as a registered seed producer;

- (b) if he is not satisfied as to both (i) and (ii) of paragraph (a), refuse to register the applicant.

(2) The Certifying Authority may impose such conditions and limitations upon any registration under this section as he may deem to be necessary, including limitations as to the acreage to be used in the cultivation of any particular prescribed variety by the applicant, and also including limitations as to the specified variety or specified varieties to be produced by such applicant, upon his registration as a registered seed producer.

(3) Registration under this section shall be valid for the production of one crop only of the particular specified variety or varieties to which it relates; but for the purposes of sale of Zambia certified seed produced thereunder it shall be valid for so long as is necessary for the registered seed producer to dispose of such Zambia certified seed.

(As amended by Act No. 21 of 1995)

55. (1) Where any registered seed producer, during the continuance of his registration as such-

Cancellation of registration of registered seed producer

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- (a) fails or ceases to comply with any provision of this Part or with any requirement or condition prescribed thereunder in respect of the production of any specified variety intended for certification as Zambia certified seed; or
- (b) parts with the possession of, or is dispossessed from, the lands upon which a specified variety intended for certification as Zambia certified seed is in course of production; the Certifying Authority shall, forthwith cancel the registration of the said registered seed producer in respect of the production of the said specified variety.

(2) Where any registered seed producer, during the continuance of his registration as such-

- (a) is convicted of an offence under this Act; or
- (b) dies or, being an incorporated body, is dissolved;

the Certifying Authority shall forthwith cancel the registration of the said registered seed producer.

(3) In the event of a cancellation under paragraph (b) of subsection (1) or paragraph (b) of subsection (2), the successor in interest to the said registered seed producer may apply under this Part for registration as a registered seed producer in respect of the crop in course of production at the time of such cancellation.

(As amended by Act No. 21 of 1995)

56. (1) Any seed producer whose application for registration as a registered seed producer has been refused or made subject to any condition or limitation by the Certifying Authority, or any registered seed producer whose registration has been cancelled, may, within twenty-one days after such refusal, imposition of conditions or cancellation, in writing request the Certifying Authority to furnish his reasons for refusing to register the applicant or for imposing conditions or limitations upon or cancelling any registration under this Part.

Reasons for refusal to register or for cancellation: when to be furnished

(2) Within fourteen days after the receipt of such request, the Controller of Seeds shall furnish in writing to the applicant the reasons-

- (a) why he refused to register the applicant as a registered seed producer; or
- (b) why he imposed conditions or limitations upon such registration; or
- (c) why he cancelled such registration.

(As amended by Act No. 21 of 1995)



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57. (1) Any seed producer whose application for registration as a registered seed producer has been refused or made subject to any condition or limitation by the Certifying Authority, or any registered seed producer whose registration has been cancelled, may, within twenty-one days after his receipt of the reasons furnished pursuant to section *fifty-six*, appeal to the Minister against the decision of the Certifying Authority. Appeal to Minister

(2) Such appeal must be in writing.

(3) In determining such appeal the Minister may consult with the Certifying Authority, and may affirm the decision of the Certifying Authority, or may order the Certifying Authority-

(a) to register the appellant as a registered seed producer in the terms of his application for registration;

(b) to strike out all or any of the conditions or limitations imposed by the Certifying Authority, or to amend or alter such conditions or limitations in such manner as the Minister may direct, or to impose new or further conditions; or

(c) to restore the registration;

and the Certifying Authority shall comply with such order.

(4) No appeal shall lie to any court from the decision of the Minister.

(As amended by Act No. 21 of 1995)

58. The Minister may approve specific prescribed seed of a specified variety, which is not certified seed, which may be used by a registered seed producer in the production of Zambia certified seed of that specified variety. Power of Minister to approve prescribed seed for production of Zambia certified seed

59. (1) Upon its being shown to the satisfaction of the Minister that particular prescribed seed- Power of Minister to certify seed as Zambia certified seed

(a) is of a specified variety; and

(b) is of known derivation; and

(c) has been produced by a registered seed producer; and

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- (d) has been produced on the land designated in the register; and
- (e) has been sown, cultivated and produced as prescribed; and
- (f) has been inspected during cultivation as prescribed; and
- (g) has been tested in the manner prescribed and found to conform to the standards of germination and purity prescribed for seed of that specified variety;

the Minister may certify such seed as Zambia certified seed.

(2) Upon certification by the Minister of any such seed as Zambia certified seed, the Certifying Authority shall issue to the registered seed producer a certificate in the prescribed form in respect of such seed, and shall cause the prescribed particulars of such certification to be entered as prescribed in the register of seed producers.

(As amended by Act No. 21 of 1995)

60. No registered seed producer shall use for the production of Zambia certified seed any certified seed which has not been approved for such purpose by the Certifying Authority, nor any other prescribed seed which has not been approved by the Minister under section *fifty-eight*.

Zambia certified seed to be produced from approved seed

(As amended by Act No. 21 of 1995)

61. (1) Upon any sale of Zambia certified seed, as Zambia certified seed, by any registered seed producer, he shall, at the time of such sale-

Certificate to be produced on sale of Zambia certified seed by registered seed producer

- (a) produce for inspection by the buyer the prescribed certificate issued under this Part in respect of such seed; and
- (b) furnish to the buyer a true copy of the said prescribed certificate countersigned by him as the producer of the said Zambia certified seed.

(2) Any registered seed producer who fails to comply with the provisions of this section shall be guilty of an offence.



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62. (1) The Minister may, upon application by a registered seed importer, certify as imported certified seed any prescribed seed of a specified variety which-

Power of Minister to certify imported prescribed seed as imported certified seed

- (a) (i) has been imported into Zambia by the applicant; and
 - (ii) has been tested, or is deemed to have been tested pursuant to subsection (4) of section *forty-four*; and
 - (iii) has been certified as certified seed under the laws of the country of its origin; and
 - (iv) has been accompanied by a certificate which the Certifying Authority is willing to accept for the purposes of certification under this Part; or
- (b) is shown to the satisfaction of the Minister to have been produced under conditions and to conform to standards equal to, or higher than those prescribed for the production and certification of Zambia certified seed.

(2) Upon certification by the Minister of any such seed as imported certified seed, the Certifying Authority shall issue to the registered seed importer a certificate in the prescribed form in respect of such seed, and shall cause the prescribed particulars of such certification to be entered as prescribed in the register of seed importers.

(As amended by Act No. 21 of 1995)

63. (1) Any person who sells, for sowing, any certified seed in sealed containers shall cause to be printed or stamped upon each such container or on a label or labels attached thereto, or enclosed therein in such a way as to be legible without opening the said container, in clear and legible letters and figures-

Duties of seller on sale of certified seed in sealed containers

- (a) in the case of Zambia certified seed, the words "Zambia certified seed" in lieu of the words "quality declared seed" as prescribed by section *thirty-seven*, the date of test and the number of the certificate issued in respect thereof; and
- (b) in the case of imported certified seed, the words "Imported certified seed" in lieu of the words "quality declared seed" as prescribed by section *thirty-seven*, the date of test pursuant to section *forty-four*, and the number of the certificate issued in respect thereof;

together with such other particulars as are prescribed.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(As amended by Act No. 21 of 1995)

64. Any person who-

Prohibition against sale of uncertified seed as certified seed

- (a) sells as certified seed any seed which is not certified by the Minister under this Part; or
- (b) for the purposes of sale, uses, in the description or name of any seed, the word "certified" or any cognate word in relation to seed which is not certified by the Minister under this Part;

shall be guilty of an offence.

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65. (1) Any person who sells in bulk quantities-

Prohibition against sale of certified seed without possession of appropriate certificate

- (a) any Zambia certified seed or imported certified seed, for sowing, without having in his possession or under his control, at the time of such sale, the prescribed certificate or copy certificate issued or furnished under this Part in respect of such seed; or
- (b) any Zambia certified seed or imported certified seed, for sowing, and who fails to furnish to the buyer, at the time of such sale, the prescribed certificate or copy certificate required to be so furnished under this Part in respect of such seed;

shall be guilty of an offence.

(2) The validity of a contract for the sale of certified seed, or the right to enforce such a contract, shall not be affected by non-compliance with this section.

(3) For the purposes of this section, "in bulk quantities" includes any quantity of seed taken, for the purpose of a particular sale, from any larger quantity of seed, but does not include seed which is packed and sold in sealed containers.

66. Where, because of non-compliance with any of the provisions of section *fifty-nine*, the Minister refuses to certify as quality declared seed any seed of a specified variety which was produced by a registered seed producer for the purposes of such certification, and it is shown that, upon the test prescribed, the said seed conforms to the standards of germination and purity prescribed for such variety, the registered seed producer shall not, by reason of such non-certification, be precluded from selling the said seed as quality declared seed, subject to the provisions of this Act applicable to such sale.

When seed failing to meet certification standards may be sold as quality declared seed

(As amended by Act No. 21 of 1995)

PART IX OFFENCES AND MISCELLANEOUSPART IX

OFFENCES AND MISCELLANEOUS

67. Any person who contravenes or fails to comply with any of the provisions of this Act, or with any regulation, requirement or condition lawfully prescribed thereunder, shall be guilty of an offence.

Failure to comply with Act or regulations an offence

68. Any person, who, without a seed seller's licence, sells, by wholesale or retail, for sowing, any prescribed seed shall be guilty of an offence.

Prohibition against sale of prescribed seed without seed seller's licence

(As amended by Act No. 21 of 1995)

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69. (1) Save as provided by section *seventy-eight*, no person shall sell any prescribed seed for sowing unless the said seed has previously been tested as provided by this Act, and upon such test has been found to be of the standards of germination and purity prescribed for such seed.

Prohibition against sale of untested prescribed seed

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(3) Upon the conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such untested prescribed seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

(As amended by Act No. 21 of 1995)

70. (1) If, upon test made pursuant to the provisions of this Act, any prescribed seed is found not to conform to the standards of germination and purity prescribed for such seed, and is so reported in the prescribed report on such test furnished by a Certifying Agency, such prescribed seed shall not be sold by any person, for sowing, save with the consent in writing of the Minister previously obtained, and subject to any conditions as regards such sale as the Minister may impose.

Prohibition against sale of sub-standard prescribed seed

(2) Any person who sells any prescribed seed in contravention of the provisions of this section shall be guilty of an offence.

(3) Upon conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such sub-standard prescribed seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

(As amended by Act No. 21 of 1995)

71. (1) Any person who sells, for sowing, any prescribed seed under any description other than its varietal name shall be guilty of an offence.

Prohibition against sale of prescribed seed under name other than varietal name

(2) In this section, "varietal name" means the name given to a specific variety of seed by its originator or discoverer.



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72. Any person who-

- (a) tampers with any prescribed seed so as to procure that any sample of such prescribed seed, taken under and for the purposes of this Act, does not correctly represent the bulk from which the said sample was taken; or
- (b) otherwise tampers with any sample taken under this Act; or
- (c) with intent to deceive, causes or permits to be sent to any Certifying Agency to be tested, for the purposes of this Act, a sample of any prescribed seed which to his knowledge does not represent the bulk from which it was taken;

Prohibition against tampering with samples

shall be guilty of an offence.

(As amended by Act No. 21 of 1995)

73. Any person who, without lawful authority, alters, defaces or removes-

- (a) any register, roll, index or other such official record maintained in pursuance of this Act or of any order, requirement or regulation made thereunder; or
- (b) any entry appearing in any such register, roll, index or other such official record;

Prohibition against altering, defacing or removing official records, etc.

shall be guilty of an offence.

74. Any person who, without lawful authority, alters or defaces-

- (a) any certificate, report, record, invoice, account or other document, prescribed, issued, furnished or kept under this Act or under any order, requirement, condition or regulation made thereunder; or
- (b) any label, note, docket or mark placed upon any container under this Act or under any order, requirement, condition or regulation made thereunder, or who removes any such label, note, docket or mark from any such container;

Prohibition against altering, etc., documents and marks

shall be guilty of an offence.

75. If any person-

- (a) being a person employed for the purposes of this Act, publishes or communicates to any person without lawful authority any information acquired by him in the course of his employment; or
- (b) having possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person;

Secrecy

he shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding two years, or to both.

(As amended by Act No. 13 of 1994 and 21 of 1995)

76. All registers and rolls maintained by the Certifying Authority under this Act shall, at all reasonable times, be open to the inspection of any person applying to the Certifying Authority on payment of the fee prescribed.

Inspection of registers and rolls

(As amended by Act No. 21 of 1995)



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77. Until such time as specific prescribed seed is ascertained and appropriated to such contract, this Act shall not apply to any contract for the sale of prescribed seed as future goods, nor to any contract for the sale of prescribed seed the acquisition of which by the seller depends upon a contingency which may or may not happen.

When Act applies to contract of sale of prescribed seed as future goods, or upon a contingency

78. The provisions of this Act shall not apply-

When Act not applicable to sale of prescribed seed

(a) to any sale of prescribed seed (which is not quality declared seed), which has been produced by a seed producer on his own land, and is sold by him-

(i) for sowing by the buyer, and not for purposes of re-sale; or

(ii) for use as food or as farm feed or for industrial purposes; or

(iii) to a registered seed cleaner in order that it may be cleaned before being sold for sowing:

Provided that it is sold in a container or containers, upon which, or upon the label or labels attached thereto, appear clearly and legibly the words "for cleaning purposes only";

(b) to any sale of prescribed seed (which is not certified seed) by or to a person who is a member of a class exempted from the provisions of this Act by an order made by the Minister under section *seventy-nine*.

79. (*Repealed by Act No. 21 of 1995*)

PART X PROCEEDINGS AND PENALTY

PROCEEDINGS AND PENALTY

80. For the purposes of any proceedings for an offence under this Act, the offence may be treated as having been committed either at the place where it was actually committed or at the place where the person charged with the offence is, for the time being, resident, and every subordinate court shall have power to hear and determine proceedings for any such offence accordingly.

Venue of proceedings for offences

81. In any proceedings brought under this Act, the production of any report issued by a Certifying Authority, on any test made as prescribed, shall be sufficient evidence of the facts therein stated, unless the defendant or person charged requires, as regards the said report, the official seed-tester or the person who made the test to be called as a witness:

Reports on tests prima facie evidence of facts reported

Provided that this section shall not apply, as regards a report issued by a Certifying Authority, where the sample tested has been taken otherwise than in the manner prescribed.

(*As amended by Act No. 21 of 1995*)



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82. (1) For the purposes of any civil proceedings on a contract of sale of prescribed seed, being a sale to which this Act applies, the prescribed particulars contained in the statement or copy statement delivered to the purchaser upon such sale in pursuance of this Act, other than the particulars relating to the germination and purity of the said prescribed seed, shall be deemed to be true, unless the contrary is proved, and the particulars relating to the germination and purity of the said prescribed seed shall be deemed to be true, unless it is proved, upon a test made pursuant to the provisions of subsection (2), that the said prescribed seed does not conform to the standards of germination and purity prescribed for such prescribed seed.

Presumption of correctness of statement for purposes of civil proceedings on contract of sale

(2) If the purchaser of any such prescribed seed desires that a test thereof should be made for the purposes of this section, he may, at any time not later than ten days after the said seed and the said statement have been delivered to him, take a sample of the said seed in the manner prescribed and shall cause prescribed portions of the said sample to be delivered to a Certifying Agency for testing, and to such other persons, including the seller, as are prescribed.

(As amended by Act No. 21 of 1995)

83. Save where otherwise expressly provided by this Act, any person who is convicted by the court of an offence under this Act shall, in the case of a first such offence, be liable to a fine not exceeding twenty penalty units or to imprisonment for a term not exceeding three months, or to both; and in the case of a second or any subsequent offence, to a fine not exceeding fifty penalty units or to imprisonment for a term not exceeding six months, or to both.

Penalty

(As amended by Act No. 13 of 1994 and 21 of 1995)

PART XI REGULATIONS AND RULES

REGULATIONS AND RULES



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84. The Minister may, by statutory instrument, make regulations for the better carrying out of this Act and, without prejudice to the generality of the foregoing, such regulations may make provision for-

Regulations

- (i) the forms of registers, rolls, applications, nominations for registration, certificates of registration, reports on sampling, reports on tests, and such other forms as the Minister deems fit to prescribe under and for the purposes of this Act;
- (ii) the forms of records to be kept by the Controller of Seeds for the purposes of this Act;
- (iii) the forms of records to be kept and returns to be made by registered seed importers, registered seed cleaners, registered seed producers and licensed seed sellers for the purposes of this Act;
- (iv) the qualifications, professional and otherwise, of official seed-testers under this Act;
- (v) standards of quality and performance of scientific equipment and the variety of such equipment to be maintained in any Certifying Agency;
- (vi) the operation and management of Certifying Agency, including the number of official seed-testers to be attached to each such seed-testing station;
- (vii) the forms of records to be kept by Certifying Agency for the purposes of this Act;
- (viii) the manner in which samples are to be taken under this Act, the forms to be used in and about the taking of such samples, and the fees and expenses to be paid for and in respect of the taking of such samples under particular circumstances;
- (ix) the methods to be employed by Certifying Agency and official seed-testers in the testing of prescribed seed under and for the purposes of this Act, and the fees to be paid for each such test under particular circumstances;
- (x) standards of germination and purity of any variety of prescribed seed;
- (xi) standards of germination and purity of specified varieties for purposes of certification as certified seed under Part VIII;
- (xii) the conditions under which prescribed seed intended for sale for sowing may be displayed for sale or stored by any seed producer, registered seed importer, registered seed cleaner or licensed seed seller;
- (xiii) the manner and methods of labelling, stamping, marking or sealing of containers in which any prescribed seed is sold;
- (xiv) the manner and methods of labelling, stamping, marking or sealing of containers in which any seed certified under Part VIII is sold;
- (xv) periodic sampling of prescribed seed;
- (xvi) the prevention of the use of false or misleading statements in advertising any prescribed seed for sale;
- (xvii) the prohibition or restriction of the disposal, acquisition or use of any prescribed seed as farm feed or fertiliser;
- (xviii) standards of quality and performance of equipment and the variety of such equipment to be maintained at any registered seed cleaning plant;
- (xix) the methods to be employed by registered seed cleaners in and about the cleaning of prescribed seed;
- (xx) the inspection of land designated by any registered seed producer as land on which he intends to produce seed for certification as Zambia certified seed;
- (xxi) the examination and testing of any seed intended for use by a registered seed producer in the production of Zambia certified seed;
- (xxii) the methods to be employed by registered seed producers in and about the cultivation and production of seed for certification as Zambia certified seed;
- (xxiii) the periodic inspection of growing crops intended for the production of seed for certification as Zambia certified seed:

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85. The Chief Justice may, by statutory instrument, make rules providing for-

Rules of court

- (a) with respect to proceedings brought under and in accordance with the provisions of subsection (2) of section *thirty-eight* and subsection (3) of section *forty-six*, the procedure and practice of the court, the forms to be used therein, the fees payable and the costs and charges to be allowed to legal practitioners practising therein;
- (b) the proper and effectual exercise of jurisdiction by the court;
- (c) the procedure and practice relating to appeals from the court.



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FIRST SCHEDULE (*Section 16*)

FEEs PAYABLE ON FIRST REGISTRATION AS REGISTERED SEED IMPORTER
OR REGISTERED SEED CLEANER AND ON RENEWAL THEREOF

	Fee units
1. For first registration as a registered seed importer	60
2. For first registration as a registered seed cleaner	60
3. For the annual renewal of registration as a registered seed importer	30
4. For the annual renewal of registration as a registered seed cleaner	30

(As amended by Act No. 13 of 1994)



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SECOND SCHEDULE (Section 16)

FEES PAYABLE ON REGISTRATION OF A TRANSFEREE OR SUCCESSOR IN INTEREST

	Fee units
1. For provisional registration of a transferee from, or successor in interest to, a registered seed importer as a registered seed importer on the register of seed importers	30
2. For provisional registration of a transferee from, or successor in interest to, a registered seed cleaner as registered seed cleaner on the register of seed cleaners	30
3. For full registration of a transferee or successor in interest on the register of seed importers or the register of seed cleaners	60
4. For the annual renewal of any provisional registration	30

(As amended by Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

PLANT VARIETY (POTATO SEED) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Title
2. Interpretation
3. Act to apply to potato seed
4. Certification of potato seed
5. Registration as grower
6. Evidence of class of seed grown
7. Field inspection
8. Virus post control
9. Grading and packing
10. Tuber control
11. Control growing
12. Labelling and storing of potato seed
13. Validity of certification
14. Appeals
15. Fees

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SECTIONS 35 AND 84-PLANT VARIETY (POTATO SEED)
REGULATIONS

Regulations by the Minister

Statutory Instrument.
133 of 1984
Act No.
13 of 1994
21 of 1995

- | | |
|--|---------------------------------------|
| <p>1. These Regulations may be cited as the Plant Variety (Potato Seed) Regulations.</p> | <p>Title</p> |
| <p>2. (1) In these Regulations unless the context otherwise requires-</p> <p>"control growing" means a test where growing potato plants are examined to determine cultivar purity and/or virus infection;</p> <p>"cultivar" means a subdivision of any species which can be distinguished from other subdivisions of that species by means of growth, plant, fruit or other characteristics;</p> <p>"defect index" means a figure giving the status of a growing crop, a control growing plot or a potato seed lot taking into consideration both frequency and severity of the defects;</p> <p>"isolation" means a required distance between two crops of the same species in order to prevent contamination either mechanically or by pollination;</p> <p>"off-type" means a plant which does not show the recognised and acceptable habits and characteristics of the cultivar being grown; and</p> <p>"seed class" means a step in seed multiplication system well defined in respect of another seed, standard of cultivation and seed quality.</p> <p>(2) Unless the context otherwise requires words and expressions not defined in these Regulations but defined in the Plant Variety and Seeds Regulations, shall, in these Regulations, have the meaning assigned thereto.</p> | <p>Interpretation</p> <p>Cap. 236</p> |
| <p>3. (1) Potato seed is hereby prescribed to be seed to which the Act applies.</p> <p>(2) No potato shall be sold as seed unless it has been certified by the Controller of Seeds in accordance with these Regulations.</p> <p>(3) No potato seed shall be certified under these Regulations unless it has been produced and inspected, and attains the standards, as herein provided.</p> | <p>Act to apply to potato seed</p> |
| <p>4. (1) Only cultivars which have been approved by the Controller of Seeds shall be eligible for certification.</p> <p>(2) Potato seed shall be certified in six classes in accordance with the First Schedule.</p> | <p>Certification of potato seed</p> |

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(3) The standards for certification shall be in accordance with the Second Schedule.

5. (1) An application for registration as a grower of potato seed shall be made in accordance with Part VIII of the Act. Registration as grower

(2) An application shall not be approved if it is in respect of land on which, during the preceding three years, potatoes or other *Solanaceous* crops have been grown.

6. The grower shall plant the class of seed appropriate for his production; and shall retain such evidence of that class as may be sufficient to satisfy the Certifying Authority in that behalf. Evidence of class of seed grown

7. (1) An inspector carrying out a field inspection shall reject a crop for certification if he is satisfied that- Field inspection

- (a) the crop is so heavily contaminated with weeds as to render it unfit as seed;
- (b) the crop is so heavily infested with blights as to render it unfit as seed;
- (c) the isolation distance prescribed in the Second Schedule is not met;
- (d) the standard relating to aphids as prescribed in the Second Schedule is not met;
- (e) the standard relating to the removal from the field of undesirable plants as prescribed in the Second Schedule is not met; or
- (f) the defect index as prescribed in the Second Schedule is in excess of 30.

(2) In respect of every field inspection carried out under these Regulations, a report in the appropriate form prescribed in the Third Schedule shall be rendered by the inspector and counter-signed by the grower.

8. (1) In respect of a crop intended for the production of pre-basic seed (S) or basic seed (SE), the grower shall give notice to the Certifying Authority informing him when the haulms have been destroyed and when he intends to lift the potatoes in order that before the potatoes are lifted samples may be taken for purposes of a virus post control. Virus post control

(2) In respect of every virus post control carried out under these Regulations, a report in the appropriate form prescribed in the Third Schedule shall be rendered by the Certifying Authority.

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9. (1) Potato seeds shall be graded in three sizes in accordance with the following Grading and packing specification:

- (a) Small 30-40 millimetres;
- (b) Medium 41-50 millimetres;
- (c) Large 51-60 millimetres.

(2) Potato seeds shall be packed in pockets or other containers approved by the Certifying Authority.

10. (1) Potato seed shall be presented for tuber control- Tuber control

- (a) not earlier than fourteen days and not later than nine months after it has been lifted; and
- (b) in seed lots not exceeding five tonnes each.

(2) In respect of every tuber control carried out under these Regulations, a report in the appropriate form prescribed in the Third Schedule shall be rendered by the inspector and counter-signed by the grower.

11. (1) Potato seed samples shall be presented for control growing in accordance with Control growing instructions issued from time to time by the Certifying Authority.

(2) In respect of every control growing carried out under these Regulations, a report in the appropriate form prescribed in the Third Schedule shall be rendered by the Certifying Authority.

12. (1) Potato seed which has been certified in accordance with these Regulations shall be sealed and labelled with the appropriate label provided by the Certifying Authority. Labelling and storing of potato seed

(2) Potato seed shall be stored, both before and after certification, in a manner satisfactory to the Certifying Authority-

- (a) so as to avoid disease, infection and contamination thereof;
- (b) in buildings disinfected with a disinfectant approved by the Certifying Authority; and

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(c) in lots separate from ware potatoes and other potato seed lots.

(3) When potato seed is stored in an open shed, in addition to the provisions of sub-regulation (2), volunteer *Solanaceous* or old sprouting potato tubers shall not be allowed within fifty metres of such open shed.

(4) When an inspector is satisfied that potato seed has been stored contrary to the provisions of this regulation, he may-

(a) in the case of potato seed which has not been certified, refuse certification; or

(b) in the case of potato seed which has been certified, cancel such certification.

13. Unless cancelled earlier, the validity of a certification for potato seed shall be sixty days from the date of the tuber control: Validity of certification

Provided that upon the expiry of a certificate a further tuber control may be carried out and the seed may be recertified for a like period.

14. Any person aggrieved by any decision under these Regulations of an Inspector may appeal to the Certifying Authority and to the Minister from any decision of the Certifying Authority. Appeals

15. The fees prescribed in the Fourth Schedule shall be payable in respect of the matters therein set out. Fees



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FIRST SCHEDULE

(Regulation 4)

POTATO SEED CERTIFICATION SCHEME

Code	Class	Parent seed and availability	Colour of label
S1 (S2, S3)	Pre-basic Seed	Produced by the breeder under the supervision of a Certifying Agency. The maximum number of generations shall not exceed three, as determined by the Certifying Agency and such number of generation shall form part of the identification.	Violet stripe on white
SE	Basic Seed	Produced from Pre-basic Seed under the supervision of a Certifying Agency. Only one generation permitted.	White
E1	Certified Seed, 1st generation	Produced from Basic Seed and inspected by a Certifying Agency.	Blue stripe on white
E2	Certified Seed, 2nd generation	Produced from Certified Seed, 1st generation (or higher class) and inspected by a Certifying Agency.	Red stripe on white
A	Certified Seed, 3rd generation	Produced from Certified Seed, 2nd generation (or higher class) and inspected by a Certifying Agency.	Red stripe on white
B	Certified Seed, 4th generation	Produced from Certified Seed, 3rd generation (or higher class) and inspected by a Certifying Agency.	Green stripe on white

NOTES:

1. Field inspection is compulsory for all classes.
2. For classes S and SE virus post control is compulsory.
3. Tuber control is compulsory for all classes.
4. For classes S1 to E2 control growing is compulsory.
5. Pre-basic seed shall not be available to the public; basic seed shall be available only to registered seed growers; the other classes shall be available to the public.



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SECOND SCHEDULE

(Regulations 7, 8, 10 and 11)

STANDARDS FOR CERTIFICATION OF POTATO SEED

QUALITY CLASS (Code)	FIELD INSPECTION		VIRUS POST CONTROL	TUBER CONTROL	CONTROL GROWING
	Isolation (metres)	Defect Index (highest value)	Maximum severe virus diseases %	Defect Index (highest value)	Defect Index (highest value)
S1 (S2, S3)	150	1	0.1	10	3
SE	100	4	0.8	10	8
E1	100	8	-	10	15
E2	100	8	-	10	15
A	100	12	-	15	-
B	50	30	-	20	-



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NOTES:

Field inspection

1. The isolation refers to the distance between the potato crop for certification and potato crops of lower quality classes or volunteer potato plants. Between different cultivars of the same quality class the isolation shall be at least 5 metres.
2. A potato crop will be considered heavily infested with aphids if there are more than 150 per 100 leaves taken from the lower half of a plant. Provided that haulm destruction of a heavily infested crop is carried out within seven days from the date of discovering by inspection, it may be cleared by field inspection.
3. Undesirable plants shall be cleared away as soon as possible by removing both the haulms and the tubers to a distance of at least 30 metres from every edge of the field.
4. Diseased plants, plants of other cultivars and off type plants shall be recorded as percentages by number; and the percentages found shall be multiplied by the appropriate factors set out in note 5, and the various products so obtained shall be added together to give the defect index for the particular field.
5. The factors to obtain the defect index for a field inspection shall be as follows:

<i>Defect</i>	<i>Factor</i>
Leaf roll virus (PLRV)	10
Severe mosaic (PVY)	8
Black leg.	3
Verticillium wilt.	2
Fusarium wilt.	2
Wildings.	2
Cultivar mixtures.	1
Off-types.	1
Mild mosaic.	1
Bolters.	1

Virus post control

6. Samples for virus post control shall be taken in the field after haulm destruction. A minimum of one thousand tubers per field shall be sampled.
7. The determination of virus shall be done by serological methods and/or by ocular inspection. The result shall be given as a percentage by number of infected tubers.

Tuber control

8. From each lot presented for tuber control at least five primary samples of a minimum of forty tubers each shall be drawn. The primary samples mixed together shall form the working sample to be examined. At least 500 tubers per seed lot shall be examined.
9. The working samples shall be washed, and all the tubers shall be cut through before they are examined.
10. Diseased, damaged and severely mis-shaped tubers and tubers deviating in size from the grade size shall be recorded as percentage by number; and the percentages found shall be multiplied by the appropriate factors as set out in note 11 and the various products so obtained shall be added together to give the defect index for the seed lot.
11. The factors to obtain the defect index for the tuber control of a potato seed lot are as follows:

<i>Defect</i>	<i>Factor</i>
Pink rot.	10
Pythium rot.	10
Soft rot.	10
Spindle tuber.	10
Black leg.	3
Fusarium.	3
Phytophthora.	3
Other dry rots.	3
Root knot nematodes.	3
Alternaria.	1
Black heart.	1
Black scurf.	1
Sunscald.	1
Tuber moth.	1
Cut worms.	0.50
Other insect damages.	0.50
Heel end necrosis.	0.50

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THIRD SCHEDULE

(Regulations 5, 7, 8, 10 and 11)

PRESCRIBED FORMS

FORM 1 (To be completed in duplicate)

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY
(SEEDS) ACT, CAP. 236

PLANT VARIETY (POTATO SEED) REGULATIONS

APPLICATION FOR REGISTRATION AS SEED GROWER TO PRODUCE POTATO SEED

To: Controller of Seeds,
P.O. Private Bag 7,
Chilanga.

Name of applicant.....

Name and address of farm.....
.....

Cultivar to be grown.....

Parent seed: Class..... Certification No.....

Quantity.....kg. Proposed date of planting.....

Previous crops grown in this field for the last three years:

Year: 19..... 19..... 19.....

Crop:Year:

Comments.....
.....
.....
.....

Date..... Signature.....

(A map giving instructions on how to reach the farm must be drawn overleaf)

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For Official Use only

Cultivar approved..... Hectarage approved.....

Conditions imposed.....

.....

.....

.....

Date.....

Controller of Seeds

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FORM 2

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY
PLANT VARIETY AND SEEDS ACT, CAP. 236

PLANT VARIETY (POTATO SEED) REGULATIONS

FIELD INSPECTION REPORT

Registration No:..... Cultivar.....

Grower.....

Farm:.....

Hectares..... Isolation:..... Metres:.....

DEFECTS:

Kind	Number of	Percentage	Index
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Remarks.....

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.....

Date:..... Signature of Grower:.....

Inspector



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FORM 3

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY
PLANT VARIETY AND SEEDS ACT, CAP. 236

PLANT VARIETY (POTATO SEED) REGULATIONS

VIRUS POST CONTROL REPORT

Registration No:..... Cultivar:.....

Grower:.....

Farm:.....

Number of tubers tested:.....

VIRUS:

<i>Kina</i>	<i>Percentage by Number</i>
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Date:.....

Controller of Seeds.



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FORM 4

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY
PLANT VARIETY AND SEEDS ACT, CAP. 236

PLANT VARIETY (POTATO SEED) REGULATIONS

TUBER CONTROL REPORT

Registration No:..... Cultivar.....

Seed Lot No:.....

Grower:.....

Farm:.....

Number of tuber tested:.....

DEFECTS:

<i>Kina</i>	<i>Percentage</i>	<i>Index</i>
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Date.....

.....
Signature of Grower

.....
Inspector



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FORM 5

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND WATER DEVELOPMENT
PLANT VARIETY AND SEEDS ACT, CAP. 236

PLANT VARIETY (POTATO SEED) REGULATIONS, 1984

CONTROL GROWING REPORT

Cultivar:..... Certification No:.....

Seed lot No:.....

DEFECTS:

<i>Kind</i>	<i>Index</i>
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Remarks

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Date:.....

Controller of Seeds



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FOURTH SCHEDULE

(Regulation 15)

PRESCRIBED FEES

Registration fees*(4).....	Fee units 225 per hectare
Virus post control fees.....	2 per tuber
Tuber control fees.....	1 per tuber
Sealing fees**(5).....	2 per bag (container)

NOTES:

* Includes prescribed field inspections and control growing.

** Irrespective of size of bag or container.

(As amended by Act No. 13 of 1994)



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SECTION 49-SPECIFIED VARIETIES OF SEED NOTICE

Statutory Instrument
155 of 1987

Notice by the Minister

- | | |
|---|-----------------------------|
| 1. This Notice may be cited as the Specified Varieties of seed Notice. | Title |
| 2. The varieties of seed set out in the Schedule hereto are specified seed for certification. | Specified varieties of seed |



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SCHEDULE

(Paragraph 2)

SPECIFIED VARIETIES (CULTIVARS) FOR CERTIFICATION

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Species of Seea

1. Cereals
 1:1 Maize
 (Zea mays L.)

1:2 Rice
 (Oryza sativa L.)

1:3 Sorghum
 (Sorghum bicolor (L.) Moench)

1:4 Triticale
 (X Triticosecale Wittm.)

1:5 Wheat
 (Triticum spp.)

2. *Pulses*

11:1 Beans
 (Phaseolus vulgaris L.)

2:2 Cowpea
 Vigna unguiculata (L.) Walp.)

2:3 Soyabean
 (Glycine max (L.) Merr.)

Species of Seea

2:4 Velvet Bean
 (Mucuna deeringiana (Bort) Meer)

3. *Oil Crops*

3:1 Ground nut
 (Arachis hypogaea L.)

3:2 Sunflower
 (Helianthus annuus L.)

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Varities

MM501
 MM502
 MM504
 MM601
 MM603
 MM604
 MM606
 MM752
 SR52
 ZH1
 MMV400
 MMV600

Angola Crystal

Burma
 Kalembwe
 Malawi Faya
 Sindano
 Var. 1329
 Var.1345
 Var1632
 Var7601

Framida
 ZS/1

Unza-T-1

Canary

Emy
 Hornbill
 Loerie
 Whydah

BAT331
 Caricca
 Contender
 Misamfu Speckled Sugar
 Misamfu Stringless
 NEP2
 Top Crop
 Muliana
 Shipepo
 Hernon 147
 Jupiter
 Kaleya
 Magoye
 Santa Rosa
 Tunia

Varities

Apard
 Somerset

Chalimbana

Comet
 Makulu Pink
 Makulu Red
 Natal Common

CCA-75

CCA-81
 CCB-73

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PLANT VARIETY AND SEEDS REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Title
2. Interpretation
3. Prescribed seeds
4. The Seed Control and Certification Institute of Zambia
5. Sale of seed
6. Certification of seed
7. Declaration of seed quality
8. Registration as seed grower
9. Field inspection
10. Licence for seed processing
11. Seed seller's licence
12. Sampling of seed
13. Testing of seed
14. Control growing
15. Packing and labelling of seed
16. Validity of certification and quality declaration
17. Importation of seed
18. Appeals
19. Fees
20. Revocation of S.I. No. 217 of 1987 and S.I. No. 32 of 1988

FIRST SCHEDULE-Prescribed seeds

SECOND SCHEDULE-Seed for compulsory certification

THIRD SCHEDULE-Seed certification scheme

FOURTH SCHEDULE-Standards for Zambia certified seed

FIFTH SCHEDULE-Minimum standards of seed quality

SIXTH SCHEDULE-Prescribed fees

SEVENTH SCHEDULE-Prescribed forms

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SECTIONS 35 AND 84 PLANT VARIETY AND SEEDS REGULATIONS

Statutory Instrument
67 of 1988
157 of 1989
Act No.
13 of 1994
21 of 1995

1. These Regulations may be cited as the Plant Variety and Seeds Regulations.

Title

2. In these Regulations unless the context otherwise requires-

Interpretation

"Certifying Authority" means the authority established by section *three* of the Act;

"control growing" means the growing of plants under tests to determine the cultivar purity and disease infection;

"cultivar" means a subdivision of any species of seed which can be distinguished from other subdivisions of that species by means of growth, plant, fruit or other characteristics;

"field inspection" means an inspection of a seed field and includes the checking of isolation, hectareage, off-types and weeding usually as part of a seed certification programme;

"germination capacity" means the percentage by number of seeds which, in the course of a germination test, have produced normal seedlings;

"isolation" means the required distance between two crops of the same species or between two crops of too closely related species to prevent contamination either mechanically or by pollination;

"I.S.T.A." means the International Seed Testing Association;

"noxious weed" means weed species declared noxious by the Noxious Weeds Act;

Cap. 231

"off-type plant" means a plant which does not exhibit the recognised and accepted habits and characteristics of the cultivar being grown;

"purity" means the percentage by weight of pure seed as determined by purity analysis;

"seed certification" means a system for quality control of seed multiplication and production;

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"seed class" means a stage in a seed multiplication system well defined in respect of parent seed, standard of cultivation and seed quality;

"seed lot" means a specified quantity of seed, which is homogeneous and physically identifiable;

"S.C.C.I." means the Seed Control and Certification Institute of Zambia;

"variety" means cultivar;

"weed plant" is any plant which is not of the same species as the crop being grown, and which is generally considered as a weed.

3. The seeds set out in the First Schedule shall be prescribed seed for the purposes of the Act. Prescribed seeds
4. The Seed Control and Certification Institute of Zambia established under section *seventeen* is an official seed-testing station. The Seed Control and Certification Institute of Zambia
5. (1) No seed shall be offered for sale unless it has been certified or it has had its quality declared under regulation 7. Sale of Seed

(2) No species of seed set out in the Second Schedule shall be offered for sale unless it has been certified.
6. (1) No seed shall be certified unless it has been produced inspected, sampled, tested and complies with the standards set out in the Fourth Schedule. Certification of seed

(2) Seed shall be certified in six classes as set out in the Third Schedule:

Provided that a seed lot may be down-graded on the request of the applicant.

(3) Only cultivars which have been approved by the Certifying Authority shall be eligible for certification.

(4) Any crop which contains noxious weeds or noxious ergots shall not be eligible for certification.

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(5) Breeders shall maintain the standards of cultivars approved under sub-regulation (3).

7. Seeds whose quality conforms to the standards set out in the Fifth Schedule shall have its quality declared as such. Declaration of seed quality

8. (1) An application for registration as a seed grower shall be made in Form I as set out in the Seventh Schedule. Registration as seed grower

(2) Each application shall be accompanied by the appropriate fee and shall refer to the growing of one crop only.

(3) An application shall not be approved in respect of land on which during the preceding season other cultivars of the same crop or other too closely related crops have been grown.

(4) On registration as a registered seed grower, the Certifying Authority shall furnish to the applicant a certificate of registration in Form 2 set out in the Seventh Schedule, which certificate shall specify the conditions with regard to the growing of the registered seed crop.

(5) Unless the Certifying Authority decides otherwise, only one cultivar of the same species shall be permitted on the same farm.

(6) The registered seed crop shall not exceed the approved hectarage by more than ten per cent, any excess over this amount shall be destroyed without compensation, immediately on the request of an authorised seed inspector.

(7) The Certifying Authority shall keep a register of registered seed growers.

(8) The grower shall plant the appropriate parent seed for the production of his registered seed class and shall keep a record of such parentage including certification labels and invoices as may be sufficient to satisfy the Certifying Authority in this respect.

9. (1) Field inspection for the purpose of certification shall be conducted by persons authorised by the Certifying Authority to be seed inspectors. Field inspection

(2) A seed inspector conducting a field inspection shall refuse to certify a crop if he is satisfied that-



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- (a) the crop is so heavily contaminated with weeds, other species or disease as to render the crop unfit for seed or make inspection impracticable; or
- (b) the isolation distance or the standards relating to off-types and other cultivars, prescribed in the Fourth Schedule have not been complied with; or
- (c) for hybrids of maize, sorghum and sunflower there are more than three pollinating females per thousand plants;
- (d) the crop exceeds the approved and registered hectareage by more than ten per cent.
- (3) For the purpose of certification an inspector shall conduct at least three field inspections per crop.
- (4) A report of every field inspection shall be made by a seed inspector in Form 3 set out in the Seventh Schedule, and shall be countersigned by the registered grower or his representative.
- 10.** (1) No person shall process seeds without a licence to process seed in Form 5 of the Seventh Schedule issued by the Certifying Authority. Licence for seed processing
- (2) An application for a licence to process seed shall be made in Form 4 of the Seventh Schedule and shall be accompanied by the appropriate fee.
- (3) The Certifying Authority shall issue a licence to process seed if he is satisfied that the applicant has the ability and the appropriate processing facilities to produce quality seed.
- (4) A licence to process seed shall-
- (a) set out the conditions relating to the processing of seed;
- (b) be valid for thirty-six months.
- (5) The Certifying Authority shall maintain a register of holders of licences to process seed.
- (6) The Certifying Authority may enter and inspect any processing premises.
- 11.** (1) No person shall sell seeds without a seed seller's licence issued by the Certifying Authority in Form 7 set out in the Seventh Schedule. Seed seller's licence

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(2) An application for a seed seller's licence shall be made in Form 6 set out in the Seventh Schedule and shall be accompanied by the appropriate fee.

(3) The Certifying Authority shall issue a seed seller's licence if he is satisfied that the applicant has the ability, knowledge and appropriate facilities to maintain the quality and viability of the seeds to be exposed for sale.

(4) A seed seller's licence shall-

- (a) set out the conditions relating to the maintenance of the seeds to be exposed for sale;
- (a) be valid for thirty-six months; the Certifying Authority may, however, limit the validity of such licence for any period less than thirty-six months but not less than six months, if it thinks it necessary.

(5) The Certifying Authority shall maintain a register of holders of seed sellers licence.

(6) The Certifying Authority may enter and inspect any premises where seeds are kept for sale.

12. (1) The sampling of seed lots shall be conducted in accordance with current I.S.T.A. rules. Sampling of seeds

(2) Crops from different fields of the same origin, species and cultivar which have passed field inspections may be blended and bulked to constitute one seed lot.

(3) The applicant shall provide reliable scales for checking the weight of a seed lot.

(4) The seeds inspector or authorised officer who conducts the sampling shall submit a report of his sampling in Form 8 set out in the Seventh Schedule which report shall be counter-signed by the applicant or his representative.

(5) A seed lot which has been sampled in accordance with this regulation may be moved from one place to another.



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13. The official seed testers shall-

Testing of seed

- (a) test seeds in accordance with I.S.T.A. rules for seed testing on payment of the appropriate fee by the applicant;
- (b) record the results of the seed test on a certificate in Form 9 set out in the Seventh Schedule;
- (c) state in the certificate whether the seeds are marketable and the category of the seeds.

14. (1) Seed lots which have been sampled and tested under these Regulations shall be control growed in accordance with instructions issued by the S.C.C.I. Control growing

(2) The S.C.C.I. shall submit a report on each control growing carried out under these Regulations in Form 10 set out in the Seventh Schedule.

15. (1) Certified seed lots shall be packed in bags, securely closed, sealed by a seed inspector and labelled with a certification label. Packing and labelling of seeds

(2) The certification label referred to in sub-regulation (1) shall state-

- (a) the seed class;
- (b) certification number;
- (c) the species and cultivar of seed;
- (d) lot number;
- (e) purity (% by weight);
- (f) germination capacity (% by number);
- (g) expiry date; and
- (h) warning text in case the seed lot is treated.

(3) The inspector who sealed the bags shall submit a report of the sealing in Form 11 set out in the Seventh Schedule.

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(4) Where certified seed lots have to be re-packed, the repacking shall be done only with the approval of the S.C.C.I. and under S.C.C.I.'s supervision.

(5) The seller of seed whose quality has been declared under these Regulations shall label each package of seed being offered for sale and such label shall state the species, cultivar, purity (percentage by weight), germination capacity (percentage by number) and period of validity of the declaration.

16. (1) Unless cancelled earlier, the validity of a certification-

Validity of certification and quality declaration

(a) for cereals, pulses, oil crops, fibre crops and root crops shall be nine months;

(b) for herbage grasses and legumes, vegetables and stimulant crops, shall be twelve months;

from the date of completion of testing the seeds.

(2) Unless cancelled earlier, a declaration of quality for all kinds of species of seed shall be valid for twelve months from the date of completion of testing the seeds.

17. (1) No person shall import seeds for sale-

Importation of seed

(a) without a valid seed seller's licence;

(b) a notice to import the seeds has been submitted in Form 12 set out in the Seventh Schedule and has been approved by the Certifying Authority;

(c) if the seeds do not comply with the minimum standards set out in the Fifth Schedule.

(2) A notice to import seed shall refer to one specific quantity of seed of a given species and cultivar.

(3) The importer of seed shall on request supply S.C.C.I. with samples of the imported seed for checking its quality.

(4) The Certifying Authority may-

(a) regulate the certification of imported seed lots according to the certification scheme of Zambia;

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(b) restrict the importation of any species and cultivar of seeds.

18. Any person aggrieved by any decision made under these Regulations by-

Appeals

- (a) an inspector or duly authorised officer may appeal to the Certifying Authority;
- (b) the Certifying Authority may appeal to the Minister.

19. The fees prescribed in the Sixth Schedule shall be payable in respect of the matters set out therein. Fees



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FIRST SCHEDULE

(Regulation 3)

PRESCRIBED SEEDS

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CEREALS:

Barley.....
 Finger millet.....
 Maize.....
 Oats.....
 Pearl millet.....
 Rice.....
 Rye.....
 Sorghum.....
 Triticale.....
 Wheat.....

Hordeum vulgare L.
Eleusine coracana (L.) Gaertn.
Zea mays L.
Avena sativa L.
Pennisetum glaucum (L.) R.Br.
Oryza sativa L.
Secale cereale L.
Sorghum bicolor (L.) Moench
X Triticosecale Wittm.
Triticum spp.

PULSES:

Beans.....
 Broad bean.....
 Chick pea.....
 Cowpea.....
 Dolichos bean.....
 Pea.....
 Soya bean.....
 Velvet bean.....
 Common vetch.....

Phaseolus vulgaris L.
Vicia faba L.
Cicer arietinum L.
Vigna unguiculata (L.) Walp.
Dolichos lablab L.
Pisum sativum L.
Glycine max (L.) Merr.
Mucuna deeringiana (Bort) Merr
Vicia sativa L.

OIL CROPS:

Castor bean.....
 Ground-nut.....
 Linseed.....
 Oilseed rape.....
 Safflower.....
 Sesame.....
 Sunflower.....

Ricinus communis L.
Arachis hypogaea L.
Linum usitatissimum L.
Brassica napus L. var. *oleifera* Metzg.
Carthamus tinctorius L.
Sesamum indicum L.
Helianthus annuus L.

FIBRE CROPS:

Cotton.....
 Flax.....
 Kenaf.....

Gossypium spp.
Linum usitatissimum L.
Hibiscus cannabinus L.

ROOT CROPS:

Beet.....
 Swede.....
 Turnip.....

Beta vulgaris L.
Brassica napus L. var. *napobrassica*
 (L.) Reichb
Brassica rapa L. var. *rapifera* Metzg.

HERBAGE GRASSES:

Buffel grass.....
 Guinea grass.....
 Paspalum grass.....
 Rhodes grass.....
 Ryegrass.....
 Setaria grass.....
 Weeping lovegrass.....

Cenchrus ciliaris L.
Panicum maximum Jacq.
Paspalum spp.
Chloris gayana Kunth
Lolium spp.
Setaria sphacelata (Schum.) Stapf
 et C. E. Hubb.
Eragrostis curvula (Schrader) Nees

HERBAGE LEGUMES:

Centro.....
 Clover.....
 Glycine.....
 Greenleaf.....
 Leucaena.....
 Lucerne.....
 Silverleaf.....
 Siratro.....
 Stylo.....
 Sunnhemp.....

Centrosema pubescens Benth..
Trifolium spp.
Glycine javanica L.
Desmodium intortum (Miller) Urban.
Leucaena leucocephala (Lam.) de Wit.
Medicago sativa L.
Desmodium uncinatum (Jacq.) DC
Macroptilium atropurpureum (DC)
 Urban.
Stylosanthes guianensis (Au bl.) Sw.
Crotalaria juncea L.

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SECOND SCHEDULE

(Regulation 5)

SEED FOR COMPULSORY CERTIFICATION

SPECIES:

CEREALS:

Maize
Sorghum
Wheat

PULSES:

Soyabean

OIL CROPS:

Sunflower

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THIRD SCHEDULE

(Regulation 6 (2))

SEED CERTIFICATION SCHEME

<i>Code</i>	<i>Class</i>	<i>Parent seed</i>	<i>Colour of label</i>
A	Pre-basic Seed	Produced from the breeder's parent material under control of the breeder and supervision of the S.C.C.I. More than one generation may be allowed by the Controller of Seeds	Violet stripe on white
B	Basic Seed	Produced from pre-basic seed and officially inspected Only one generation permitted	White
C1	Certified Seed, 1st generation	Produced from basic seed and inspected on white	Blue stripe officially
C2	Certified Seed, 2nd generation	Produced from certified seed, 1st generation (or higher class) and officially inspected	Red stripe on white
C3	Certified Seed, 3rd generation	Produced from certified seed, 2nd generation (or higher class) and officially inspected	Red stripe on white
D	Certified Seed, 4th generation	Produced from certified seed, 3rd generation (or higher class) and officially inspected	Green stripe on white
E	Emergency class	Only used when a serious shortage of seed (for certification) of essential crops occurs. The standards will be set by the Controller of Seeds	Red label

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FOURTH SCHEDULE

(Regulation 6 (1))

STANDARDS FOR ZAMBIA CERTIFIED SEED

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A. FIELD INSPECTION

Species	Isolation, metres (minimum)					Off types and or cultivars				
	A	B	C1	C2-C3	D	A	B	C1	C2-C	D
CEREALS:										
						I. Maximum number per 10 square metres				
Barley.	10	10	5	5	5	5	5	10	30	50
Oats.	10	10	5	5	5	5	5	10	30	50
Rice.	10	10	5	5	5	5	5	10	30	50
Rye.	400	400	200	200	200	10	10	20	60	100
Triticale.	20	20	10	10	10	10	10	20	60	100
Wheat.	10	10	5	5	5	5	5	10	30	50
						II. Maximum number per 1 000 plants (heads)				
Finger millet. . .	50	50	25	10	2	2	5	5	10	
Maize.	400	400	200	200	1	1	3	3	10	
Pearl millet. . . .	400	300	200	200	5	5	10	15	30	
Sorghum.	400	400	400	300	200	2	2	5	5	10
PULSES:										
						I. Maximum number per 10 square metres				
Common vetch. . .	100	100	50	50	25	1	1	2	2	5
Soya bean.	10	10	5	5	5	1	1	2	2	5
Pea.	100	100	50	50	50	1	1	2	2	5
						II. Maximum number per 1000 plants (heads)				
Beans.	50	50	25	25	10	1	1	2	2	5
Broad bean.	200	200	100	100	50	1	1	2	2	5
Cow pea.	10	10	5	5	5	1	1	2	2	5
OIL CROPS										
						II. Maximum number per 1000 plants (heads)				
Castor bean.	50	50	25	25	25	1	1	2	2	5
Groundnut.	200	200	100	100	50	1	1	2	2	5
Oilseed rape. . . .	1000	1000	600	400	200	2	2	5	5	10
Sunflower.	2000	2000	1500	1000	1000	10	10	20	20	40
FIBRE CROPS:										
						II. Maximum number per 1000 plants (heads)				
Cotton.	400	400	200	200	100	1	2	2	5	5
						I. Maximum number per 10 square metres				
Flax.	20	20	10	10	10	5	5	10	30	50
Kenaf.	600	600	300	300	200	1	1	2	2	5
ROOT CROPS:										
						II. Maximum number per 1000 plants (heads)				
Beet.	2 000	2 000	1 500	1 000	1 000	1	1	2	2	5
Swede.	1 000	1 000	600	400	200	1	1	2	2	5
Turnip.	1 000	1 000	600	400	200	1	1	2	2	5
HERBAGE GRASSES:										
						I. Maximum number per 10 square metres				
Buffel grass.	200	200	100	100	50	1	1	2	2	5
Guinea grass. . . .	50	50	25	10	5	1	1	2	2	5
Rhodes grass.	200	200	100	100	50	1	1	2	2	5
Rye grass.	400	400	200	200	200	1	1	2	2	5
Weeping lovegrass	50	50	25	10	5	1	1	2	2	5
HERBAGE LEGUMES:										
						II. Maximum number per 1000 plants (heads)				
Glycine.	300	300	200	200	100	1	1	2	2	5
Siratiro.	200	200	100	100	50	1	1	2	2	5
Stylo.	200	200	100	100	50	1	1	2	2	5
						II. Maximum number per 1000 plants (heads)				
Clover.	400	400	300	300	200	1	1	3	10	15
Lucerne.	400	400	300	300	200	1	1	3	10	15
VEGETABLES:										
						I. Maximum number per 10 square metres				
Pea.	100	100	50	50	25	1	1	2	2	5
						II. Maximum number per 1000 plants (heads)				
Beet.	2 000	2 000	1 500	1 500	1 000	1	1	2	2	5
Cabbage	1 000	1 000	600	400	200	2	2	5	5	10

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LABORATORY TESTS

1. Quality requirements for different classes with respect to the analysis figures concerning purity, germination capacity, weed seeds and moisture con

Species	Purity % by weight			Germination Capacity % by number			Weed Seeds (excluding noxious weeds) Number pro kg (highest value)			Moisi
	A-B	C1-C3	D	A-B	C1-C3	D	A	B	C1-C3		D
CEREALS:										
Barley.....	99.5	99.0	98.5	95	90	90	1	2	5	10
Finger millet.....	99.0	98.5	98.0	80	80	75	125	250	500	1 000
Maize.....	99.5	99.0	99.0	90	90	90	1	2	5	10
Oats.....	99.5	99.0	98.5	90	85	85	1	2	5	10
Pearl millet.....	99.0	98.5	98.5	80	80	75	250	500	750	1 000
Rice.....	99.0	98.5	98.0	85	85	80	1	2	5	10
Rye.....	99.5	99.0	98.5	85	85	80	1	2	5	10
Sorghum.....	99.0	98.5	98.0	80	80	75	50	100	200	300
Triticale.....	99.0	98.5	98.0	90	85	80	1	2	5	10
Wheat.....	98.0	97.5	97.0	90	85	80	1	2	5	10
PULSES:										
Beans.....	99.5	99.0	98.5	80	75	75	1	2	5	10
Broad bean.....	99.5	99.0	98.5	80	75	75	1	2	5	10
Cowpea.....	99.0	98.5	98.0	80	75	75	1	2	5	10
Pea.....	99.5	99.0	98.0	80	75	75	1	2	5	10
Soyabean.....	99.5	99.0	98.0	80	75	75	1	2	5	10
Common vetch.....	99.0	98.5	97.5	80	75	70	1	2	5	10
OIL CROPS:										
Castor bean.....	99.0	98.5	98.0	80	75	75	1	2	5	10
Groundnut.....	98.0	97.5	97.0	85	80	80	1	2	5	10
Oilseed rape.....	99.0	98.5	98.0	85	80	80	250	250	500	1 000
Sunflower.....	98.5	98.0	97.5	90	85	85	5	10	50	100
FIBRE CROPS										
Cotton.....	99.0	98.5	98.0	80	75	75	5	10	25	50
Flax.....	99.0	98.5	98.0	85	80	80	25	25	50	100
Kenaf.....	99.0	98.5	98.0	80	75	75	50	100	100	200
ROOT CROPS:										
Beet.....	99.0	98.5	98.0	85	80	80	25	25	50	100
Swede.....	99.0	98.5	98.0	85	80	80	200	200	250	500
Turnip.....	99.0	98.5	98.0	85	80	80	250	250	500	1000
HERBAGE GRASSES:										
Buffel (grass).....	75.0	70.0	60.0	70	60	60	250	500	1 000	2 000
Guinea grass.....	75.0	70.0	60.0	70	60	50	250	500	1 000	2 000
Rhodes grass.....	75.0	70.0	60.0	70	60	50	250	500	1 000	2 000
Rye grass.....	98.0	97.5	97.5	90	85	80	250	500	750	1 000
Weeping lovegrass.....	90.0	85.0	80.0	90	85	80	250	500	1 000	2 000
HERBAGE LEGUMES:										
Clover.....	99.0	98.0	97.5	80	80	75	100	100	200	300
Glycine.....	98.0	97.5	97.0	80	75	70	100	100	200	300
Lucerne.....	99.0	98.5	98.0	80	80	75	200	200	250	500
Siratiro.....	99.0	98.5	98.0	90	85	80	200	200	250	500
Style.....	99.0	98.5	98.0	75	70	65	200	200	250	500
VEGETABLES:										
Beet.....	99.0	98.5	98.0	85	80	80	25	25	50	100
Cabbage.....	99.0	98.5	98.0	85	80	80	25	25	50	100
Carrot.....	98.5	97.5	97.0	75	75	70	250	500	1000	2 000
Cauliflower.....	99.0	98.5	98.0	85	80	80	25	25	50	100
Kale.....	99.0	98.5	98.0	85	80	80	25	25	50	100
Leek.....	99.5	99.0	98.5	80	75	75	25	25	50	100
Lettuce.....	98.5	98.0	97.5	80	75	75	50	50	100	200
Onion.....	99.5	99.0	98.5	75	70	70	25	25	50	100
Pea.....	99.5	99.0	98.0	80	75	75	1	2	5	10
Pepper.....	99.0	98.5	98.0	75	70	70	25	25	50	100
Pumpkin.....	99.0	98.5	98.0	80	75	75	25	25	50	100

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II. QUALITY REQUIREMENTS FOR PURITY OF CULTIVAR IN LABORATORY TESTING

A. MAXIMUM NUMBER (PER CENT) SEEDS OF FOREIGN CULTIVARS

Species	Certification Classes				
	A	B	C1	C2-C3	D
CEREALS:					
Barley.....	0.1	0.1	0.3	1.0	2
Maize.....	0.1	0.1	0.3	1.0	2
Rice.....	0.5	0.5	1.0	1.5	2
Sorghum.....	0.1	0.1	0.3	0.5	1
Wheat.....	0.1	0.1	0.3	1.0	2
PULSES:					
Broad bean.....	0.1	0.1	0.2	0.2	1
Cow pea.....	0.1	0.1	0.2	0.2	1
Pea.....	0.1	0.1	0.3	1.0	2
Soyabean.....	0.1	0.1	0.2	0.2	1
OIL CROPS:					
Groundnut.....	0.1	0.1	0.2	0.2	
Sunflower.....	1.0	1.0	2.0	2.0	3

NOTES:

Even though the minimum requirements for certification have been fulfilled the certification of a seed lot shall be refused or permitted in a lower class if:

- (a) the seed to a great extent (more than 15%) is mixed with ergots or infected with seed-borne diseases and insects;
- (b) because of mould or musty smell the seed cannot be considered to stand storage without loss in germination capacity;
- (c) after considering the cultivar and the year's crop growth the seed is of unsatisfactory quality with regard to cleaning, scarifying or grading.



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C. CONTROL GROWING

Species	Foreign cultivars including off-types, maximum permitted percentage by number			
	A	B	C1	C2-C3
CEREALS:				
Barley.....	0.1	0.1	0.3	0.1
Finger millet.....	0.3	0.4	0.8	2.0
Maize.....	0.1	0.1	0.3	1.0
Oats.....	0.1	0.1	0.3	1.0
Pearl millet.....	0.3	0.3	0.6	2.0
Rice.....	0.1	0.1	0.3	1.0
Rye.....	0.3	0.3	0.6	2.0
Sorghum.....	0.3	0.4	0.8	2.0
Triticale.....	0.3	0.3	0.6	2.0
Wheat.....	0.1	0.1	0.3	1.0
PULSES:				
Beans.....	0.1	0.1	0.3	1.0
Broad bean.....	0.3	0.3	0.6	2.0
Cowpea.....	0.3	0.3	0.6	2.0
Pea.....	0.1	0.1	0.3	1.0
Soyabean.....	0.1	0.1	0.3	1.0
Common vetch.....	0.1	0.1	0.3	1.0
OIL CROPS:				
Castor bean.....	0.1	0.1	0.3	1.0
Groundnut.....	0.1	0.3	0.6	2.0
Oilseed rape.....	0.3	0.3	1.0	2.0
Sunflower.....	1.5	1.5	2.5	4.5
FIBRE CROPS:				
Cotton.....	0.1	0.1	0.3	1.0
Flax.....	0.1	0.1	0.3	1.0
Kenaf.....	0.1	0.1	0.3	1.0
ROOT CROPS:				
Beet.....	0.1	0.1	0.3	1.0
Swede.....	0.3	0.3	1.0	2.0
Turnip.....	0.3	0.3	1.0	2.0
HERBAGE GRASSES:				
Buffel grass.....	0.3	0.3	1.0	2.0
Guinea grass.....	0.3	0.3	1.0	2.0
Rhodes grass.....	0.3	0.3	1.0	2.0
Rye grass.....	0.3	0.3	1.0	2.0
Weeping lovegrass.....	0.3	0.3	1.0	2.0
HERBAGE LEGUMES:				
Clover.....	0.1	0.1	0.3	1.0
Glycine.....	0.3	0.3	1.0	2.0
Lucerne.....	0.1	0.1	0.3	1.0
Siratiro.....	0.3	0.3	1.0	2.0
Stylo.....	0.3	0.3	1.0	2.0
VEGETABLES:				
Beet.....	0.1	0.1	0.3	1.0
Cabbage.....	0.3	0.3	1.0	2.0
Carrot.....	0.2	0.2	0.4	1.5
Cauliflower.....	0.3	0.3	1.0	2.0
Kale.....	0.3	0.3	1.0	2.0
Leek.....	0.3	0.3	1.0	2.0
LXttuce.....	0.1	0.1	0.3	1.0
Onion.....	0.3	0.3	1.0	2.0
Pea.....	0.1	0.1	0.3	1.0
Pepper.....	0.2	0.2	0.4	1.5
Pumpkin.....	0.1	0.1	0.3	1.0
Rape.....	0.3	0.3	1.0	2.0
Tomato.....	0.1	0.1	0.3	1.0
Water melon.....	0.1	0.1	0.3	1.0

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FIFTH SCHEDULE

(Regulation 7)

MINIMUM STANDARD OF SEED QUALITY



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<i>Species</i>	<i>Purity % by weight</i>	<i>Germination capacity % by number</i>
CEREALS:		
Barley.....	98.0	85
Finger millet.....	97.5	70
Oats.....	98.0	80
Pearl millet.....	97.5	70
Rice.....	97.0	75
Rye.....	98.0	80
Triticale.....	98.0	80
PULSES:		
Beans.....	98.0	70
Broad bean.....	98.0	70
Chick pea.....	97.0	70
Cowpea.....	98.0	75
Dolichos bean.....	98.0	70
Pea.....	98.0	75
Velvet bean.....	98.0	75
Common vetch.....	97.0	70
OIL CROPS:		
Castor bean.....	98.0	70
Ground-nut.....	96.0	75
Linseed.....	97.5	75
Oilseed rape.....	98.0	75
Safflower.....	96.0	75
Sesame.....	96.0	75
FIBRE CROPS:		
Cotton.....	97.5	70
Flax.....	97.5	75
Kenaf.....	98.0	75
ROOTS CROPS:		
Beet.....	97.5	75
Swede.....	98.0	75
Turnip.....	98.0	75
HERBAGE GRASSES:		
Buffel grass.....	55.0	60 or PISC 33%,
Guinea grass.....	50.0	50 or PLSC 33%,
Paspalum grass.....	50.0	50 or PLSC 25%
Rhodes grass.....	50.0	50 or PLSC 25%,
Rye grass.....	96.0	75
Setaria grass.....	60.0	60 or PLSC 36%,
Weeping lovegrass.....	80.0	80
HERBAGE LEGUMES:		
Centro.....	98.0	55
Clover.....	97.0	70
Glycine.....	97.0	60
Greenleaf.....	95.0	70
Leucaena.....	95.0	70
Lucerne.....	98.0	70
Silverleaf.....	95.0	70
Siratro.....	97.5	75
Stylo.....	97.0	65
Sunnhemp.....	98.0	75
VEGETABLES:		
Amaranth.....	93.0	70
Beet.....	97.5	75
Brussel sprouts.....	98.0	75
Beans.....	98.0	75
Cabbage.....	98.0	75
Carrot.....	97.0	65
Cauliflower.....	98.0	75
Celery.....	96.0	60

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APPENDIX

(Regulation 2)

SIXTH SCHEDULE

(Regulation 19)

PRESCRIBED FEES

REGISTRATION AS SEED GROWER:

	Fee units
Hybrids of maizo, sorghum and sunflower	19 per hectare
All other crops..	13 per hectare
Seed Processing License:	25 per annum
Seed Seller's License:	
A. General - Restricted wholesale	23 per annum
B. General - Restricted retail	23 per annum
C. General - Unrestricted	30 per annum
D. Limited - Restricted wholesale	10 per annum
E. Limited - Restricted retail	8 per annum
F. Limited - Unrestricted	15 per annum
Sampling of seeds	6 per bag (container)

TESTING OF SEEDS

	Purity K	A. Determination of Weeds by Germination		Moisture content K
		number K	number K	
Cereals	20.00	22.00	22.00	20.00
Pulses	20.00	22.00	22.00	20.00
Oil Crops	28.00	22.00	26.00	18.00
Fibre Crops	28.00	22.00	26.00	18.00
Root Crops	24.00	24.00	26.00	18.00
Herbage Crasses	28.00	28.00	26.00	18.00
Herbage Legumos	24.00	24.00	26.00	18.00
Vegetables	28.00	28.00	26.00	26.00
Stimulant Crops	28.00	28.00	26.00	20.00
Others	28.00	28.00	26.00	20.00

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A. Miscellaneous Tests

	K
Seed health test.	34.00
Verification of species.	22.00
Verification of cultivars	
-Laboratory test.	30.00
-Control growing.	250.00
Weight per 1000 seeds.	22.00
TZ-test.	37.00
Others.	37.00

C. Certificate

	K n
ISTA-Orange International Seed Lot Certificate.	25.00 <i>per piece</i>
ISTA-Blue International Seed Sample Certificate.	25.00 <i>per piece</i>
Sealing of seeds.	2.50 <i>per bag (container)</i>
Notice to import seeds.	20.00 <i>per piece</i>

NOTES:

Fees for registration as a seed grower includes necessary field inspections
19 fee units and for all other crops 13 fee units

(As amended by S.I. no. 176 of 1989 and Act No. 13 of 1994)



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SEVENTH SCHEDULE

(Regulations 8, 10, 11, 12, 13, 14, 15 and 17)

PRESCRIBED FORMS

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Form 1

REPUBLIC OF ZAMBIA

(To be completed in triplicate)

MINISTRY OF AGRICULTURE AND FOOD SECURITY

PLANT VARIETY AND SEEDS REGULATIONS

APPLICATION FOR REGISTRATION AS SEED GROWER

(Regulation 8)

To: S.C.C.I.,
P.O. Box 350199
Chilanga

Name and address of applicant.....

Name and address of farm.....

Species to be grown..... Cultivar.....

Parent seed:Class..... Certification No.....

For hybrids:Male line..... Female line.....

Quantity.....kg Proposed hectarage.....

Proposed planting date.....

Previous crops and cultivars grown in the field during the last two growing season:

Season.....19.....19.....

Crop.....

Cultivar.....

Comments.....

Date..... Signature.....

(A map giving clear instructions on how to reach the farm must be drawn overleaf)

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Application received..... Fee paid.....

for.....hectares

Decision: Approval of.....(species).....(cultivar)

Production periodConditions imposed.....

.....

.....

.....

Reg. No..... Date.....

For Seed Control and Certification Institute



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REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY

PLANT VARIETY AND SEEDS REGULATIONS

CERTIFICATE OF REGISTRATION AS A SEED GROWER

(Regulation 8 (4))

Registration No.:

To.....(name)

of.....(address)

You are hereby registered as a seed grower to grow.....

hectares of.....(species).....(cultivar) on the

farm.....

for certification as.....seed class

parent seed.....

(specie, cultivar, cert. No.)

This registration is valid from.....19..... to.....

.....19.....

The following conditions are imposed on this crop.....

.....

.....

Date.....

.....
for Seed Control and Certification Institute



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Form 3

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY

PLANT VARIETY AND SEEDS REGULATIONS

FIELD INSPECTION REPORT No.:.....



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(Regulation 9)

IDENTIFICATION:

Registration No Crop.....

Cultivar Seed class.....

Parent seed, certification No.....

Grower.....

Farm.....

INSPECTION:

Hectares..... Isolation..... Metres

Cultivar purity.....

Diseases.....

Other crop plants.....

Weed plants.....

Remarks.....

Date.....

.....
Signature of Grower or his representative

.....
Signature of Inspector



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Form 4

(To be completed in triplicate)

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY

PLANT VARIETY AND SEEDS REGULATIONS

APPLICATION FOR SEED PROCESSING LICENCE

(Regulation 10 (2))

Applicant.....

Address.....

.....

SPECIFICATION

Address of premises.....

.....

Type of processing plant.....

.....

Drying facilities.....

.....

Cleaning facilities.....

.....

Dressing and packing facilities.....

.....

Storage facilities.....

.....

Remarks.....

.....

.....

Date..... Signature.....



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Application received..... Fee paid.....

Inspected by.....

Decision: [] Approved for the period..... [] Rejected.

Conditions imposed.....

Licence No..... Date.....

.....
for Seed Control and Certification Institute



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Form 5

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY

PLANT VARIETY AND SEEDS REGULATIONS

SEED PROCESSING LICENCE

(Regulation 10 (1))

A seed processing licence is hereby granted to (name).....

of (address).....

for processing of seeds at (name of premises).....

(address).....

for the period.....19..... to.....19.....

This license is subject to the following conditions.....

Date.....

for Seed Control and Certification Institute



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Form 6

REPUBLIC OF ZAMBIA (*To be completed in triplicate*)

MINISTRY OF AGRICULTURE AND FOOD SECURITY

PLANT VARIETY AND SEEDS REGULATIONS

APPLICATION FOR A SEED SELLERS' LICENCE

(*Regulation 11 (2)*)

To: S.C.C.I.
P.O. Box 350199
Chilanga

Applicant.....

Address.....

.....

I hereby apply for a seed seller's licence of class:

- | | |
|-------------------------------------|-------------------------------------|
| A. General-Restricted wholesale [] | B. General-Restricted retail [] |
| C. General-Unrestricted [] | D. Limited-Restricted wholesale [] |
| E. Limited-Restricted retail [] | F. Limited-Unrestricted [] |

Tick off as applicable

Name and address of premises.....

.....

Species to be sold.....

.....

.....

.....

Storage facilities.....

.....

.....

Date..... Signature.....



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Application received..... Fee paid.....

Inspected by.....

Decision: [] Approved for the period..... [] Rejected

Conditions imposed.....

.....

Licence No..... Date.....

for Certifying Authority



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Form 7

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY

PLANT VARIETY AND SEEDS REGULATIONS

SEED SELLER'S LICENCE

Licence No.....

A seed seller's licence of class.....is

hereby granted to (*name*).....

(*address*).....

for trading of seeds at (*name of premises*).....

(*address*).....

for the period.....19..... to.....19.....

This licence is subject to the following conditions.....

.....

.....

.....

.....

Date.....

.....
for Certifying Authority



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Form 8

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY

PLANT VARIETY AND SEEDS REGULATIONS

SAMPLING REPORT

(Regulation 12)

No.....

Applicant.....

Address.....

Registration No.....

Certification No.....

Crop..... Cultivar.....

Lot No..... Weight of lot.....kg:

Intended seed class.....

Number of labels required.....

Remarks.....

Date.....

.....
Signature of Applicant or his representative

.....
Signature of Sampler/Inspector



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Form 9

REPUBLIC OF ZAMBIA
MINISTRY OF AGRICULTURE AND FOOD SECURITY
PLANT VARIETY AND SEEDS REGULATIONS
SEED CERTIFICATE
(Regulation 13)
SEED CONTROL AND CERTIFICATION INSTITUTE OF ZAMBIA

Species		Cultivar	
Test No.	Date Received		Date sampled
Lot No.	Origin		Weight of Lot: kg

Name and address of applicant

Purity, % weight				Germination, % number					Germination Capacity, %
Pure seed	Inert Matter	Other Crop Seed	Weed Seeds	Normal Seedlings	Hard Seeds	Fresh Seeds	Abnorma Seedlings	Dead Seeds	

Kind of inert matter:

Species and number of other crop seeds:

Species and number of weed seeds:

Moisture Content, %	Cultivar Purity, %	Weed Seeds, number per kg
---------------------	--------------------	---------------------------

Other Determinations:

Date.....

.....

for S.C.C.I.

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Form 10

REPUBLIC OF ZAMBIA
MINISTRY OF AGRICULTURE AND FOOD SECURITY
PLANT VARIETY AND SEEDS REGULATIONS

SEED CONTROL AND CERTIFICATION INSTITUTE OF ZAMBIA

CONTROL GROWING REPORT

(Regulation 14)

Specie.....

Cultivar.....

Certification No..... Seed Lot No.....

Seed Class..... Planted.....

TEST RESULTS

Foreign cultivars.....

Off types.....

Diseased plants.....

Remarks.....

Date.....

Signature, S.C.C.I.



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Form 12

REPUBLIC OF ZAMBIA

MINISTRY OF AGRICULTURE AND FOOD SECURITY

PLANT VARIETY AND SEEDS REGULATIONS

NOTICE TO IMPORT SEED

(Regulation 17)

Applicant.....

Address.....

SPECIFICATION

Species.....

Cultivar.....

Quantity to be imported.....kg

Country of origin.....

Official marks of the seed lot.....

Quality of the seeds (copy of seed certificate to be enclosed).....

Reasons for the importation.....

Expected date for the import.....

Date.....

Signature

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Notification received.....Fees paid.....

Remarks.....

Notification No.

Date.....

Signature



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REPUBLIC OF ZAMBIA

THE PREVENTION OF CRUELTY TO ANIMALS ACT

CHAPTER 245 OF THE LAWS OF ZAMBIA

CHAPTER 245 THE PREVENTION OF CRUELTY TO ANIMALS ACT CHAPTER 245

THE PREVENTION OF CRUELTY TO ANIMALS ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Acts and omissions which amount to cruelty and penalties therefor
4. Order of court for destruction of animals
5. Deprivation of ownership
6. Damages
7. Destruction of animals by police officer without consent of owner
8. Production of driver, conductor or animal at hearing
9. Power of entry on premises
10. Powers of arrest without warrant
11. Separate charges may be brought in respect of each animal
12. Delegation of powers to a society
13. Vexatious complaints
14. Service of process on a company

CHAPTER 245

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The Laws of Zambia

PREVENTION OF CRUELTY OF ANIMALS

An Act to provide for the prevention of cruelty to animals; to specify acts and omissions which amount to cruelty and penalties therefor; to prescribe the powers of police officers; and to provide for matters incidental thereto.

[20th January, 1921]

20 of 1920
36 of 1933
32 of 1952
47 of 1963
Government Notice
319 of 1964
Statutory Instrument
29 of 1964
Act No.
13 of 1994

1. This Act may be cited as the Prevention of Cruelty to Animals Act.

Short title

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

Interpretation

"animal" means any horse, mare, gelding, bull, cow, ox, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, fowl, ostrich, dog, cat, or any other domestic animal, fowl or bird, and shall also include any wild animal, fowl or bird in a state of captivity;

"owner", in addition to its ordinary meaning, includes any person having the charge, custody or control of any animal.

3. (1) Any person who-

Acts and omissions which amount to cruelty and penalties therefor

(a) shall cruelly beat, kick, ill-treat, over-ride, over-load or torture any animal, or shall cause any animal to be so used, or shall drive or use any animal which is so diseased or so injured, or in such a physical conditions that it is unfit to do any work, or shall by wantonly or unreasonably doing or omitting to do any act, or causing or procuring the commission or omission of any act, cause any unnecessary suffering, or, being the owner, permit in manner aforesaid any unnecessary suffering to be caused to any animal; or

(b) shall convey or carry, or cause or procure, or, being the owner, permit to be conveyed or carried, any animal in such a manner or position as to cause that animal any unnecessary suffering; or

(c) shall cause, procure or assist at the fighting of any animal, or shall keep, use, manage, or act or assist in the management of any premises or place used for the purpose, or partly for the purpose of fighting any animal, or shall permit any premises or place to be so kept, managed or used, or shall receive or cause or procure any person to receive money for the admission of any person to such premises or place; or

(d) shall, without any reasonable cause or excuse, administer, cause or procure, or, being the owner, permit such administration of, any poisonous or injurious drug or substance to any animal, or shall without any reasonable cause or excuse, cause any such substance to be taken by any animal; or

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(e) shall subject, or cause or procure, or, being the owner, permit to be subjected, any animal to any operation which is performed without due care and humanity; or

(f) shall kill an animal in the sight of any other animal awaiting slaughter;

shall be guilty of cruelty and of an offence under this Act, and shall, on conviction, be liable to a fine not exceeding seven hundred and fifty penalty units, or in default of payment, to imprisonment with or without hard labour for a period not exceeding three months, or to such imprisonment without the option of a fine, or in case of a second or further conviction, to a fine not exceeding one thousand five hundred penalty units, or in default of payment, to imprisonment with or without hard labour for a period not exceeding six months, or to such imprisonment without the option of a fine, or to corporal punishment in any number of cuts not exceeding fifteen, or to any two of the aforesaid punishments:

Provided that corporal punishment shall only be awarded if the court considers that the offence was of an aggravated nature.

(2) For the purposes of this section, an owner shall be deemed to have permitted cruelty if he shall have failed to exercise reasonable care and supervision in respect of the protection from such cruelty of any animal which is his property or in his charge.

(3) The Minister may, from time to time by statutory instrument, make regulations as to the supply of food and water to animals while in the custody of a railway company for the purpose of being conveyed by train, and any railway company which fails to cause food and water to be supplied to any animal in accordance with such regulations, and any officer of such company who, having been charged with the duty of supplying food and water to any animal in accordance with such regulations, wilfully neglects to fulfil such duty shall be guilty of cruelty and of an offence under this Act and shall, on conviction, be liable to the penalties prescribed by this section.

Regulations for feeding and watering animals in transit by train

(As amended by No. 32 of 1952, G.N. No. 319 of 1964 and Act No. 13 of 1994)

4. (1) Where the owner of an animal is convicted of an offence under this Act in respect of such animal, it shall be lawful for the court, if satisfied that it would be cruel to keep the animal alive, to direct that the animal be destroyed, and to assign the animal to any suitable person for that purpose; and the person to whom such animal is assigned shall, as soon as possible, destroy such animal or cause or procure such animal to be destroyed in his presence without unnecessary suffering. Any reasonable expenses incurred in destroying the animal and removing and burying the carcass may be ordered by the court to be paid by such owner, and thereupon shall be recoverable from him as a civil debt.

Order of court for destruction of animals

(2) No appeal shall lie from an order for the destruction of an animal under subsection (1).

5. Where the owner of an animal is convicted of an offence under this Act in respect of such animal, the court may, in addition to any other punishment, deprive such person of the ownership of the animal, and make such order as to the disposal of the animal as it shall think fit:

Deprivation of ownership



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Provided that no order shall be made under this section unless it is shown by evidence as to a previous conviction, or as to the character of the owner, or otherwise, that the animal, if left with the owner, is likely to be exposed to further cruelty.

6. (1) Whenever any person is convicted of an offence under this Act and it appears that such person has by that offence caused damage to any person, the court may, at the written request of the aggrieved person, but in the presence of the convicted person, inquire summarily and without pleadings into the amount of damage so caused.

Damages

(2) Upon proof of such amount, the court shall give judgment therefor in favour of the person aggrieved and against the convicted person, and such judgment shall be of the same force and effect, and be executable in the same manner as if it had been given in a civil action duly instituted before such court:

Provided that judgment shall not be given under this section for a sum exceeding three thousand penalty units.

(As amended by Act No. 13 of 1994)

7. (1) If a police officer find any animal so diseased or so severely injured or in such a physical condition that in his opinion it ought to be destroyed, he shall, if the owner be absent or refuse to consent to the destruction of the animal, at once summon a veterinary surgeon, if any veterinary surgeon be within reasonable distance, or two landowners, and if such veterinary surgeon or such landowners, after having duly examined such animal, shall give a certificate that the animal is mortally injured or so severely injured or so diseased or in such physical condition that it is cruel to keep it alive, it shall be lawful for the police officer, without the consent of the owner, to slaughter the animal, or cause or procure it to be slaughtered with such instruments or appliances and with such precautions and in such manner as to inflict as little suffering as practicable, and if the slaughter takes place on any public road, to remove the carcass or cause it to be removed therefrom.

Destruction of animals by
police officer without
consent of owner

(2) Any expenses which may be reasonably incurred by any police officer in carrying out the provisions of this section (including the expenses of any veterinary surgeon or the said owners of land, and whether the animal is slaughtered under this section or not) may be recovered from the owner as a civil debt.

Expenses of such
destruction

(3) Where a person having charge of a vehicle or animal is apprehended by a police officer for any offence under this Act, or where any animal is found by any police officer being treated with cruelty, it shall be lawful for that or any other police officer to take charge of such vehicle or animal, and to deposit the same in some place of safe custody until the termination of the proceedings or until the court shall direct such vehicle or animal to be delivered to the person charged or the owner, and the reasonable costs of such detention, including the reasonable costs of veterinary treatment when such treatment is required, shall, in the event of a conviction in respect of the said animal, be recoverable from the owner as a civil debt, or where the owner himself is convicted, shall be part of the costs of the case.

Safe custody, and
expenses of same, of
animals, etc., pending
proceedings

8. (1) In all cases where the offender is not in custody and where proceedings are instituted under this Act, it shall be lawful for the court to issue a summons directed to-

Production of driver,
conductor or animal at
hearing

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- (a) the employer of any driver or conductor of any vehicle against whom any proceedings are instituted under this Act;
- (b) the owner of any animal in respect of which any proceedings are instituted under this Act;

requiring him, as the case may be, and if in his power so to do, to produce the driver or conductor at the hearing of the case, or the animal for inspection (if such can be done without cruelty) either at or at any time before the hearing of the case.

(2) Where a summons is issued under subsection (1) and the owner or employer, as the case may be, fails to comply therewith, without satisfactory excuse, he shall be liable upon conviction to a fine not exceeding one hundred and fifty penalty units for the first occasion and not exceeding three hundred penalty units for the second or any subsequent occasion on which he so fails, and may be required to pay the costs of any adjournment rendered necessary by his failure.

(As amended by No. 36 of 1933 and Act No. 13 of 1994)

9. A police officer may, without any warrant, and at any time, upon obtaining permission from the owner, or failing such permission, on obtaining an order from a magistrate, enter any premises where animals are kept for the purpose of examining the conditions under which they are so kept.

Power of entry on premises

(As amended by No. 36 of 1933)

10. Every person who is suspected on reasonable grounds of having committed an offence against this Act may, if there is reason to believe that the ends of justice would be defeated by the delay in obtaining a warrant, be arrested without warrant by a police officer of or above the rank of Assistant Inspector.

Powers of arrest without warrant

(As amended by No. 36 of 1933 and No. 47 of 1963)

11. Separate charges may be brought against any person or persons in respect of each animal, if more than one is concerned.

Separate charges may be brought in respect of each animal

12. The Director or Deputy Director of Veterinary Services and Tsetse Control may, by writing under his hand, authorise any officer of any society for the prevention of cruelty to animals to exercise within his district all or any of the powers conferred by this Act upon a police officer, and, in the exercise of such powers, the officer of the society shall, when required, produce for inspection such documents of authority. The Director or Deputy Director in Charge of Veterinary Services and Tsetse Control may, for good cause, revoke any such authority.

Delegation of powers to a society

(As amended by No. 36 of 1933 and S.I. No. 29 of 1964)

13. If, upon the prosecution of any person for any offence under this Act, the court, upon hearing the charge or complaint, shall pronounce the same unfounded or vexatious, the court may award costs according to the scale of costs set forth in the Subordinate Courts (Civil Jurisdiction) Rules against the society or person at whose instance the charge or complaint was laid.

Vexatious complaints
Cap. 28

(As amended by No. 36 of 1933)

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REPUBLIC OF ZAMBIA

THE TOBACCO LEVY ACT

CHAPTER 238 OF THE LAWS OF ZAMBIA

CHAPTER 238 THE TOBACCO LEVY ACTCHAPTER 238

THE TOBACCO LEVY ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Leviable tobacco
4. Imposition of levy
5. Payment of levy
6. Collection and remittance of levy
7. Establishment of levy funds
8. Objects of levy
9. Assistance to prescribed bodies
10. Audit of accounts of prescribed bodies
11. Prohibition against use of grant for other than stated purpose
12. Prohibition against non-payment of levy
13. Recovery and proceedings
14. Prohibition against failure to comply with Act or regulations
15. Penalty
16. Regulations
17. Exemption

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SCHEDULE-Rate of levy

The Laws of Zambia

CHAPTER 238

TOBACCO LEVY

65 of 1967
20 of 1968
13 of 1994

An Act to provide for the imposition and control of a levy on tobacco grown in the Republic of Zambia; and to provide for incidental matters.

[26th April, 1968]

1. This Act may be cited as the Tobacco Levy Act.

Short title

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

Interpretation

"Association" means the Tobacco Association of Zambia established pursuant to the Tobacco Act;

Cap. 237

"auctionable tobacco" means tobacco which, pursuant to the provisions of the Tobacco Act, or any regulation or order made thereunder, is required to be sold by auction on an auction floor;

Cap. 237

"buyer" means any person who is a buyer of tobacco under the provisions of Part VII of the Tobacco Act, and who is licensed as such pursuant to that Act;

Cap. 237

"export on consignment" means the consignment of leviable tobacco by the grower or producer thereof to an agent, factor or commission agent for purposes of sale outside the Republic on behalf of the said grower or producer;

"grower" means any person who is or who is deemed to be a grower of tobacco under the provisions of Part V of the Tobacco Act, and who is registered as such pursuant to that Act;

Cap. 237

"leviable tobacco" means tobacco prescribed as leviable tobacco pursuant to section *three*;

"levy" means the levy imposed under and in pursuance of this Act;

"levy funds" means the special funds established pursuant to section *seven*;

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"non-auctionable tobacco" means tobacco which, under the provisions of the Tobacco Act, or of any regulation or order made thereunder, is not required to be sold by auction on an auction floor; Cap. 237

"Permanent Secretary" means the Permanent Secretary, responsible for agricultural activities;

"prescribed co-operative society" means any co-operative society prescribed by the Minister pursuant to section *nine*;

"prescribed growers' association" means any association of growers or producers of tobacco prescribed by the Minister pursuant to section *nine*;

"prescribed statutory body" means any statutory body prescribed by the Minister pursuant to section *nine*;

"producer" means any person, other than a grower, who grows tobacco in the Republic;

"tobacco" means unmanufactured tobacco (including tobacco stems) of a class prescribed pursuant to section *eighty-three* of the Tobacco Act, and includes tobacco grown outside and imported into the Republic which, had it been grown within the Republic, would have been tobacco as herein defined; Cap. 237

"weight" means the weight which is known in the usage of the trade as wet weight.

3. The Minister may from time to time prescribe any class of tobacco as leviable tobacco for the purposes of this Act. Leviable tobacco

4. (1) Subject to the provisions of this Act, a levy shall be imposed on all leviable tobacco grown and sold in the Republic, which levy shall be at the rate specified in the Schedule. Imposition of levy

(2) Such levy shall be calculated on the weight of such leviable tobacco, and the Minister may prescribe different bases of calculation of such levy on such weight for different classes of such tobacco for the purposes of this Act.

5. (1) Subject to the provisions of subsection (2), and to the provisions of section *seventeen*, the levy imposed under this Act shall be payable to the Minister by every grower on all leviable tobacco sold by him or on his behalf. Payment of levy

(2) The levy imposed under this Act shall not be payable on leviable tobacco-

(a) upon which the levy has already been paid upon a previous sale thereof; or

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(b) which is exported on consignment.

6. (1) The Minister may prescribe-

Collection and remittance
of levy

(a) the persons who shall be responsible for the provision of data, information and returns on sales of leviable tobacco and on the collection and remittance of the levy; and

(b) the date upon which such levy is due and payable; and

(c) the method and time of calculation, payment, collection and remittance of the levy.

(2) The levy shall be remitted to the Permanent Secretary.

7. On a date fixed by the Minister, the Minister shall establish-

Establishment of levy
funds

(a) a fund to be known as the Flue-Cured Tobacco Levy Fund into which the Permanent Secretary shall pay the proceeds of the levy on flue-cured Virginia tobacco, if imposed; and

(b) a fund to be known as the Oriental Tobacco Levy Fund into which the Permanent Secretary shall pay the proceeds of the levy on Oriental tobacco, if imposed; and

(c) a fund to be known as the Burley Tobacco Levy Fund into which the Permanent Secretary shall pay the proceeds of the levy on Burley tobacco, if imposed; and

(d) a fund to be known as the General Levy Fund into which the Permanent Secretary shall pay the proceeds of the levy on all classes of tobacco, other than flue-cured Virginia, Oriental or Burley tobacco, if imposed.

8. (1) The moneys in the various levy funds established pursuant to section *seven* shall, in the discretion of the Minister, be used for the purpose of assisting in financing the objects and functions of the Board and in promoting generally the development of the tobacco industry, having regard to the interest of the growers and producers of that class of leviable tobacco in respect of which each levy fund is established.

Objects of levy

(2) The moneys in any levy fund may, until such time as they are used pursuant to this Act, be invested by the Minister in such manner as the Minister, in consultation with the Minister responsible for finance, may determine.

(3) Sums accruing by way of interest on, or by way of the realisation of, investments made pursuant to subsection (2), shall be credited, and losses incurred on any realisation of such investments shall be debited, to the particular levy fund or funds to the credit of which the moneys invested were standing immediately before they were invested.

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9. (1) The Minister may from time to time prescribe for the purposes of this Act-

Assistance to prescribed bodies

- (a) any growers' association which represents growers or producers of leviable tobacco;
- (b) any co-operative society whose objects and functions include the rendering of assistance to growers or producers of leviable tobacco in the marketing of such tobacco;
- (c) any statutory body, other than the Board, whose objects and functions include the rendering of assistance to growers or producers of leviable tobacco in the marketing of such tobacco.

(2) Subject to the provisions of section *eight*, the Minister may, upon application to him in writing therefor, from time to time, in his absolute discretion, grant or lend to any prescribed growers' association which represents growers or producers of a class of leviable tobacco in respect of which a levy fund has been established under section *seven*, or to any prescribed co-operative society or statutory body whose objects and functions include the rendering of assistance to such growers or producers in the marketing of such leviable tobacco, so much of the moneys standing to the credit of that particular levy fund at the time of such grant or loan as in the opinion of the Minister may be conducive towards the furtherance of any stated purpose which is within the express objects of any such growers' association or which comprises part of the assistance in the marketing of such leviable tobacco rendered to such growers or producers by any such co-operative society or statutory body.

(3) For the purposes of this section and section *eleven*, "stated purpose" means the purpose expressly stated in writing in any application for a grant under subsection (2), to be that to which any moneys granted under that subsection, by virtue of that application, will be applied.

10. (1) Any association, co-operative society or statutory body prescribed pursuant to section *nine* shall keep proper accounts showing the manner in which moneys paid to it in pursuance of that section have been spent.

Audit of accounts of prescribed bodies

(2) The accounts referred to in subsection (1) shall be subject to annual audit by an auditor appointed by the association, co-operative society or statutory body, as the case may be, with the approval of the Minister.

(3) The auditor shall report to the Minister upon the application of any moneys granted or lent pursuant to section *nine* to such association, co-operative society or statutory body, as the case may be, over the period covered by such annual audit.

11. (1) Any prescribed co-operative society or prescribed statutory body, having obtained a grant pursuant to subsection (2) of section *nine*, which (without the consent of the Minister previously obtained in writing) expends or uses the moneys so granted, or any other part thereof, otherwise than for the stated purpose, shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding fifteen thousand penalty units.

Prohibition against use of grant for other than stated purpose

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(2) Any individual, being the person responsible for the expenditure or use of any moneys granted, pursuant to subsection (2) of section *nine*, to any prescribed growers' association, prescribed co-operative society or prescribed statutory body, as the case may be, who (without the consent of the Minister previously obtained in writing) causes or permits the said moneys, or any part thereof, to be expended or used otherwise than for the stated purpose shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding seven thousand five hundred penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) Upon conviction of any person of an offence under this section, the Court shall, at the request of the prosecution, decree a penalty or further penalty against the person so convicted equal to the amount of such moneys proved to have been so expended or used in contravention of this section, and such penalty shall be a civil debt payable to the Government and recoverable by the Minister in any court of competent jurisdiction.

(As amended by Act No. 13 of 1994)

12. (1) Any person, being a person liable to pay any levy imposed pursuant to this Act, who fails or refuses to pay the said levy or any part thereof, when the said levy is due and payable as provided by or under this Act, shall be guilty of an offence.

Prohibition against non-payment of levy

(2) Any person, being a person responsible pursuant to section *six* for the collection and remittance of any levy imposed by or under this Act, who fails or refuses to collect or to remit the said levy or any part thereof as provided by or under this Act, shall be guilty of an offence.

13. (1) Any levy imposed pursuant to this Act is a debt due to the Government and may be sued for and recovered in any court of competent jurisdiction by the Minister from the grower or from any other person liable for the collection and remittance thereof under and pursuant to this Act.

Recovery and proceedings

(2) Any grower and any other person liable for the collection and remittance of any levy imposed pursuant to this Act may be joined as defendants in any proceedings instituted pursuant to subsection (1), and judgment in any such proceedings may be given against such parties jointly and severally.

14. Any person who contravenes or fails to comply with any of the provisions of this Act or with any regulation, requirement or condition lawfully prescribed thereunder shall be guilty of an offence.

Prohibition against failure to comply with Act or regulations

15. Save where otherwise expressly provided, any person who is convicted of an offence under this Act shall, in the case of a first offence, be liable to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both and, in the case of a second or any subsequent offence, to a fine not exceeding four thousand five hundred penalty units or to imprisonment for a term not exceeding eighteen months, or to both.

Penalty

(As amended by Act No. 13 of 1994)



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16. The Minister may, by statutory instrument, make regulations prescribing anything which Regulations
under any provision of this Act is to be or may be prescribed.

17. The Minister may by regulation exempt any class of persons or any class of leviable Exemption
tobacco from any or all of the provisions of this Act.



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SCHEDULE

(Section 4)

RATE OF LEVY

	<i>Rate per kg</i>
On all leviable tobacco	15 fee units

(As amended by No. 20 of 1968 and Act No. 13 of 1994)



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SUBSIDIARY LEGISLATION

TOBACCO LEVY

SECTIONS 3, 4, 5, 6, 9, 16 AND 17-THE TOBACCO
LEVY REGULATIONS

Statutory Instrument
161 of 1968

Regulations by the Minister

1. These Regulations may be cited as the Tobacco Levy Regulations.

Title

2. For the purposes of the Act, the following classes of tobacco shall be leviable tobacco:

Leviable tobacco

All classes of tobacco prescribed pursuant to section *fifty-nine* of the Tobacco Act as auctionable or non-auctionable tobacco.

Cap. 237

3. (1) The amount of levy payable shall be calculated to the nearest whole ngwee at the rate specified in the Schedule to the Act, on the weight of the tobacco sold.

Payment, calculation,
collection and remittance
of levy

(2) The levy shall be due and payable by the grower on the weight of all leviable tobacco sold by him or on his behalf, on the day of the sale.

(3) The levy shall be collected by the deduction of the appropriate amount from the proceeds of the sale-

- (a) in the case of auctionable tobacco, by the holder of the auction floor licence;
- (b) in the case of non-auctionable tobacco purchased by the Board or its agent, by the Board;
- (c) in the case of all other non-auctionable tobacco, by the buyer.

(4) The levy shall be remitted to the Permanent Secretary-

- (a) separately in respect of each class of tobacco as prescribed pursuant to section *fifty-nine* of the Tobacco Act;

Cap. 237

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(b) by the person who collects it pursuant to sub-regulation (3);

(c) within a period of four weeks following the week in which it becomes payable pursuant to sub-regulation (2).

(5) (a) Each remittance shall be supported by a statement, duly signed and dated by the person making the remittance, in Form TLA.1 as set out in the First Schedule.

(b) The Permanent Secretary shall issue a receipt on account of the levy in respect of the remittance. If the Permanent Secretary, at any time after receipt of such remittance, is not satisfied that the return in respect of such payment is correct, he may call upon the person making the remittance to produce evidence of all relevant transactions in leviable tobacco for the purpose of determining the amount of levy for which such person is actually liable.

(c) Within one month of the final remittance of levy for each season, every person who has made a remittance pursuant to sub-regulation (4) shall render to the Permanent Secretary a return as set out in Form TLA.2 of the First Schedule, which return shall summarise all remittances of levy made during the season by the said person in respect of each class of leviable tobacco.

4. For the purpose of section *nine* of the Act, the prescribed bodies to which assistance may be given from the proceeds of the levy shall be those bodies set out in the Second Schedule. Prescribed bodies

FIRST SCHEDULE

(Regulation 3)

PRESCRIBED FORMS



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FORM TLA.1

Permanent Secretary,
Ministry of Agriculture,
Lusaka.

REMITTANCE OF TOBACCO LEVY:H SEASON 19

Name and address of person making this remittance

Class of tobacco:

.....
.....

Date of sale

Weight: kg.

.....

Total weight of this class:

kg.

Total of this remittance:

K

Date

(Signed)



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FORM TLA.2

Permanent Secretary,
 Ministry of Agriculture,
 Lusaka.

SUMMARY OF LEVY REMITTANCES: SEASON 19...

Name of person making this return Class of tobacco:

.....

<i>Date of Remittance</i>	<i>Amount</i>	<i>General Receipt No.</i>
.....

Grand total of this remittance: K _____

Date (Signed)



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SECOND SCHEDULE

(Regulation 4)

NAMES AND ADDRESS OF PRESCRIBED BODIES

1. The Tobacco Association of Zambia, P.O. Box 32617, Lusaka, Zambia.
2. The Eastern Province Burley Tobacco Association of Zambia, P.O. Box 510667, Chipata, Zambia.



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Endnotes

1 (Popup - Popup)

Strike out those inapplicable.

2 (Popup - Popup)

Applied to the areas set out in the Schedule to these Regulations. (G.N. 288 of 1951)

3 (Popup - Popup)

1st October in each year. (G.N. No. 287 of 1951.) portion of which shall not have been uprooted and burnt, as the case may be, prior to the date specified in such notice, shall be deemed to have contravened these Regulations.

4 (Popup - Popup)

Includes prescribed field inspections and control growing.

5 (Popup - Popup)

Irrespective of size of bag or container.

6 (Popup - Popup)

Delete whichever are inapplicable.

7 (Popup - Popup)

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For the purposes of this return "grower" shall exclude any person deemed to be a grower solely by virtue of section 26 (6) of the Act (i.e. resales).



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The Laws of Zambia

REPUBLIC OF ZAMBIA

THE TOBACCO ACT

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CHAPTER 237

TOBACCO

Act No.
64 of 1967
13 of 1994

An Act to provide for the promotion, control and regulation of the production, marketing and packing of tobacco in the Republic, the promotion and control of the export of tobacco from and import of tobacco to the Republic, the direction and promotion of research in connection with tobacco, and for incidental matters.

[1st April, 1968]

PART I PRELIMINARY

PRELIMINARY

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

Short title

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

Interpretation

"auction floor" means premises used for the sale by auction of auctionable tobacco;

"auctionable tobacco" means any class of tobacco which is prescribed as auctionable tobacco by the Minister pursuant to section *fifty-nine* and as such is required to be sold by auction on a licensed auction floor;

"Board" means the Tobacco Board of Zambia established under the provisions of section *three*;

"buyer" means any person who buys tobacco and includes any person who possesses land and who agrees with a third person to permit the said third person to produce tobacco on not more than ten acres of the said land in consideration of the receipt of a share of the said crop when produced or of a share of the proceeds of its sale;

"delivery quota" means the quantity of auctionable tobacco determined by the Board which may be delivered by or on behalf of a registered grower for sale on any licensed auction floor in each delivery quota period;

"delivery quota period" means any period during which the Board permits the delivery of delivery quotas by registered growers to licensed auction floors;

"export on consignment" means the consignment of tobacco to an agent, factor or commission agent for purposes of sale outside the Republic;

"external market" means the demand for tobacco in any country outside the Republic;

"external market minimum price" means the minimum price fixed by the Minister, pursuant to section *seventy-four*, for auctionable tobacco sold for the purposes of any external market;

"financial year", in relation to the Board, means any period of twelve months prescribed as such by the Minister;

"grader", in relation to tobacco, means any person who grades tobacco as a business or trade;

"grower", in relation to tobacco, means any person who grows tobacco for purposes of sale, or any person who is deemed to be a grower pursuant to section *twenty-six*;

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"inspector" means an inspector appointed pursuant to subsection (1) of section *eleven*;

"internal market" means the demand for tobacco for the purposes of manufacture in the Republic;

"internal market minimum price" means the minimum price fixed by the Minister, pursuant to section *seventy-four*, for auctionable tobacco sold for the purposes of the internal market;

"licensed auction floor" means any auction floor licensed as such by the Board pursuant to Part VIII;

"licensed buyer" means any person licensed by the Board to buy tobacco pursuant to Part VII;

"licensed grader" means any person licensed by the Board to grade tobacco pursuant to Part VI;

"manufacture", in relation to tobacco, means to subject it to a process or treatment other than butting, thrashing, stripping or redrying, and cognate expressions shall be construed accordingly;

"marketing quota" means the weight of tobacco of a class, prescribed pursuant to section *seventy-eight*, which a registered grower may sell in the Republic or export on consignment during a period fixed by an order relating thereto made pursuant to that section;

"member" means a member of the Board;

"non-auctionable tobacco" means any class of tobacco which is prescribed as non-auctionable by the Minister pursuant to section *fifty-nine*, and as such is not required to be sold by auction on a licensed auction floor;

"Permanent Secretary" means the Permanent Secretary, Ministry of Agriculture;

"producer" means any grower not required to be personally registered as such under section *twenty-six*;

"Registrar" means the secretary to the Board;

"sale at a primary or rural level" means the sale of tobacco by an individual producer or group of producers to a licensed buyer where it is intended that the said tobacco shall later be offered for sale to the trade by the buyer, whether as auctionable or non-auctionable tobacco, as the case may be;

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"sales supervisor" means a person appointed by the Board, under the provisions of section *seventy-one*, to supervise the sale of tobacco by auction on a licensed auction floor;

"selling season" means the period in each year fixed by the Board during which auctionable tobacco may be sold;

"surplus tobacco" means tobacco produced by a registered grower in excess of the marketing quota allotted to him pursuant to section *seventy-eight*;

"tobacco" means unmanufactured tobacco (including tobacco stems) of a class prescribed by the Minister pursuant to section *fifty-nine*;

"tobacco research" means-

- (a) research and investigation of any kind in connection with tobacco, tobacco ecology, insect pests of tobacco, bacterial, fungoid and virus diseases and other pests of tobacco; and
- (b) experiments in the planting, handling and curing of tobacco;

"tobacco stem" means the midrib of the tobacco leaf;

"weight" means the weight which is known in the usage of the trade as wet weight.

PART II ESTABLISHMENT OF TOBACCO BOARD

ESTABLISHMENT OF TOBACCO BOARD

3. There is hereby established a board to be known as the Tobacco Board of Zambia which shall be a body corporate with a common seal and capable of suing and being sued and, subject to the provisions of this Act, of doing all acts as a body corporate may by law perform. Establishment of Tobacco Board of Zambia

4. (1) The Minister shall appoint the members of the Board. Composition of Board

(2) The Board shall consist of-

- (a) one member chosen by the Minister who shall be designated as Chairman;
- (b) one member representing the growers of Virginia flue-cured tobacco chosen by the Minister;

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- (c) one member representing the growers of Oriental tobacco chosen by the Minister;
- (d) one member representing the growers of Burley tobacco chosen by the Minister;
- (e) not more than three members representing the buyers of tobacco chosen by the Minister.

(3) The Minister may appoint to the Board such additional members as he deems essential to the Board in the exercise of its powers and functions.

(4) The Minister may permit the attendance of observers at any meeting of the Board, who shall have no voice in the proceedings of such meeting nor any voting powers.

(5) No person shall be appointed a member or alternate member of the Board-

- (a) while he is an undischarged bankrupt; or
- (b) while he is serving a sentence of imprisonment upon conviction of an offence involving fraud or dishonesty.

5. (1) The Minister may appoint to the Board as an alternate member to each of the members referred to in paragraphs (b), (c), (d) and (e) of subsection (2) of section *four* a person chosen from the same category as the member to whom he is alternate was chosen.

Alternate appointments to Board

(2) The Minister may appoint to the Board an alternate member to the Chairman.

(3) An alternate member referred to in this section-

- (a) shall act as a member only when the member to whom he is alternate is unable to exercise his functions on the Board by reason of illness, absence from the Republic or other cause; and
- (b) when acting as a member shall have all the powers and duties of the member to whom he is alternate including, in the case of an alternate member to the Chairman of the Board, the powers and duties of the Chairman.

(4) Alternate members may, when not acting under the provisions of subsection (3), attend meetings of the Board as observers only but shall have no voting powers at any such meeting.

(As amended by Act No. 46 of 1970)

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6. (1) Members of the Board shall, subject to the provisions of this section, hold office for a period of two years. Tenure of office and vacancies

(2) A retiring member shall be eligible for reappointment.

(3) On the expiration of the period for which a member 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.

(4) The office of a member or alternate member shall be vacated-

(a) upon his death;

(b) if he is adjudicated bankrupt;

(c) if he is absent from three consecutive meetings of the Board without the permission of the Board;

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

(e) upon the expiry of one month's notice in writing given to him by the Minister;

(f) if he becomes mentally or physically incapable of performing his duties as such;

(g) if he is convicted of an offence and sentenced to imprisonment without the option of a fine.

(5) Whenever representation on the Board of any two or more of the categories of membership thereof provided for by subsection (2) of section *four* becomes vacant, the Minister may perform all of the functions and duties of the Board until such time as, by appointment, such categories are duly represented, and all such appointments to the Board necessary to complete the representation of such categories shall, in such event, be made by the Minister within three months of the date of the vacancy last occurring before the Minister exercises his powers under this subsection.

(6) Any member or alternate member who is not a public officer shall be paid out of the funds of the Board such remuneration and allowances, if any, as the Minister may, in his case, fix.

7. (1) Meetings of the Board shall be held at such places and times as the Chairman of the Board may determine and shall be convened by notice given by him: Meetings of Board

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Provided that the Chairman of the Board may, himself, at any time, and shall, at the request in writing of any two members of the Board, and within fourteen days after the receipt of such request, convene a special meeting of the Board.

(2) A notice convening a special meeting of the Board shall state the purpose of such meeting.

(3) In the absence from any meeting of the Board of the person entitled to act as Chairman pursuant to this Act, the members present at that meeting may elect one of their number to be Chairman of that meeting.

(4) All decisions at any meeting of the Board shall be by resolution by majority vote of the members present thereat, and in the event of an equality of votes the Chairman shall have a casting vote in addition to his deliberative vote.

(5) A majority of the members of the Board with voting powers shall form a quorum.

8. (1) The Board shall establish and appoint the members of such committees as the Minister may prescribe to implement any of the Board's powers and functions and shall delegate to any such committee such of its powers as the Minister may deem necessary.

Committees of Board

(2) The Board may establish and appoint the members of committees, other than those prescribed pursuant to subsection (1), to carry out any special or general functions determined by the Board and may delegate to any such committee such of its powers as it may deem fit.

(3) (a) No person shall be appointed to any committee established under the provisions of subsection (1) if he would be disqualified for membership of the Board.

(b) The Board, or the Minister in the case of any committee established pursuant to subsection (1), shall appoint a chairman of each committee established under this section.

(c) Each committee may, with the approval of the Minister previously obtained, co-opt as members persons who are not members of the Board and who are not disqualified for membership of the Board.

(d) The Chairman of the Board shall be an *ex officio* member of all committees established pursuant to this section.

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(4) Any committee appointed under the provisions of this section shall keep minutes of its meetings, and shall inform the Board and, in the case of a committee established pursuant to subsection (1), the Minister, of its activities, and shall conduct its proceedings in such manner as may be prescribed.

(5) The chairman of each committee may at any time and at any place convene a meeting of the committee of which he is chairman.

(6) The Chairman of the Board may at any time and at any place convene a meeting of any committee.

(As amended by Act No. 46 of 1970)

9. (1) If a member or his spouse-

Member to declare connection with companies and firms dealing with Board

- (a) tenders for or acquires or holds any pecuniary interest in any contract with the Board; or
- (b) knowingly acquires or holds any capital interest in a company or firm applying or negotiating for any contract with the Board; or
- (c) owns any lands or any right or interest in, upon or over any lands or owns any other property whatsoever which ownership, because of any conflict of interest, or other circumstance, might be considered as prejudicial to the interests and rights of the Board or to his duties as a member: the member shall, as soon as practicable after the relevant facts have come to his knowledge, declare the nature of his interest to the Chairman of the Board.

(2) This section shall not apply to a contract with the Board for the delivery, sale or disposal of tobacco, entered into by a member or his spouse, in which the member or his spouse receives no special advantage or preferential treatment.

10. (1) Subject to the approval of the Minister, the Board shall appoint the Secretary to the Board.

Appointment of Secretary to Board

(2) The Secretary to the Board shall be the Registrar for the purposes of this Act.

11. (1) Subject to the approval of the Minister, the Board shall appoint tobacco inspectors, who shall be inspectors for the purposes of this Act.

Tobacco inspectors

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(2) The Board shall cause a certificate of authority to be issued to each inspector.

(3) An inspector shall produce for inspection his certificate of authority upon the demand of any person affected by the exercise by him of any of his powers under this Act.

12. An inspector may, for any of the purposes of this Act, and at all reasonable times, enter upon- Powers of inspector

- (a) any land, building, premises or vehicle which he has reasonable cause to believe is being used in the production, storage, grading, processing or sale of tobacco in contravention of this Act, and inspect the same and any tobacco growing thereon, and any harvested tobacco or any book, record or document found therein, and he may take, in the prescribed manner, samples of any such growing tobacco, and he may seize and detain any such vehicle, or harvested tobacco or any book, record or document found therein which would afford evidence of a contravention of this Act;
- (b) any land, building, premises or vehicle of any registered grower, registered grader, licensed buyer or any licensed auction floor to inspect the same and, in the prescribed manner, to take samples of any tobacco growing thereon or of any harvested tobacco found therein if in his opinion any of the said growing or harvested tobacco is not of a prescribed variety and is being or has been grown on the said land or is being held in the said land, building, premises or vehicle in contravention of this Act and to report to the Board on his findings in that regard, and to inspect any book, record or other document found therein which would relate to any prescribed or required return furnished or to be furnished by any person by or under this Act, and to seize and detain any such book, record or other document which would afford evidence of a contravention of this Act.

13. Subject to the provisions of section *nine*, an agreement contract or other instrument may be entered into or executed on behalf of the Board by any person or persons authorised by the Board generally or specially in that behalf. Contracts and instruments of Board

PART III FUNCTIONS, DUTIES AND POWERS OF THE BOARD

FUNCTIONS, DUTIES AND POWERS OF THE BOARD

14. The functions and duties of the Board shall, subject to the provisions of this Act, be to- Functions and duties of Board

- (a) promote, protect and maintain the production, sale, preparation for subsequent use and export of tobacco grown in the Republic;
- (b) control and regulate the production, marketing and export of tobacco;
- (c) carry out tobacco research;
- (d) obtain and collate statistics relating to the production, marketing, manufacture and consumption of tobacco inside and outside the Republic;
- (e) provide and operate such services and other facilities as may be necessary or convenient for the tobacco industry;
- (f) advise the Minister on all matters relating to tobacco; and
- (g) do all things which the provisions of this Act require to be done by the Board.

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15. (1) The powers of the Board shall include every power granted by any express provision of this Act and also every express power enumerated in the Schedule, together with all implied powers necessary to the exercise of any such express power.

Powers of Board

(2) The Board may exercise any of its powers, functions or duties either absolutely or conditionally and either solely or in conjunction with other persons, and in so doing may deal differently with different persons, premises and areas of the Republic and with different classes of tobacco and with different grades and varieties of those classes of tobacco and with different classes of persons, premises and other things.

16. If at any time it appears to the Minister that the Board is in default in the performance of any duty or obligation of the Board under this Act or under any regulation or requirement made thereunder, he may, by notice in writing, require the Board to make good its default within a time fixed by the Minister in the said notice.

Power of Minister on default of Board

17. (1) The Board shall, within six months after the end of each financial year, furnish to the Minister an annual report upon its work and operations during the year, and such report shall include a balance sheet, a complete statement of revenue and expenditure duly audited, the report of the auditors and such other information as the Minister may require.

Reports of Board

(2) The Minister shall lay each such annual report before the National Assembly.

PART IV FUNDS OF THE BOARD

FUNDS OF THE BOARD

18. The funds of the Board shall consist of-

Funds of Board

- (a) such sums as may be payable to the Board from moneys appropriated by Parliament for the purpose;
- (b) such sums as may be payable to the Board pursuant to this or any other Act; and
- (c) such other moneys or assets as may accrue to or vest in the Board, whether in the course of the exercise of its powers or functions or the performance of its duties or otherwise.

19. If, at any time, the funds referred to in section *eighteen* are not sufficient to meet fully any lawful expenditure incurred by the Board in the exercise of its powers or functions or in the performance of its duties, the amount of such deficiency shall be met by advances made by the Minister out of moneys appropriated for the purpose by Parliament.

Payments to Board from moneys appropriated by Parliament

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20. The Board shall, before the commencement of each financial year, submit to the Minister a detailed statement of estimated revenue and expenditure for the following year for approval by the Minister.

Statement of revenue and expenditure of Board to be submitted

21. The Board shall keep proper books of account and other records in relation to all its respective operations, undertakings and property and, in addition, such other particular accounts and records in respect of any of its respective operations, undertakings and property as the Minister may direct.

Accounts of Board

22. (1) The Board shall, with the approval of the Minister, appoint one or more persons who publicly carry on the profession of accountants, hereinafter referred to as auditors, to examine and report to the Board and to the Minister on its accounts not less than once in each financial year.

Appointment of auditors and audit of accounts of Board

(2) In addition to the report referred to in subsection (1), the Minister may require the Board to obtain from its auditors such other reports, statements or explanations in connection with operations, undertakings and property of the Board as the Minister may consider expedient.

(3) The Board shall produce and lay before its auditors all its books and accounts with all vouchers in support thereof and all books, papers and writings in its possession or control relating thereto.

(4) The auditors of the Board shall be entitled at all reasonable times to require from all members and persons in the employ of the Board such information and explanations as may be necessary for the performance of their duties as auditors.

23. It shall be the duty of the auditors of the Board to certify not less than once in each financial year whether or not-

Duties of auditors

- (a) they have received from the Board all the information and explanations which, to the best of their knowledge and belief, were necessary for the performance of their duties as auditors; and
- (b) the accounts of the Board have been properly kept; and
- (c) the accounts of the Board present a true and fair view of its financial position according to the information and explanations given and the books and records produced to them; and
- (d) the Board has complied with the provisions of this Part with which it is its duty to comply and with their requirements.

PART V REGISTRATION OF GROWERSPART V

REGISTRATION OF GROWERS

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24. The Registrar shall cause such registers of growers to be kept as are prescribed by the Minister. Register of growers
25. The Minister may from time to time by regulation prescribe- Registration periods and duration of registration
- (a) registration periods in respect of classes of tobacco specified in such regulations within which growers or intended growers of any such specified classes of tobacco shall register under this Act;
- (b) the duration of such registrations.
26. (1) Subject to the provisions of this section, any grower or any person who *bona fide* intends to grow tobacco shall be registered as a registered grower, which registration may be in respect of the growing of any particular class or classes of tobacco and shall be for the duration prescribed pursuant to paragraph (b) of section (*twenty-five*). Growers to be registered
- (2) (a) Where the Government or any Government agency assists tobacco producers in any area in the marketing of their tobacco, the Permanent Secretary may define such area as a specific area and may nominate a person to act on behalf of all of the said assisted producers for the purposes of this Act, and such person shall be deemed to be the grower of all of the tobacco produced or to be produced by such assisted producers in the said specific area, and shall register as such under this section. For the purposes of this subsection, "Government agency" means the Board, the Bank of Zambia or any statutory body whose statutory objects include the giving of financial aid by way of grant or loan to farmers.
- (b) Whenever any person is registered as a registered grower pursuant to paragraph (a), the assisted producers therein referred to shall be exempt from registration under this Part.
- (3) Any grower who is not usually resident in Zambia and who produces or who *bona fide* intends to produce tobacco in the Republic shall nominate a resident of Zambia who shall apply for registration under this section and, upon such application being granted, such nominee shall be the registered grower of such tobacco for all of the purposes of this Act.
- (4) Where tobacco is grown on a licensed buyer's land by a tenant producer under the terms of a contract whereby the tenant producer agrees to produce tobacco on not more than ten acres of the said land and further agrees either to share the crop with the licensed buyer or to pay to the licensed buyer a stated share of the proceeds of the crop in consideration for the tenant producer's use of the land for its production, the licensed buyer shall be deemed to be the grower of such tobacco for the purposes of this Act, and shall register as such under this Part.
- (5) Where tobacco is grown by a producer who is a member of a co-operative society, the objects of which include the marketing of tobacco grown by its members, and under the terms of a contract between such producer and such co-operative society the tobacco to be produced by the said producer is to be marketed through the said co-operative society, the said co-operative society shall be deemed to be the grower for the purposes of this Act, and shall register as such under this Part.

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(6) A licensed buyer shall be deemed to be grower solely for the purposes of any resale of auctionable tobacco purchased by him on a licensed auction floor and shall be registered accordingly for the purposes only of such resale, and the provisions of subsection (8) shall not apply to his application for such registration, which application may be made orally to the Registrar.

(7) A licensed buyer who has purchased tobacco at a primary or rural level shall, for the purposes of the resale of that tobacco, be deemed to be the grower thereof and shall be registered accordingly solely for the purposes of such resale, and the provisions of subsection (8) shall not apply to his application for such registration, which application may be made orally to the Registrar.

(8) Application for registration as a registered grower shall be made to the Registrar in the form and manner prescribed.

(9) Separate applications shall be made for registration under this section in respect of each class of tobacco as prescribed under the provisions of section *fifty-nine*.

(10) Any grower who was formerly registered as a registered grower under this Part but whose registration was cancelled-

(a) under the provisions of section *thirty-four*, and is not restored; or

(b) under the provisions of section *thirty-five*, and the period, if any, of whose ineligibility for registration has not expired;

shall not be registered under this section.

27. (1) If any application for registration under the provisions of section *twenty-six* is made within the registration period prescribed pursuant to paragraph (a) of section *twenty-five*, no fee shall be payable in respect of such registration.

Registration fees

(2) If any application for registration under the provisions of section *twenty-six* is made after the termination of the registration period prescribed pursuant to paragraph (a) of section *twenty-five*, the applicant shall pay to the Board such fee for such registration as may be prescribed.

(3) The provisions of subsection (2) shall not apply where the applicant is a public officer and is nominated pursuant to subsection (2) of section *twenty-six*.

(4) The Board may waive the payment of the fee referred to in subsection (2) if the Board considers that there is a reasonable explanation for the failure of the applicant to make his application within the registration period.

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28. (1) The Registrar shall allot one and not more than one registered number to each registered grower for each class of tobacco to be grown by that registered grower in each season:

Allotment of registered numbers to growers, licensed buyers, etc.

Provided, however, that in the case of a registered grower registered as such under the provisions of subsection (4) of section *twenty-six* in respect of two or more tenant producers, the Registrar shall allot to such registered grower a registered number in respect of each such tenant producer for each class of tobacco to be grown by such tenant producer in each season.

(2) Subject to any regulation or rule in that behalf made pursuant to or under this Act, a sales supervisor may, from time to time for the purpose of resale of auctionable tobacco by any licensed buyer or by any holder of an auction floor licence, allot, in the name of the Registrar, a registered number to such licensed buyer or to such holder of an auction floor licence, as the case may be, and such licensed buyer or such holder of an auction floor licence shall be deemed to be the registered grower for the purposes of such resale.

(3) A registered number allotted pursuant to subsection (1) or (2) shall not be transferable save with the written consent of the registered grower to whom it is allotted and of the Registrar.

(4) Upon an application in that behalf by any registered grower, the Registrar may, with the approval of the Board, cancel any registered number of such registered grower and may allot to the said registered grower another registered number in lieu thereof, if in the opinion of the Board there is sufficient reason for such change of registered number to be made.

29. Any person who discloses to any other person the identity of the registered grower to whom any registered number allotted pursuant to section *twenty-eight* relates shall be guilty of an offence unless the disclosure is-

Prohibition against disclosure of identity of registered growers

- (a) made to an official of the Board; or
- (b) necessary for the proper conduct of the sale of any tobacco; or
- (c) made by the owner of a bale of tobacco upon which that number appears; or
- (d) made with the permission of the owner referred to in paragraph (c); or
- (e) made with the authority of the Minister or of the Board.

30. Any grower who-

- (a) sells any class of tobacco for which he is not registered; or
- (b) exports on consignment or otherwise any class of tobacco for which he is not registered;

Only registered growers to sell or export tobacco on consignment

shall be guilty of an offence.

31. (1) Every registered grower of auctionable tobacco shall mark his bales of auctionable tobacco in the manner prescribed by the Board.

Marking of bales of auctionable tobacco



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(2) Any registered grower who delivers for sale to a licensed auction floor any bale of auctionable tobacco which-

(a) was grown by him and is marked with a number other than his registered number; or

(b) was not grown by him and is marked with his registered number;

shall be guilty of an offence.

32. (1) Every registered grower of non-auctionable tobacco shall mark his bales of non-auctionable tobacco in the manner prescribed by the Board.

Marking of bales of nonauctionable tobacco

(2) Any registered grower who sells or delivers for sale any bale of non-auctionable tobacco which-

(a) was grown by him and is marked with a number other than his registered number; or

(b) was not grown by him and is marked with his registered number;

shall be guilty of an offence.

33. (1) Every application for registration under this Part shall contain a clause, to become effective upon registration, whereby the registered grower empowers the Board, as agent of such registered grower in that behalf, to dispose of or destroy or cause to be destroyed or to order the disposal or destruction of any surplus or unsold tobacco belonging to such registered grower and remaining in his possession or under his control at the end of any selling season.

Board agent of registered grower for disposal of surplus or unsold tobacco

(2) The Board may issue a permit in writing to any registered grower to retain until the next selling season any surplus or unsold tobacco belonging to such registered grower and remaining in his possession or under his control at the end of any selling season, and where the Board has issued such a permit, it shall not exercise the authority granted to it pursuant to subsection (1):

Provided that this subsection shall not be interpreted as limiting or restricting any power vested in any person under any written law at any time to destroy or order the destruction of tobacco which is infested with any living tobacco pest, fungus or disease of tobacco.

(3) The authority granted pursuant to subsection (1) shall not be exercised by the Board in respect of auctionable tobacco which-

(a) is grown by a registered grower; and

(b) is kept by the registered grower in his possession or under his control for the purpose of manufacture in accordance with an authority issued by the Minister in that behalf.

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34. (1) If any registered grower fails to furnish to the Board within the period prescribed any prescribed return, completed to the satisfaction of the Board, the Registrar shall cancel the registration of the said grower, and, subject to the provisions of subsection (2), the said grower shall not be registered as a registered grower under this Part in respect of any duration prescribed under paragraph (b) of section *twenty-five*, subsequent to that in respect of which he was registered at the date of the cancellation.

Failure to furnish prescribed returns by registered grower

(2) The Registrar may, at any time, restore to the register the name of any grower whose registration was cancelled pursuant to subsection (1) if such grower-

- (a) furnishes a late return completed to the satisfaction of the Board; and
- (b) pays to the Board a registration fee, not exceeding one hundred and fifty fee units, prescribed by the Minister.

(3) The provisions of paragraph (b) of subsection (2) shall not apply in the case of a person nominated by the Permanent Secretary pursuant to paragraph (a) of subsection (2) of section *twenty-six* as the grower for a specific area if such person is a public officer.

(4) The Board may waive the payment of the fee prescribed by paragraph (b) of subsection (2) if it accepts as reasonable any explanation given for the failure of the registered grower to render a return within the prescribed time.

(5) The Registrar shall notify the registered grower concerned of the cancellation or restoration, as the case may be, of his registration, and also-

- (a) in the case of a grower of auctionable tobacco, the holders of all auction floor licenses; and
- (b) in the case of a grower of non-auctionable tobacco, all licensed buyers licensed to buy that particular class of tobacco.

(As amended by Act No. 13 of 1994)

35. (1) The Registrar may order the registration of any registered grower to be cancelled if-

Cancellation of registration

- (a) the said registered grower has been convicted of an offence under this Act; or



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- (b) having considered a report from any inspector or any person thereunto authorised by the Board or under this Act that the said registered grower has-
- (i) furnished any false information to the Board in any return made under and for the purposes of this Act; or
 - (ii) failed to comply with any condition or perform any duty imposed by or under this Act;

and having afforded such registered grower an opportunity to be heard on any such report, the Registrar is satisfied that the said registered grower has furnished such false information or has failed to comply with such condition or perform such duty, as the case may be.

(2) Any registered grower whose registration has been cancelled under the provisions of subsection (1) shall be ineligible for registration as a registered grower for such period as the Registrar may fix in the order cancelling such registration.

36. (1) Any registered grower who is aggrieved by any order made pursuant to section *thirty-four* or *thirty-five* shall be entitled to appeal to the Minister. Appeal to Minister

(2) No appeal shall lie to any court from the decision of the Minister on any appeal pursuant to subsection (1).

PART VI LICENSING OF GRADERSPART VI

LICENSING OF GRADERS

37. Any person who carries on the business of a grader and is not licensed as such under this Part shall be guilty of an offence. Licensing of graders

38. (1) Application for a grader's licence shall be made to the Board in the manner prescribed by the Board. Application for grader's licence

(2) The Board may refuse any application for a grader's licence if it is of opinion that the applicant is not a proper person to hold such licence, or that the applicant is unable or unwilling to comply with any regulations as regarding premises to be used for grading or any other pertinent regulations prescribed under this or any other written law.

(3) An applicant who is aggrieved by the refusal of the Board to issue to him a grader's licence shall have a right of appeal to the Minister.

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39. (1) The Board may cancel or suspend any grader's licence issued under this Part if-

Cancellation and
suspension of grader's
licence

- (a) the licensed grader has been convicted of an offence under this Act; or
- (b) having considered a report from an inspector or a sales supervisor that the said licensed grader has-
 - (i) furnished any false information to the Board or to any registered grower in any return made under and for the purposes of this Act; or
 - (ii) failed to comply with any condition or to perform any duty imposed on him by or under this Act;

and having afforded such licensed grader an opportunity to be heard on any such report, the Board is satisfied that the said licensed grader has furnished such false information or has failed to comply with such condition or perform such duty, as the case may be.

(2) Any licensed grader whose licence has been cancelled or suspended under the provisions of subsection (1) shall not be eligible to hold a licence as a licensed grader for such period as the Board may fix at the time of the cancellation or suspension of such licence.

(3) Any person whose licence as a licensed grader has been cancelled or suspended under the provisions of subsection (1) and who carries on business as a grader of tobacco while such licence is so cancelled or so suspended shall be guilty of an offence.

40. (1) Any person who is aggrieved by the cancellation or suspension of his grader's licence by the Board may appeal to the Minister.

Appeal to Minister

(2) No appeal shall lie to any court from the decision of the Minister on any appeal pursuant to subsection (1).

PART VII LICENSING OF BUYERSPART VII

LICENSING OF BUYERS

41. Any person, other than the Board, or an employee or agent of a licensed buyer nominated pursuant to section *forty-three*, who buys tobacco and who is not licensed by the Board as a licensed buyer under this Part, shall be guilty of an offence.

Licensing of buyers

42. An application for a licence to buy tobacco shall be made to the Board in the form and manner prescribed by rules by the Board with the approval of the Minister.

Application for buyer's
licence

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43. In any application for a licence under this Part, the applicant may nominate an employee or agent, who, upon the applicant being licensed as a licensed buyer, shall be entitled to buy tobacco for and on behalf of such licensed buyer under his said licence.

Nominated agents

44. (1) Subject to the provisions of subsection (2), the Board may, with the approval of the Minister, by rule prescribe grounds upon which it may refuse to issue a buyer's licence under this Part.

Grounds of refusal to issue and conditions attaching to buyer's licence

(2) The Board shall refuse to issue a buyer's licence if it is not satisfied with the financial standing of the applicant.

(3) The Board may attach to any buyer's licence any conditions which it deems reasonable in the circumstances.

(4) (a) The Board may, with the approval of the Minister, issue to any applicant a buyer's licence granting to such applicant the right to buy any class of tobacco, specified by the Board in such licence, to the exclusion of any other licensed buyer.

(b) An exclusive licence issued under paragraph (a) may be confined by its terms to any specific area specified therein by the Board.

45. Any applicant who is aggrieved by the refusal of the Board to issue to him a buyer's licence, or by any condition attaching to such licence, shall be entitled to appeal to the Minister.

Appeal to Minister

46. A buyer's licence issued under this Part shall contain the following particulars:

Buyer's licence to specify particulars

- (a) the class or classes of tobacco which the buyer is licensed to buy;
- (b) the area or areas, as defined by the Permanent Secretary, in which the buyer is licensed to make his purchases;
- (c) any condition attaching to the said licence;
- (d) such other particulars as may be prescribed.

47. The Minister may by regulation prescribe the conditions under which tobacco may be bought by a licensed buyer at a primary or rural level and the conditions to which any resale of such tobacco shall be subject.

Minister may prescribe conditions of sale at primary level

48. (1) The Board may cancel or suspend any buyer's licence issued under this Part if-

Cancellation and suspension of buyer's licence



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- (a) the licensed buyer had been convicted of an offence under this Act; or
- (b) having considered a report from an inspector or sales supervisor that the said licensed buyer has failed to comply with any condition or perform any duty imposed on him by or under this Act and, having afforded such licensed buyer an opportunity to be heard on any such report, the Board is satisfied that the said licensed buyer has failed to comply with such condition or to perform such duty, as the case may be.

(2) Any person whose licence has been cancelled or suspended under the provisions of subsection (1) shall not be eligible to hold a licence to buy tobacco for such period as the Board may fix at the time of cancellation or suspension of such licence.

(3) Any person whose buyer's licence has been cancelled or suspended by the Board under the provisions of subsection (1), or any nominated employee or agent of such person who buys tobacco while such licence is so cancelled or so suspended, shall be guilty of an offence.

49. (1) A person who is aggrieved by the cancellation by the Board of a buyer's licence issued to him may appeal to the Minister. Appeal to Minister

(2) No appeal shall lie to any court against the decision of the Minister on any appeal pursuant to subsection (1).

PART VIII LICENSING OF AUCTION FLOORSPART VIII

LICENSING OF AUCTION FLOORS

50. (1) Any person who uses or intends to use any premises as an auction floor for the sale of tobacco by auction shall apply to the Board in the form and manner prescribed for a licence of such premises as a licensed auction floor. Licensing of auction floors

(2) The Board shall, with the approval of the Minister, by rule prescribe minimum standards of suitability and sufficiency of premises for licensing under this Part.

(3) The Board may, with the approval of the Minister, by rule prescribe the form and manner of application for a licence under this Part and may, as it deems fit, prescribe, by rule, conditions and requirements in respect thereof and in respect of the operation and maintenance of auction floors licensed under this Part.

(4) The Board may refuse any application for an auction floor licence if it is of opinion that such auction floor is unnecessary or if it is of opinion that the applicant is not a fit or proper person to hold such licence, or that he is unable or unwilling to comply with any prescribed condition or requirement in respect of the operation or maintenance of licensed auction floors.

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(5) Any premises operated and maintained by the Board as an auction floor for the sale of tobacco by auction shall be exempt from licensing under this Part, but shall be deemed to be a licensed auction floor for the purposes of this Act.

(6) The Board, with the approval of the Minister, may exempt, either generally or for a specified period of time, any premises from the provisions of this Part.

51. (1) Any person who is aggrieved by the refusal of the Board to grant his application for an auction floor licence under this Part may appeal to the Minister. Appeal to Minister

(2) No appeal shall lie to any court against the decision of the Minister on any appeal pursuant to subsection (1).

52. Any person being the owner or occupier of any premises who uses such premises or permits their use for the sale of auctionable tobacco- Prohibition against sale of auctionable tobacco on unlicensed auction floors

- (a) unless such premises are licensed as a licensed auction floor; or
- (b) while any auction floor licence issued in respect thereof is suspended; or
- (c) unless such premises are exempt from licensing as a licensed auction floor;

shall be guilty of an offence.

53. (1) The Board may cancel or suspend any auction floor licence issued under this Part if- Cancellation and suspension of auction floor licences

- (a) the holder of such licence has been convicted of an offence under this Act; or
- (b) having considered a report from an inspector or a sales supervisor that the said holder of such licence has-
 - (i) furnished any false information to the Board in any return made under and for the purposes of this Act; or
 - (ii) failed to comply with any condition or perform any duty imposed on him by or under this Act;

and having afforded such holder of such licence an opportunity to be heard on any such report, the Board is satisfied that the said holder of such licence has furnished such false information or has failed to comply with such condition or perform such duty, as the case may be.

(2) Any holder of an auction floor licence whose licence has been cancelled or suspended under the provisions of subsection (1) shall not be eligible to hold an auction floor licence for such period as the Board may fix at the time of the cancellation or suspension of such licence.

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(3) Any person whose licence has been cancelled or suspended under the provisions of subsection (1) and who carries on the business of an auction floor while such licence is so cancelled or so suspended shall be guilty of an offence.

54. (1) Any person who is aggrieved by the cancellation or suspension of his auction floor licence by the Board may appeal to the Minister. Appeal to Minister

(2) No appeal shall lie to any court from the decision of the Minister on any appeal pursuant to subsection (1).

55. Any person, including the holder of an auction floor licence, who proposes to erect premises intended for use as an auction floor, or to extend or alter premises which include a licensed auction floor, shall apply to the Board in the manner prescribed, with the approval of the Minister, by rules by the Board, for a conditional authority to erect, extend or alter the said premises as proposed. Conditional authorities for building or extending auction floors

56. The Board may issue a conditional authority referred to in section *fifty-five* to an applicant if the Board is satisfied that- Issue of conditional authorities

- (a) having regard to the amount of auctionable tobacco which can be sold on existing licensed auction floors, it is desirable to license additional premises as auction floors; and
- (b) the premises to which the application relates will, when erected, extended or altered, as the case may be, be suitable for the sale of auctionable tobacco.

57. Upon the issue of any conditional authority pursuant to section *fifty-six*, the Board may impose conditions and requirements as to the building works proposed to be done under such conditional authority and may require that any plans for such proposed building works be approved by an architect nominated by the Board. Conditions on issue of conditional authority

58. If, in the opinion of the Board, any building erected under any conditional authority issued pursuant to section *fifty-six* is in substantial conformity with the conditions and requirements imposed by the Board and with the plan, if any, approved by an architect pursuant to section *fifty-seven*, the Board shall issue an auction floor licence in respect thereof or extend the existing auction floor licence to include the said building in a licensed auction floor, as the case may be. Licensing of improvements

PART IX SALE OF TOBACCO PART IX

SALE OF TOBACCO

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59. The Minister may from time to time, by statutory instrument, prescribe-

Auctionable and
non-auctionable tobacco

- (a) any class of tobacco as tobacco which is required to be sold on a licensed auction floor, which prescribed class of tobacco shall be auctionable tobacco; and
- (b) any class of tobacco which is not required to be sold by auction, which prescribed class of tobacco shall be non-auctionable tobacco;

which said prescribed classes of tobacco shall be tobacco for the purposes of this Act.

60. (1) Save as provided by subsection (2), any person who-

Prohibition against sale of
auctionable tobacco
otherwise than by auction

- (a) sells auctionable tobacco otherwise than by auction on a licensed auction floor; or
- (b) buys auctionable tobacco otherwise than at an auction on a licensed auction floor;

shall be guilty of an offence.

(2) The provisions of subsection (1) shall not apply to-

- (a) any further sale or purchase of auctionable tobacco after it has been sold on a licensed auction floor; or
- (b) any sale of auctionable tobacco effected by the Board as agent of any registered grower pursuant to section *thirty-three*; or
- (c) any sale or purchase of auctionable tobacco as a trade sample or for use in research not exceeding two kilogrammes and three hundred grammes in weight; or
- (d) any sale of auctionable tobacco at a primary or rural level to a licensed buyer whose licence empowers him so to buy auctionable tobacco; or
- (e) any sale by the Board of auctionable tobacco purchased by the Board.

61. (1) Any person who sells or buys non-auctionable tobacco by auction shall be guilty of an offence.

Prohibition against sale of
non-auctionable tobacco
by auction

(2) The provisions of subsection (1) shall not apply to-

- (a) any sale of non-auctionable tobacco effected by the Board as agent of any registered grower pursuant to section *thirty-three*;

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- (b) any sale or purchase of non-auctionable tobacco as a trade sample or for use in research not exceeding two kilogrammes and three hundred grammes in weight;
- (c) any export of non-auctionable tobacco on consignment;
- (d) any sale of non-auctionable tobacco at a primary or rural level to a licensed buyer whose licence empowers him so to buy non-auctionable tobacco; or
- (e) any sale by the Board of non-auctionable tobacco purchased by the Board.

62. The holder of an auction floor licence shall not sell or permit the sale on his auction floor of auctionable tobacco which was grown in the Republic unless the said tobacco was grown and is delivered to him by or on behalf of a registered grower. Auctionable tobacco to be delivered to auction floor by registered grower

63. Any registered grower who delivers or causes to be delivered to a licensed auction floor auctionable tobacco in excess of the delivery quota fixed for him by the Board shall not, for such period as the Board may fix-

- (a) deliver or cause to be delivered auctionable tobacco to a licensed auction floor for sale; or
- (b) export auctionable tobacco.

64. (1) Save as provided by this section, no person may import for sale in the Republic auctionable tobacco not grown in the Republic. Import of auctionable tobacco for sale in Republic

(2) The Minister may from time to time, subject to any conditions he may deem necessary, by regulation prescribe that any specified class of auctionable tobacco not grown in the Republic may be imported for purposes of sale on licensed auction floors.

(3) The Board may issue to holders of auction floor licences permits to accept for sale, sell or permit the sale of auctionable tobacco imported into the Republic under any regulation made pursuant to subsection (2).

(4) Any person who imports auctionable tobacco not grown in the Republic in contravention of this section or of any regulation made thereunder shall be guilty of an offence.

(5) Any person who accepts for sale, sells or permits the sale of imported auctionable tobacco not grown in the Republic without a permit from the Board pursuant to subsection (3) shall be guilty of an offence.

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65. (1) Immediately before auctionable tobacco which was not grown in the Republic is auctioned on a licensed auction floor, the holder of the auction floor licence or his agent shall cause to be publicly announced on the said auction floor the name of the country within which the tobacco was grown.

Duties of auction floor licensee on sale of imported auctionable tobacco

(2) Tobacco referred to in subsection (1) which is auctioned on a licensed auction floor-

- (a) shall be auctioned in lots separate and apart from auctionable tobacco which was grown within the Republic; and
- (b) shall not be purchased for the internal market without the authority in writing of the Minister.

(3) Any person who fails to comply with, or contravenes, any provision of this section shall be guilty of an offence.

66. (1) Any registered grower who has, under a permit from the Board, held any auctionable tobacco over from any selling season, may deliver the said tobacco to an auction floor for sale in any later selling season if he is the holder of a certificate in the form prescribed, issued by an inspector appointed pursuant to section *twenty-two* of the Plant Pests and Diseases Act to the effect that-

Sale of auctionable tobacco grown in earlier season
Cap. 233

- (a) the tobacco has been fumigated in the manner prescribed; and
- (b) the tobacco or a representative sample thereof has been inspected as prescribed and no evidence of the presence of any living pest of tobacco has been found therein;

and which certificate has been issued not more than thirty days before the said tobacco is delivered to the said licensed auction floor.

(2) Immediately before any auctionable tobacco, which has been delivered to an auction floor pursuant to subsection (1), is auctioned on such auction floor, the sales supervisor on the said auction floor shall publicly announce the year of the growth of the said tobacco and that the certificate required by subsection (1) has been issued in respect thereof.

67. Any person who sells, or permits the sale of, auctionable tobacco on any licensed auction floor-

Auctionable tobacco to be sold only on sales days in the selling season, etc.

- (a) on any day which is not a fixed day in any selling season fixed by the Board; or
- (b) at any hour of any day in the selling season which is not an hour fixed by the Board; or
- (c) on any day or at any hour of any day in any selling season which is not fixed by the Board for the sale of auctionable tobacco of that class; or
- (d) at any time in any selling season during which the Board or a sales supervisor has prohibited sales on such auction floor;

shall be guilty of an offence.

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68. (1) Every buyer of auctionable tobacco on a licensed auction floor shall pay the purchase price of the tobacco to the holder of the auction floor licence on whose auction floor the tobacco is sold.

Deductions from purchase price of auctionable tobacco

(2) The holder of an auction floor licence, after deducting from the purchase price such charges and deductions as he is authorised to deduct by or under this Act or any other written law, shall pay the balance of the said purchase price to the seller or his agent thereunto authorised in writing.

69. (1) The holder of an auction floor licence-

Weighing, selling and commission charges of holders of auction floor licences

(a) may make-

- (i) such weighing charges in respect of auctionable tobacco which is accepted by him for sale on his auction floor; and
- (ii) such selling, commission and re-handling charges in respect of auctionable tobacco which is sold on his auction floor;

as the Board may, with the approval of the Minister, authorise him to make and he may deduct such charges from the purchase price;

(b) shall not make-

- (i) any weighing, selling, commission or re-handling charges greater than the appropriate charges referred to in paragraph (a); or
- (ii) any charges other than the weighing, selling, commission or re-handling charges referred to in paragraph (a).

(2) After completion of sales on his auction floor in any selling season fixed by the Board, the holder of an auction floor licence may grant to registered growers such rebates of any of the charges referred to in paragraph (a) of subsection (1) as he may think fit.

70. (1) The Board may give notice to an owner or to a registered grower representing the owner of auctionable tobacco which remains unsold on a licensed auction floor after the last day of the selling season to remove the tobacco from the said licensed auction floor within a period fixed by the Board.

Disposal of auctionable tobacco which is left unsold

(2) Any owner or any registered grower representing an owner of tobacco referred to in subsection (1) to whom notice has been given pursuant to that subsection, who fails to remove the tobacco within a period fixed by the Board in the notice, shall be guilty of an offence.



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(3) The Board or the holder of the auction floor licence may, after the expiry of the notice referred to in subsection (1), cause any such tobacco to be returned to the owner thereof, or his agent, at the said owner's expense, and the costs and charges of delivery of the said tobacco to the said owner, or his agent, shall constitute a civil debt to the Board or to the holder of the auction floor licence, as the case may be.

71. The Board shall appoint sales supervisors for the supervision of sales of tobacco on licensed auction floors. Appointment of sales supervisors

72. (1) A sales supervisor shall- Duties and powers of sales supervisors

- (a) attend all sales of auctionable tobacco held on the licensed auction floor to which he is assigned by the Board;
- (b) control and regulate all such sales of auctionable tobacco on the licensed auction floor to which he is assigned, in accordance with instructions supplied to him by the Board;
- (c) if, in his opinion, compliance is not being made with the provisions of this Act relating to the sale of auctionable tobacco, suspend or prohibit the sale for such period as he may fix, and for that purpose give such directions to the holder of the auction floor licence or his agents as the circumstances may require.

(2) The Board shall furnish-

- (a) sales supervisors with instructions in writing relating to their powers to control, regulate, suspend or prohibit sales of auctionable tobacco on licensed auction floors; and
- (b) holders of auction floor licences with copies of all such instructions referred to in paragraph (a) and of any alterations thereto made by the Board from time to time.

73. The Minister may, at the request of the Board, prescribe the manner of sale of any class of non-auctionable tobacco and the periods within which such tobacco may be sold. Power of Minister to control sales of non-auctionable tobacco

74. (1) Subject to the provisions of subsection (3), the Minister may, at any time, after consulting with the Board, by Gazette notice, fix minimum prices at which auctionable tobacco may be sold for the internal or external markets, or both. Power of Minister to fix minimum prices for auctionable tobacco

(2) In the exercise of the powers conferred upon him by subsection (1), the Minister may fix different minimum prices in respect of different markets and in respect of different classes and grades of classes of auctionable tobacco.



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(3) The minimum price for auctionable tobacco fixed by the Minister at any one time pursuant to subsection (1) shall be for the duration of one selling season only and the Minister shall not vary the same during such selling season.

(4) If the Minister does not fix a minimum price for a class or grade of auctionable tobacco pursuant to subsection (1), the minimum price of that class or grade shall be one hundred kwacha per half kilogramme weight.

75 Licensed buyers shall-

- (a) purchase auctionable tobacco only at or above the appropriate minimum price fixed for the purpose of the market in respect of which the purchase is made; and
- (b) if the Minister has, pursuant to subsection (1) of section *seventy-four*, fixed a minimum price for the internal market or any external market, declare at the time of the purchase the market for the purposes of which the said tobacco is purchased.

Duties of licensed buyers
on purchase of
auctionable tobacco

76. (1) Save as provided by subsection (2), if any person buys auctionable tobacco for the purposes of any external market at a price less than the internal market minimum price fixed for such tobacco pursuant to subsection (1) of section *seventy-four*, he shall not resell the said tobacco in the Republic for the purposes of the internal market.

Prohibition against resale
of auctionable tobacco
bought at less than
internal market minimum
price

(2) If the Minister is satisfied that auctionable tobacco, bought in the Republic at a price less than the appropriate internal market minimum price fixed therefor, pursuant to subsection (1) of section *seventy-four*, will be-

- (a) manufactured in the Republic by cutting at four cuts or more to three centimetres; and
- (b) exported from and sold outside the Republic;

the Minister may, on the recommendation of the Board, issue a permit authorising, subject to such conditions as he may prescribe, the resale of the said tobacco at less than the said appropriate internal market minimum price.

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

77. Any person who, without the authority in writing of the Minister-

- (a) manufactures auctionable tobacco whether for sale as manufactured tobacco or otherwise; or
- (b) keeps auctionable tobacco in his possession or under his control for the purposes of manufacture and sale whether as manufactured tobacco or otherwise;

Prohibition against
manufacture or keeping of
auctionable tobacco not
sold on licensed auction
floors

unless the said tobacco was initially purchased on a licensed auction floor, shall be guilty of an offence.



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PART X MARKETING QUOTAS AND POOLS

MARKETING: QUOTAS AND POOLS

78. If, in the opinion of the Minister, the quantity of tobacco of a particular class or grade which is being produced or is likely to be produced in the Republic for sale will exceed the requirements of the internal and external markets, the Minister may, after consulting with the Board-

Control of marketing of tobacco of specified class or grade

- (a) prescribe the total weight of that class or grade of tobacco which may be sold in the Republic or exported on consignment by registered growers during a specified period, and may make such provision as he may deem necessary or convenient to ensure that the total weight of such tobacco which is sold in the Republic or exported on consignment by registered growers during the specified period does not exceed the amount prescribed;
- (b) for the purposes of paragraph (a), prescribe the manner in which the Board shall determine the weight of such tobacco which any registered grower of that class or grade of tobacco may offer for sale in the Republic or for export on consignment in the specified period, and the weight so determined shall be the marketing quota of such registered grower for the purposes of this Part.

79. Any certificate issued by the secretary to the Board setting forth the amount of any marketing quota of any registered grower shall upon its production in any court be *prima facie* evidence of the amount of such marketing quota.

Evidence of amount of marketing quotas

80. (1) If, at any time, the Board deems it expedient it may, with the approval of the Minister, establish centres within the Republic where surplus tobacco shall be sent by registered growers when so instructed by the Board, and shall be there accumulated for disposal by the Board.

Establishment of pools

(2) For the purposes of this Part, such centres shall be known as pools.

(3) The Minister may from time to time prescribe for the operation, maintenance and administration of pools established pursuant to subsection (1), and for the manner of sale or other disposal of any tobacco accumulated in any such pool.

81. (1) Notwithstanding the establishment and operation of any pool pursuant to section *eighty*, the Board may at any time accept surplus tobacco from registered growers, otherwise than through the medium of such pool, for sale in such manner and on such terms as the Board may deem expedient.

Power of Board to dispose of surplus tobacco otherwise than through pools

(2) Any surplus tobacco accepted by the Board pursuant to subsection (1) shall, in the first instance, be offered by the Board for sale to licensed buyers.

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82. Any grower who sells or exports on consignment surplus tobacco of which he is the grower otherwise than-

- (a) through a pool established pursuant to section *eighty*; or
- (b) in pursuance of any arrangement made by the Board for the disposal of surplus tobacco pursuant to section *eighty-one*;

shall be guilty of an offence.

Prohibition against sale or export of surplus tobacco by grower except through Board

PART XI PRESCRIBED VARIETIES OF TOBACCO PART XI

PRESCRIBED VARIETIES OF TOBACCO

83. (1) The Minister may from time to time, after consultation with the Board, by regulation prescribe any specific variety of tobacco within any prescribed class of tobacco to be tobacco to which this Part shall apply, and may from time to time, after consultation with the Board, by regulation revoke any such regulation.

Power of Minister to prescribe varieties of tobacco

(2) In this Part, "prescribed variety" means any variety of tobacco which is, by virtue of a regulation made by the Minister under this section, for the time being, a prescribed variety for the purposes of this Act.

(3) The Minister may, after consultation with the Board, authorise, subject to such conditions as he deems fit to impose, the growing or the delivery or acceptance for sale, or the sale of tobacco of a variety which is not a variety prescribed pursuant to subsection (1).

84. (1) Any person who grows or sells tobacco not of a prescribed variety shall be guilty of an offence.

Prohibition against growing or selling tobacco not of prescribed variety

(2) Any person who grows or sells a varietal sport of any prescribed variety of tobacco, unless such varietal sport has itself been prescribed as a prescribed variety by the Minister pursuant to subsection (1) of section *eighty-three*, or authorised pursuant to subsection (3) of section *eighty-three*, shall be guilty of an offence. In this subsection, "varietal sport" means any plant which varies singularly and spontaneously from the normal type of plant of the variety in which it appears.

(3) Upon the conviction of any person of an offence under this section, the court may, at the request of the prosecution and in addition to any other penalty imposed, declare any such tobacco not of a prescribed variety, or any such varietal sport, found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.



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PART XII EXPORT OF TOBACCO

EXPORT OF TOBACCO

85. (1) Save as provided by subsections (3) and (4), any grower who exports tobacco from the Republic save in accordance with a permit issued by the Minister shall be guilty of an offence. Prohibition against export of tobacco by grower

(2) Any permit to any grower to export tobacco shall be subject to such conditions as the Minister may deem fit to impose.

(3) The Minister may, at any time, after consultation with the Board, and subject to such conditions as he may deem fit to impose, prescribe for the exemption of any grower or class of growers or any class of tobacco from the provisions of subsection (1).

(4) Nothing contained in this section shall apply to or operate to prevent the *bona fide* export of a sample of tobacco by any grower when such sample does not exceed two kilogrammes and three hundred grammes in weight.

86. Subject to the provisions of sections *eighty-five*, *eighty-eight* and *eight-nine*, any person other than a grower or a licensed buyer who exports tobacco from the Republic save in accordance with a permit so to do issued pursuant to section *eight-seven* shall be guilty of an offence. Prohibition against export of tobacco

87. (1) The Minister may, subject to such conditions as he deems fit to impose, permit any person to export tobacco from the Republic. Power of Minister to permit export

(2) Any permit issued by the Minister pursuant to subsection (1) shall be in writing.

88. (1) The Minister may, after consultation with the Board, by statutory instrument exempt any person or class of persons or any class of tobacco from the provisions of this Part. Power of Minister to grant exemption from this Part

(2) Any exemption granted pursuant to subsection (1) may be subject to such conditions as the Minister may deem fit to impose.

89. Nothing contained in this Part shall apply to, or operate to prevent, the *bona fide* export of a sample of tobacco by any person, when such sample does not exceed two kilogrammes and three hundred grammes in weight. Export of sample

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PART XIII MISCELLANEOUS AND OFFENCESPART XIII

MISCELLANEOUS AND OFFENCES

90. Any licence issued by the Board pursuant to this Act shall not be valid after the 31st December in the year in respect of which the licence is issued. Period of validity of licences issued by Board

91. Any certificate, licence, permit or authority issued under this Act shall be produced by the holder thereof for inspection by any inspector, or other person thereunto duly authorised in writing by the Board. Official documents to be produced to inspector

92. Any person who contravenes or fails to comply with any of the provisions of this Act, or with any regulation, rule, requirement or condition lawfully prescribed, made or imposed thereunder, shall be guilty of an offence. Failure to comply with Act, regulations or rules an offence

93. If any person-

- (a) being a person employed for the purposes of this Act, publishes or communicates without lawful authority to any other person any information acquired by him in the course of his employment; or
- (b) being in possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person;

Secrecy

he shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding fifteen thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(As amended by Act No. 13 of 1994)

94. Any person who, without lawful authority, alters, defaces or removes-

- (a) any register, index or other such official record maintained in pursuance of this Act or of any order, requirement, regulation or rule made thereunder; or
- (b) any entry appearing in any such register, index or other such official record;

Prohibition against altering, defacing or removing official records

shall be guilty of an offence.

95. Any person who, without lawful authority, alters or defaces any certificate, licence, return, record or other document prescribed, issued, furnished or kept pursuant to this Act or to any order, requirement, rule or regulation made thereunder shall be guilty of an offence. Prohibition against altering or defacing prescribed records

96. (1) Any person who-

Prohibition against obstruction, etc., of inspectors or sales supervisors

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- (a) obstructs or impedes an inspector or a sales supervisor or a duly appointed person, in the exercise of any of the powers conferred upon him by or under this Act; or
- (b) refuses to furnish to an inspector or a sales supervisor or a duly appointed person, on request, any particulars or information to which the said inspector, sales supervisor or duly appointed person is entitled by or under this Act; or
- (c) wilfully or recklessly gives to an inspector or a sales supervisor or a duly appointed person, any false or misleading particular or information with respect to any fact or particular to which the said inspector, sales supervisor or duly appointed person is entitled by or under this Act;

shall be guilty of an offence.

(2) For the purposes of this section, "duly appointed person" means any person to whom duties in connection with the administration of this Act are delegated by the Minister or the Board pursuant to this Act or to any regulation or rule made thereunder.

97. Any person who, being a person required by or under this Act to furnish any return or information to the Minister or to the Board-

Prohibition against failure to furnish returns, etc.

- (a) fails to furnish such return or information as required; or
- (b) fails to furnish such return or information within the time prescribed therefor; or
- (c) with intent to mislead, furnishes a return or information which is false in any material particular;

shall be guilty of an offence.

PART XIV PROCEEDINGS AND PENALTY PART XIV

PROCEEDINGS AND PENALTY

98. For the purposes of any proceedings for an offence against this Act, the offence may be treated as having been committed either at the place where it was actually committed or at the place where the person charged with the offence is, for the time being, resident, and the appropriate court shall have the power to hear and determine proceedings for any such offence accordingly.

Venue of proceedings for offences

99. Save where otherwise expressly provided by this Act, any person who is convicted of an offence under this Act shall, in the case of a first such offence, be liable to a fine not exceeding four thousand penalty units or to imprisonment for a term not exceeding six months, or to both, and, in the case of a second or any subsequent offence, to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

Penalty

(As amended by Act No. 13 of 1994)

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PART XV REGULATIONS PART XV

REGULATIONS

100. The Minister may, by statutory instrument, make regulations for the better carrying out of this Act and, without prejudice to the generality of the foregoing, such regulations may make provisions for- Regulations

- (a) returns to be furnished to the Minister by registered growers, licensed buyers, licensed graders, holders of auction floor licences, and persons who handle, prepare or process tobacco for the purposes of sale or for export after its sale;
- (b) forms of registers to be kept by the Board;
- (c) forms of records of licenses, permits and authorities issued under and for the purposes of this Act;
- (d) anything that is to be prescribed by or under this Act, which is not expressed to be prescribed by rule by the Board;
- (e) periods of validity of licences, authorities and permits issued under and for the purposes of this Act;
- (f) fees payable upon application for licences, authorities and permits;
- (g) the hearing and determination of appeals to the Minister, and the fees payable upon any such appeal;
- (h) standards of suitability and fitness of buildings used by licensed graders for the purposes of grading tobacco;
- (i) methods of grading to be used by licensed graders in grading tobacco;
- (j) declaring certain organic or inorganic substances to be noxious and unfit for use in the treatment of tobacco;
- (k) prohibiting the sale or other disposal of tobacco which has been treated with any prescribed noxious substance, or which has been reaped from tobacco plants treated with any prescribed noxious substance;
- (l) requiring licensed buyers or persons who process or prepare tobacco for sale or export to disclose such information as the Minister may require with regard to the ownership, sale or export of any tobacco in the hands of such licensed buyers or other persons.

PART XVI TRANSITIONAL PROVISIONS PART XVI

TRANSITIONAL PROVISIONS

101. Any licence, certificate, authority or permit issued or any registration registered or any application for registration made or any marketing quota determined under the provisions of the Tobacco Marketing and Levy Act, Chapter A.L. 13 of the 1965 Edition of the Applied Laws, which immediately before the commencement of this Act was of, or was capable of, acquiring force or effect, shall, subject to the provisions of this Act, continue to have or to acquire force or effect, as the case may be, and shall on and after such commencement be deemed to have been issued, registered, made or determined under this Act. Savings

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102. Upon the commencement of this Act, the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall be dissolved and shall cease to exist for all purposes except for the purposes of performing any act or executing any document necessary to implement any of the provisions of this Part, and for such purposes the Minister may, by order, nominate any person to perform any such act or to execute any such document on behalf of and in the name of the said dissolved Tobacco Industry Board and such act or document so performed or so executed by such person shall be deemed to be the act or document of the said dissolved Tobacco Industry Board.

Dissolution of Tobacco Industry Board

103. From the commencement of this Act and until such time as the Minister, pursuant to section *four*, appoints members of the Board established by section *three*, those persons who immediately before the commencement of this Act were members of the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall be deemed to be and shall constitute the membership of the Board established under this Act and shall, during the said period, exercise all of the powers and functions of such members as if they had been appointed to the Board pursuant to section *four*.

Composition of Board pending appointment of members

104. Upon the commencement of this Act, all property real or personal and all rights over property, and liabilities arising out of the ownership, possession or occupation of property of any kind and all liabilities in tort, which were subsisting immediately prior to such commencement and were vested in, held, enjoyed or incurred by the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall by virtue of this section be transferred to and vested in the Board established pursuant to section *three*.

Vesting of property in Board

105. Upon the commencement of this Act, the benefit of all deeds, contracts, bonds, securities, or things in action, which were subsisting immediately prior to such commencement and were vested in the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall by virtue of this section be transferred to and vested in and shall inure to the benefit of the Board in the same manner as if the Board had been contracted with instead of the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act, and as if the Board had been party to all such deeds, contracts, bonds, or securities instead of the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act.

Transfer of contractual rights to Board

106. Upon the commencement of this Act, all subsisting or future liabilities or obligations arising out of any deed, contract, bond, security or thing in action imposed upon, suffered or incurred by the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall by virtue of this section be transferred to, imposed upon, suffered and incurred by the Board in the same manner as if the Board had been party to each such deed, contract, bond, or other security instead of the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act and in the same manner as if the Board at all times had been the party bound or obliged by or under each such thing in action instead of the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act.

Transfer of contractual and other liabilities to Board



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107. In the case of property transferred to and vested in the Board under the provisions of this Part, in respect of the transfer of which any written law provides for registration, it shall be the duty of the Board, within six months from the commencement of this Act, to make written application to the proper officer of the appropriate registration authority for the registration of each such transfer and it shall be the duty of that officer to make such entries in the appropriate register as shall give effect to such transfer and, where appropriate, to issue to the Board a Certificate of Title in respect of the said property or to make the necessary amendments to the register, as the case may be, and, if presented therefor, to make endorsements on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp or other duties shall be payable in respect thereof.

Registration upon transfer
of registered lands or
interests

108. Where, upon the commencement of this Act, any legal proceeding is pending to which the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, is a party, the Board established pursuant to section *three* of this Act shall be substituted in such proceeding for the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act, and such proceeding shall not abate by reason of such substitution.

Proceedings not to abate



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SCHEDULE

(Section 15)

POWERS OF THE TOBACCO BOARD OF ZAMBIA

1. To acquire any property necessary or convenient for the exercise of its functions and the performance of its duties and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire real and personal property and any interest therein and any rights and privileges over the same and any concessions, grants, rights, powers and privileges in respect thereof, and in particular any lands, buildings, easements, machinery, plant and stock in trade.

2. To maintain, alter or improve property acquired by it.

3. To mortgage any assets or part of any assets and, with the approval of the Minister, to sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions or the performance of its duties for such consideration as it may determine.

Provided that any such last mentioned assets which exceed two thousand kwacha in value shall not be so dealt with without the approval of the Minister.

(As amended by Act No. 46 of 1970)

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4. To own, maintain and operate tobacco auction floors and tobacco packing plants, and, in its discretion, to grant licences or concessions to third persons to use the said tobacco auction floors or tobacco packing plants in and about the sale or packing of tobacco; and to subsidise the operating or capital costs of persons to whom the Board has granted licences or concessions under this power, and to own, maintain and operate any other service or services in connection with tobacco if it should be, in the opinion of the Minister, in the best interests of the tobacco industry of the Republic for the Board so to do.

5. To produce tobacco or tobacco seed whenever and as often as the Board is of the opinion that it is in the best interests of the tobacco industry of the Republic so to do.

6. To draw, make, accept, endorse, discount, execute and issue for the purpose of its functions or duties promissory notes, bills of exchange, bills of lading, securities and other negotiable and transferable instruments.

7. To insure against losses, damages, risks and liabilities which it may incur.

8. With the approval of the Minister, to make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions or the performance of its duties and to modify or rescind such contracts or to modify or rescind such suretyships or guarantees.

9. (a) To raise moneys temporarily or otherwise by such means and for such purposes as the Minister may approve.

(b) To invest any of its moneys not immediately required by it in such manner as it, with the approval of the Minister in consultation with the Minister responsible for finance, may determine and to vary or realise investments so made.

10. With the approval of the Minister, to enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the exercise of its functions or the performance of its duties or any of them and to obtain from such government or authority rights, privileges and concessions which it thinks desirable to obtain; and to carry out, exercise and comply with such arrangements, rights, privileges and concessions.

11. To delegate to sales supervisors such powers and duties as the Board may deem fit.

12. To appoint such professional, technical and other officers, secretaries, accountants, clerks and such servants as may be necessary for the exercise of its functions and the performance of its duties.

13. To pay such remuneration and allowances and grant such leaves of absence and, with the approval of the Minister, to make such gifts, bonuses and other lump sum payments or gratuities to persons in its employ as it may deem fit.

14. To provide pecuniary benefits for persons in its employ on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury, and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for persons in its employ and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.

15. Generally to do all such things as are incidental or conducive to the exercise of the functions and powers or the performance of the duties vested in or conferred or imposed upon it by this Act.

16. To buy tobacco if, in the opinion of the Minister, such course would serve the best interests of the industry and to sell or otherwise dispose of any such tobacco bought by the Board under this power.

17. To do all things which are necessary in the opinion of the Board to promote, protect and maintain the sale of tobacco grown in the Republic, having regard to buyers and trade interests and the stability of the market.

18. To prescribe, with the approval of the Minister, by rules, the returns and forms of returns to be furnished to the Board by registered growers and persons who handle, prepare or process tobacco for sale or for export after its sale.

19. To prescribe, by rules, the fees, approved by the Minister, which shall be paid to the Board in connection with applications for registration or for the issue of authorities, licences and permits.

20. To fix a date in each selling season fixed by the Board on which the Board deems it expedient to begin controlling and to control the rate of delivery of auctionable tobacco for sale on auction floors licensed by the Board, and to fix delivery quota periods from and after that date, and further to determine delivery quotas applicable to each such delivery quota period.

21. To fix a date in each selling season fixed by the Board on which the Board deems it expedient to stop controlling the rate of delivery of auctionable tobacco for sale on auction floors licensed by the Board.

22. To give directions to and prescribe, with the approval of the Minister, by rules, the duties of licensed graders in connection with-

(a) the methods of handling and storing tobacco from the time tobacco is received for grading to the time tobacco is despatched after grading; and

(b) the grading of tobacco; and

(c) the processes to be employed in conditioning or treating tobacco; and

(d) the supervision to be exercised over the handling, grading, storing or despatch of tobacco; and

(e) the manner in which tobacco is to be despatched after it has been graded.

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44. To lease or sub-lease land, or to grant rights of occupancy of lands held by the Board to persons for the purpose of the production of tobacco or other ancillary crops, and to impose conditions of use and occupancy upon any such leases or occupiers.

(As amended by Act No. 46 of 1970)

45. To lend money to any officer or employee of the Board for the purchase of a motor vehicle, a refrigerator or house furniture, or for the purchase of a residential property, or for the construction of a dwelling house on a residential property, or for the improvement of a residential property, or for the discharge of existing liabilities on a residential property.

(As amended by Act No. 46 of 1970)

46. Subject to the directions and with the written authority of the Minister, to act as agent of the Government of Zambia in any matter, or for any purpose, directly or indirectly affecting the tobacco industry.

(As amended by Act No. 46 of 1970)

47. With the approval of the Minister, to establish and operate institutions for the training of persons in the production and marketing of tobacco and in the running of tobacco farms, auction floors or other activity ancillary to the production and marketing of tobacco.

(As amended by Act No. 46 of 1970)

48. To train persons, and to establish and run training courses in the production and marketing of tobacco and in any other activity the Board deems necessary to, and beneficial to, the tobacco industry generally.

(As amended by Act No. 46 of 1970)

49. To appoint and remunerate managing agents, visiting agents and technical and other consultants which the Board deems necessary for the better exercise of the functions and powers conferred upon it by or under this Act.

(As amended by Act No. 46 of 1970)



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SUBSIDIARY LEGISLATION

CHAPTER 237

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

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PRELIMINARY

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LICENSING OF BUYERS

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SALE OF TOBACCO BY AUCTION

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SCHEDULE-Prescribed forms

SECTION 15 AND PARAGRAPHS 18, 19, 22-24, 29, 31, 33-37
AND 40-42 OF THE SCHEDULE-
THE TOBACCO (MARKETING AND LICENSING) RULES

Statutory Instruments
142 of 1968
353 of 1969
70 of 1992 Act No. 13 of
1994

*Rules by the Tobacco Board of Zambia,
with the approval of the Minister*

PART I PRELIMINARY PART I

PRELIMINARY

1. These Rules may be cited as the Tobacco (Marketing and Licensing) Rules.

Title

2. In these Rules, unless the context otherwise requires-

Interpretation

"arbitrator" means a classifier, sales supervisor or a buyer nominated by a sales supervisor and acceptable to the aggrieved buyer;

"auction floor" means premises licensed by the Board for the sale of tobacco by auction, and includes such part of the premises as may be allotted for storage of tobacco;

"auctionable tobacco" means tobacco of a class prescribed as such by the Minister pursuant to section *fifty-nine* of the Act;

"bale" means a bale of tobacco;

"bale ticket" means the coupon attached to a bale by the holder of an auction floor licence for the purpose of recording thereon the details of sale;

"buyer" shall have the meaning ascribed to it in section *two* of the Act;

"catalogue" means the number of bales to be determined from time to time by the Board, contained in a written record compiled by a holder of an auction floor licence, by floor lot numbers for the purpose of conducting a sale of tobacco by mechanical auction as provided by rule 67;

"classifier" means an official of the Board authorised by the Board to classify tobacco;

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"completion" means, in relation to the sale of a bale by auction, the removal of a copy of the bale ticket from the bale for recording purposes by a person authorised for this purpose by the holder of an auction floor licence, and cognate expressions shall be construed accordingly;

"crossing" means cancelling the sale of a bale sold by auction by drawing a cross on the bale ticket pursuant to rule 49, and cognate expressions shall be construed accordingly;

"delivery quota" means the quantity of auctionable tobacco determined by the Board pursuant to paragraph 20 of the Schedule to the Act which may be delivered by or on behalf of a registered grower for sale on any licensed auction floor in each delivery quota period;

"delivery quota period" means any period fixed by the Board pursuant to paragraph 20 of the Schedule to the Act during which delivery quotas may be delivered by or on behalf of registered growers to licensed auction floors;

"employee" means an employee of a licensed buyer;

"floor lot number" means the number allocated to a bale by a holder of an auction floor licence for the purpose of identification during a sale by mechanical auction;

"form" means the appropriate form prescribed in the Schedule;

"funked tobacco" means tobacco which, while appearing to be sound, has in the opinion of an arbitrator an aroma indicating that the tobacco has been or is about to become mouldy;

"grower" means a person registered as a grower or any person deemed to be a grower pursuant to section *twenty-six* of the Act;

"house account" means the house account of the holder of an auction floor licence;

"licensed auction floor" means any auction floor licensed by the Board pursuant to Part VIII of the Act;

"licensed buyer" means any person licensed by the Board to buy tobacco pursuant to Part VII of the Act;

"licensed grader" means any person licensed by the Board to grade tobacco pursuant to Part VI of the Act;

"loose leaf" means sound leaf tobacco which is packed without being tied into hands;

"lot number" means the identification number of a seller's bale;

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"mechanical auction" means the sale by auction of tobacco by the employment of machinery whereby the buyer records his bid by mechanical means;

"nesting" means the packing of tobacco into bales in such a manner as to deceive a buyer about the nature or quality of the contents as a whole, and cognate expressions shall be construed accordingly;

"non-auctionable tobacco" means any class of tobacco prescribed as such by the Minister pursuant to section *fifty-nine* of the Act;

"no-sale bale" means a bale for which no bid has been made at a sale by auction;

"primary or rural level" means the sale of tobacco by an individual producer or group of producers to a licensed buyer where it is intended that the said tobacco shall later be offered for sale to the trade by the buyer, whether as auctionable or non-auctionable tobacco, as the case may be;

"registered number" means a number allotted by the Registrar of a sales supervisor, as the case may be, pursuant to the provisions of section *twenty-eight* of the Act, and shall include a number allotted for the purpose of resale of auctionable tobacco;

"sales floor" means that portion of an auction floor allotted for the sale of tobacco by auction and excludes any area or areas allotted for storage of tobacco;

"sales supervisor" means a person appointed by the Board, under the provisions of section *seventy-one* of the Act, to supervise the sale of tobacco by auction on a licensed auction floor;

"seller" means a person or his agent who sells or offers for sale tobacco;

"selling season" means the period in any year fixed by the Board when tobacco may be sold;

"split bale" means a bale containing two but not more than two grades of tobacco;

"starter" means a person authorised by the holder of an auction floor licence to place an approximate value on tobacco offered for sale by auction;

"ticket marker" means a person authorised by the holder of an auction floor licence to record on a bale ticket the details of sale of a bale of tobacco sold by auction;

"tobacco" means unmanufactured tobacco of a class prescribed by the Minister pursuant to section *fifty-nine* of the Act.

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PART II RETURNS BY REGISTERED GROWERSPART II

RETURNS BY REGISTERED GROWERS

3. (1) Every grower, other than a person deemed to be a grower solely by virtue of the provisions of subsection (6) or (7) of section *twenty-six* of the Act, shall- Crop forecast returns

- (a) before the 31st March in any selling season furnish to the Board a preliminary return in writing in Form 1 stating- Form 1
- (i) the total number of acres of tobacco planted by him;
 - (ii) the quantity of tobacco which he estimates will be sold by him or on his behalf in that selling season;
- (b) on or after the 15th May and before the 1st June in each selling season, furnish to the Board a further return in writing in Form 2 stating- Form 2
- (i) the total number of acres of tobacco planted by him;
 - (ii) the quantity of tobacco which he expects will be sold by him or on his behalf in that selling season.

(2) If at any time before the end of a selling season a grower finds that the quantity of tobacco which he then estimates will be sold by him or on his behalf in that selling season will exceed or fall short of the estimated quantity contained in a return made by him in terms of sub-rule (1), he shall immediately inform the Board in writing of his revised estimate.

(3) The requirements of paragraph (a) of sub-rule (1) as regards the estimate of the quantity of tobacco which will be sold by or on behalf of any grower during any selling season shall be deemed to be substantially complied with, unless the last estimate thereof furnished by the said grower-

- (a) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than fifteen per centum of such estimate; or
- (b) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty-five per centum of such estimate.

(4) The requirements of paragraph (b) of sub-rule (1) as regards the estimate of the quantity of tobacco which will be sold by or on behalf of any grower during any selling season shall be deemed to be substantially complied with, unless the last estimate thereof furnished by the said grower-

- (a) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than ten per centum of such estimate; or

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- (b) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty per centum of such estimate.

(5) The requirements of sub-rule (2) as regards the estimate of the quantity of tobacco which will be sold by or on behalf of any grower during any selling season shall be deemed to be substantially complied with, unless the last estimate thereof furnished by the said grower-

- (a) if furnished before the 15th May-
- (i) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than fifteen per centum of such estimate; or
 - (ii) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty-five per centum of such estimate;
- (b) if furnished on or after the 15th May-
- (i) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than ten per centum of such estimate; or
 - (ii) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty per centum of such estimate.

PART III LICENSING OF GRADERSPART III

LICENSING OF GRADERS

4. (1) Application for the issue of a grader's licence shall be made to the Board in Form 3 and shall- Form and manner of application.

- (a) state the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, or, in the case of a partnership, the name of every partner; Form 3
- (b) state the name of the person who will supervise the grading;
- (c) in the case of an applicant who has not previously been licensed as a grader, be accompanied by-
- (i) a plan showing the site;
 - (ii) a plan and elevations;
 - (iii) a plan and description of the humidification system of the buildings in which it is proposed to carry on the grading or to store tobacco;

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- (d) in the case of an applicant who has previously been licensed as a grader, be accompanied by-
- (i) where the structure of the building or buildings in which it is proposed to carry on the grading or to store tobacco has not been altered since the last licence was issued to such applicant authorising him to grade or store tobacco in such building or buildings, a statement that the structure thereof has not been altered; or
 - (ii) where the structure of the building or buildings in which it is proposed to carry on the grading or to store tobacco has been altered since the last licence was issued to such applicant authorising him to grade or store tobacco in such building or buildings, a plan showing the nature of such alterations;
- (e) be accompanied by a fee of two hundred fee units payable to the Board, which fee however shall be returned to the applicant in the event of his application being unsuccessful.

(2) Every person who makes application for a grader's licence shall, if the Board so requires, submit evidence-

- (a) as to his financial standing;
- (b) as to the efficient management, supervision and organisation of the proposed business of grading.

(As amended by S.I. No. 70 of 1992 and Act No. 13 of 1994)

5. No person shall carry on the business of a grader in premises unless-

Minimum standards of premises

- (a) they are of such design and construction as may be approved by an architect appointed for this purpose by the Board;
- (b) they are provided with storage space sufficient to permit the stacking of tobacco received for grading or awaiting despatch for sale without exceeding a height of eight feet above the level on which the bottom bale rests;
- (c) the floor surface of the grading shed, storage sheds and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, are composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco.

6. (1) Immediately following receipt of tobacco consigned to him by a grower, a grader shall send to such grower a receipt in Form 4.

Receipting of tobacco Form 4

(2) If for any reason a grader is unable to weigh bales of tobacco received by him immediately after delivery to his premises, he shall complete that part of the receipt in Form 4 as indicates the number of bales received and within three working days thereof issue a further receipt giving the weights.

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7. (1) Within seven days of receiving tobacco consigned to him by a grower, a grader shall examine not less than ten per centum of the bales in that consignment and send to the grower a report on the condition thereof. Reports on condition

(2) In the event that a grader fails to send to a grower the report referred to in sub-rule (1), the Board will assume that the tobacco in question was received by him in good condition.

8. Within ten days of completion of grading tobacco consigned to him by a grower for grading at any one time, a grader shall furnish the grower with a return in accordance with Form 5. Grading returns Form 5

(No. 353 of 1969)

9. Copies of all receipts, reports and returns issued by a grader in terms of this Part shall at the same time be furnished to the Board. Copies of returns to Board

(As amended by No. 353 of 1969)

10. In addition to any other duty imposed on him by or under these Rules or any other law, a grader shall- Duties of licensed graders

- (a) effect at his own expense adequate insurance to cover any loss which might otherwise be sustained by a grower while such grower's tobacco is stored in the grader's premises or is being carried in transport by direction of such grader;
- (b) use all reasonable care in handling, storing grading and packing tobacco so as to prevent damage or loss due to breakage, contamination or other causes.

PART IV LICENSING OF BUYERSPART IV

LICENSING OF BUYERS

11. (1) An application for the issue of a licence to buy tobacco shall be made to the Board in Form 6 and shall state- Form and manner of application for licence.

- (a) the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, and, in the case of a partnership, the name of every partner; Form 6
- (b) the names of all persons authorised to buy tobacco on behalf of the applicant;
- (c) the class or classes of tobacco which the applicant intends to buy;
- (d) the manner in which the applicant proposes to buy tobacco;

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- (e) whether or not the applicant is a buyer solely by virtue of the ownership of land in respect of which he has agreed to permit a third person to produce tobacco on not more than ten acres of the said land in consideration of a share in the said tobacco when produced, or of a share of the proceeds of its sale, and if so the situation of such land;
- (f) whether or not the application is for the issue of an exclusive licence pursuant to subsection (4) of section *forty-four* of the Act, and if so the area in which the applicant wishes to buy tobacco.

(2) Where an applicant has not previously been licensed as a buyer and indicates, pursuant to paragraph (c) of sub-rule (1), that he intends to buy tobacco by auction, he shall attach to his application statements in writing from the holders of all auction floor licences indicating their willingness to do business with the applicant if he is licensed as a buyer.

(3) An application for a buyer's licence made pursuant to this rule shall be accompanied by a fee of five hundred United States Dollars payable to the Board, which fee shall however be returned by the Board to the applicant in the event of the application being unsuccessful.

(As amended by S.I. No. 70 of 1992)

12. The Board may refuse an application for the grant of a buyer's licence on any or all of the following grounds: Grounds for refusal

- (a) that it is not satisfied with the financial standing of the applicant;
- (b) that in its opinion-
 - (i) the grant of the licence would not be in the best interests of the industry or would detract from the orderly marketing or export of tobacco;
 - (ii) the applicant is not a fit and proper person to hold such licence;
- (c) that the Board has in respect of any particular class of tobacco granted an exclusive licence, or intends, with the approval of the Minister, to issue such exclusive licence to another applicant pursuant to subsection (4) of section *forty-four* of the Act.

13. Every buyer to whom a licence has been issued under this Part shall before the fifteenth day of every month submit to the Board a return in Form 7 of all tobacco purchased by him in the previous month. Returns by buyers
Form 7

PART V LICENSING OF AUCTION FLOORS PART V

LICENSING OF AUCTION FLOORS



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- 14.** An application for the issue of an auction floor licence shall be made in Form 8 and shall-
- (a) state the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, and, in the case of a partnership, the name of every partner;
 - (b) be accompanied by-
 - (i) in the case of an application relating to premises not previously licensed as an auction floor where the applicant has not obtained a conditional authority for the premises pursuant to rule 15, a plan showing the site of the premises in relation to road and rail facilities, and a plan and elevations of the premises;
 - (ii) in the case of an application relating to premises previously licensed as an auction floor, a statement giving details of any alteration in the use of the premises as an auction floor since the issue of the last licence for such auction floor;
 - (iii) a fee of eight hundred fee units payable to the Board, which fee however shall be returned by the Board to the applicant if the application is unsuccessful.

(As amended by S.I. No. 70 of 1992 and Act No. 13 of 1994)

- 15.** (1) An application for a conditional authority to erect, alter or extend premises including a licensed auction floor for use as an auction floor, shall be made to the Board in Form 9 and shall-

Form and manner of application for licence. Form 8

Application for conditional authority. Form 9

- (a) state the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, and, in the case of a partnership, the name of every partner;
- (b) be accompanied-
 - (i) in the case of an application relating to existing premises not previously licensed as an auction floor, or to premises which it is proposed to erect, a plan showing the site of the premises or proposed premises in relation to road and rail facilities and a plan and elevations of such premises or proposed premises;
 - (ii) in the case of an application to alter or extend premises licensed or previously licensed as an auction floor, a plan and elevations showing details of the extension or alterations to the structure thereof.

(2) Upon completion of the building works in respect of which a conditional authority has been granted, the applicant shall, notwithstanding the issue of such conditional authority, comply with the provisions of rule 14, provided however that where the conditional authority is for the alteration or extension of licensed premises, no further fee shall be payable during the period of validity of the licence in question.



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16. Except where the Board may, with the approval of the Minister, have exempted any premises from the provisions of Part VIII of the Act, no auction floor licence shall be issued in respect of premises-

Minimum standards of premises

- (a) which do not comply with the following minimum requirements:
- (i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales floor;
 - (ii) the total area of platforms and verandahs capable of being used for the loading or off-loading of tobacco shall not be less than forty per centum of the area of the sales floor;
 - (iii) the natural roof lighting of the sales floor shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen per centum of the area of the sales floor;
 - (iv) the floor surface of the sales floor, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;
 - (v) there shall be in a position adjacent to or as part of the auction floor an area set aside for the re-handling of tobacco, which area shall be not less than seven per centum of the area of the sales floor, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board;
- (b) unless the design and construction thereof are such as may be approved by an architect appointed for this purpose by the Board.

17. (1) Every holder of an auction floor licence shall submit to the Board in writing-

Returns to be submitted

- (a) not later than noon on the next working day following any sale of tobacco on his floor, a return in Form 10 in respect of each class of tobacco sold on the previous day; Form 10
- (b) not later than Monday of each week, a return in Form 11 in respect of each class of tobacco sold on his auction floor during the week ended midnight on the previous Wednesday; Form 11
- (c) not more than thirty days after the date of the last sale of tobacco on his auction floor in any selling season, a return in Form 12 in respect of each class of tobacco sold thereon in such season. Form 12

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(2) Whenever a holder of an auction floor licence becomes aware that information submitted by him in any return to the Board in terms of sub-rule (1) contains a material error, he shall forthwith notify the Board accordingly in writing, and as soon as possible thereafter submit an amended return.

18. In addition to any other duty imposed on him by or under these Rules or any other law, the holder of an auction floor licence shall-

Duties of holders of auction floor licences

- (a) use all reasonable care in handling, storing and despatching tobacco so as to prevent damage or loss due to breakage, contamination or other causes;
- (b) effect at his own expense insurance to cover loss of or damage to any seller's tobacco from time of receipt to completion of sale.

PART VI MARKING OF BALES FOR SALEPART VI

MARKING OF BALES FOR SALE

19. The provisions of this Part shall not apply to tobacco offered for sale at a primary or rural level.

Part VI not to apply to sales at primary or rural level

20. (1) Subject to the provisions of this rule-

Registered numbers

- (a) every seller of Virginia flue-cured tobacco shall mark his bales clearly on the outside of the wrapping material with his registered number in arabic numerals not less than eight centimetres in height and on not less than two sides and one end of each bale, and shall in addition mark above his registered number the letters "VZ" in the same dimensions;
- (b) every seller of Burley tobacco shall mark his bales clearly on the outside of the wrapping material with his registered number in arabic numerals not less than eight centimetres in height and on not less than two sides and one end of each bale, and shall in addition mark above his registered number the letters "BUZ" in the same dimensions;
- (c) every seller of Oriental tobacco shall mark his bales clearly on the outside of the wrapping material with his registered number in arabic numerals not less than three centimetres and not more than eight centimetres in height and on not less than two sides, and shall in addition mark above his registered number the letters "TZ" in the same dimensions.

(2) In any selling season when the Board shall, in exercise of its powers under paragraph 16 of the Schedule to the Act, have declared its intention to buy tobacco and to do so by classification, it may direct that bales offered for sale shall be marked in such a manner that when the bale wrappings are opened the registered number shall not be visible to a classifier.

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(3) For his own identification purposes, a seller, in addition to the registered number referred to in sub-rule (1), may mark his bales after and in the same place as his registered number with an alphabetical letter.

(4) The provisions of this rule shall not apply to any sale by the Board of any tobacco purchased by the Board, nor to any resale of tobacco by the holder of an auction floor licence pursuant to paragraph (b) of sub-rule (3) of rule 59.

21. (1) A seller shall securely attach to a bale offered for sale a bale label on which shall be clearly marked in arabic numerals the lot number of the bale, which lot number shall be exclusive to that bale and shall not be allocated to any other bale during the season.

Bale labels

(2) A seller may if he so wishes mark on the bale label a group number to indicate the order in which bales are to be offered for sale, in which case-

- (a) bales shall be numbered from one upwards for each consignment;
- (b) a numeral or numerals indicating the group number shall be positioned on the bale label above the lot number;
- (c) there shall be no limit to the number of groups in any one consignment;
- (d) no seller may mark his bale labels with group numbers in more than one colour.

(3) The provisions of sub-rule (1) shall not apply to the sale by the Board of any tobacco purchased by the Board.

22. (1) A grader shall securely attach to each bale delivered by him for sale a label bearing his name in printed letters which shall not be less than one centimetre in height.

Labelling of bales by graders

(2) A seller or a grader may not deliver for sale a bale labelled so as to indicate that the tobacco has been graded by a grader unless the tobacco has been graded by the grader whose name is printed on the label.

23. Except with the permission of the Board in writing, and subject to the provisions of Part VIII, no seller or other person shall cause to be displayed on a bale offered for sale any marking, identification or other information nor in a manner other than is permitted under this Part:

Prohibition of any other markings

Provided however that should he so wish a seller of a bale of Oriental tobacco may, in addition to his registered number, mark on the outside of the wrapping material the lot number of the bale.

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PART VII PACKING OF TOBACCO FOR SALEPART VII

PACKING OF TOBACCO FOR SALE

24. The provisions of this Part shall not apply to tobacco offered for sale at a primary or rural level. Part VII not to apply to sales at primary or rural level

25. (1) Subject to the provisions of this rule, every seller of tobacco shall ensure that his tobacco is packed in bales- Wrapping and sewing materials

- (a) having in good condition an outer covering of hessian or such other material as may from time to time be approved by the Board;
- (b) having an inner covering of new or undamaged waterproof paper or such other material as may from time to time be approved by the Board;
- (c) properly sewn with twine in good condition not being made from sisal or jute, so that no single stitch shall exceed eight centimetres in length and no gap between stitches shall exceed eight centimetres in length and all stitches shall be locked on the ends of the bales near the corners.

(2) The provisions of paragraph (c) of sub-rule (1) shall not apply to the sellers of Oriental tobacco which tobacco shall however be offered for sale in bales laced with twine in such manner as the Board may from time to time direct.

26. (1) Subject to the provisions of this rule, a seller shall- Weights and dimensions of bales

- (a) pack his Virginia flue-cured tobacco in bales-
 - (i) weighing not less than twenty-three kilogrammes net nor more than one hundred and nine kilogrammes net;
 - (ii) having dimensions of eighty-six centimetres long, sixty-one centimetres high and not more than sixty-six centimetres wide;
- (b) pack his Burley tobacco in bales-
 - (i) weighing not less than nine kilogrammes net nor more than fifty-nine kilogrammes net;
 - (ii) having dimensions of eighty-six centimetres long, sixty-one centimetres high and not more than sixty-six centimetres wide;

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- (c) pack his Oriental tobacco in bales-
 - (i) not exceeding twenty-three kilogrammes net in weight;
 - (ii) having dimensions of sixty-nine centimetres long, thirty-eight centimetres high and not more than fifty-one centimetres wide.

(2) Notwithstanding the provisions of sub-rule (1), no seller may offer for sale-

- (a) a split bale of Virginia flue-cured tobacco weighing less than forty-five kilogrammes net;
- (b) a split bale of Burley tobacco weighing less than fourteen kilogrammes net.

PART VIII SALE OF TOBACCO BY AUCTIONPART VIII

SALE OF TOBACCO BY AUCTION

27. The provisions of this Part shall apply-

Application of Part VIII

- (a) to the sale by auction of auctionable tobacco other than a sale of such tobacco at a primary or rural level;
- (b) to the sale by the Board by auction of any non-auctionable tobacco purchased by the Board.

28. (1) A sales supervisor shall-

Duties and powers of sales supervisors

- (a) ensure that the provisions of the Act and the regulations made thereunder and the rules made and the instructions given by the Board are being complied with;
- (b) report breaches of such Act, regulations, rules and instructions to the Board;
- (c) ensure that bales are properly placed in rows on auction floors and suitably opened and sampled;
- (a) check weighing-in scales;
- (e) from time to time re-weigh bales of tobacco for the purpose of ensuring that they have been correctly weighed;
- (f) report incorrect weighing to the holder of the auction floor licence concerned and cause the necessary adjustments to be made.

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(2) A sales supervisor may remove or cause to be removed from an auction floor any bale which does not conform to the standards laid down in these Rules.

(3) A sales supervisor shall have access to all books, receipts and documents kept by the holder of an auction floor licence relating to the arrival, receipting, booking and sale of tobacco.

(4) Should circumstances arise which are not covered by any instructions given to him by the Board pursuant to section *seventy-two* of the Act, a sales supervisor, after consultation with the Secretary to the Board, or, in his absence, an official of the Board acting on his behalf, may, whenever in his opinion it is necessary so to do in order to facilitate the orderly selling of tobacco or to protect the interests of the sellers of tobacco or buyers of tobacco, or both-

- (a) suspend a sale of tobacco for a period not exceeding twenty-four hours;
- (b) give such directions to sellers, buyers or the holders of auction floor licences as may be necessary on any matter not specifically prescribed under this Part.

29. Any official or agent of the Board duly authorised thereunto by the Board in writing may, at any time, examine books and vouchers of the holder of an auction floor licence to ascertain whether the charges authorised by the Board pursuant to section *sixty-nine* of the Act have been, or are being, adhered to.

Power to inspect records

30. (1) Tobacco may be offered for sale in the form of-

Tobacco which may be offered for sale

- (a) tied leaf;
- (b) straight laid loose leaf;
- (c) clean graded strips;
- (d) clean stemmed scrap;
- (e) clean unstemmed scrap.

(2) In the case of tied leaf, a seller shall ensure that the size of hands of graded tobacco is not less than three centimetres and not more than three centimetres across the butt ends and that the depth of the tie is not less than four centimetres and not more than five centimetres.

(3) A seller shall not offer as loose leaf sound tobacco leaf twenty centimetres or more in length.

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(4) No bale offered for sale shall contain ungraded tobacco.

(5) No seller may offer for sale a bale containing more than one class of tobacco.

31. (1) Subject to the provisions of this rule, no person shall knowingly offer for sale a bale Declared mixed bales
which contains-

- (a) leaf of different types, qualities, or colours, mixed in the hand;
- (b) hands of tobacco of different types, qualities, or colours;
- (c) short and long leaf mixed in the hands, or hands of short and long leaf;
- (d) sound leaf mixed with barn rot leaf.

(2) A seller may offer for sale a mixed bale containing tobacco as enumerated in paragraphs (a), (b), (c) and (d) of sub-rule (1), provided that-

- (i) he has affixed to the bale a label additional to the bale label referred to in rule 21 on which is marked the word "mixed" in letters not less than five centimetres in height;
- (ii) the word "mixed" is printed clearly on a notice displayed prominently on the bale by the holder of the auction floor licence;
- (iii) the bale is declared to buyers by the starter to be mixed before being offered for sale.

(3) A bale containing mixed tobacco sold in accordance with the provisions of sub-rule (2) shall not thereafter be repudiated on the grounds that it is mixed unless, in the opinion of an arbitrator, it contains an undue proportion of tobacco of other than bordering types, qualities or colours.

32. (1) Subject to the provisions of this rule, a seller may offer for sale a split bale, that is to Split bales
say, a bale containing not more than two grades of tobacco, provided that-

- (i) the two grades are separated by a sheet of water-proof paper;
- (ii) he attaches to the bale a label additional to the bale label referred to in rule 21 on which is marked the word "split" in letters not less than five centimetres in height;
- (iii) the word "split" is printed clearly on a notice displayed prominently on the bale by the holder of an auction floor licence;
- (iv) the bale is declared by the starter to buyers to be split before being offered for sale.

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(2) A split bale offered for sale may not weigh less than forty-five kilogrammes net in the case of Virginia flue-cured tobacco, nor less than fourteen kilogrammes net in the case of Burley tobacco.

33. A seller shall consign his tobacco to an auction floor packed so as to facilitate its sale, storage and handling. Consignment of tobacco to auction floor

34. (1) In addition to any other duties imposed upon him by the provisions of these Rules, every holder of an auction floor licence shall- Duties of holders of auction floor licences

- (a) furnish the sales supervisor before each sale with a statement giving the following particulars about the bales laid on the auction floor for that sale in the order in which they are laid:
- (i) the registered numbers of the sellers;
 - (ii) the names of the sellers;
 - (iii) the number of bales in each consignment;
 - (iv) whether the bales are up for sale for the first time or whether they are re-handled bales, buyers' resales, house resales or bales which have had their tickets crossed at a previous sale or, if they fall into any other category, what that category is;
 - (v) if the bales have been graded by a grader, the name of the grader;
 - (vi) the row number in which each bale is placed;
- (b) space the bales of tobacco offered for sale as may be required by the Board;
- (c) ensure that the bale ticket clearly shows the following particulars:
- (i) the registered number of the seller;
 - (ii) the lot number;
 - (iii) the net weight;
 - (iv) the buyer's code letter;
 - (v) the buyer's grade classification if available;
 - (vi) the price per kilogramme;
- (d) ensure that there are sufficient clearly legible copies of the bale ticket available to meet the sale requirements;
- (e) after sale, attach the bale ticket securely to the outside of the bale to which it relates;
- (f) as the sale proceeds, properly repack and securely resew all bales;
- (g) present his accounts to a buyer or his agent not later than 09.00 hours on the day following the day of sale;

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- (h) be responsible for any loss occasioned by his errors in weighing or otherwise and make good any loss so occasioned;
 - (i) furnish the sales supervisor daily with such information as he may require with regard to-
 - (i) the amount of tobacco in stock;
 - (ii) the future programme of sales.
- (2) The holder of an auction floor licence shall not sell tobacco-
- (a) except with the permission of a sales supervisor, unless it has been weighed during the seventy-two hours immediately preceding the sale of such tobacco;
 - (b) for less than any minimum price which may have been fixed by the Minister pursuant to section *seventy-four* of the Act;
 - (c) in which the starter, auctioneer or any other employee of such holder of an auction floor licence has any interest, without disclosing such interest at the time of the sale;
 - (d) which is not packed in conformity with the provisions of these Rules.

35. (1) The holder of an auction floor licence shall-

Receipting of tobacco

- (a) keep a receipt book in a form approved by the Board;
- (b) issue from such receipt book a receipt in triplicate for every bale received upon his auction floor except for a bale which-
 - (i) is being re-offered for the house account; or
 - (ii) has had its ticket crossed at a previous sale and which has not been returned to the grower; or
 - (iii) is returned for sale by the auction floor's re-handling department; or
 - (iv) is being re-offered and declared as mixed, mouldy or funky.

(2) Each receipt shall be numbered consecutively and shall show-

- (a) the registered number and name of the seller;
- (b) the number of bales received;

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- (c) whether the bales come direct from a grower or from a storage firm, a grader or an auction floor;
- (d) the date and time of delivery.

(3) The holder of an auction floor licence shall-

- (a) deliver the second copy of the receipt to the sales supervisor before the midday following each twenty-four-hour period:

Provided that-

- (i) when such midday following a twenty-four-hour period falls on a Sunday or a public holiday, he shall deliver the second copy of the receipt to the sales supervisor before midday on the next business day;
- (ii) for the purposes of this sub-rule, "twenty-four-hour period" means the period of twenty-four hours commencing at 07.00 hours on one day and ending at 07.00 hours on the next day;

- (b) keep the third copy of the receipt, which shall be available for inspection by an official of the Board, until the end of the selling season.

(4) The holder of an auction floor licence shall issue receipts for tobacco in order of its arrival at his premises-

- (a) by train, beginning with the consignments contained in the first truck entering the private siding of the premises;
- (b) by lorry, in rotation and immediately following the receipt of the tobacco contained in the last train to be shunted into the siding;
- (c) from storage, as though it had been received by lorry.

(5) When rail consignments from a grower are received with the bales loaded in more than one truck in the same train, the total consignment shall be deemed to have been received in the first truck which is unloaded and which contains tobacco from that grower.

(6) Tobacco stored by a holder of an auction floor licence, other than tobacco referred to in sub-paragraphs (i) to (iv) of paragraph (b) of sub-rule (1), or tobacco for which a receipt has been issued pursuant to sub-rule (1), on the day fixed for the commencement of delivery quotas shall be-

- (a) deemed to have been delivered on that day;

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- (b) receipted pursuant to sub-rule (1);
- (c) booked in for sale as though it had been delivered on that day;
- (d) deemed to be part of the delivery quota of the grower who delivered it.

(7) If a seller wishes to deliver to an auction floor several bales of tobacco for sale as one consignment, he may accumulate such bales on the auction floor premises for a period not exceeding twenty-four hours, without such bales being entered into the receipt book, if he informs the holder of the auction floor licence of his intention before or at the same time as his consignment arrives at the auction floor.

(8) The holder of an auction floor licence shall issue a receipt for tobacco accumulated pursuant to sub-rule (7)-

- (a) twenty-four hours after the delivery of the first bale; or
- (b) when the whole consignment has been accumulated;

whichever is the earlier.

(9) A holder of an auction floor licence shall not sell tobacco, other than tobacco referred to in sub-paragraphs (i) to (iv) of paragraph (b) of sub-rule (1), unless-

- (a) a receipt has been issued for that tobacco; and
- (b) a duplicate of that receipt has been delivered to the sales supervisor pursuant to paragraph (a) of sub-rule (3).

(10) For the purposes of sub-rules (7) and (8), when calculating the period of twenty-four hours, no public holiday or Sunday shall be included.

36. (1) If a seller notifies the holder of an auction floor licence in writing that he wishes to be present at the sale of his tobacco, and if stocks of tobacco for sale at the auction floor are such that his tobacco will be sold within twenty-four hours of its arrival, such tobacco may, on arrival, be booked in by the sales supervisor so that there will be a period of not less than twenty-four hours between the time of arrival and the time of sale.

Booking of tobacco

(2) The holder of an auction floor licence may book in, for sale at any time convenient to him and the seller, a bale of tobacco which-

- (a) is being re-offered for the house account; or

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- (b) has had its ticket crossed at a previous sale and which has not been returned to the grower; or
- (c) is returned for sale by the auction floor's re-handling department; or
- (d) is being re-offered and declared as mixed, mouldy or funkyed.

(3) The holder of an auction floor licence shall treat tobacco which has-

- (a) been graded by him; and
- (b) not previously been offered for sale;

as though it had been placed in storage on the auction floor when the grading and packing were completed.

37. Subject to the provisions of sub-rule (1) of rule 36 and of rule 38, the holder of an auction floor licence shall not sell tobacco in an order other than the order in the receipt book: Order of selling

Provided that-

- (i) on the request of the seller made not later than the time at which a consignment of his tobacco is received upon the auction floor, the holder of an auction floor licence may divide up that consignment-
 - (a) if it consists of thirty bales or more, into groups of not less than fifteen bales;
 - (b) if it consists of less than thirty bales, into not more than two groups;
- (ii) in the case of tobacco which is being re-offered, the consignment may, on the request of the seller made at the time the tobacco was last offered for sale, be divided up into groups of not less than five bales.

38. A sales supervisor may vary the order of sale as shown in the receipt book if he considers such variation necessary in order to- Sales supervisor may alter order of selling

- (a) avoid splitting a consignment of tobacco; or
- (b) facilitate the conduct of a sale.

39. The holder of an auction floor licence shall not- Holders of auction floor licences not to withdraw tobacco

- (a) withdraw tobacco from the sale for which it has been booked in; or
- (b) permit tobacco received by him to be diverted to any other auction floor;

except with the permission of a sales supervisor.

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40. (1) Before the tobacco is booked in, the holder of an auction floor licence shall not give a person any information relating to the date or time of sale or the position of tobacco on the auction floor, other than the probable number of days after delivery that the tobacco may have to be stored before sale.

Date and time of sale

(2) After the tobacco has been booked in, the holder of an auction floor licence shall, if so requested by the seller and at the seller's cost, notify the seller by telephone or telegram of the probable date on which his tobacco will be sold.

(3) The holder of an auction floor licence shall not-

- (a) be responsible for any change of the date of sale due to circumstances beyond his control; or
- (b) agree to sell tobacco on a specified row or at a specified time.

41. The holder of an auction floor licence shall not-

Storage of tobacco

- (a) stack tobacco more than two hundred and forty-four centimetres above the level on which the bottom bale rests without the permission of a sales supervisor;
- (b) during any period for which delivery quotas are in force, store, without the written authority of the Board, tobacco for which the receipt provided for by rule 35 has not been issued.

42. (1) The provisions of this rule shall apply whenever the Board shall, in exercise of its powers under paragraph 20 of the Schedule to the Act, have fixed a date, hereinafter called the "fixed date", from which it deems it necessary to control the rate of delivery of auctionable tobacco to licensed auction floors and have fixed delivery quota periods from and after the fixed date and determined delivery quotas applicable to each or any of such delivery quota periods.

Delivery quotas

(2) The Board shall give notice of such fixed date, delivery quota periods and delivery quotas in such manner as it may determine and may cause a copy of any notice issued for this purpose to be displayed prominently at every licensed auction floor.

(3) Subject to the provisions of this rule, no grower or his agent shall cause to be delivered to an auction floor any tobacco in excess of his delivery quota.

(4) Where, during any first or second delivery quota period, as the case may be, any grower delivers in respect thereof a quantity of tobacco less than his delivery quota, he may, thereafter, during any delivery quota period, not later than the third delivery quota period, deliver tobacco in excess of his delivery quota for the period in which delivery is actually made, up to the undelivered portion or portions of the earlier delivery quota or quotas, if-

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- (a) he gives the Board full particulars in writing of the reasons why he did not deliver his full delivery quota in such period or periods; and
- (b) he receives the written permission of the Board to exceed his delivery quota in the second or third delivery quota period or in the second and third delivery quota periods, as the case may be; and
- (c) he does not exceed in the first three delivery quota periods his total delivery quota for such delivery quota periods; and
- (a) where he did not deliver his full delivery quota because of the inability of a grader to deliver his tobacco, he has sent all the tobacco to be delivered in the second or third delivery quota period or in the second and third delivery quota periods, as the case may be, to the grader before the fixed date.
- (5) Subject to the provisions of sub-rule (4), where a grower or his agent delivers to an auction floor any tobacco in excess of his delivery quota, the Board may, in writing, direct the holder of the auction floor licence to whom such tobacco was delivered to return to the grower at a place and by a date specified by the Board and at the grower's risk and expense, a number of bales equal to the number of bales delivered by the grower in excess of his delivery quota.
- (6) A grower whose delivery quota as fixed by the Board for any particular quota period is less than twenty-five bales may deliver or cause to be delivered on his behalf to an auction floor-
- (a) in any one of four subsequent consecutive quota periods, hereinafter called a "combined quota period", a quantity of tobacco not exceeding four times his delivery quota for the first quota period of the combined quota period or one hundred bales;
- (b) in any quota period forming part of the combined quota period subsequent to the first such quota period, a quantity of tobacco equivalent to the difference between his delivery quota for such first quota period and such subsequent quota period, provided that such difference is in the form of an increase in delivery quota and not a reduction thereof:
- Provided that-
- (i) not less than fifty per centum of the quantity of tobacco so delivered shall have been graded by a grader; and
- (ii) such grower shall not deliver to an auction floor in a combined quota period more than-
- A. four times his delivery quota for the first quota period of the combined quota period; or
- B. the total of the four quotas for the combined quota period; or
- C. one hundred bales;
- whichever is the greatest.

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(7) A grower who removes mixed, mouldy, damaged or funky tobacco from the auction floor for re-handling may again deliver it to an auction floor and it shall not count against his delivery quota:

Provided that-

- (i) he shall not return more than the number of bales that he removed from the floor; and
- (ii) he notifies the Board in writing of the number of bales removed and the date on which they were removed; and
- (iii) he obtains from the Board a written acknowledgment of the receipt of such notice.

(8) Where two or more growers are using the same grading facilities, other than the grading facilities of a licensed grader, they may combine their delivery quotas:

Provided that permission in writing is first obtained from the Board.

(9) Growers who have been permitted by the Board, pursuant to sub-rule (8), to combine their delivery quotas shall not deliver to the auction floors any tobacco in excess of the total thereof.

(10) The Board may furnish to a licensed grader, if requested to do so by him, information regarding the delivery quota fixed by the Board for any grower whose tobacco has been or is to be graded by such grader.

(11) (a) Notwithstanding the provisions of this rule, the Board may, at any time when it has deemed it necessary to control the rate of delivery of auctionable tobacco to licensed auction floors, further adjust the rate of delivery of such tobacco by means of an increase or decrease, as the case may be, in a grower's delivery quota, which increase or decrease shall be expressed as a percentage thereof and shall give notice of such adjustment, in the manner described in sub-rule (2).

(b) Where such percentage increase or decrease does not produce a whole number, the amount of tobacco which may be delivered shall be calculated to the next higher whole number.

(c) Where in terms of this sub-rule the amount of auctionable tobacco which a grower may deliver or cause to have delivered for sale to an auction floor has been either increased or decreased, the quantity of tobacco thereby determined shall be considered for the purposes of this rule as such grower's delivery quota.

43. (1) At any auction sale the starter, auctioneer and ticket marker shall take their positions together in line and shall not be separated by any other person.

Auction floor officials' and buyers' positions

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(2) The auctioneer shall stand facing the main line of buyers and beside the bale which he is in the process of selling and shall not move from that position until the name of the buyer of the bale has been declared by him.

(3) Buyers shall arrange their own positions in the main line of buyers on the auction floor.

(4) If any buyer is unwilling to accept the position in the main line of buyers allotted to him pursuant to sub-rule (3), or wishes to take up a position elsewhere than in the main line, the matter shall be submitted to the Board whose decision shall be final.

44. No person shall bid for tobacco in which he has any interest other than as- Interested parties

- (a) a buyer; or
- (b) a person nominated by a buyer pursuant to section *forty-three* of the Act; or
- (c) a person authorised by the holder of an auction floor licence to buy tobacco for the house account;

without disclosing such interest at the time of the sale.

45. (1) The rate of selling shall be fixed by the Board or by the sales supervisor with the authority of the Board, but shall not exceed six hundred bales in any period of an hour. Rate of selling

(2) If the rate of selling at any sale is lower than the rate fixed by the Board or by the sales supervisor, the sales supervisor may fix a time within which such sale shall be concluded.

(3) If the rate of selling at any sale is higher than the rate fixed by the Board or by the sales supervisor, the sales supervisor may suspend the sale for such period as he considers necessary.

46. A buyer may accept the starter's valuation and thereafter bidding shall proceed by bids of not less than one hundred kwacha per half kilogramme until the bale is knocked down to the highest bidder. Size of bids

47. (1) A no-sale bale shall be re-offered for sale at least once on a day other than the day upon which it was first offered for sale. No-sale bales

(2) If, on the second occasion on which it is offered for sale, no bid is made, the holder of the auction floor licence may dispose of the tobacco contained in such no-sale bale in accordance with the instructions given to him in writing by the owner.

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(3) Where no instructions have been given to the holder of an auction floor licence pursuant to sub-rule (2), and where any registered grower has at the end of any selling season in his possession or under his control any surplus or unsold tobacco belonging to such registered grower, the Board may dispose of, destroy, or cause to be destroyed, such tobacco as provided by subsection (1) of section *thirty-three* of the Act.

48. (1) Subject to the provisions of sub-rule (2), no person shall alter any of the particulars recorded on a bale ticket. Alteration of bale tickets

(2) An alteration may, before the completion of the sale of the bale to which the ticket relates, and where appropriate subject to the provisions of sub-rule (1) of rule 59, be made by-

- (a) a sales supervisor or other person authorised for the purpose in writing by the Board;
- (b) the buyer of a bale to record his own grade classifications; or
- (c) a buyer taking over a bale from either the house account or another buyer to record necessary alterations to the bale ticket.

(3) A person making an alteration pursuant to sub-rule (2) shall-

- (a) initial the alteration; and
- (b) in the case of an alteration made pursuant to paragraph (c) of sub-rule (2), obtain the initials of the previous buyer of the bale.

49. (1) Before the sale of a bale has been completed-

Crossing of bale tickets

- (a) the seller may, by drawing a red cross on the bale ticket, refuse to accept the price for such bale;
- (b) if a seller refuses to accept the price for any bale or bales of his tobacco, the original buyer may, by drawing a blue cross on the bale ticket, cancel the sale of an equal number of bales purchased by him from such seller.

(2) A seller shall not cross the bale ticket on any bale of his tobacco-

- (a) if he himself has offered a bid for that bale; or

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- (b) while a buyer's contention that the bale is unfit for sale is being considered by an arbitrator pursuant to rule 50; or
 - (c) if the buyer's contention is upheld pursuant to rule 50.
- (3) A seller whose bale ticket has been crossed shall, within ten days of the crossing of the ticket, either re-book the tobacco for sale or remove it from the auction floor.
- (4) A sales supervisor may book for sale at the end of the period of ten days any tobacco not re-booked for sale or withdrawn from the auction floor by the seller pursuant to sub-rule (3).

50. (1) Subject to the provisions of sub-rule (8) and of sub-rule (2) of rule 31, if a buyer contends before the sale of the last bale of a seller's consignment has been completed, that a bale purchased by him containing tobacco sold by that seller is badly handled or mixed, mouldy, funky, damaged or nested or is in some other respect unfit for sale, he may forthwith notify an arbitrator of his desire to repudiate the sale.

Repudiation of bales at sale

(2) The arbitrator shall investigate the matter and, if he upholds the buyer's contention, the sale may be repudiated.

(3) If the arbitrator does not uphold the buyer's contention, he shall forthwith obtain the opinion of another arbitrator.

(4) If, in the opinion of both arbitrators, the buyer's contention is upheld, the buyer may repudiate the sale.

(5) If, in the opinion of both arbitrators, the buyer's contention is not upheld, the sale shall stand and the decision of the arbitrators shall be final.

(6) If the opinion of the arbitrators is divided-

- (a) in a case where the buyer has contended that the bale is mixed, the buyer may repudiate the sale;
- (b) in any other case, the arbitrators shall forthwith obtain the opinion of a third arbitrator whose decision shall be final.

(7) Where the buyer's contention has-

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- (a) been upheld, an arbitrator shall indicate on the front of the bale ticket the reason for the repudiation;
- (b) not been upheld, an arbitrator shall indicate on the back of the bale ticket that the buyer's contention has been rejected;
- (c) been upheld by one arbitrator and the sale has been repudiated pursuant to paragraph (a) of sub-rule (6), an arbitrator shall mark the bale ticket with the words "mixed dispute, re-offer" and the bale may be re-offered without being re-handled.

(8) The purchase of a bale which has been bought by a buyer at a price of one hundred kwacha per half kilogramme or less shall not be repudiated in terms of this rule on the ground that such bale was mixed unless such bale is made up of tobacco containing stem rot and sound stem.

51. (1) Subject to the provisions of sub-rule (2) and of paragraph (c) of sub-rule (7) of rule 50, no person shall re-offer a bale which has been-

Badly handled, mixed,
damaged or nested bales

- (a) repudiated at a sale by a buyer because it contains tobacco which is badly handled, mixed or nested; or
- (b) condemned for any of these reasons before the sale by an arbitrator;
until it has been re-handled.

(2) No person shall re-offer a bale containing mixed tobacco unless he complies with the provisions of sub-rule (2) of rule 31.

(3) Within ten days following the repudiation or condemnation of a bale referred to in sub-rule (1), the owner of the bale shall-

- (a) remove it from the auction floor; or
- (b) have it re-handled by the holder of the auction floor licence.

(4) If the owner of the bale does not remove it, the holder of the auction floor licence may-

- (a) return it to the owner or his agent at the risk and expense of the owner; or
- (b) re-handle and re-offer it.

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- 52.** A bale which has been- Funked tobacco
- (a) repudiated at a sale by a buyer because it contains funked tobacco; or
 - (b) condemned for this reason before the sale by an arbitrator;
- shall, at the option of the owner of the bale, be-
- (i) returned to him or his agent; or
 - (ii) labelled as "funked" and re-offered.
- 53.** (1) Subject to the provisions of sub-rule (2), a bale which- Mouldy or damaged tobacco
- (a) has been repudiated at the sale by a buyer because it contains tobacco which is mouldy or damaged; or
 - (b) has been condemned for either of the reasons specified in paragraph (a) before the sale by an arbitrator; or
 - (c) is considered by the owner thereof to contain tobacco which is mouldy or damaged;
- may, at the option of the owner of the bale, be-
- (i) returned to him or his agent; or
 - (ii) labelled "mouldy" or "damaged", as the case may be, and re-offered, subject to it being declared as such to the buyers by the starter before being re-offered for sale.
- (2) If a bale has been repudiated at a sale by a buyer because it contains tobacco which is mouldy or damaged and, in the opinion of an arbitrator, the tobacco is so mouldy or damaged as to be irreparable by re-handling but, in the opinion of the arbitrator, may nevertheless have some value, the bale may be re-offered by the holder of the auction floor licence as soon as possible without the tobacco being re-handled if the word "mouldy" or "damaged", as the case may be, is printed clearly on a notice displayed prominently on the bale, and the bale is declared as such to the buyers by the starter before being re-offered for sale.
- (3) No person shall re-offer a bale referred to in sub-rule (1) until it has been re-handled unless it is labelled "mouldy" or "damaged", as the case may be, pursuant to these Rules.
- 54.** (1) A buyer may, within forty-eight hours of the end of a day's sale, apply to cancel the sale of a bale bought by him on that day on the ground that it contains mouldy tobacco by returning such bale, intact and in its original bale wrappings, to the auction floor for inspection by an arbitrator. Cancellation of sale of mouldy tobacco
- (2) Subject to the provisions of sub-rule (4), if the arbitrator agrees with the buyer that the bale contains mouldy tobacco, the sale shall be cancelled.

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(3) Where a mouldy bale has been bought on a day which is followed by a Saturday, Sunday or a public holiday, such bale shall be delivered for inspection not later than 13.00 hours on the next day of sale.

(4) Where, in the opinion of a sale supervisor, the buyer has neglected to examine his purchases adequately on the auction floor before the sale was completed, he may refuse to allow a buyer to cancel the sale, notwithstanding the agreement of the arbitrator pursuant to sub-rule (2).

55. (1) A buyer may, before a bale has left the auction floor, apply to an arbitrator to cancel the sale of the bale on the ground that it is damaged by grease, paraffin or oil.

Cancellation of sale of bales damaged by grease, paraffin or oil

(2) If the arbitrator agrees with the buyer that the bale is damaged by grease, paraffin or oil, the sale shall be cancelled.

56. (1) No seller shall offer for sale any tobacco which is nested.

Nesting

(2) If a buyer discovers and reports to an arbitrator within forty-eight hours of a sale that a bale purchased by him was nested, the arbitrator shall immediately inspect the tobacco and report the result of his inspection to the Board.

(3) If the Board decides that the bale has been nested, the bale shall be confiscated by the Board.

(4) The Board's decision pursuant to sub-rule (3) shall be final.

(5) The bale shall be re-offered by the Board and the Board shall, with the proceeds of the sale, make a refund to the buyer towards the purchase price of such bale, and the cost of transport.

(6) If, at any time after the period of forty-eight hours referred to in sub-rule (2), the buyer discovers that a bale purchased by him has been nested, the matter shall immediately be reported by the buyer to the Board for investigation and the Board may take such action as it thinks fit.

(7) If tobacco which is offered for sale by a seller is found to be nested on a second or subsequent occasion, his registered number shall be posted in a conspicuous place on the auction floor for the remainder of the selling season.

(8) A report made by a buyer pursuant to sub-rule (2) shall not be of a frivolous or vexatious nature.

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57. According to the circumstances, the sales supervisor shall ensure that the sale of a bale is completed before not less than one hundred bales and not more than two hundred bales have been passed since the buyer purchased the bale to which the bale ticket relates. Completion of sales

58. (1) If two or more buyers claim to be purchasers of the same tobacco it shall, unless the buyers otherwise agree, be re-offered. Buyers' disputes

(2) If a buyer contends before the sale of a bale is completed that-

(a) the price recorded on the bale ticket was not the price at which the bale was knocked down to him; or

(b) he was not the buyer of the bale;

the matter shall be investigated by a sales supervisor.

(3) The sales supervisor may, if he is satisfied that an error has occurred-

(a) cancel the sale and order that the bale be re-offered; or

(b) with the agreement of the buyer and the seller or his agent, correct the bale ticket.

59. (1) A person shall not buy tobacco bought for the house account before it is re-offered unless- Tobacco purchased for house account

(a) the price he pays for the tobacco is not less than one-half of one hundred kwacha per half kilogramme more than the price at which the tobacco was knocked down to the house account; and

(b) the purchase is made before the sale of the tobacco is completed; and

(c) the agreement of the holder of the auction floor licence is first obtained.

(2) No person employed by the holder of an auction floor licence shall buy tobacco except for the house account.

(3) If tobacco purchased for the house account is not bought pursuant to sub-rule (1), it-

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(a) shall be resold by auction during the same selling season;

(b) need not be rebaled in which case it shall be resold under the grower's registered number.

(4) When tobacco purchased for the house account is resold under the grower's registered number pursuant to paragraph (b) of sub-rule (3), the holder of the auction floor licence shall stamp the bale ticket with the word "resale", immediately after the sale of such tobacco and before its removal from the auction floor.

(5) A holder of an auction floor licence shall send to the Secretary to the Board a daily return showing the number of bales bought for the house account that day.

(6) Tobacco purchased for the house account may be offered for resale by a holder of an auction floor licence on any sale.

(7) A holder of an auction floor licence shall place tobacco purchased for the house account which is being re-offered on the floors in lots of not less than five bales.

60. (1) A buyer shall, if so requested by a sales supervisor, remove his purchases from the place of sale on the auction floor to a place indicated by the sales supervisor within half an hour of the closing of the bales after sale.

Removal of bales

(2) A buyer shall remove his tobacco from the auction floor within five hours of the close of the sale at which the tobacco was purchased unless an extension of time is authorised by the sales supervisor.

(3) If the buyer fails to remove his tobacco in terms of sub-rule (2), the holder of the auction floor licence shall not be liable for any loss or damage which may be occasioned to such tobacco.

(4) A holder of an auction floor licence shall allot-

(a) an exit point; and

(b) a clipping point; and

(c) a loading area;

to each buyer for his purchases.

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(5) A buyer shall clip the bale tickets of his purchases with a distinctive mark at the clipping point allotted to him.

61. Immediately before the sales close on the day of the last sale of the selling season, any unsold tobacco which is badly handled, or mixed, mouldy, funky or damaged which was, earlier on that day-

Bales re-offered on final day of selling season

- (a) offered for sale and for which no bid was made; or
- (b) sold and the sale of which was repudiated;

may, notwithstanding anything contained in these Rules, be re-offered for sale:

Provided that, in the case of tobacco referred to in paragraph (b)-

- (i) the tobacco shall be clearly marked so as to indicate the reason why the earlier sale was repudiated; and
- (ii) the reason shall be declared to buyers before sale.

62. A bale re-offered by any buyer, other than the Board but including the holder of an auction floor licence, shall, subject to the provisions of paragraph (b) of sub-rule (3) of rule 59, be re-offered for sale marked with the registered number allotted to him by a sales supervisor pursuant to subsection (2) of section *twenty-eight* of the Act.

Resale numbers

63. The holder of an auction floor licence shall, not later than half an hour before the close of banking hours on the day following the day of sale, pay to a seller or his agent thereunto authorised in writing, the proceeds of the sale of his tobacco, less such weighing, selling, commission and re-handling charges as may have been approved by the Board in terms of section *sixty-nine* of the Act, or such other charges as he may be authorised to deduct by or under the Act or any other written law.

Sellers' accounts

64. (1) Except in the case of a dispute reported in writing to the holder of the auction floor licence and only to the extent of such dispute, a buyer or his agent shall settle his account not later than half an hour before the close of banking hours on the day following the day of sale.

Payment of accounts by buyers

(2) If a buyer or his agent fails to do so, the holder of the auction floor licence may report the matter to the sales supervisor.

(3) A holder of an auction floor licence may, and shall if so instructed by the sales supervisor, refuse to accept a subsequent bid from such buyer until the account in question has been paid in full.

65. (1) A seller shall notify the holder of the auction floor licence of the manner in which the bale wrappings in which his tobacco is packed shall be disposed of.

Disposal of bale wrappings



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(2) The holder of the auction floor licence shall immediately return all bale wrappings received from the buyers to the owners of such wrappings or otherwise deal with the wrappings on the instructions of the owners.

66. (1) The buyer shall promptly return to the auction floor on which he purchased tobacco contained in any bale, the wrappings of such bale, as directed by the Board. Return of bale wrappings

(2) A buyer shall take all reasonable steps to ensure that the bale wrappings are not cut or otherwise damaged when the tobacco is unpacked.

67. Notwithstanding any rule to the contrary in this Part, whenever the Board, by direction given to a holder of an auction floor licence, has instructed that the sale of tobacco be conducted by mechanical auction, the following provisions shall apply: Special provisions relating to the sale of tobacco by mechanical auction

- (a) the holder of the auction floor licence in question shall include in the statement required by paragraph (a) of sub-rule (1) of rule 34 the floor lot number on which the bale is placed;
- (b) the holder of the auction floor licence shall ensure that the bale ticket clearly shows the floor lot number in addition to the particulars enumerated in paragraph (a) of sub-rule (1) of rule 34;
- (c) the sales supervisor shall ensure that according to circumstances the sale of a bale is completed not later than the commencement of the sale of the catalogue immediately following the one in which the bale is recorded or ten minutes after the sale of the last bale of the catalogue in which it is recorded, whichever shall first occur;
- (d) the provisions of rule 43 shall not apply.

SCHEDULE

(Rule 2)

PRESCRIBED FORMS



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FORM 1

(Rule 3)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

PRELIMINARY CROP FORECAST RETURN

I certify-

- (i) that the total acreage of Virginia flue-cured/Burley/Oriental tobacco *(6) planted by me this 19 /19 growing season is acres;
- (ii) that I estimate that the total quantity of Virginia flue-cured/Burley/Oriental tobacco*(7) which will be offered for sale by me or on my behalf this 19 selling season, will be kg.

.....
Date

.....
Signature

*Delete whichever are inapplicable.

Registered number of grower

Registered name of grower (*block capitals*)

Postal address

Name of farm or farms and I.C.A.....

NOTES:

- (1) This form duly completed must reach the Secretary, Tobacco Board of Zambia, P.O. Box 31963, Lusaka, on or before 31st March, in a selling season.
- (2) Severe penalties are provided for inaccurate estimates of false returns.
- (3) You are required to state the total net area of land, excluding unplanted outcrops, roads, contour ridges, etc., planted on all your farms irrespective of whether the stand is good or bad.



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FORM 2

(Rule 3)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

FURTHER CROP FORECAST RETURN

I certify-

- (i) that the total acreage of Virginia flue-cured/Burley/Oriental tobacco*(8) planted by me this 19 /19 growing season is acres;
- (ii) that I estimate that the total quantity of Virginia flue-cured/Burley/Oriental tobacco*(9) which will be offered for sale by me or on my behalf this 19 selling season, will be kg.

.....
Date

.....
Signature

*Delete whichever are inapplicable.

Registered number of grower.....

Registered name of grower (*block capitals*).....

Postal address.....

Name of farm or farms and I.C.A.....

NOTES:

- (1) This form duly completed must reach the Secretary, Tobacco Board of Zambia, P.O. Box, Lusaka, after 15th May but before 1st June in a selling season.
- (2) Severe penalties are provided for inaccurate estimates or false returns.
- (3) You are required to state the total net area of land, excluding unplanted outcrops, roads, contour ridges, etc., planted on all your farms irrespective of whether the stand is good or bad.



HOME

Shortcuts...

	
Full screen: Command + L	Full screen: Ctrl + L
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(Rule 4)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

To: The Secretary,
Tobacco Board of Zambia,
P.O. Box 31963,
Lusaka.

APPLICATION FOR GRADER'S LICENCE

I, (name)
of (address)

hereby apply for the issue of a licence to grade tobacco pursuant to Part VI of the Tobacco Act, and in support of my application submit the following particulars:

1. In the case of a company, state the names of all directors
2. In the case of a partnership, state the name of every partner
3. Description of the premises in which it is proposed to carry on the business of a grader.....
4. Name of the person who will supervise the grading
5. Have you previously held a grader's licence? (YES/NO).....
If YES state-
(a) date of issue of last licence.....
(b) the premises in respect of which such licence was issued
- (c) if the premises have been altered since the last licence was issued (YES/NO)
6. If you have not previously held a licence, have you enclosed the plans required by rule 4 (1) (c) (see reverse of this form)? (YES/NO)
7. If you have previously held a licence, but the premises have been altered since the last licence was issued, have you enclosed a plan showing the nature of such alterations? (YES/NO)
8. Have you enclosed the licence fee of one hundred and fifty-five fee units?
(YES/NO)

.....
Date

.....
Signature
[P.T.O



HOME

Shortcuts...



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[Reverse side of Form 3]

NOTE 1.-Rule 4 (1) (c) of the Tobacco (Marketing and Licensing) Rules requires the submission of the following:

- (i) a plan showing the site;
- (ii) a plan and elevations;
- (iii) a plan and description of the humidification system of the buildings in which it is proposed to carry on the grading or to store tobacco.

NOTE 2.-The minimum standards of premises which may be licensed by the Board for grading tobacco are specified in rule 5 as follows:

- (a) they are of such design and construction as may be approved by an architect appointed for this purpose by the Board;
- (b) they are provided with storage space sufficient to permit the stacking of tobacco received for grading or awaiting despatch for sale without exceeding a height of two hundred and forty-four centimetres above the level on which the bottom bale rests;
- (c) the floor surface of the grading shed, storage, sheds and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, are composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco.



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FORM 4

(Rules 6 and 7)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES
GRADER'S RECEIPT FOR TOBACCO

(Name of Grader)..... (Date)
Received from..... (name of grower).....
registered number by lorry/rail*(10) bales
of Virginia flue-cured/Burley tobacco*(11) for grading, weighing.....kg.
net, on (date received)
Number of bales examined
Report on condition of bales examined

Signature

* Delete whichever is inapplicable.

NOTE 1.-If for any reason a grader is unable to weigh bales immediately following receipt, this form shall be completed for the number of bales received and a further receipt showing the weights shall be sent to the grower within three working days.

NOTE 2.-Unless a report on condition is made in this receipt, such report shall be sent to the grower within seven days of receipt of the tobacco, failing which the Board will assume that the condition thereof is satisfactory.



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and Livestock



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FORM 5

(Rule 8)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

RETURN BY A GRADER

(Name of Grader)

Grading Return No..... Date.....

Class of Tobacco (Burley or Flue-Cured) .

Grower's NameGrower's Registered No

(a) UNGRADED LEAF RECEIVED TO DATE:

(per receipts issued): Bales kg

(b) GRADED

This return To Date

	Bales	Net kg.	Bales	Net kg.
Issued for grading..
Ada: "Tails" ex last grading
Mixed ex Auction Floor
.....
<i>Total issued</i>

(c) RESULTS OF GRADING:

Packed for sale
"Tails"
.....
.....

Total "Saleable"

Unsaleable-(1) Mouldy
(2) Funked
(3) Stem Rot
(4) Perished, green, etc.
(5) Stems
(6) Sand
(7) Fine Scrap

Total "Unsaleable"

Grand Total:

Total Grading loss to date: %: Grading loss less (1)-(4) %
Number of hessian wrappers received pieces
Number of hessian wrappers used pieces
Old hessian left over pieces
New paper issued.. .. yards
New hessia issued pieces

(a) DELIVERIES TO AUCTION FLOORS:

This return To Date
Bales Net kg. Bales Net kg.
Date
Date
Date

Remarks.....

Supervisor.

Signature

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FORM 6

(Rule 11)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

To: The Secretary,
Tobacco Board of Zambia,
P.O. Box 31963,
Lusaka.

APPLICATION FOR BUYER'S LICENCE

I, (name)
of (address).....
hereby apply for the issue of a licence to buy tobacco pursuant to Part VII of the Tobacco Act and in support of my application submit the following particulars:

1. In the case of a company, the names of all directors
2. In the case of a partnership, the name of every partner.....
3. Where appropriate, the names of all persons entitled to buy tobacco on your behalf:
.....
.....
4. The class of tobacco which you intend to buy (e.g. Burley, Virginia flue-cured, Oriental).....
5. The manner in which you propose to buy tobacco (e.g. by auction at a licensed auction floor, by private treaty or at a primary or rural level)
6. Whether or not you are a buyer solely by virtue of the ownership of land in respect of which you have agreed to permit a third person to produce tobacco on not more than ten acres of the said land in consideration of a share in the said tobacco when produced, or of a share of the proceeds of its sale, and if so the situation of such land.....
7. Whether or not the application is for the issue of an exclusive licence pursuant to section 44 (4) of the Act, and if so the area in which the applicant wishes to buy tobacco.....
8. If you wish to buy tobacco by auction, and have not previously been licensed as a buyer, have you attached to this application statements in writing from the holders of all auction floor licences that they are willing to do business with you? (YES/NO).....
9. Have you enclosed the licence fee of three hundred fee units? (YES/NO).....

Date

Signature



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FORM 7

(Rule 13)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

RETURN OF PURCHASES BY A BUYER

Class of tobacco.....
Area of origin
Month ending (see note 3)

Market	How purchased (see notes 1 and 2 below)	Total	Less Resales	Net Total
Internal				
External				
<i>Total</i>				

NOTE 1.-Here indicate whether purchased by auction on a licensed auction floor, by private treaty or at a primary or rural level.

NOTE 2.-Except where tobacco covered by this return has been purchased by auction at a licensed auction floor, the buyer shall attach to this return a statement showing in detail the weight purchased from each grower by name and registered number during the month and the gross value thereof.

NOTE 3.-This return is to be submitted to the Secretary, Tobacco Board of Zambia, P.O. Box 31963, Lusaka, not later than the fifteenth of the month following that to which it refers.



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FORM 8

(Rule 14)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

APPLICATION FOR AN AUCTION FLOOR LICENCE

To: The Secretary,
Tobacco Board of Zambia,
P.O. Box 31963,
Lusaka.

I, (name)
of (address)
hereby apply for the issue of an auction floor licence pursuant to Part VIII of the Tobacco Act, and in support of my
application submit the following particulars:

1. In the case of a company, the names of all directors.....
2. In the case of a partnership, the name of every partner.....
3. Description of the premises.....
4. Have the premises previously been licensed as an auction floor?.....(YES/NO)
 - A. If YES-
 - (a) state the date on which the last licence was issued.....
 - (b) give details of any alteration in the use of the premises as an auction floor
since the issue of the last licence
 - B. If NO have you-
 - (a) obtained a conditional authority from the Board? (rule 15) (YES/NO)
..... ; or
 - (b) enclosed a plan showing the site of the premises in relation to road and rail facilities and a plan and
elevation of the premises? (YES/NO)
5. Have you enclosed the licence fee of one thousand five hundred fee units?
(YES/NO)

.....
Date *Signature*

See Reverse of this Form for Minimum Standards of Auction Floors

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[Reverse side of Form 8]

MINIMUM STANDARDS OF PREMISES

Rule 16 reads:

"Except where the Board may, with the approval of the Minister, have exempted any premises from the provisions of Part VIII of the Act, no auction floor licence shall be issued in respect of premises-

- (a) which do not comply with the following minimum requirements:
 - (i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales floor;
 - (ii) the total area of platforms and verandahs capable of being used for the loading or off-loading of tobacco shall not be less than forty per centum of the area of the sales floor;
 - (iii) the natural roof lighting of the sales floor shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen per centum of the area of the sales floor;
 - (iv) the floor surface of the sales floor, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;
 - (v) there shall be in a position adjacent to or as part of the auction floor an area set aside for the re-handling of tobacco, which area shall be not less than seven per centum of the area of the sales floor, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board;
- (b) unless the design and construction thereof are such as may be approved by an architect appointed for this purpose by the Board."

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FORM 9

(Rule 15)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

APPLICATION FOR CONDITIONAL AUTHORITY

(Auction Floor)

To: The Secretary,
Tobacco Board of Zambia,
P.O. Box 31963,
Lusaka.

I, (name).....
of (address)
hereby apply for the grant of a conditional authority to erect, extend or alter premises for use as an auction floor pursuant to Part VIII of the Tobacco Act, and in support of my application submit the following particulars:

1. In the case of a company, the names of all directors.....
2. In the case of a partnership, the name of every partner
3. Have the premises for which the conditional authority is sought been previously licensed? (YES/NO)
If YES-
(a) describe briefly the proposed alterations or extensions.....
(b) have you supplied a plan and elevations of the proposed alterations or extensions? (YES/NO)
4. If the premises for which conditional authority is sought-
(a) do not exist;
(b) exist but have not previously been licensed as an auction floor*(12);
have you enclosed a plan showing the site of the premises or proposed premises in relation to road and rail facilities and a plan and elevations of such premises or proposed premises? (YES/NO).....

*Delete (a) or (b) whichever is inapplicable.

.....
Date Signature

For Minimum Standards of Auction Floors see overleaf.

[Reverse side of Form 9]

MINIMUM STANDARDS OF PREMISES



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Rule 16 reads:

"Except where the Board may, with the approval of the Minister, have exempted any premises from the provisions of Part VIII of the Act, no auction floor licence shall be issued in respect of premises-

- (a) which do not comply with the following minimum requirements:
 - (i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales floor;
 - (ii) the total area of platforms and varendahs capable of being used for the loading or off-loading of tobacco shall not be less than forty per centum of the area of the sales floor;
 - (iii) the natural roof lighting of the sales floor shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen per centum of the area of the sales floor;
 - (iv) the floor surface of the sales floor, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;
 - (v) there shall be in a position adjacent to or as part of the auction floor an area set aside for the re-handling of tobacco, which area shall be not less than seven per centum of the area of the sales floor, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board;
- (b) unless the design and construction thereof are such as may be approved by an architect appointed for this purpose by the Board."



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FORM 10

(Rule 17)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

AUCTION FLOOR DAILY TOBACCO SALES RETURN

Name of Auction Floor

Class of tobacco

Selling day No Date of sale.....

Weight sold, in kgs.....

Gross value of tobacco sold K

Average price per kg, in kwacha

.....

Date

Signature



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FORM 11

(Rule 17)
 THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

AUCTION FLOOR WEEKLY TOBACCO SALES RETURN

Name of Auction Floor.....

Class of tobacco

Selling week No Week ending 19

For Week Season to Date

1. Summary of Net Sales (Excluding Resales)

Number of bales offered	..	..	.....	.....
Number of bales sold	..	..	.....	.....
Percentage sold of bales offered	..	..	.....	.....
Weight sold, in kgs	..	..	.....	.....
Gross value of tobacco sold	..	..	K	K
Average price per kg, in kwacha	..	..	.....	.....
Average weight of bales, in kg	..	..	.....	.....

2. Summary of Resales

Weight resold, in kgs	..	..	.....	.....
Value of tobacco resold	..	..	K	K

.....

Date

Signature

NOTE 1.-All weights to be expressed as wet weight.

NOTE 2.-This return is to be made up for each week during a selling season to midnight on Wednesday, and submitted to the Board by not later than the following Monday.



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SECTIONS 24, 25, 26, 27 AND 100-THE TOBACCO (REGISTRATION OF GROWERS) REGULATIONS

Statutory Instrument
139 of 1968
Act No. 13 of 1994

Regulations by the Minister

1. These Regulations may be cited as the Tobacco (Registration of Growers) Regulations. Title

2. The registers of growers which the Registrar shall cause to be kept shall be in respect of the growers of the following prescribed classes of tobacco: Registers of growers
 - (a) Virginia flue-cured;
 - (b) Burley;
 - (c) Oriental;
 - (d) all other prescribed classes.

3. (1) The registration periods in respect of classes of tobacco within which growers or intended growers of any such specified classes of tobacco shall apply for registration shall be- Registration periods
 - (a) Oriental tobacco: 1st June to 31st December.
 - (b) All other prescribed classes: 1st April to 31st October.

(2) The duration of the aforesaid registrations shall be- Duration of registration

 - (a) in the case of Oriental tobacco, the period ending on the following 31st December; and
 - (b) in the case of all other prescribed classes, the period ending on the following 31st October.

4. (1) Application for registration as a grower of tobacco shall be made in writing to the Registrar, Tobacco Board of Zambia, Lusaka, in the Form T.A.1 set out in the Schedule. Application for registration

(2) A separate application shall be made in respect of each prescribed class of tobacco to be grown.

(3) Each application shall indicate the intended acreage of the particular prescribed class of tobacco to be grown.

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(4) Where it is intended to grow more than one prescribed variety of a prescribed class of tobacco, the intended acreage of each prescribed variety shall be indicated on the application form.

5. Where an application for registration is made after the termination of the registration period prescribed by regulation 3 (1), the applicant shall pay to the Board- Registration fee for late application

- (a) for the first late application, a registration fee of sixty fee units;
- (b) for each subsequent late application, a registration fee of one hundred and fifty fee units.

(As amended by Act No. 13 of 1994)

SCHEDULE

PRESCRIBED FORM



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FORM T.A. 1
(Regulation 4)

THE TOBACCO ACT

THE TOBACCO (REGISTRATION OF GROWERS) REGULATIONS

To: The Registrar,
The Tobacco Board of Zambia,
Lusaka.

Postal address of applicant:

.....
.....
.....

APPLICATION FOR REGISTRATION AS A GROWER OF TOBACCO

Name and initials of applicant (BLOCK CAPITALS)

Class of tobacco (see Notes 1, 2 and 3 overleaf)

Name of farm(s) and I.C.A.
or
Name of village, Chief and I.C.A.

Acreage to be grown of this class (figures)

- I hereby apply for registration as a grower of tobacco of the above class.
- I intend to grow the following acreages and prescribed varieties (see Note 4 overleaf):

Variety	Acres
.....
.....
.....
.....

3. I hereby appoint the Tobacco Board of Zambia my agent for the purpose of the disposal of any surplus tobacco or of any unsold tobacco belonging to me or remaining in my possession or under my control at the end of the selling season to which this application relates. I further authorise and empower the said Board, as my said agent, to dispose of, to destroy, or to order the disposal or destruction of, such surplus or unsold tobacco, as the Board thinks fit; and I authorise the said Board, its officers, employees or agents to enter upon my lands, at any time, for the purpose of exercising the agency hereby conferred. This agency shall become effective upon the date of my registration as a registered grower by virtue of this application and shall be irrevocable for a period of one year from the date hereof, unless extended by me in writing at any time before or after its determination as herein provided.

4. I have read Note 7 overleaf and I appreciate that my compliance with the Regulations mentioned therein is a condition of my registration.

.....
Date Signature

[Reverse side of Form T.A.1.]



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NOTES

1. The form overleaf is to be used for all applications for registration as a registered grower, regardless of the prescribed class of tobacco to be grown.
2. A separate application must be made in respect of each prescribed class of tobacco to be grown-the class in each case to be indicated in the space provided at the head of the form.
3. The prescribed classes are-
 - (a) auctionable-Virginia flue-cured;
 - (b) non-auctionable-fire-cured, Oriental, sun-cured, sun- and air-cured.
4. Under section 84 of the Act, only prescribed varieties of prescribed classes may be grown or sold. The prescribed varieties, by classes, are-
 - (a) Virginia flue-cured tobacco-Bonanza, Canadel, Delcrest, Hicks, Jamaica Wrapper, Kutsaga 51, Kutsaga E.1, Kutasaga E.2, Rhomos 7, Trelawney C.7, White Gold, White Stem Orinoco, Yellow Mammoth;
 - (b) Fire-cured tobacco-Malawi Western;
 - (c) Burley tobacco-Burley 21, Kentucky 41;
 - (d) Oriental tobacco-Samsun;
 - (e) other prescribed classes-Malawi Western.The prescribed varieties to be grown must be shown separately in paragraph 2 of the form and the acreage of each.
5. Application for registration in respect of the following year's crop must be made within the periods-
 - (a) Oriental tobacco: 1st June to 31st December;
 - (b) all other prescribed classes of tobacco: 1st April to 31st October.
6. Section 33 (1) of the Act reads in part: "Every application for registration ... shall contain a clause, to become effective upon registration, whereby the registered grower empowers the Board, as agent ... to dispose of or destroy or cause to be destroyed or to order the disposal or destruction of any surplus or unsold tobacco belonging to such registered grower and remaining in his possession or under his control at the end of any selling season". Paragraph 3 of the form reflects this provision and signature of the form by the applicant signifies the applicant's acceptance of this condition to his registration.
7. Registration is conditional upon the applicant's compliance with the provisions of regulations 3 and 4 of the Plant Pests and Diseases (Tobacco) Regulations, which relate to the destruction of tobacco plants, stalks and roots after cropping. Failure to comply with the regulations may result in the refusal or cancellation of registration. Attention is drawn to this condition in paragraph 4 of the form.
8. The completed application, duly signed, should be sent to the Registrar, Tobacco Board of Zambia, P.O. Box 31963, Lusaka, from whom additional forms are available.

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SECTION 59-THE TOBACCO (PRESCRIBED CLASSES) REGULATIONS

Statutory Instrument
140 of 1968
68 of 1977

Regulations by the Minister

1. These Regulations may be cited as the Tobacco (Prescribed Classes) Regulations. Title
2. The class or classes of tobacco specified in the first column of the Schedule shall be auctionable or non-auctionable tobacco for the purposes of the Act as specified in the second column of the Schedule, opposite the said specified classes. Prescribed classes



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SCHEDULE

(Regulation 2)

PRESCRIBED CLASSES OF TOBACCO

<i>Class</i>	<i>Auctionable/ non-auctionable</i>
Virginia flue-cured tobacco	non-auctionable
Fire-cured, Burley, Oriental, sun-cured, air-cured, sun- and air-cured tobacco	non-auctionable

(As amended by No. 68 of 1977)



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SECTION 83-THE TOBACCO (PRESCRIBED VARIETIES) REGULATIONS

*Regulations by the Minister,
after consultation with the Tobacco Board of Zambia*

Statutory Instruments

141 of 1968

354 of 1969

33 of 1973

178 of 1977

72 of 1983

1. These Regulations may be cited as the Tobacco (Prescribed Varieties) Regulations. Title
2. Of the classes of tobacco specified in the first column of the Schedule, the variety or varieties, as the case may be, specified in the second column of the Schedule, opposite the said specified classes, are prescribed varieties of such classes of tobacco for the purposes of Part XI of the Act. Prescribed varieties

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SCHEDULE

(Regulation 2)

PRESCRIBED VARIETIES OF TOBACCO

<i>Class</i>	<i>Variety</i>
Virginia flue-cured tobacco	Bonanza, Canadel, Delcrest, Hicks, Jamaica Wrapper, Kutsaga 51, Kutsaga E.1, Kutsaga E.2, Rhomos 7, Trelawney C.7, White Gold, White Stem Orinoco, Yellow Mammoth
Burley tobacco	Burley 21, Kentucky 41
Oriental tobacco	Samsun
Fire-cured, sun-cured, air-cured, or sun- and air-cured tobacco ..	Malawi Western
Cigar tobacco	Virginia Mammoth
Virginia flue-cured tobacco	Kutsaga Mammoth E(KME), Speight G.41
Burley air-cured tobacco	Banket A.1, Harian

(As amended by No. 354 of 1969, No. 33 of 1973 and No. 178 of 1977)



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SECTION 100-THE TOBACCO (GENERAL) REGULATIONS

Statutory Instrument
138 of 1968

Regulations by the Minister

1. These Regulations may be cited as the Tobacco (General) Regulations.

Title

2. (1) Where, under the provision of sections *thirty-six, forty, forty-five, forty-nine, fifty-one* and *fifty-four* of the Act, an aggrieved person appeals to the Minister, notice of the appeal shall be given to the Permanent Secretary, in writing, within thirty days of the notification to the aggrieved person of the decision against which he wishes to appeal:

Appeals

Provided that the Minister may, in circumstances which he deems to merit special consideration, consider appeals, notice of which is given after the expiration of the said period of thirty days.

(2) The notice of appeal shall be accompanied by a deposit of twenty kwacha, and shall specify in detail the grounds on which the appeal is made and such other information and representations in support thereof as the appellant may think fit, but the appellant shall have no right to appear in person before the Minister.

(3) The Permanent Secretary shall transmit to the Minister every notice of appeal given to him pursuant to sub-regulation (1), together with such other information and representations as the appellant may have submitted pursuant to sub-regulation (2).

(4) The Minister may, if he deems fit, call upon the Registrar or the Board, as the case may be, to submit, within a stated time, such information or representations in writing as the Registrar or the Board, as the case may be, may wish to submit in respect of any appeal.

(5) After considering the information and representations made by the appellant and such information and representations as the Registrar or the Board, as the case may be, have submitted pursuant to sub-regulation (4), the Minister shall confirm or set aside the decision against which the appeal is made, and, if the decision is so set aside, he may substitute for such decision such alternative decision as to him seems just and equitable.

(6) The Minister shall, in any appeal, make such order for the return or forfeiture of the whole or part of the deposit referred to in sub-regulation (2) as seems to him to be just and equitable.

3. The registration fee payable by a grower pursuant to section *thirty-four* of the Act in respect of the restoration of his name to the appropriate register shall be-

Fee for restoration of
registration

(a) for the first such restoration in any one season, sixty fee units;

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(b) for every subsequent restoration in any one season, one hundred and fifty fee units.

(As amended by Act No. 13 of 1994)

4. (1) An application for a permit to export tobacco, as may be granted pursuant to section *eighty-seven* of the Act, shall be submitted in triplicate in the Form T.A. Gen. 1 set out in the First Schedule, and shall be addressed to the Permanent Secretary. Export of tobacco

(2) The application shall state the class and weight of tobacco to be exported and the date by which the exportation shall have been completed.

(3) Upon the granting of any application made pursuant to sub-regulation (1), the Minister shall endorse the permit to export on each copy of such application and shall specify thereon such conditions as may be applicable, including a date of expiry:

Provided that, if no date is so specified, the permit shall be deemed to expire on the 31st December following the date of issue.

(4) Such permit shall be issued by delivering to the applicant a copy thereof endorsed pursuant to sub-regulation (3), and shall be deemed to have been issued on the date appearing as the date of such endorsement.

5. (1) The substances specified in the Second Schedule are deemed to be noxious and unfit for use in the treatment of tobacco. Prescription of noxious substances

(2) No person shall sell or otherwise dispose of tobacco which has been- Prohibition against sale of tobacco treated with certain substances

(a) treated with; or

(b) reaped from tobacco plants treated with;
any such scheduled noxious substance.

6. (1) The inspection of auctionable tobacco held over from any selling season, as required by section *sixty-six* of the Act, shall be carried out by the isolation of the sample or bale and its examination in a manner calculated to ensure that the presence of any living pest of tobacco would by such examination be revealed. Inspection of tobacco held over

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(2) In the course of the inspection, the registered grower shall, if so required, indicate to the inspector the place and manner of storage of the tobacco and shall make any portion of the tobacco as stored available to the inspector at his request.

(3) The certificate in respect of auctionable tobacco certifiable under section *sixty-six* of the Act shall be in the Form T.A. Gen. 2 set out in the First Schedule. Certificate of inspection

(4) The fumigation of tobacco pursuant to section *sixty-six* of the Act shall be effected at the rate of one kilogramme methyl bromide per 1,000 cubic feet under gas-proof sheets for a period of forty-eight hours. Fumigation

FIRST SCHEDULE

PRESCRIBED FORMS



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FORM T.A. GEN. 1
(Regulation 4)

APPLICATION FOR PERMIT TO EXPORT TOBACCO

(To be submitted in triplicate)

The Permanent Secretary,
Ministry of Agriculture,
Lusaka.

SEASON 19 /19

1. I hereby apply for a permit to export the following weights of tobacco in the above season:

	<i>Prescribed Class</i>	<i>Weight</i>
(a)		
(b)		
(c)		

2. If the permit is granted, I undertake to complete exportation by ,
19

Address of applicant:

..... *Signature*
.....
.....
Date *(name in block capitals)*

PERMIT

The Minister has approved the above application, subject to the completion of
exportation by (date) , 19, and to the following further conditions:

Date.....
File No

.....
*Permanent Secretary,
Ministry of Agriculture*



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(Regulation 6)
FUMIGATION CERTIFICATE

NOTE.-Section 66 of the Act reads:

"(1) Any registered grower who has, under a permit from the Board, held any auctionable tobacco over from any selling season, may deliver the said tobacco to an auction floor for sale in any later selling season if he is the holder of a certificate in the form prescribed, issued by an inspector appointed pursuant to section 22 of the Plant Pests and Diseases Act to the effect that-

Sale of auctionable tobacco grown in earlier season. Cap. 233

Sale of auctionable tobacco grown in earlier season. Cap. 233

- (a) the tobacco has been fumigated in the manner prescribed; and
- (b) the tobacco or a representative sample thereof has been inspected as prescribed and no evidence of the presence of any living pest of tobacco has been found therein;

and which certificate has been issued not more than thirty days before the said tobacco is delivered to the said licensed auction floor.

(2) Immediately before any auctionable tobacco, which has been delivered to an auction floor pursuant to subsection (1), is auctioned on such auction floor, the sales supervisor on the said auction floor shall publicly announce the year of the growth of the said tobacco and that the certificate required by subsection (1) has been issued in respect thereof."

- 1. THIS CERTIFICATE is issued pursuant to section 66 of the Act.
- 2. I hereby certify-
 - (a) that the tobacco (specify)
.....
grown by (name of registered grower).....
in the season 19 has been fumigated in accordance with these Regulations; and
 - (b) that it or a representative sample thereof has been inspected as prescribed and no evidence of the presence of any living pest of tobacco has been found therein.
- 3. This certificate is valid only for thirty days from the date of issue.

.....
Inspector P.P. and D.A.

Date of issue



Ministry of Agriculture
and Livestock



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SECOND SCHEDULE

(Regulation 5)

NOXIOUS SUBSTANCE

1. Maleic hydrazide, also known as MH.

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**THE VETERINARY AND VETERINARY
PARA-PROFESSIONS ACT, 2010**

ARRANGEMENT OF SECTIONS

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2. Interpretation

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4. Functions of Association
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6. Chairperson and Vice-Chairperson of Association
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PART III

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8. Continuation and re-naming of the Board of Veterinary Surgery
9. Composition of Council
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12. Prohibition of practising without registration
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20. Cancellation of registration
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22. Application for practising certificate
23. Display of practising certificate
24. Renewal of practising certificate
25. Cancellation of practising certificate

*Single copies of this Act may be obtained from the Government Printer,
P.O. Box 30136, 10101 Lusaka. Price: K21,000 each*



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27. Conditions of certificate
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34. Publication of copies of Register
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FIRST SCHEDULE

SECOND SCHEDULE

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GOVERNMENT OF ZAMBIA

ACT

No. 45 of 2010

Date of Assent: 24th November, 2010

An Act to establish the Veterinary Association of Zambia; continue the existence of the Board of Veterinary Surgery and re-name it as the Veterinary Council of Zambia; provide for the registration of veterinary and veterinary para-professionals and regulate their professional conduct; provide for the licensing of laboratories and animal health facilities; provide for the recognition and approval of training programmes for veterinary and veterinary para-professionals; repeal and replace the Veterinary Surgeons Act, 1964; and provide for matters connected with, or incidental to, the foregoing.

[29th November, 2010

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Veterinary and Veterinary Para-Professions Act, 2010, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

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

Interpretation

“animal” means any mammal, other than a human, bird, fish or reptile or amphibian which is a member of the phylum vertebrates, including the carcass of such animals;

“animal health care service” means a service provided by a veterinary surgeon or animal health facility for the prevention, diagnosis, treatment and management of any animal disease and the preservation of the well being of animals;



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- “ animal health facility ” means any site, fixed or mobile, providing services for the prevention, diagnosis and treatment of animal diseases and includes a diagnostic centre;
- “ Association ” means the Veterinary Association of Zambia established under section *three*;
- “ Board ” means the Board of Veterinary Surgery established under the repealed Act;
- “ certificate of registration ” means the certificate issued under section *fourteen*;
- “ Chairperson ” means the person elected Chairperson of the Association pursuant to section *six*; and
- “ Code of Ethics ” means the code of professional conduct adopted and published by the Council;
- “ constitution ” means the constitution of the Association adopted in accordance with section *five*;
- “ consulting room ” means a room used by a veterinary surgeon for consulting and diagnosis;
- “ Council ” means the Veterinary Council of Zambia referred to under section *eight*;
- “ diagnostic centre ” means a laboratory or any other related service;
- “ Disciplinary Committee ” means the Committee constituted under section *sixty-three*;
- “ inspector ” means a person appointed as an inspector under section *fifty-three*;
- “ member ” means a person registered as a member of the Association in accordance with the provisions of the constitution of the Association, and “ membership ” shall be construed accordingly;
- “ peer ” means a member of the same veterinary profession with similar specialisation, if any, and an equivalent number of years of veterinary practice;
- “ practising certificate ” means a certificate issued to a veterinary surgeon under section *twenty-two*;
- “ professional misconduct ” has the meaning assigned to it under section *sixty-one*;

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- “provisional certificate of registration” means the registration effected under section *fifteen*;
- “Register” means the Register of Veterinary Surgeons, Veterinary Para-Professionals and any other class of persons referred to under section *thirty-three*;
- “Registrar” means the person appointed as Registrar of the Association under section *eleven*;
- “repealed Act” means the Veterinary Surgeons Act, 1964; Cap. 243
- “scope of practice” means the range of knowledge expected of a particular veterinary or veterinary para-professional, and the preventive, diagnostic and treatment techniques which a veterinary surgeon or veterinary para-professional is allowed to perform, and the conditions under which the veterinary surgeon or veterinary para-professional may engage in those techniques;
- “speciality” means a special field of work or study that a veterinary surgeon specialises in or intends to specialise in;
- “specialist” means a person registered as a specialist under section *eighteen*;
- “student” means a person who is enrolled at an educational institution recognised by the Council and undergoing training in the veterinary and livestock field;
- “temporary certificate of registration” means the registration effected under section *sixteen*;
- “veterinary practice” means dispensing, performing, giving or providing any surgical operation, treatment, test, advice, diagnosis or attendance by a veterinary surgeon;
- “veterinary profession” means a profession whose member is required to register under section *fourteen*, and “veterinary professional” shall be construed accordingly; and
- “veterinary surgeon” means a person registered as a veterinary surgeon under section *fourteen*;
- “Vice-Chairperson” means the person elected Vice-Chairperson of the Association pursuant to section *six*.
- (2) In this Act, any reference to the removal from, or the restoration to, the Register of the name of a veterinary professional, shall be construed as including a reference to the removal from, or the restoration to, the Register of any other registrable particulars relating to that veterinary professional.



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PART II

THE VETERINARY ASSOCIATION OF ZAMBIA

Establishment
of Veterinary
Association
of Zambia

3. (1) There is hereby established the Veterinary Association of Zambia.

(2) The Association shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and shall, subject to the provisions of this Act, have power to do all such acts and things as a body corporate may, by law, do or perform.

(3) The provisions of the First Schedule apply to the Association.

Functions of
Association

4. (1) The functions of the Association are to—

(a) register veterinary and veterinary para-professionals, and regulate their professional conduct;

(b) register students of veterinary studies and veterinary para-professionals;

(c) develop, promote, maintain and improve appropriate standards of qualification in the veterinary profession;

(d) develop, promote and enforce internationally comparable veterinary profession practice standards in Zambia;

(e) investigate allegations of professional misconduct and impose such sanctions as may be necessary;

(f) advise the Government on matters relating to the veterinary profession;

(g) promote the general advancement of the veterinary and veterinary para-profession and allied disciplines for the improvement of the quality of animal life;

(h) maintain and improve the standards of conduct and learning of the veterinary and veterinary para-profession and allied professions in Zambia;

(i) facilitate the acquisition of knowledge by veterinary and veterinary para-professionals through the establishment of technical libraries, and the provision of monetary grants, books, apparatus and any other facilities necessary to achieve this end;

(j) hold meetings of the Association for the reading and discussion of papers for professional interest, to make awards to authors of papers of special merit and to arrange for other activities of interest or benefit to veterinary and veterinary para-professionals;

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- (k) raise the character and status of the veterinary and veterinary para-profession and allied disciplines, to promote honourable and good practice and increase the confidence of the community in those persons practising in the veterinary and veterinary para-profession and allied disciplines;
- (l) promote alternative dispute resolution mechanisms and to serve as an arbitral institution for disputes of a veterinary and veterinary para-profession nature;
- (m) in consultation with the Ministry responsible for education and the Technical Education Vocational and Entrepreneurship Training Authority, accredit universities, technical colleges, institutions and programmes of instruction leading to the award of qualifications of veterinary and veterinary para-professionals;
- (n) represent, protect and assist veterinary surgeons and veterinary para-professionals with regard to their conditions of practice, remuneration or otherwise; and
- (o) do all such other things as are necessary, or incidental, to the performance of its functions under this Act.
- (2) The Association may—
- (a) determine and levy fees that the Association considers necessary to finance its activities under this Act;
- (b) determine the fees payable for an inspection conducted for the purposes of this Act;
- (c) determine fees for the accreditation of local and foreign training institutions and qualifications; and
- (d) determine what portion of any fee is payable in respect of any part of a year and the date on which the fee or portion thereof is payable.

5. (1) The Association shall, by a vote of at least two-thirds of the members voting at a general meeting of the Association, adopt a constitution and may, in the like manner, amend it.

Constitution
of
Association

(2) Subject to this Act, the constitution shall regulate the conduct of the affairs of the Association.

(3) Subject to subsection (2), the constitution shall provide for the following matters:



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Unlocking Zambia's Potential

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- (a) the meetings of the Association, including the delivery and sufficiency of notices of the meetings, the quorum, voting, adjournment and other matters of procedure or conduct of the meetings;
- (b) the election, qualifications and tenure of the office bearers;
- (c) the composition, functions, powers and procedures of the committees of the Association;
- (d) the classes of membership and their rights, privileges and obligations; and
- (e) any other matter as the membership may determine.

Chairperson
and
Vice-
Chairperson
of
Association

6. The members shall elect the Chairperson and Vice-Chairperson of the Association in accordance with the constitution.

Meetings of
Association

7. (1) Subject to this Act, the Association may regulate its own procedure.

(2) The meetings of the Association shall be conducted in accordance with the provisions of the constitution of the Association.

(3) The validity of any proceedings, act or decision of the Association shall not be affected by any person's absence from any meeting of the Association or by reason that a person not entitled to do so took part in the proceedings.

PART III

THE VETERINARY COUNCIL OF ZAMBIA

Continuation
and re-
naming of
Board of
Veterinary
Surgery
Cap. 243

8. (1) The Board of Veterinary Surgery established under the repealed Act shall continue to exist as if established under this Act and is for purposes of this Act hereby re-named the Veterinary Council of Zambia.

(2) The provisions of the First Schedule apply to the Council.

Composition
of Council

9. (1) The Council shall consist of the following part-time members appointed by the Minister:

- (a) the Chairperson;
- (b) the Vice-Chairperson;



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- (c) the Director responsible for veterinary services;
 - (d) the Dean of the School of Veterinary Medicine at the University of Zambia;
 - (e) a representative of the Attorney-General;
 - (f) one farmer nominated by the Zambia National Farmers Union;
 - (g) two veterinary professionals; and
 - (h) one veterinary para-professional.
- (2) The members of the Council who are veterinary professionals shall be elected by the membership of the Association.
- (3) A person shall not be eligible for appointment or election as a member of the Council if—
- (a) that person is under any written law, adjudged or otherwise declared to be of unsound mind;
 - (b) that person is adjudged or declared bankrupt under any written law in Zambia; or
 - (c) that person has been convicted of an offence under this Act or any other law.
- (4) The Association shall publish the names and designation of the members of the Council in a daily newspaper of general circulation in Zambia.

10. (1) The functions of the Council are to—

- (a) promote an understanding of professional ethics amongst veterinary and veterinary para-professionals;
- (b) participate in the development of veterinary practice standard setting;
- (c) maintain appropriate practice standards among veterinary and veterinary para-professionals that are consistent with the principle of self-regulation and the promotion of high standards of veterinary services;
- (d) promote the integrity, and enhance the status, of the veterinary profession, including the declaration of any particular veterinary practice to be undesirable for all, or a particular category of, veterinary surgeons;
- (e) license public and private animal health facilities and monitor quality control and assurance of animal health facilities and services;

Functions of
Council



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- (f) represent, coordinate and develop the veterinary and veterinary para-profession and promote its interest;
- (g) protect and assist the public in all matters relating to the practice of the veterinary profession;
- (h) make recommendations affecting, or relating to, the veterinary profession to the general meeting of the Association;
- (i) promote continuing professional development among veterinary professionals; and
- (j) do all such things as are necessary, or incidental, to the performance of its functions under this Act.

Registrar
and other
staff

11. (1) The Council shall appoint a Registrar, who shall be the chief executive officer of the Council, on such terms and conditions as the Council may determine.

(2) The Registrar shall be the Secretary to the Council and shall be responsible for the day-to-day administration of the affairs of the Council, under the supervision of the Council.

(3) The Council may, whenever the Registrar is absent or is for any other reason unable to discharge the functions of the Registrar's office, appoint an acting Registrar to discharge the Registrar's functions.

(4) The Council shall appoint, on such terms and conditions as the Council may determine, such other staff as may be necessary for the purposes of this Act.

PART IV

REGISTRATION OF VETERINARY PROFESSIONALS

Prohibition
of practising
without
registration

12. (1) A person shall not practise as a veterinary surgeon or veterinary para-professional, unless that person is registered as a veterinary surgeon or veterinary para-professional in accordance with this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Application
for
registration

13. (1) A person who wishes to be registered as a veterinary surgeon or veterinary para-professional, shall apply to the Council for registration in the prescribed manner and form upon payment of the prescribed fee.



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Para-Professions*

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(2) The Council may determine different fees for different categories or classes of veterinary professionals.

(3) The Council shall, within thirty days of receipt of an application under subsection (1), grant or reject the application.

(4) The Council shall, where it rejects an application under subsection (3), inform the applicant accordingly and give the reasons therefor.

14. (1) The Council shall, where an application meets the requirements of this Act, register the applicant as a veterinary surgeon and issue the applicant with a certificate of registration.

(2) The Council shall—

(a) enrol a diploma holder as a veterinary para-professional;

(b) enlist a certificate holder as a veterinary para-professional;
and

(c) register any other category or class of veterinary para-professionals as the Minister may prescribe, on the recommendation of the Council.

(3) A holder of a provisional certificate of registration or a temporary certificate of registration may apply to the Council for a certificate of registration in the prescribed manner and form upon payment of the prescribed fee.

(4) The Council shall, within thirty days of receipt of an application under subsection (3), grant or reject the application.

(5) The Council shall, where it rejects an application under subsection (4), inform the applicant accordingly and give the reasons therefor.

(6) Subject to the provisions of this Act, the Council shall issue a certificate of registration under this section—

(a) to a holder of a provisional certificate of registration, if the holder—

(i) has practised in an animal health facility approved by the Council for a period of not less than twelve months;

(ii) is of good character and good professional standing; and

(iii) meets such other requirements as may be prescribed; and

(b) to a holder of a temporary certificate of registration, if the holder—

Registration
of
veterinary
surgeons
and para-
veterinary
professionals

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- (i) has completed at least twelve months of continuous employment in an animal health facility; and
- (ii) submits a letter from the veterinary surgeon at the animal health facility referred to under subparagraph (i), stating that the person has performed satisfactorily and displayed skills and knowledge equivalent to those of veterinary professionals trained in Zambia.

(7) The Minister may, by statutory instrument, on the recommendation of the Council, prescribe—

- (a) the qualifications for registration of a person as a veterinary surgeon or veterinary para-professional;
- (b) the categories or class of veterinary para-professionals to be registered under this Act; and
- (c) the scope of practice for veterinary surgeons or veterinary para-professionals registered under this Act.

Provisional
registration

15. (1) A person who holds a qualification from a training institution recognised by the Council, or a holder of a temporary certificate of registration, may apply for provisional registration in the prescribed manner and form upon payment of the prescribed fee.

(2) Subject to the provisions of this Act, the Council shall, where a person makes an application under subsection (1), issue the person with a provisional certificate of registration if—

- (a) the person meets the requirements for provisional registration; and
- (b) the Council determines that the training previously received by the person is equivalent to that required for provisional registration.

(3) The Council shall, where it rejects an application for provisional registration, inform the applicant accordingly and give the reasons therefor.

(4) A person holding a provisional certificate of registration may engage in employment as a veterinary surgeon or veterinary para-professional in Zambia.

(5) The Council shall not issue a person with a provisional certificate of registration for a period exceeding two years.

(6) The Minister may, by statutory instrument, on the recommendation of the Council, make regulations to regulate the scope of practice of holders of provisional certificates of registration.



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16. (1) Subject to the provisions of this Act, a person who is trained outside Zambia and is not a holder of a qualification recognised by the Council, may apply for temporary registration.

Temporary
registration

(2) The Council shall, upon receipt of an application made under subsection (1), issue the applicant with a temporary certificate of registration if the applicant—

- (a) possesses such knowledge and training as may be prescribed;
- (b) has passed the prescribed assessment examination conducted by the relevant training institution in Zambia, recognised by the Council;
- (c) provides a certificate of good standing from the professional registration body in the country where the person is currently practising;
- (d) proves that the person is sufficiently knowledgeable in the English language; and
- (e) shall serve in Zambia at the request of the Zambian Government or an animal health facility licensed under this Act to provide specialist services.

(3) The Council shall not issue a person with a temporary certificate of registration for a period exceeding two years.

(4) The Council shall, where it rejects an application for temporary registration, inform the applicant accordingly and give the reasons therefor.

17. (1) The Council may, at the request of an animal health facility licensed under this Act, register a veterinary surgeon, qualified in another country, to provide veterinary services in Zambia for a limited period of time, at the animal health facility.

Registration
for limited
period

(2) The Council shall register a veterinary surgeon for a limited period if the veterinary surgeon holds equivalent registration in the veterinary surgeon's country of origin and the veterinary surgeon is in good standing with the relevant professional body in the veterinary surgeon's country.

(3) The Council may specify the terms and conditions to which the registration under this section is subject, including the acts to be performed, or the nature of supervision required, by the veterinary surgeon.

(4) The Council shall register a veterinary surgeon under this section for a specified period of time not exceeding six months.



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(5) The Council may, on the application of an animal health facility, renew the registration of a veterinary surgeon under this section, on such terms and conditions as the Council may determine.

Specialist
registration

18. (1) A veterinary surgeon who wishes to be registered as a specialist shall apply to the Council for registration, in the prescribed manner and form upon payment of the prescribed fee.

(2) The Council shall register a veterinary surgeon as a specialist, if the veterinary surgeon holds a post-graduate qualification approved by the Council.

Changes in
detail

19. A person registered under this Act, shall notify the Registrar of any change of that person's particulars relating to the registration, within seven days of the change.

Cancellation
of
registration

20. (1) The Council shall cancel the registration of a veterinary surgeon or veterinary para-professional where—

(a) the Council has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of any material fact;

(b) the veterinary surgeon or veterinary para-professional is found guilty of professional misconduct under this Act or the Code of Ethics;

(c) the veterinary surgeon or veterinary para-professional has ceased to be employed by, or to practise at, an animal health facility for which the registration was obtained;

(d) the period for which the registration of the veterinary surgeon or veterinary para-professional was issued has lapsed;

(e) the veterinary surgeon or veterinary para-professional is convicted of an offence and sentenced to imprisonment for a period exceeding six months without the option of a fine; or

(f) since the registration, circumstances have arisen disqualifying the veterinary surgeon or veterinary para-professional from registration.

(2) The Council shall, before cancelling the registration of a veterinary surgeon or veterinary para-professional under subsection (1), give the person an opportunity to be heard.

(3) The Council may, before cancelling the registration of a veterinary surgeon or veterinary para-professional, suspend the veterinary surgeon or veterinary para-professional for such period and on such terms and conditions as the Council may determine.



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(4) Where the Council cancels the registration of a person under this section, the person's name shall be removed from the Register and shall not be restored except on such conditions as may be prescribed by the Council and upon payment of the prescribed fee.

21. (1) A person shall not practise as a veterinary surgeon, unless that person holds a practising certificate issued by the Council under this Act.

Prohibition
of practise
without
practising
certificate

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

22. (1) A veterinary surgeon shall apply for a practising certificate in the prescribed manner and form upon payment of the prescribed fee.

Application
for practising
certificate

(2) The Registrar shall, upon receipt of an application under subsection (1) and where the application meets such requirements as may be prescribed, issue the veterinary surgeon with a practising certificate.

23. A holder of a practising certificate shall display the practising certificate in a conspicuous place at the place of practise.

Display of
practising
certificate

24. (1) A practising certificate shall be renewed annually in the prescribed manner and form upon payment of the prescribed fee.

Renewal of
practising
certificate

(2) A practising certificate that is not renewed in accordance with subsection (1) is void.

(3) A veterinary surgeon who practises during any period in which the veterinary surgeon's practising certificate is void commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

25. (1) The Council shall cancel a practising certificate if the holder—

Cancellation
of practising
certificate

(a) is found guilty of any professional misconduct;

(b) is declared to be of unsound mind;

(c) is an undischarged bankrupt;

(d) contravenes the provisions of this Act, or any other relevant law;

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- (e) is a proprietor, or in charge of, an animal health facility which is closed or whose licence is cancelled by the Council under this Act;
- (f) obtained the practising certificate through fraud, misrepresentation or concealment of a material fact; or
- (g) commits an offence under this Act or contravenes the Code of Ethics.

(2) Where the registration of a veterinary surgeon is cancelled under this Act, the practising certificate held by the veterinary surgeon shall be void and shall be surrendered to the Council.

(3) The Council shall, before cancelling the practising certificate of a veterinary surgeon under this section, give the veterinary surgeon an opportunity to be heard.

(4) The Council may, before cancelling the practising certificate of a veterinary surgeon, suspend the veterinary surgeon for such period and on such terms and conditions as the Council may determine.

Regulations relating to practising certificates

26. The Minister may, by statutory instrument, on the recommendation of the Council, make regulations to provide for—

- (a) the terms and conditions for the issuance of practising certificates;
- (b) the type of continuing professional development and training and any other information required for the issuance of a practising certificate; and
- (c) any other matter necessary for purposes of this Act.

Conditions of certificate

27. A certificate issued under this Part shall contain such terms and conditions of the certificate as the Council may determine.

Prohibition of transfer of certificate

28. A certificate issued under this Part shall not be transferred to a third party.

Removal and restoration of name on Register

29. (1) The Minister may, on the recommendation of the Council, make regulations prescribing the circumstances and manner in which a veterinary surgeon or veterinary para-professional—

- (a) may be removed from the Register; and
- (b) who is removed from the Register, may be restored on the Register and the fee to be paid for the restoration.



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(2) Subject to subsection (1), a veterinary surgeon or veterinary para-professional who is removed from the Register ceases to be a registered veterinary surgeon or veterinary para-professional.

(3) The Council may, where a veterinary surgeon informs the Registrar that the veterinary surgeon does not intend to practise for a specified period of time, maintain the name of the veterinary surgeon on the Register, in a non-practising category, for that period of time.

30. Where the registration of a veterinary surgeon or veterinary para-professional has been cancelled or suspended, the veterinary surgeon or veterinary para-professional affected may, subject to such terms and conditions as the Council may determine, apply for re-registration.

Re-
registration

31. (1) A person whose certificate of registration is destroyed or lost may apply to the Registrar for a duplicate certificate in the prescribed manner and form upon payment of the prescribed fee.

Duplicate
certificate of
registration

(2) The Registrar may, upon receipt of an application under subsection (1), issue a duplicate certificate of registration to the applicant.

32. (1) A person may apply to the Registrar for a certificate of status, containing particulars relating to the registration of a veterinary surgeon or veterinary para-professional, in the prescribed manner and form and upon payment of the prescribed fee.

Certificate of
status

(2) Upon receipt of an application under subsection (1), the Registrar may issue a certificate of status to the applicant in the prescribed form.

33. (1) The Registrar shall keep and maintain a Register of all persons registered under this Act in which the Registrar shall enter the details and particulars relating to—

Register

- (a) fully registered veterinary surgeons or veterinary para-professionals;
- (b) the holders of—
 - (i) practising certificates;
 - (ii) provisional certificates of registration; and
 - (iii) temporary certificates of registration;
- (c) holders of degrees, diplomas, certificates or other qualifications in veterinary medicine;
- (d) persons registered for a limited period;



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- (e) persons registered as specialists;
- (f) the applications rejected and the reasons therefor; and
- (g) any other information as the Council may determine.

(2) The Register shall be kept in the custody of the Registrar at the offices of the Council, and shall be open for inspection by members of the public during normal office hours upon payment of such fee as the Council may determine.

(3) The Registrar may, upon application by any person, issue to the person a certified extract from the Register, or a copy of a certificate of registration, upon payment of such fee as the Council may determine.

Publication
of copies of
Register

34. (1) The Registrar shall, on the direction of the Council, cause copies of the Register and any alterations thereof, or additions thereto, to be printed and published in such manner and form as the Council may direct.

(2) Subject to this Act, a copy of the last published and printed Register shall be evidence admissible in all legal proceedings of what is contained in that Register and the absence of the name of a veterinary surgeon or veterinary para-professional from that copy, shall be *prima facie* evidence that the veterinary surgeon or veterinary para-professional is not registered.

Appeals

35. A person aggrieved with a decision of the Council may, within thirty days of receiving the Council's decision, appeal to the High Court.

Holding out
as veterinary
surgeon

36. (1) A person shall not, unless the person is registered as a veterinary surgeon under this Act—

- (a) practise as, be employed as, offer animal health care services as, be engaged as an agent of, or hold out to be, a veterinary surgeon;
- (b) adopt, use or exhibit the term "veterinary surgeon" or any other term of like description; or
- (c) do anything likely to lead persons to infer that the person is a registered veterinary surgeon.

(2) A person or animal health facility shall not employ any person who is not registered under this Act as a veterinary surgeon or veterinary para-professional.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

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(4) A veterinary surgeon who permits that veterinary surgeon's name to be used by a person who is not a registered veterinary surgeon commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

(5) Nothing in this section shall prevent a trainee, undergoing training for the purpose of qualification for registration as a veterinary professional, from employment or performance of veterinary services under the direct supervision of a registered veterinary surgeon in accordance with such guidelines for training programmes as the Council may determine.

37. (1) A person shall not—

- (a) make or cause to be made an unauthorised entry, alteration or erasure in the Register or a certified copy of an entry in the Register or a certificate of registration or other certificate issued under this Act;
- (b) impersonate or use the title of a registered veterinary surgeon or veterinary para-professional while not registered as such under this Act;
- (c) procure, or attempt to procure, registration under this Act, by fraud, false representation or the concealment of a material fact;
- (d) forge a certificate of registration or other certificate issued under this Act; or
- (e) undertake to provide animal health care services in excess of the scope of practise permitted for the registered veterinary profession.

Offences regarding registered veterinary surgeons and veterinary para-professionals

(2) A person who contravenes subsection (1), commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

PART V

TRAINING OF VETERINARY PROFESSIONALS

38. (1) A training institution shall not provide, or hold out as providing, training to prepare students for the veterinary profession, unless the training programme is approved by the Council.

Prohibition of provision of unauthorised training programme

(2) A training institution that contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units, and to a fine of forty thousand penalty units for each day during which the offence continues.



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Application
for approval
of training
programme

39. (1) A training institution that intends to offer training in the veterinary profession shall apply to the Council for approval of the training programme in the prescribed manner and form upon payment of the prescribed fee.

(2) The Council may, after review of a proposed training programme, approve the training programme if the training programme meets the requirements of this Act and if the training programme shall adequately prepare students for the provision of veterinary services.

(3) The Council may accept the successful completion of a training programme approved under subsection (2), as meeting some or all of the requirements for provisional registration in the veterinary profession.

(4) The Council shall not, where a training institution uses a training programme in the training of the veterinary profession which is not approved under this section, accept the training as meeting the training requirements for registration in the veterinary profession.

Review of
approved
training
programme

40. (1) The Council shall, at least every five years from the date of the approval of a training programme under section *thirty-nine*, review the approved training programme, including the performance of the graduates of the programme.

(2) The Council shall withdraw the approval of a training programme, where it determines that—

- (a) the training programme no longer meets the requirements of this Act; or
- (b) the graduates of the training programme consistently fail to meet the standards required by the veterinary profession.

Continuing
professional
development
and training

41. (1) The Minister may, by statutory instrument, on the recommendation of the Council, make regulations to provide for continuing professional development and training to be undertaken by veterinary professionals.

(2) Notwithstanding the generality of subsection (1), the regulations may provide for—

- (a) the nature and extent of continuing professional development and training to be undertaken by veterinary professionals;
- (b) the criteria for recognition by the Council of continuing professional development, training programmes and training institutions for purposes of this Act;



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- (c) the minimum professional and technical training to be provided by a training institution to a person who is to be registered in the veterinary profession; and
- (d) the requisite infrastructure of training institutions, appropriate educational and training curricula, qualifications of faculty personnel, suitable training equipment and staffing levels of personnel.

PART VI

LICENSING OF ANIMAL HEALTH FACILITIES

42. (1) A person shall not operate an animal health facility without a licence issued in accordance with the provisions of this Part.

Prohibition
of operating
animal
health
facility
without
licence

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

43. A person who intends to operate an animal health facility shall apply to the Council for a licence in the prescribed manner and form upon payment of the prescribed fee.

Application
for licence to
operate
animal
health
facility

44. (1) The Council shall, where a health facility meets the requirements of this Act, issue the applicant with a licence.

Issue of
licence

(2) A licence issued under subsection (1) shall be renewed annually in the prescribed manner and form and upon payment of the prescribed fee.

(3) A licence shall be issued on such terms and conditions as the Minister may, by statutory instrument, on the recommendation of the Council, prescribe.

45. (1) The Council shall reject an application for a licence to operate an animal health facility if—

Refusal to
issue
licence

(a) the proprietor or person in charge of the facility is in violation of a provision of this Act;

(b) where a veterinary surgeon is in charge of the facility, that veterinary surgeon is not registered and is not in possession of a valid practising certificate;



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- (c) if the facility does not meet the physical, staffing, equipment or organisational requirements for the licence; or
- (d) the veterinary surgeon to be in charge of the animal health facility has not held a certificate of registration for a period of at least three years before the date of the application, unless the Council determines that the veterinary surgeon is properly registered and has the relevant experience in another country equivalent to that acquired after three or more years of full registration in Zambia.

(2) The Council shall, where it rejects an application under subsection (1), inform the applicant accordingly and give the reasons therefor.

Display of
licence

46. A licensed animal health facility shall display a copy of the licence in a prominent place at the animal health facility.

Variation of
licence

47. A holder of a licence may, at any time during the validity of the licence, apply to the Council for variation of the terms and conditions of the licence.

Surrender of
licence

48. Where a holder of a licence decides not to continue operating the animal health facility to which the licence relates, the holder shall surrender the licence to the Council.

Transfer of
licence

49. A licence shall not be transferred to a third party without the prior approval of the Council.

Amendment
of licence

50. The Council may amend a licence where—

- (a) some other person has succeeded to the interest in the animal health facility belonging to the holder of the licence, by substituting the name of the holder with the name of the successor; or
- (b) the name of the animal health facility has changed, by substituting the name so changed.

Renewal of
licence

51. (1) The Council shall renew a licence issued under this Part, if—

- (a) the animal health facility remains in full compliance with the rules for animal health facilities;
- (b) the animal health facility provides information that the Council may require as a condition of the renewal of the licence; and
- (c) the proprietor or person in charge of the animal health facility pays an annual fee as may be prescribed by the Council.

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52. (1) Subject to the other provisions of this Act, the Council may suspend or cancel a licence if the holder—

- (a) obtained the licence by fraud or deliberate or negligent submission of false information or statements; or
- (b) contravenes this Act or any terms and conditions of the licence.

Suspension
or
cancellation
of licence

(2) The Council shall, before suspending or cancelling a licence in accordance with subsection (1), give written notice to the holder thereof of its intention to suspend or cancel the licence and shall give the reasons for the intended suspension or cancellation and require the holder to show cause, within a period of not more than thirty days, why the licence should not be suspended or cancelled.

(3) The Council shall not suspend or cancel a licence under this section if the holder takes remedial measures to the satisfaction of the Council within the period of thirty days referred to in subsection (2).

(4) The Council may, if a holder who is notified under subsection (2) fails to show cause to the satisfaction of the Council, or does not take any remedial measures to the satisfaction of the Council, within the time specified in that subsection, suspend or cancel the licence, and issue the holder with an order to that effect.

(5) The Council shall, where it cancels the licence under subsection (4), publish the order of cancellation in a newspaper of daily circulation in Zambia.

(6) An animal health facility shall, where the proprietor or person in charge of the animal health facility receives a copy of the order under subsection (4), close the animal health facility within fourteen days of receiving the order.

(7) Notwithstanding this section, the Council may, where the Council determines that the continued operation of an animal health facility presents a clear and present danger of imminent harm to animals, order the closure of the animal health facility.

53. (1) The Council shall appoint inspectors to ensure compliance with this Act.

(2) The Registrar shall issue an identity card to an inspector, which shall be produced by the inspector when a person requires it to be produced.

(3) An animal health facility shall be inspected prior to the issuance of a licence and at least every twenty-four months thereafter.

Inspection
of animal
health
facility



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Entry and
inspection

54. (1) An inspector may, by authorisation made under the hand of the Registrar, at all reasonable times, enter and inspect premises which are being used, or which the inspector has reasonable cause to believe are being used as an animal health facility.

(2) An inspector may inspect the practising certificate of a veterinary surgeon working in an animal health facility and other records required to be kept under this Act.

(3) An inspector may inspect an animal health facility and equipment in the animal health facility to ensure compliance with this Act.

(4) A person who—

(a) delays or obstructs an inspector in the performance of the inspector's functions;

(b) refuses to give an inspector such reasonable assistance as the inspector may require for the purpose of exercising the inspector's powers; or

(c) gives an inspector false or misleading information in answer to an inquiry made by the inspector;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Report of
inspection

55. An inspector shall furnish the Council with a written report and any other information relating to an inspection, as the Council may direct.

Closure of
animal health
facility

56. (1) The Council may order the closure of an animal health facility where—

(a) the animal health facility is violating the licence requirements in a manner that presents danger or imminent harm to animals;

(b) the animal health facility is not licensed under this Act; or

(c) the animal health facility contravenes the provisions of this Act or any other law.

(2) The Council shall, where the Council receives an inspection report indicating that an animal health facility is not in compliance with the requirements of its licence, or is offering services in excess of those permitted under its licence, give the animal health facility written notice of the violation.

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(3) An animal health facility shall, where it receives a notice under subsection (2), within fourteen days of receipt of the notice, provide the Registrar with a written plan of correction of the violation, indicating a schedule of dates by which corrective actions shall be taken.

(4) An animal health facility shall, where the plan of correction submitted under subsection (3) is accepted by the Registrar, meet the schedule contained in the plan.

(5) The Council shall, where the plan of correction is rejected by the Registrar, revoke the animal health facility's licence and order the closure of the animal health facility.

57. (1) Subject to subsection (2), an animal health facility shall not offer or give consultation, treatment or diagnosis, except by, or under, the supervision of a veterinary surgeon or the authority of a registered veterinary surgeon.

Prohibition of treatment or diagnosis without registered veterinary surgeon

(2) Subsection (1) shall not apply to the continuation of treatment previously prescribed by a veterinary surgeon for a prescribed period.

(3) The Minister may, by statutory instrument, on the recommendation of the Council, prescribe the qualifications and professional experience required of a registered veterinary surgeon who is to supervise the operations of an animal health facility.

58. The Council shall publish annually a list of all licensed animal health facilities showing their location, in a daily newspaper of general circulation in Zambia.

Publication of licensed animal health facilities

59. (1) A person who—

(a) contravenes any practise standards, procedures or guidelines for animal health facilities issued by the Council;

(b) being a holder of a licence under this Part, breaches any terms and conditions of the licence;

(c) performs an act or omits to act, thereby endangering animal health or any animals receiving health care services at an animal health facility;

(d) without a licence, operates an animal health facility, practises as, or holds out an animal health facility as, licenced under this Act;

(e) without a licence, uses the terms " animal health centre " or any other similar term;

Offences relating to animal health facilities



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(f) engages or employs persons who are not qualified or registered under this Act at a licensed animal health facility; or

(g) contravenes any provision of this Act or any other law; commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding than five years, or to both, and to fifty thousand penalty units for each day during which the offence continues.

PART VII

DISCIPLINARY COMMITTEE

Code of Ethics

60. The Council shall adopt and publish a Code of Ethics for veterinary professionals which shall bind all veterinary professionals regulated under this Act.

Professional misconduct

61. A veterinary professional commits professional misconduct if the veterinary professional—

- (a) contravenes the provisions of this Act;
- (b) unlawfully discloses or uses to the veterinary professional's advantage any information acquired in the veterinary professional's practise;
- (c) engages in conduct that is dishonest, fraudulent or deceitful;
- (d) engages in any conduct that is prejudicial to the veterinary profession or is likely to bring it into disrepute; or
- (e) breaches the Code of Ethics or encourages another veterinary professional to breach or disregard the principles of the Code of Ethics.

Initiation of disciplinary action

62. (1) A person may lodge a complaint with the Disciplinary Committee against a veterinary professional where the person alleges that the veterinary professional has contravened the Code of Ethics or any provision of this Act.

(2) The Council may initiate disciplinary action under this section where the Council has reasonable grounds to believe that a veterinary professional has contravened the Code of Ethics or any provision of this Act.

(3) A complaint or allegation under subsection (1) shall be made to the Registrar in the prescribed manner and form.



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63. (1) The Council shall establish a Disciplinary Committee which shall comprise the following members: Disciplinary Committee

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) the Chairperson of the Council;
- (d) a peer of the veterinary professional against whom a complaint of professional misconduct is made; and
- (e) a legal practitioner.

(2) The Chairperson shall be a registered veterinary surgeon of high standing and long practice in the veterinary profession.

(3) A person shall not be appointed as a member of the Disciplinary Committee if the person—

- (a) has committed or been convicted of any professional misconduct;
- (b) is in lawful custody or the person's freedom of movement is restricted under any law in force within or outside Zambia; or
- (c) has been convicted of an offence under any law.

(4) A member of the Disciplinary Committee shall hold office for three years and may be re-appointed for a further term of three years.

(5) A member of the Disciplinary Committee shall not serve for more than two terms.

(6) The Chairperson, or in the absence of the Chairperson, the Vice-Chairperson, shall preside at every meeting and every sitting of the Disciplinary Committee

64. (1) The functions of the Disciplinary Committee are to hear and determine— Functions of Disciplinary Committee

- (a) any disciplinary action initiated by the Council against a veterinary professional who has contravened any provision of the Code of Ethics or any provision of this Act; or
- (b) any complaint or allegation made by any person against a veterinary professional.

(2) The Disciplinary Committee may publicise, as the Disciplinary Committee may consider appropriate, the facts relating to any veterinary professional who is found guilty of, and punished for, professional misconduct.



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Proceedings
of
Disciplinary
Committee

65. (1) Three members of the Disciplinary Committee shall form a quorum.

(2) Any question at a sitting or meeting of the Disciplinary Committee shall be decided by a majority of the votes of the members of the Disciplinary Committee at the sitting or meeting and in the event of an equality of votes, the person presiding at the sitting or meeting shall have a casting vote in addition to that person's deliberative vote.

(3) All proceedings of the Disciplinary Committee shall be in camera.

(4) The Disciplinary Committee shall cause to be kept a record of its proceedings.

(5) A party to a hearing of the Disciplinary Committee may be represented by a legal practitioner or, if the party so elects, by any other person or in person.

(6) A decision of the Disciplinary Committee shall be in the form of a reasoned judgment and a copy thereof shall be supplied to each party to the proceedings and to every person affected by the decision.

(7) If a person is present at a meeting of the Disciplinary Committee at which any matter is the subject of consideration, and in which matter the person or that person's spouse is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Disciplinary Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

(8) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Powers of
Disciplinary
Committee

66. (1) The Disciplinary Committee may, for the purposes of any hearing, hear and receive evidence and may, under the hand of the Chairperson of the Disciplinary Committee or the Registrar, summon witnesses and require the production of any book, record, document, electronic record or anything required for the purposes of the proceeding and may through the Chairperson or Vice-Chairperson of the Disciplinary Committee administer an oath to any witness.

(2) A person summoned to attend before the Disciplinary Committee who, without sufficient cause—



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- (a) refuses or fails to attend at the time and place specified in the summons or, having attended, leaves without the permission of the Disciplinary Committee;
- (b) having attended, refuses to be sworn or to affirm;
- (c) refuses, without lawful excuse, to answer fully and satisfactorily to the best of that person's knowledge and belief, any question lawfully put to that person; or
- (d) refuses to produce any book, record, document or thing which that person has been required by summons to produce;

commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred and fifty penalty units or to imprisonment for a period not exceeding six months.

(3) A person shall not be compelled to answer any question or produce any book, record or document which that person would not be compelled to answer or produce on the trial of an action in the High Court.

(4) A hearing before the Disciplinary Committee shall, for all purposes, and in particular for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding.

Cap. 87

(5) Where the Disciplinary Committee, after due inquiry, finds a veterinary professional guilty of professional misconduct, it may impose one or more of the following penalties:

- (a) order the cancellation of the veterinary professional's practising certificate or certificate of registration;
- (b) censure the veterinary professional;
- (c) caution the veterinary professional;
- (d) impose a fine, not exceeding three hundred thousand penalty units to be paid to the Council;
- (e) order the veterinary professional to pay to the Council or to any other party to the hearing any costs of, or incidental to, the proceedings;
- (f) order the veterinary professional to pay any party to the hearing or other person, as restitution, the amount of loss caused by that person's negligence; or
- (g) impose any reasonable conditions for the suspension, for a period not exceeding one year of, the veterinary professional's certificate of registration or practising certificate.



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(6) In any hearing before the Disciplinary Committee, any finding of fact which is shown to have been made by any court in Zambia shall be conclusive evidence of the fact so found:

Provided that the finding is not the subject of an appeal or the time for filing an appeal has not lapsed.

(7) The Disciplinary Committee shall, where it has reasonable grounds to believe that a veterinary professional is, or has become mentally unsound to the extent that the continued practising by the veterinary professional is prejudicial to animal health, refer the matter for determination by a medical practitioner.

(8) The Disciplinary Committee shall, where a medical practitioner determines that a veterinary professional is of unsound mind, suspend the practising certificate of the veterinary professional.

(9) The Disciplinary Committee shall, whereafter due inquiry, it finds a veterinary professional not guilty of professional misconduct, record a finding that the veterinary professional is not guilty of such conduct in respect of matters of which the charge relates.

(10) The Disciplinary Committee may, for the purpose of any proceedings, use such assessors or experts as the Disciplinary Committee may determine.

Reports by
Disciplinary
Committee

67. The Disciplinary Committee shall, as soon as practicable after the completion of each hearing, submit to the Council a report of the proceedings together with a copy of the record.

Appeals to
High
Court

68. (1) A person aggrieved with a decision of the Disciplinary Committee may, within thirty days of receiving the decision, appeal to the High Court.

(2) The Council shall be the respondent on any appeal under this section.

(3) A decision of the Disciplinary Committee under this Part shall not take effect until the expiration of the time for lodging an appeal against the decision or, if an appeal is lodged, until the time the appeal is disposed of, withdrawn or struck out for want of prosecution, as the case may be.

(4) The High Court may, on any appeal under this section—
(a) confirm, vary or set aside any finding made, penalty imposed or direction given by the Disciplinary Committee;



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- (b) remit the matter to the Disciplinary Committee for further consideration in accordance with such directions as the High Court may give; or
- (c) make such other order as to costs or otherwise as it considers appropriate.
- (5) Proceedings of the Disciplinary Committee shall not be set aside by reason only of some irregularity in those proceedings if such irregularity did not occasion a substantial miscarriage of justice.
69. (1) The Chief Justice may, by statutory instrument, on the recommendation of the Council, make rules relating to—
- (a) the manner and form for lodging of complaints and appeals under this Part;
- (b) the mode of summoning persons before the Disciplinary Committee;
- (c) the form and manner of service of a summons requiring the attendance of a witness before the Disciplinary Committee and the production of any book, record, document or thing;
- (d) the procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and
- (e) the functions of the assessors to the Disciplinary Committee.
- (2) Rules made under this section may, in particular, provide—
- (a) that before any matters are referred to the Disciplinary Committee they shall, in such manner as may be provided by the rules, have been brought before and investigated by the Council in this respect;
- (b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and
- (c) for securing that any party to the proceedings shall, if that person requires, be entitled to be heard by the Disciplinary Committee.

Rules
relating
to
disciplinary
proceedings

**PART VIII
GENERAL PROVISIONS**

70. (1) A court of competent jurisdiction shall have jurisdiction over veterinary professionals for any act committed outside Zambia which, if it had been committed in Zambia, would have been an offence or professional misconduct under this Act.
- (2) Any proceedings against a veterinary professional under this section which would be a bar to subsequent proceedings against the veterinary professional, for the same offence, if the offence

Jurisdiction
over acts
committed
outside
Zambia



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had been committed in Zambia, shall be a bar to further proceedings against the veterinary professional under any written law relating to the extradition of persons, in respect of the same offence outside Zambia.

Cap. 98

(3) The Mutual Legal Assistance in Criminal Matters Act shall apply to proceedings under this Act.

Presumption of non-registration

71. In any criminal proceedings against a veterinary professional upon a charge of having performed an act which constitutes an offence if performed by an unregistered veterinary professional, the veterinary professional charged shall be presumed to be unregistered unless that veterinary professional proves the contrary.

General penalty

72. A person who contravenes a provision of this Act for which a specific penalty is not provided is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

Offences by body corporate or unincorporate body

73. If a body corporate or unincorporate body is convicted of an offence under this Act, every person who—

(a) is a director of, or is otherwise concerned with the management of, the body corporate or unincorporate body; and

(b) knowingly authorised or permitted the act or omission constituting the offence;

shall be deemed to have committed the same offence and may be proceeded against and punished accordingly.

Authority to issue guidelines

74. (1) In the exercise of its functions under this Act, the Association may make such guidelines as are necessary for the better carrying out of the provisions of this Act.

(2) The Association shall publish the guidelines issued under this Act in a daily newspaper of general circulation in Zambia, and the guidelines shall not take effect until they are so published.

(3) The guidelines issued by the Association under this Act shall bind all persons regulated under this Act.

Regulations

75. (1) The Minister may, on the recommendation of the Council, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under that subsection may make provision for—



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- (a) the forms, fees payable and the procedure for applications to be made under this Act;
- (b) the information and documents to be submitted in support of applications to be made under this Act;
- (c) the form and conditions of the Register, and the particulars to be entered on the Register;
- (d) the form of the certificate of registration and the conditions under which the certificate of registration is issued;
- (e) the form of the practising certificate and the conditions under which the practising certificate is issued;
- (f) the qualifications for registration under this Act;
- (g) the scope of practice for registered veterinary surgeons and veterinary para-professionals;
- (h) the issuance of duplicates and certified copies of certificates of registration, certified copies of entries on the Register, certificates by the Registrar, and the fees payable to the Council therefor;
- (i) the circumstances and manner in which a veterinary professional may be removed from the Register or restored on the Register;
- (j) the type of continuing professional development and training required as a pre-requisite for the issuance of a practising certificate;
- (k) the licensing procedures and the forms for any licence needed to be obtained under this Act;
- (l) the requirements and conditions relating to the licences for animal health facilities; and
- (m) generally the carrying into effect of the purposes of this Act.

76. (1) The Veterinary Surgeons Act, 1964, is hereby repealed.

Repeal of
Cap. 243

(2) Notwithstanding subsection (1), the provisions of the Second Schedule shall apply in respect of the matters specified therein.

(3) Notwithstanding subsection (1), a person who immediately before the commencement of this Act, held office as a member of the Board shall hold office as a member of the Council for a period of three months after which the Minister shall appoint the members of the Council in accordance with the provisions of this Act.



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Cap. 243

(4) After the commencement of this Act, a person registered as a veterinary surgeon under the repealed Act shall continue to practise as a veterinary surgeon for a period of three months, after which the person shall apply for registration in accordance with the provisions of this Act.

(5) After the commencement of this Act, an animal health facility registered by the Board shall continue to operate for a period of one year, after which the animal health facility shall apply for a new licence under this Act.

FIRST SCHEDULE

(Section 3 (3))

PART I

ADMINISTRATION OF ASSOCIATION

Seal of
Association

1. (1) The Seal of the Association shall be such device as may be determined by the Council and shall be kept by the Registrar.

(2) The Chairperson or the Vice-Chairperson, the Registrar or any other person authorised by a resolution of the Council to so act, shall authenticate the affixing of the seal.

(3) Where a contract or instrument is not required to be under seal, the Registrar or a person authorised by the Council in that behalf, may execute the contract or instrument on behalf of the Council without seal.

(4) A document purporting to be a document under the seal of the Association or issued on behalf of the Association, shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

Tenure of
office and
vacancy of
member

2. (1) A member of the Council shall, subject to the other provisions of this Schedule, hold office for a term of three years and may be re-appointed or re-elected for a further term of three years.

(2) Upon the expiration of the term for which a member is appointed, the member shall continue to hold office until another member is appointed, but in no case shall any extension of the period exceed three months.

(3) The office of a member shall be vacated—
(a) upon the member's death;
(b) if the member is adjudged bankrupt;



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- (c) if the member is absent from three consecutive meetings of the Council, of which the member has had notice, without the prior approval of the Council;
- (d) upon the expiry of one month's notice of the member's intention to resign, given by the member in writing to the Minister;
- (e) if the member becomes mentally or physically incapable of performing duties as a member;
- (f) in the case of members of the Council registered under this Act, if the member's registration is cancelled; or
- (g) if the member is convicted of an offence under this Act or any other law.
- (4) Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another member in place of the member who vacates office but that member shall hold office for the unexpired part of the term.
3. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.
- (2) The Council shall meet for the transaction of business at least once in every three months at such places and times as the Council may determine.
- (3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the Chairperson and shall be called if not less than one-third of the members so request in writing:
- Provided that if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called upon giving a shorter notice.
- (4) Five members of the Council shall constitute a quorum.
- (5) There shall preside at a meeting of the Council—
- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson; or
- (c) in the absence of the Chairperson and the Vice-Chairperson, a member of the Council as the members present may elect from amongst themselves for the purpose of that meeting.

Proceedings
of Council



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(6) A decision of the Council on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) Where a member is for any reason unable to attend a meeting of the Council, the member may, in writing, nominate another person from the same organisation to attend the meeting in that member's stead and such person shall be deemed to be a member for the purpose of that meeting.

(8) The Council may invite any person whose presence, in its opinion, is desirable to attend and participate in the deliberations of a meeting of the Council, but that person shall have no vote.

(9) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(10) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and committee established by the Council.

Committees

4. (1) The Council may, for the purpose of performing its functions under this Act, constitute a committee and delegate to the committee such functions of the Council as it considers necessary.

(2) The Council may appoint as members of a committee constituted under sub-paragraph (1), persons who are or are not members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council, any committee constituted under this paragraph may regulate its own procedure.

Allowances

5. A member of the Council or any committee thereof shall be paid such allowances as the Council may, with the approval of the Minister, determine.

**Disclosure
of interest**

6. (1) If any person is present at a meeting of the Council or a committee of the Council at which any matter, in which that person or the person's spouse is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting, disclose



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that interest and shall not, unless the Council or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which the disclosure is made.

7. (1) A person shall not, without the consent in writing given by or on behalf of the Council, publish or disclose to any unauthorised person, otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

(2) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(4) Nothing in this section shall be interpreted to prohibit the publication and dissemination of final decisions of the Council with respect to the revocation of registration, practising certificates, licences or accreditation.

8. An action or other proceeding shall not lie or be instituted against a member of the Council, a committee of the Council or a member of staff of the Council, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any of the powers, functions or duties conferred under this Act.

Prohibition
of
publication
of, or
disclosure of
information
to
unauthorised
person

Immunity
of member
and staff

PART II FINANCIAL PROVISIONS

9. (1) The funds of the Association shall consist of such moneys as may—

- (a) be appropriated by Parliament;
- (b) be paid to the Council by way of fees, levy, grants or donations; or
- (c) vest in or accrue to the Council.

Funds of
Association



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- (2) The Association may—
- (a) accept moneys by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
 - (b) raise by way of loans or otherwise, moneys as the Association may require for the discharge of the Association's functions; or
 - (c) in accordance with the regulations made under this Act, charge and collect fees for services provided by the Association.
- (3) There shall be paid from the funds of the Association—
- (a) the salaries, allowances and loans of members of staff of the Council;
 - (b) reasonable travelling, transport and subsistence allowances for members of the Council or members of any committee of the Council when engaged in the business of the Association, at such rates as the Council may, with the approval of the Minister, determine; and
 - (c) any other expenses incurred by the Council in the performance of the Association's functions.
- (4) The Council may invest, in such manner as the Council thinks fit, funds that the Association does not immediately require for the performance of the Association's functions.
11. The financial year of the Association shall be the period of twelve months ending on 31st December in each year.
12. (1) The Association shall cause to be kept proper books of accounts and other records relating to the Council's accounts.
- (2) The accounts of the Association for each financial year shall be audited by one or more persons who publicly carry on the profession of accountants in Zambia, and who shall be appointed auditors to the Association with the approval of the Auditor-General.
- (3) The Association shall, not later than six months after the end of each financial year of the Institution, submit to the Minister a report of its activities together with a copy of its audited accounts for that financial year, and the Minister shall not later than fourteen days after the first sitting of the National Assembly next after the receipt of the report, lay it before the National Assembly.

Financial
year

Accounts
and audit



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SECOND SCHEDULE
(Section 76 (2))

SAVINGS AND TRANSITIONAL PROVISIONS

1. (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an officer or employee of the Board, shall continue to be an officer or employee of the Council, as the case may be, as if appointed or elected under this Act.

Staff of
Board

(2) The service of the persons referred to, in subparagraph (1) shall be treated as continuous service.

(3) Nothing in this Act, affects the rights and liabilities of any person employed or appointed by the Board before the commencement of this Act.

2. (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Council by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before that date were the assets, rights, liabilities and obligations of the Board.

Transfer of
assets and
liabilities

(2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the Board was a party immediately before the commencement of this Act, whether or not of such a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—

- (a) the Council had been party to it;
- (b) for any reference to the Board there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Council; or
- (c) for any reference to any officer of the Board, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Council as the Council shall designate.

(3) Where under this Act, any assets, rights, liabilities and obligations of the Board are deemed to be transferred to the Council in respect of which transfer a written law provides for registration, the Council shall make an application, in writing, to the appropriate registration authority for registration of the transfer.



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(4) The registration authority, referred to in subparagraph (2), shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

Legal
proceedings

3. (1) Any legal proceedings or application of the Board pending immediately before the commencement of this Act by or against the Board may be continued by or against the Council.

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Board, may be instituted by or against the Council.