

CHAPTER 227 COTTON ACT

Arrangement of Sections

Section

PART I PRELIMINARY

1. Short title
2. Interpretation

PART II THE COTTON BOARD OF ZAMBIA

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
18. Constitution and functions of Appeals Committee
19. Functions of Appeals Committee

PART III

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
- 23. Appeals
- 24. Offences and penalties
- 25. Publication of list of registered persons

PART IV

DISTINGUISHING MARKS

- 26. Approval of distinguishing mark
- 27. Registration of distinguishing mark
- 28. Refusal to approve distinguishing mark
- 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
- 35. Condition of licence
- 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

46. Obstruction of inspector
47. Duty of inspector to report to Board
48. Cancellation of licence by court order
49. Regulations
50. Repeal of Cap. 227 and transitional provisions

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.

[13th July, 2007]

Act 21 of 2005,
S.I. 52 of 2007

PART I PRELIMINARY

1. Short title

This Act may be cited as the Cotton Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“Appeals Committee” means the Committee constituted by section 18;

“Board” means the Cotton Board of Zambia established by section 3;

“Chairperson” means the person appointed chairperson of the Board under section 5;

“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; **“cotton sector”** means the producers and ginnerers 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;

“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 8;

“ginned cotton” means seed cotton which has been processed into lint;

“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 44;

“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 34;

“lint” means the fibre component of processed seed cotton;

“packaging” means the recommended packaging in terms of material, labelling and sealing;

“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;

“repealed Act” means the Cotton Act, 1914;

“seed company” means an organisation or company holding a Cotton Seed Licence issued under section 34;

“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 40.

PART II

COTTON BOARD OF ZAMBIA

3. Establishment of Board

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.

4. Functions of Board

(1) Subject to the other provisions of this Act, the functions of the Board shall be to—

- (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. Composition of Board

(1) The Board shall consist of the following part-time members—

- (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;
- (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 3 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 sub-section (1) shall be nominated by their respective institutions and shall be appointed by the Minister.

{mprestriction ids="1,2,3,5"}

(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 sub-section(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.

6. Tenure of office of member

(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.(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. Filling of casual vacancy

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.

8. Executive Director

(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.

(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. Secretary and other staff

(1) The Executive Director shall be the Secretary to the Board.

(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. Seal of Board

(1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary.

(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.

(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, maybe 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.

11. Proceedings of Board

(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 sub-section (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.

(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. Committees of Board

(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.

(2) The Board may appoint as members of a committee established under sub-section (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. Allowances

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.

14. Disclosure of interest

(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.

(2) A declaration of interest made under sub-section (1), shall be recorded in the minutes of the meeting at which it is made.

15. Prohibition of publication or disclosure of information to unauthorised persons

(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.

(2) Any person who knowingly contravenes the provisions of sub-section (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 sub-section (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.

16. Cotton Licensing Committee

(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.

17. Functions of Cotton Licensing Committee

(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.

(2) The Board may delegate to the Committee such other of its functions as it may consider necessary.

18. Constitution and functions of Appeals Committee

(1) There is hereby constituted the Appeals Committee, which shall consist of not more than five members who shall be appointed by the Board.

(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. Functions of Appeals Committee

(1) The functions of the Committee shall, on behalf of the Board, be to hear and determine appeals from aggrieved cotton growers, ginnors and promoters on matters relating to cotton.

(2) In sub-section (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. Registration of cotton seed producers, etc.

(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.

(2) The application referred to in sub-section (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 sub-section (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 sub-section (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.

21. Register of persons

The Board shall establish and maintain a register of persons, which shall contain such particulars, as may be prescribed.

22. Cancellation of registration of persons

(1) The Board may cancel the registration of a registered person—

- (a) who ceases to comply with any of the provisions under section 19;
- (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 sub-section (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 sub-section (2).

(4) If the registered person notified under sub-section (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 sub-section (2) the Board shall cancel the registration.

23. Appeals

(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 sub-section (1) may appeal to the High Court against such decision within thirty days of being notified of the decision.

24. Offences and penalties

Any person who produces, buys, sells, transports, stores or gins cotton when that person—

(a) is not registered under section 20; 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.

25. Publication of list of registered persons

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.

PART IV DISTINGUISHING MARKS

26. Approval of distinguishing mark

Every registered ginner or producer of processed cotton shall submit a copy of the distinguishing mark to the Board for approval.

27. Registration of distinguishing mark

Where the Board approves a mark submitted to it under section 26, it shall register the mark and shall issue to the registered cotton ginner or producer of processed cotton a certificate in the prescribed form.

28. Refusal to approve distinguishing mark

(1) The Board may refuse to approve a mark and may require the applicant to submit an alternative mark for its approval.

(2) Where the Board refuses to approve a distinguishing mark it shall give reasons for so refusing.

(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.

29. Register of distinguishing mark

(1) The Board shall keep a register of approved distinguishing marks.

(2) The Board shall publish in the *Gazette* and one daily newspaper details of all registered distinguishing marks.

30. Use of distinguishing mark

(1) No person, other than the holder of a certificate issued in relation to that distinguishing mark, shall use that mark.

(2) Any person who contravenes sub-section (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.

31. Marking of receptacle

(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.

(2) For the purposes of sub-section (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—

(a) made of a cloth tag firmly sown 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 LICENSING

32. Prohibition of dealing in cotton without licence

(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 sub-section (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.

33. Licences

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.

34. Application for licence

(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 sub-section (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.

(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.

35. Conditions of licence

A licence issued under this Part shall be subject to the following conditions—

(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.

36. Licence holder to maintain register

(1) A licence holder shall at all times maintain on their premises, a register in which shall be recorded, as applicable to the licence—

- (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, sub-section (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 sub-section (1) commits an offence and is liable, upon conviction, to a fine not exceeding five thousand penalty units.

37. Cancellation of licence

(1) Subject to sub-section (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.

(2) The Board shall, before cancelling a licence in accordance with sub-section (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.

(3) A licence holder who is notified under sub-section (2) may, within the period specified in that sub-section, 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 sub-section (2).

(5) If the holder of the licence notified under sub-section (2) fails to show cause, to the satisfaction of the Board or does not take remedial measures within the period stipulated in sub-section (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.

38. Appeals

(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 maybe, appeal to the Minister subject to further appeal to the High Court.

(2) On any appeal made under sub-section (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 sub-section (2) may appeal to the High Court against such decision within thirty days of receipt of the Minister's notification given under sub-section (2).

PART VI FINANCIAL PROVISIONS

39. Funds of Board

(1) The funds of the Board shall consist of such money 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.

(2) The Board may—

(a) subject to the approval of the Minister, raise by way of loans, or otherwise such money as it may require for the discharge of its functions; and

(b) 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—

- (a) the salaries, allowances and loans of the staff of the Board;
- (b) 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
- (c) 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. Cotton Development Trust Fund

(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.

(2) The money of the Fund shall be applied for the purposes of—

- (a) research and development;
- (b) extension programmes and training of cotton farmers;
- (c) seed production and multiplication;
- (d) seed quality control;
- (e) phytosanitary and quarantine on cotton; or
- (f) such other areas as the Board may consider appropriate.

41. Financial year

The financial year of the Board shall be the period of twelve months ending 31st March of each year.

42. Accounts

- (1) The Board shall cause to be kept proper books of accounts and other records relating to its accounts.
- (2) The accounts of the Board shall be audited annually by independent auditors appointed by the Board.

43. Annual report

(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.

(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**

44. Appointment of Inspectors

(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 sub-section (2).

45. Powers of inspectors

(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 sub-section (2) of section 44, 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.

(2) Any person detained or anything 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. Obstruction of inspector

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 sub-section (3) of section 45 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:

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 sub-section—

(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. Duty of inspector to report to Board

Each inspector shall furnish the Board with such reports and other information relating to an inspection as the Board may direct.

48. Cancellation of licence by court order

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.

49. Regulations

(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.

(2) Without prejudice to the generality of sub-section (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 ratoon 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.

50. Repeal of Cap. 227

The Cotton Act, 1914, is hereby repealed.