



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

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**THE SUGAR ACT**

NO. 11 OF 2024

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Kenya

## Sugar Act

Act No. 11 of 2024

Legislation as at 7 November 2024

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# Sugar Act (Act No. 11 of 2024)

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# SUGAR ACT

## NO. 11 OF 2024

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Commenced on 21 November 2024

**AN ACT of Parliament to provide for the development, regulation and promotion of the sugar industry, to provide for the establishment, powers and functions of the Kenya Sugar Board, and for connected purposes**

### Part I – PRELIMINARY

#### 1. Short title

This Act may be cited as the Sugar Act, 2024.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**agreements**” means agreements specifying the standard provisions governing the rights and obligations of growers, millers, out-growers, transporters and other value chain actors in the sugar industry;

“**Board**” means the Kenya Sugar Board established under section [3](#);

“**by-product**” means any substance, other than sugar, produced incidentally during the process of manufacturing sugar;

“**Cabinet Secretary**” means the Cabinet Secretary for the time being responsible for matters relating to agriculture;

“**cane management**” includes the research, land preparation, contracting, agronomy, harvesting, transportation and delivery of cane;

“**County Executive Committee Member**” means the County Executive Member for the time being responsible for matters relating to agriculture in the respective County;

“**Fund**” means the Sugar Development Fund established under section [41](#);

“**guidelines**” means the guidelines for agreements between parties in the sugar industry set out in the regulations;

“**grower**” means a person who produces sugar-cane or any crop in Kenya for the manufacture of sugar;

“**industry**” means the sugar industry in Kenya and includes the growing of sugar-cane and any other sugar producing crop, the manufacturing, refining, warehousing, marketing, transportation of sugar and disposal of sugar and its by-products;

“**industrial sugar**” means a white crystalline carbohydrate used as a sweetener and preservative sugar, which complies with the specifications set by the body for the time being responsible for setting standards;

“**Institute**” means the Kenya Sugar Research and Training Institute established under section [29](#);

“**Jaggery mill**” means bare minimum technology equipment used to crush sugarcane to produce sugarcane juice which is processed through boiling to produce jaggery;

“**licence**” means a licence issued by the Board to a miller;

“**member**” means a member of the Board appointed under section 6;

“**mill gate**” means a site designed as such by the Board where sugar crops are received, weighed or tested;

“**miller**” means a person licensed to operate a sugar mill or a jaggery, mill in Kenya for the production of sugar including refined sugar and other by-products;

“**outgrower**” means a person who has a sugarcane farm in a catchment area and who has in force a cane supply contract in respect of the sugar-cane grown on such farm and registered by the Board;

“**refined sugar**” means sugar, which complies with the specifications set by the body for the time responsible for setting standards;

“**retailer**” means any person licensed to carry out retail business in Kenya and includes a supermarket, departmental store, retail shop, wholesale shop, distribution agency or a hawker;

“**stakeholder**” means a person with significant interest in the sugar industry and includes growers, out-growers, millers, transporters and other value chain actors in the industry;

“**sugar**” means crystalline or liquid sucrose derived from sugar crop in any of its recognized commercial forms, intended for human consumption or other use and includes jaggery, raw, brown, plantation (mill) white and industrial sugar;

“**sugar beet**” means any plant or part of a plant of the genus Beta or any of its hybrid that is grown for sugar production;

“**sugarcane**” means any plant or part of a plant of the genus saccharum or any of its hybrid;

“**sugar catchment area**” means a geographical area where sugarcane farmers are clustered for purposes of election and cane management;

“**sugarcane growers apex body**” mean a national organization registered under the Societies Act ([Cap. 108](#)) whose membership shall comprise of mill level registered and contracted farmers’ institutions and groups championing the rights under a cane supply agreement and in the catchment areas listed under the First Schedule and *gazetted* as such by the Cabinet Secretary for the time being responsible for Agriculture;

“**sugar crop**” means a crop grown for the purpose of sugar production including sugarcane and sugar beet;

“**sugarcane manufacturer’s apex body**” means a national body, composed of sugar and jaggery millers registered under the Societies Act ([Cap. 108](#)), with the main objective being to lobby for the interest of the registered millers;

“**Tribunal**” means the Sugar Arbitration Tribunal established under section 46.

## Part II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE KENYA SUGAR BOARD

### 3. Establishment and incorporation of the Board

- (1) There is established a board to be known as the Kenya Sugar Board.
- (2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—
  - (a) suing and being sued;
  - (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
  - (c) borrowing or lending money; and

- (d) doing or performing all such other acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

#### 4. Functions of the Board

(1) The Board shall—

- (a) regulate, develop and promote the sugar industry;
- (b) co-ordinate the activities of value chain actors within the industry; and
- (c) facilitate equitable access to the benefits and resources of the industry by all interested parties.

(2) Without prejudice to the generality of subsection (1), the Board shall—

- (a) participate in the formulation and implementation of overall policies, plans and programs of work for the development of the industry;
- (b) act as an intermediary between the industry and the Government;
- (c) establish linkages with other government agencies and research institutions to enhance quality assurance and research and facilitate flow of research findings to the interested parties;
- (d) monitor and regulate the domestic market with a view to identify any distortion in the sugar market and advise the Government and interested parties on any corrective measures to be taken;
- (e) advise the national and county governments on agricultural levies for purposes of planning, enhancing harmony and promotion of equity in the sugar industry;
- (f) facilitate the sale, import and export of sugar and sugar products;
- (g) promote and encourage the use of environmentally friendly technologies in the industry;
- (h) provide advisory services to growers, out-grower institutions and millers;
- (i) in collaboration with county governments, implement an equitable mechanism for the pricing of sugar crop and appropriation of proceeds from the disposal of the by-products of sugar production between millers and growers as stipulated in the guidelines;
- (j) collaborate with national and international trade bodies on sugar related matters;
- (k) oversee the formulation of standard provisions governing the mutual rights and obligations of growers, millers and other interested parties;
- (l) collect, collate and analyze industry statistics and maintain a data base for the industry;
- (m) register and license sugar and jaggery mills, exporters, importers and dealers;
- (n) enforce and monitor compliance with standards along the sugar value chain;
- (o) promote and advise on strategies for value addition and product diversification in the sugar industry;
- (p) in consultation with the county governments and other stakeholders, formulate a strategic plan for the sugar sub-sector at least once every five years;
- (q) in consultation with the county governments, formulate guidelines on an efficient, safe and economical transportation of sugar, sugar crop and disposal of unutilized by-products;
- (r) gather and disseminate market information on regional and global supply chain dynamics for the benefit of stakeholders;



- (s) establish linkages with various government agencies and research institutions to enhance quality assurance and research;
- (t) ensure that there is adequate public participation and consultation with growers in its decision making affecting the sugar industry and its stakeholders;
- (u) promote the efficiency and development of the industry through the establishment of appropriate institutional linkages; and
- (v) perform such other functions as may be conferred on it by this Act or any other written law.

## 5. Functions of county governments

The County Government shall—

- (a) issue certificates and inspect sugar crop nurseries in collaboration with the Kenya Sugar Research and Training Institute;
- (b) offer and coordinate extension services on sugar crop production in the respective county;
- (c) in collaboration with the Board and law enforcement agencies, enforce regulations within the county;
- (d) monitor and report incidences of pests and disease outbreaks and take appropriate action in collaboration with the Board and other relevant government agencies; and
- (e) maintain an efficient road network for the movement of sugarcane, delivery of other services and general development of the sugar industry.

## 6. Composition of the Board

(1) The Board shall comprise—

- (a) a non-executive chairperson appointed by the President;
- (b) five representatives elected by growers from each sugar catchment area as per the First Schedule;
- (c) two representatives each elected by private and public owned sugar mills who are knowledgeable in sugar technology and value addition;
- (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;
- (e) one person nominated by the Council of County Governors who is knowledgeable in extension services and management of farmer institutions;
- (f) the Principal Secretary for the time being responsible for National Treasury or a representative nominated by the Principal Secretary in writing; and
- (g) the Chief Executive of the Board appointed under section 14 who shall be an ex-officio member and the secretary to the Board.

(2) The members under subsection (1)(b), (c) and (e) shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(3) The appointing authority shall ensure, in so far as it is practical, that—

- (a) not more than two thirds of the nominees are of the same gender, and that youth and persons with disabilities are represented in the composition of the Board; and
- (b) the election of members under subsection (1)(b) shall be on rotational basis based on the counties within the catchment area.

- (4) A person shall not be appointed as a chairperson of the Board of Directors unless the person holds at least a degree or its equivalent in any discipline from an institution recognized in Kenya and has fifteen years relevant experience in the sugar sector.

## 7. Term of appointment

- (1) A person appointed as chairperson or a member of the Board under section 6(1)(a), (b), (c) and (e) shall serve for a term of three years renewable for one further term upon election or nomination as the case may be.
- (2) Members of the Board under section 6(1)(a), (b), (c) and (e) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times.

## 8. Vacation of office

A person shall cease to be a member of the Board if the person—

- (a) is absent from three consecutive meetings of the Board without notifying the chairperson in writing;
- (b) becomes an officer, agent or member of staff of the Board;
- (c) resigns in writing addressed to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment exceeding six months without the option of a fine;
- (e) is declared bankrupt;
- (f) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- (g) dies.

## 9. Powers of the Board

The Board shall have all the powers necessary for the proper performance of its functions under this Act, including the power to—

- (a) impose a levy or levies upon growers and millers for the purposes of giving effect to the provisions of this Act;
- (b) control, supervise and administer the assets of the Board in such manner and for such purpose as best promotes the purpose for which the Board was established;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (e) lay down policy guidelines for the operations and management of all the funds collected by the Board;
- (f) access all such relevant information as may be necessary for the efficient administration of the industry;
- (g) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Board is established; and
- (h) open a banking account or banking accounts for the funds of the Board.

## 10. Conduct of business and affairs of the Board

- (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Second Schedule.
- (2) Except as provided in the Second Schedule, the Board shall regulate its own procedure and the procedure of any of its committees.

## 11. Committees of the Board

- (1) The Board may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.
- (2) The Board may co-opt to sit in the committees established under subsection (1), such other persons whose knowledge and skills are necessary for the performance of the functions of the Board.

## 12. Delegation of powers of the Board

The Board may, either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act.

## 13. Remuneration of Board members

The Board shall pay to its members, such fees or allowances for expenses as determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

## 14. Chief Executive Officer

- (1) There shall be a Chief Executive Officer of the Board who shall be appointed through a competitive process by the Board and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.
- (2) A person shall be qualified for appointment under this section if the person—
  - (a) holds a relevant degree from a university recognized in Kenya;
  - (b) has at least ten years knowledge and experience from a relevant field;
  - (c) has at least five years' experience in a position of senior management; and
  - (d) meets the provision of Chapter Six of the Constitution.
- (3) The Chief Executive Officer shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Board.
- (4) The Chief Executive Officer shall, subject to the directions of the Board, be responsible for the day to day management of the affairs of the Board.

## 15. Staff of the Board

The Board may appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the Board may determine.

## 16. Protection from personal liability

A member, officer, employee or agent of the Board shall not be held personally liable to any action, claim or demand for a matter or thing done *bona fide* for the purpose of executing the functions, powers or duties of the Board.

## 17. Liability of the Board for damages

Section 16 shall not relieve the Board of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially, of any works.

## Part III – LICENSING AND REGISTRATION

### 18. Registration of millers

- (1) A person shall not conduct the business of a miller unless he or she is registered by the Board and the premises in which the business is conducted is specified in the register in accordance with regulations made under this Act.
- (2) The Board shall issue to each miller registered under this section, a certificate of registration specifying the premises at which milling may be carried on by the miller.
- (3) No fee shall be charged in respect of registration or certification of registration made or issued under this section.
- (4) In issuing certificates of registration under subsection (3), the Board shall satisfy itself that the premises upon which milling may be carried out meets the environmental standards set by the National Environmental Management Authority and the miller has been issued with a certificate of safety by the relevant county government.
- (5) A miller may offer extension or other services to growers.
- (6) Every miller registered under this section shall conduct business in accordance with this Act and any regulations made thereunder.
- (7) A person who contravenes the provisions of this section commits an offence and shall upon conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings or to both.

### 19. Registration of a grower to a factory

- (1) A miller shall not purchase sugar crop from, or accept, sugar crop delivered by a grower and a grower shall not sell or deliver sugar crop to a miller, unless the—
  - (a) grower is registered with, and has in force a valid supply agreement with the miller;
  - (b) factory of the miller is situated within the grower's sugarcane catchment area; or
  - (c) grower is exempted from the requirements by section 20.
- (2) No miller shall, refuse to accept or collect sugar crop for the manufacture of sugar delivered by a grower in accordance with a cane supply agreement.
- (3) A miller or a grower who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not less than one million shillings or three times the market value of sugar in respect of which the offence is committed, whichever is greater, or to imprisonment for a term not less than one year, or to both such fine and imprisonment.

### 20. Exemption from sugarcane catchment area

- (1) A grower may deliver cane outside a sugarcane catchment area provided that, the grower—
  - (a) has no supply agreement with a miller within the sugarcane catchment area that they are situated in;

- (b) is not indebted to a miller or an outgrower institution within the sugarcane catchment area; or
  - (c) has a pre-existing agreement with a miller situated outside the sugarcane catchment area.
- (2) The grower who intends to exercise the exemption under this section shall notify the Board of their intention to supply cane outside a sugarcane catchment area.
- (3) The Cabinet Secretary shall prescribe regulations for the notification process under subsection (2).

## 21. Inter-miller agreements

A miller may enter into a contract of cane supply with another miller if#

- (a) the factory of the miller is temporarily broken down;
- (b) there is an oversupply of cane to the miller; or
- (c) the mill is located within the same sugarcane catchment area.

## 22. Requirement of a licence to operate mill

- (1) A person shall not operate a sugar mill or a jaggery mill unless he or she is a holder of a current licence issued by the Board upon recommendation by the relevant County Government for that purpose.
- (2) A person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of a licence granted under this Act commits an offence and shall be liable on conviction, to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or to a fine not exceeding ten million shillings, whichever is the higher, or to imprisonment for a term not exceeding five years, or to both.

## 23. Issue of licence and licence fees

- (1) A person shall apply to the Board for a licence to operate a sugar mill or a jaggery mill in the prescribed form.
- (2) The Board shall not issue a licence under this Act unless—
  - (a) it is of the opinion that the applicant is a fit and proper person to hold such a licence; and
  - (b) it is satisfied that the applicant has sufficient knowledge, experience and capacity to enable him conduct business or that he has, amongst his staff, a person with such knowledge and experience.
- (3) Every licence shall specify the premises upon which the milling of sugar may be carried on.
- (4) There shall be payable for the issue of a licence, such fees as the Board, after consultation with the Cabinet Secretary, may prescribe.
- (5) The issuance of a licence to an applicant under this section shall not be withheld without reasonable cause.

## 24. Conditions of a licence

- (1) A license issued under this Act shall be subject to such conditions as the Board may determine and as prescribed in regulations.
- (2) Every license shall, unless earlier revoked, expire on the 30th June next following the date of issue.

## 25. Sugar import

- (1) A person shall not import or export sugar crop, sugar or sugar by-products without a valid licence issued by the Board in accordance with regulations made under this Act.
- (2) A holder of a valid import or export licence shall not import or export sugar crop, sugar or sugar by-products unless they have obtained a pre-import permit or pre-export approval from the Board in accordance with regulations made under this Act.
- (3) A person who imports sugar into Kenya shall, prior to importation—
  - (a) provide evidence that the sugar they intend to import is not available in the local market;
  - (b) provide a sample of the sugar to be imported and pre-import verification certificate from the country of origin; and
  - (c) obtain pre-import approval from the Board.
- (4) A person who contravenes this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings or to both.
- (5) This section shall apply to importation of sugar-cane.

## 26. Safeguard measures

- (1) The Board shall ensure, subject to such regional and international trade agreements to which Kenya is a party, that all sugar imports into the country are subject to all the prevailing import duties, taxes and other tariffs.
- (2) Despite subsection (1), the Board shall ensure that—
  - (a) sugar shall be imported in the country only when there is sugar deficit and for a specific tonnage; and
  - (b) importers report to the Board on their imports, sales and stock as may be determined by the Board.
- (3) The government shall introduce other safeguard measures as may be necessary to protect the industry from unfair trade practices.
- (4) A person who contravenes the provision of this section commits an offence and shall be liable, on conviction, to a fine not exceeding three times the value of the domestic sugar in respect of which the offence is committed, or two million shillings, whichever is higher, or to imprisonment to a term not exceeding ten years, or to both.

## 27. Industrial sugar

- (1) A licenced sugar miller shall be licenced by the Board to carry out the business of processing industrial sugar.
- (2) The Board shall regulate the processing of industrial sugar.

## 28. Duties of millers and retailers

- (1) Every miller shall supply sugar and other sugar products to the domestic market in a package that satisfies the trade principle of traceability.
- (2) Every retailer shall sell sugar products in a package that satisfies the trade principle of traceability.
- (3) The Cabinet Secretary shall within six months of the enactment of this Act, make regulations for the better implementation of the provisions of this section.

- (4) Any person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding two years or a fine not exceeding one million shillings or both.

## **Part IV – ESTABLISHMENT OF THE KENYA SUGAR RESEARCH AND TRAINING INSTITUTE**

### **29. Establishment of the Kenya Sugar Research and Training Institute**

- (1) There is hereby established a body to be known as the Kenya Sugar Research and Training Institute.
- (2) The Institute is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—
- (a) suing and being sued;
  - (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
  - (c) borrowing and lending money;
  - (d) entering into contracts; and
  - (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

### **30. Functions of the Institute**

- (1) The Institute shall—
- (a) promote, co-ordinate and regulate research in sugar, sugar crop, sugar by-products, sugar technologies and management practices.
  - (b) expedite equitable access to research information, resources, sugar technologies and innovations and promote the application of research findings in the development of the sugar industry.
- (2) For the purpose of carrying out its functions, the Institute shall—
- (a) formulate policy and make policy recommendations in respect of sugar research, development and training to the Board in line with the national policy on sugar;
  - (b) determine and advise the Board on the resource requirements for sugar research in Kenya both at the national and county level;
  - (c) regulate, monitor and ensure that all sugar research undertaken by other institutions or persons undertaking sugar research is consistent with the national priorities specified in the relevant policy documents;
  - (d) formulate or approve medium and long term research plans, strategies and budgets of the Institute;
  - (e) provide grants to institutions or persons desirous of carrying out research and training programs which are consistent with the national research priorities and plans of the Institute;
  - (f) support and promote the training and capacity building in relation to sugar industry research;
  - (g) liaise with and ensure the co-ordination of institutions, agencies and persons involved in sugar research;

- (h) establish platforms for the purposes of sharing research information, advancing research and transfer of technology and dissemination of information relating to advancements made in sugar industry research;
- (i) conduct training in industry best practice and value-addition;
- (j) ensure continuance of performance improvement in the field of sugar industry research;
- (k) breed and promote sugarcane varieties suited for various agro-ecological areas of Kenya;
- (l) conduct research on nutritional requirements of sugar crop in order to provide recommendations on the appropriate inputs;
- (m) appraise technologies on land preparation, drainage and water management for economical cane sugar crop production;
- (n) study and monitor pests and diseases that affect sugar crop and recommend appropriate control strategies;
- (o) develop agronomic packages for sugar crop maintenance and management;
- (p) institute socio-economic investigations to improve human resource management and enhance development of the sugar industry as an agribusiness;
- (q) test, design and evaluate farm machinery transport and factory equipment for efficient sugar production;
- (r) promote transfer of sugar industry technology based on applied research through relevant training and extension mechanism;
- (s) foster research on sustainable productivity, environmental issues, human safety at field and factory levels;
- (t) collaborate with the Government, the industry, universities and other national and international organizations for the purpose of furthering the Institute's mission;
- (u) charge fees or levies for rendered services and products;
- (v) offer modular courses on various aspects of sugar industry technologies, innovations and management practices.
- (w) perform such other function as may be conferred on it by this Act or any other written law.

### 31. Management of the Institute

- (1) The Management of the Institute shall vest in the Board of Directors which shall consist of—
  - (a) a chairperson appointed by the Cabinet Secretary through a competitive process in consultation with the Public Service Commission;
  - (b) one person nominated by sugarcane growers' apex body;
  - (c) one person nominated by sugarcane manufacturers apex body;
  - (d) one person with knowledge of and experience in the operation of the sugar industry nominated by the Council of Governors;
  - (e) one person with knowledge and experience in agricultural research in sugar technology nominated by the Cabinet Secretary;
  - (f) the Principal Secretary for the time being responsible for National Treasury or a representative appointed in writing;
  - (g) the Principal Secretary for the time being responsible for Agriculture or a representative appointed in writing;



- (h) the Director General of the Kenya Agricultural Livestock and Research Organization; and
  - (i) the Managing Director who shall be an *ex-officio* member.
- (2) The Cabinet Secretary shall appoint the members under subsection (1) (a), (b), (c), (d) and (e) by notice in the *Gazette*.
- (3) A person shall not be appointed as a chairperson of the Board of Directors of the Institute unless the person holds at least a degree or its equivalent in agricultural research or a related field from an institution recognised in Kenya and has at least ten years' experience in the sugar industry.

### 32. Application

The provisions of sections 8, 9, 10, 11 and 12 shall apply to the Board of the Institute with necessary modification.

### 33. Funds of the Institute

The funds of the Institute shall consist of#

- (a) monies remitted by the Board from the sugar development levy;
- (b) such monies as may accrue to or vest in the Board in the course of the exercise of its functions under this Act;
- (c) monies from any other source as approved by the Board of Directors and Ministry responsible; and
- (d) levies and fees accruing from rendered services and products.

### 34. Managing Director of the Institute

- (1) There shall be a Managing Director of the Institute who shall be appointed through a competitive process by the Board of the Institute and whose terms and conditions of service shall be determined by the Board in consultation with the Public Service Commission in the instrument of appointment or otherwise in writing from time to time.
- (2) A person shall be qualified for appointment under this section if the person-
  - (a) holds a doctorate degree in agricultural studies, agronomy plant genetics and breeding, soil science or a related field from a university recognized in Kenya;
  - (b) has at least ten years knowledge and experience from a relevant field;
  - (c) has at least five years' experience in a position of senior management; and
  - (d) meets the provisions of Chapter Six of the Constitution.

## Part V – APPOINTMENT OF SUGAR INDUSTRY INSPECTORS

### 35. Appointment of crop inspectors

- (1) The Board shall appoint qualified sugar industry inspectors for purposes of undertaking its functions under this Act or any other written law.
- (2) Notwithstanding any other provision of this Act or any other written law, the sugar industry inspector shall comprise of—
  - (a) a crop inspector;
  - (b) a factory inspector;
  - (c) a warehouse and transportation inspector; and

- (d) any other inspector that the Board may consider necessary.
- (3) A person shall not be appointed as a sugar industry inspector unless such person holds an academic or professional qualification prescribed by the Board.
- (4) The Board shall maintain a register of persons qualified to be appointed as sugar industry inspectors.
- (5) A person shall not be appointed as a sugar industry inspector unless such person is registered by the Board.
- (6) The Board may appoint any other government agency as a sugar industry inspector for purposes of this Act.
- (7) The Cabinet Secretary shall make Regulations for the better implementation of the provisions of this section.

### 36. Entry and inspection

An inspector or a person duly authorized in writing in that behalf by the Board may, at all reasonable times and upon production of such authority to any person so requesting—

- (a) enter any land or buildings occupied by the holder of a licence issued under this Act, or a person registered under this Act;
- (b) make such inspection and enquiries as the person may deem necessary for ascertaining whether the provisions of this Act or the terms and conditions of the respective licence are being complied with; and
- (c) may require any person found thereon to give such information as the person may require.

### 37. Powers of entry

- (1) For the purposes of this Act, an inspector who has reasonable grounds may—
  - (a) at any reasonable time, enter upon any land, premises or vehicle;
  - (b) take such persons and things as the inspector considers necessary;
  - (c) perform the functions or exercise the powers conferred by this Act or any other written law;
  - (d) make enquiries or carry out a search to ascertain if this Act is being complied with;
  - (e) demand the production by a licence holder of the licence for examination;
  - (f) seize and remove any article or thing in respect of which the inspector has reasonable grounds for believing that an offence under this Act is being or has been committed; or
  - (g) do any other thing authorized under this Act.
- (2) The owner or occupier of any land or a person in control of any premise or a vehicle which an inspector has entered under subsection (1) shall render such reasonable assistance as may be required by the inspector.
- (3) A person who refuses, unreasonably delays or fails to comply with a requirement under subsection (2) commits an offence.

### 38. Obstruction of inspectors

- (1) A person shall not prevent, hinder or obstruct an inspector in performance of the functions, and duties or exercise of powers conferred by this Act.

- (2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or both.

## Part VI – FINANCIAL PROVISIONS

### 39. Funds of the Board

The funds of the Board shall comprise—

- (a) such monies as may be appropriated by the National Assembly for the purposes of the Board;
- (b) such monies as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) all monies from any other source provided for or donated or lent to the Board; and
- (d) the Sugar Development Levy.

### 40. Sugar Development Levy

- (1) The Cabinet Secretary shall in consultation with the Board, by order in the *gazette*, impose a levy on domestic sugar not exceeding four *per centum* of the value and a four *per centum* of CIF value on imported sugar to be known as the Sugar Development Levy.
- (2) The levy shall be payable at such rate as may be specified in the order.
- (3) An order under this section may contain provisions as to the time at which any amount payable by way of the levy shall become due.
- (4) All moneys received in respect of the levy shall be paid to the Board and if not paid on or before the date prescribed by the order, the amount due and any sum payable under subsection (5) shall be a civil debt recoverable summarily by the Board.
- (5) If a person fails to pay any amount payable by him or her by way of the levy on or before the date prescribed by the order, a sum equal to three *per centum* of the amount shall be added to the amount due for each month or part thereof during which the amount due remains unpaid.
- (6) The Sugar Development Levy collected under subsection (2) shall be appropriated as follows—
  - (a) fifteen *per centum* shall be applied for factory development and rehabilitation;
  - (b) fifteen *per centum* shall be applied for research and training allocated to the Kenya Sugar Research and Training Institute;
  - (c) forty *per centum* shall be applied for cane development and productivity enhancement;
  - (d) fifteen *per centum* shall be allocated to sugarcane producing regions on *pro-rata* basis based on production capacity for infrastructural development and maintenance and shall be managed by the Board;
  - (e) ten *per centum* shall be applied for the administration of the Board; and
  - (f) five *per centum* shall be applied for the furtherance and exercise of the functions of sugarcane farmers organisations.

### 41. Sugar Development Fund

- (1) There is established a Fund to be known as the Sugar Development Fund which shall be administered by the Board.

- (2) The Fund shall consist of—
- (a) the Sugar Development levy;
  - (b) any funds provided by bilateral or multilateral donors for the purposes of the Fund;
  - (c) any moneys provided by the National Assembly for the purposes of the Fund;
  - (d) any moneys provided by a county assembly for the purposes of the Fund; and
  - (e) moneys from any other source approved by the Board.

#### **42. Financial year**

The financial year of the Board shall be the period of twelve months ending on the thirtieth of June in every year.

#### **43. Annual estimates**

- (1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of revenue and expenditure of the Board for that financial year.
- (2) The annual estimates shall make provision for all the estimated expenditure of the Board for the financial year concerned and in particular, shall provide for—
  - (a) the payment of salaries, allowances and other charges in respect of the staff of the Board;
  - (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Board;
  - (c) the proper maintenance of the buildings and grounds of the Board;
  - (d) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Board; and
  - (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Board may deem appropriate.
- (3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.

#### **44. Accounts and audit**

- (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Board.
- (2) Within a period of three months from the end of the financial year, the Board shall submit to the Auditor-General or to an auditor appointed under subsection (3), the accounts of the Board together with—
  - (a) a statement of the income and expenditure of the Board during that year; and
  - (b) a statement of the assets and liabilities of the Board on the last day of that year.
- (3) The accounts of the Board shall be audited by the Auditor-General or by an auditor appointed by the Board with the written approval of the Auditor-General.
- (4) The appointment of an auditor under subsection (3) shall not be terminated by the Board without the prior written consent of the Auditor-General.

- (5) The Auditor-General may give general or specific directions to an auditor appointed under subsection (3) and the auditor shall comply with such directions.
- (6) An auditor appointed under subsection (3) shall report directly to the Auditor-General on any matter relating to the directions given under subsection (5).
- (7) Within a period of six months after the end of each financial year, the Auditor-General shall report on the examination and audit of the accounts of the Board to the Cabinet Secretary and where an auditor has been appointed under subsection (3), such auditor shall transmit a copy of the report to the Auditor General.
- (8) The fee payable to an auditor, appointed under subsection (3) shall be determined and paid by the Board.
- (9) Nothing in this Act shall be construed to prohibit the Auditor General from carrying out an inspection of the records and accounts of the Board whenever it appears to him desirable.
- (10) Notwithstanding anything in this Act, the Auditor-General may transmit to the Cabinet Secretary a special report on any matters incidental to his power under this Act and section 50(1) of the Public Audit Act (Cap. 412B) shall, with necessary modifications, apply to any report made under this section.

#### 45. Annual report

- (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the immediate preceding year.
- (2) The Cabinet Secretary shall lay the report submitted to him under subsection (1) before the National Assembly and Senate within three months of the day the National Assembly and the Senate next sits after the receipt of the report.

### Part VII – ESTABLISHMENT OF THE SUGAR ARBITRATION TRIBUNAL

#### 46. Establishment of the Sugar Arbitration Tribunal

- (1) There is hereby established a Tribunal to be known as the Sugar Arbitration Tribunal.
- (2) The Tribunal shall consist of—
  - (a) a chairperson appointed by the Chief Justice who shall be a person qualified to be appointed as a judge of the High Court; and
  - (b) four other members, being persons with expert knowledge in economics, trade, law, agriculture, research and engineering with at least five years' experience in arbitration, all of who shall be appointed by the Chief Justice through a competitive recruitment process.
- (3) The Chairperson and members of the Tribunal shall serve on a part-time basis.
- (4) The members of the Tribunal appointed under subsection (2) shall hold office for such period, not exceeding three years, on such terms and conditions as shall be specified in the instrument of appointment but shall be eligible for re-appointment for one further term of a period not exceeding three years.
- (5) A person shall not be qualified to be appointed as a member of the Tribunal if that person is a public servant or takes an active part in the activities of a political party.
- (6) A person shall not qualify for appointment under this section unless the person has met the requirement of Chapter Six of the Constitution.
- (7) The provisions set out in the Third Schedule shall have effect with respect to the meetings and procedure of the Tribunal.

- (8) Except as provided in the Third Schedule, the Tribunal shall regulate its own procedure as to the conduct of meetings.

#### **47. Jurisdiction of the Tribunal**

- (1) The Tribunal shall determine—
- (a) disputes between sugar crop farmers;
  - (b) disputes between sugar crop farmers and the following-
    - (i) out grower institutions;
    - (ii) millers;
    - (iii) other interested parties;
  - (c) disputes relating to cane pricing;
  - (d) disputes relating to contract farming;
  - (e) disputes between millers; and
  - (f) disputes between any other interested parties.

#### **48. Determination of disputes**

- (1) The Tribunal shall expeditiously determine any dispute before, but in any case, shall determine a dispute within a period of three months from the date the dispute is lodged.
- (2) An Appeal shall lie from the decision of the Tribunal to the High Court within thirty days on points of law and facts and on points of law to the Court of Appeal.
- (3) A decision of the Tribunal shall be enforced in the same manner as a decision of a Magistrates Court.
- (4) The Tribunal shall apply the rules of evidence and procedure under the Evidence Act ([Cap. 80](#)) and the Civil Procedure Act ([Cap. 21](#)), with the necessary modifications, while ensuring that its proceedings do not give undue regard to procedural technicalities.

#### **49. Powers of the Tribunal**

The Tribunal shall have the powers of the High Court—

- (a) to administer oaths to the parties and witnesses to the proceedings;
- (b) to summon witnesses and to require the production of documents;
- (c) to order the payment of costs; and
- (d) to order that the provisions of the law relating to Commissions of Inquiry in Kenya with respect to—
  - (i) the protection of the members of the Tribunal from suit;
  - (ii) the form of summonses to witnesses;
  - (iii) to giving or fabricating of false evidence;
  - (iv) the duty and indemnity of witnesses, and the penalty for contumacy, insult or interruption of proceedings; and
  - (v) the appearance of advocates;

shall with any necessary adaptations or modifications, apply to the members of, the witnesses before, and the proceedings before, the Tribunal in like manner as they apply to Commissions of Inquiry.

**50. Removal of members of the Tribunal**

A member of the Tribunal may be removed if the member—

- (a) becomes an undischarged bankrupt;
- (b) is convicted of a criminal offence and sentenced to imprisonment for a period exceeding six months without the option of a fine;
- (c) is incapacitated by reason of prolonged physical or mental illness from performing the duties of the office;
- (d) violates the Constitution; or
- (e) is otherwise unable or unfit to discharge the functions of the office.

**51. Vacancy**

Where the office of any member becomes vacant, whether by death or otherwise, the Chief Justice may appoint another person to be a member of the Tribunal and such member shall serve for his or her full term.

**52. Secretary of the Tribunal**

The Chief Justice shall appoint a Secretary and such other staff of the Tribunal necessary for the proper functioning of the Tribunal.

**53. Remuneration of members and staff of the Tribunal**

- (1) The remuneration of the staff of the Tribunal and the expenses of the Tribunal shall be paid out of monies allocated by the National Assembly to the Judiciary Fund.
- (2) The Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission on the recommendation of the Salaries and Remuneration Commission.

**Part VIII – MISCELLANEOUS PROVISIONS****54. Annual general meeting**

- (1) The Board shall, at least once in every year, convene an annual general meeting of representatives of millers and growers for the purposes of considering the annual report and accounts of the Board and for the purposes of transacting such other business of which notice shall be given.
- (2) The Board may convene special meetings in addition to the meetings mentioned in subsection (1) for such purposes and at such times as it may deem fit.
- (3) Subject to this Act and any regulations made thereunder, the Board may make rules for the regulation of the conduct of business and procedure at the general meetings convened pursuant to this section.

**55. Quality, safety and health control measures**

All sugar millers and importers shall ensure that all sugar produced locally or imported into the country meets—

- (a) safety and quality standards as set by the body for the time being responsible for setting standards;

- (b) safety and health standards for food handlers as set by the body for the time being responsible for public health; and
- (c) environmental standards and issues as set by the body from time to time being responsible for public health.

## 56. Inspection for quality and safety

- (1) The Board shall carry out physical inspection of premises licenced under section 23 quarterly to ensure that safety and health standards are followed.
- (2) Every person licenced under this Act shall—
  - (a) not discharge any affluent, dangerous materials, substances, oil or oil mixtures into land, water, air, or aquatic environment;
  - (b) not release smoke or any air pollutant to the air that pollutes the environment;
  - (c) manage any hazardous waste and materials;
  - (d) not import any hazardous waste;
  - (e) not mislabel any sugar or jaggery; and
  - (f) not aid or abet illegal trafficking of sugar or related substances.
- (3) When an offence under this section, is committed by a body corporate, the body corporate and every director or officer of the body corporate who ought to have had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or to an imprisonment for a term not exceeding five years.
- (4) In addition to the sentence under subsection (3), the Court may order for the revocation of a licence.

## 57. Offences and penalties

- (1) The Board may direct any organization or person in the industry to produce any document or information, or submit any returns which it reasonably considers necessary for the proper performance of its functions under this Act.
- (2) Any person who—
  - (a) fails to comply with any direction given by the Board under this Act; or
  - (b) furnishes to the Board any information or produces any document which is false or misleading in any material particular; or
  - (c) obstructs an officer of the Board in the performance of his functions under this Act; or
  - (d) diverts or abets the diversion of transit sugar into the domestic market,commits an offence.
- (3) A person convicted of an offence under paragraph (d) of subsection (2) shall be liable to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or two million shillings, whichever is the higher, or to imprisonment for a term not exceeding ten years, or to both.



## 58. Sugar industry agreements

- (1) There shall be, for the purposes of this Act, agreements to be known as the sugar industry agreements negotiated between growers and millers, growers and out-grower institutions, and millers and out-grower institutions.
- (2) Without prejudice to the generality of subsection (1), the matters to be provided for in the agreements shall include—
  - (a) the designation of any agricultural crop from which it is possible to manufacture sugar which is subject to the agreement;
  - (b) the right of a grower to grow a sugar crop on their land;
  - (c) a sugar-cane farming contract providing for the terms and conditions of the production of sugarcane and sugar and prescribing the rights and obligations of growers and millers;
  - (d) a formula for determining the price to be paid by millers to growers for sugarcane or any other designated agricultural produce in consultation with stakeholders, which may include any factor related to the sale or other disposal of sugar industry products;
  - (e) the functions to be executed by the Board in the execution of the agreement;
  - (f) the granting of powers to the Board to enforce penalties prescribed in the agreement for the contravention of, or failure to comply with any term of the agreement; and
  - (g) the enforcement of levies upon growers and millers for the purpose of enabling the Board to fulfill any obligation incurred by it in accordance with its constitution.

## 59. General penalty

- (1) A person who contravenes any of the provisions of this Act commits an offence.
- (2) A person convicted of an offence under this Act for which no other penalty is provided for shall be liable—
  - (a) in the case of a first conviction, to a fine not less than one million shillings or three times the market value of the sugar in respect of which the offence is committed, whichever is greater, or imprisonment for a term not less than one year, or to both such fine and imprisonment; and
  - (b) in the case of a second or subsequent conviction, to a fine not less than three million shillings or three times the market value of the sugar in respect of which the offence is committed, whichever is greater, or to imprisonment for a term not less than two years, or to both such fine and imprisonment.

## 60. Sugarcane pricing committee

- (1) There shall be a Sugarcane Pricing Committee (hereinafter referred to as “the committee”).
- (2) The Committee shall comprise of—
  - (a) a nominee of the Board;
  - (b) one person nominated by the sugar manufacturers’ apex body;
  - (c) two persons nominated by the sugar growers’ apex body;
  - (d) the Principal Secretary responsible for finance or a representative appointed in writing;
  - (e) the Principal Secretary responsible for matters related to Agriculture or a representative appointed in writing;

- (f) two representatives from county government nominated by the Council of Governors; and
  - (g) a nominee of the Sugar Research and Training Institute.
- (3) The main objective of the Committee shall be to—
- (a) review sugarcane prices in consultation with the Sugar Research and Training Institute;
  - (b) provide a mechanism that remunerates farmers for other products delivered from the processing of the cane;
  - (c) ensure adherence to the negotiated cane processing formula;
  - (d) transition to payment based on quality; and
  - (e) enforce contracts between farmers and millers.
- (4) The Committee shall come up with a pricing formula and in doing so shall take into account the—
- (a) pricing mechanism for all other cane related charges paid by the farmer;
  - (b) an index that takes into consideration delayed harvesting;
  - (c) transportation cost per tonne per kilometre of sugarcane;
  - (d) inflation and adjustment cost of production; and
  - (e) formula as provided by the Sugar Research and Training Institute.
- (5) The Board shall offer secretarial services to the Committee.
- (6) The sugarcane prices set by the Committee under subsection (3) shall be reviewed after three months provided that the Committee may, with prior approval of the Board, undertake an early review of the sugarcane pricing.

## Part IX – PROVISIONS ON DELEGATED POWERS

### 61. Regulations

- (1) The Cabinet Secretary shall in consultation with county governments and the Board make regulations generally for the better carrying into effect of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), may make regulations prescribing—
- (a) the regulation and control of the production, manufacturing, marketing, importation or exportation of sugar and its by-products;
  - (b) the forms of licences to be issued under this Act, and the form and manner of application for the licences;
  - (c) the fees which may be charged for any activity relating and incidental to the development, products, marketing and distribution of sugar and its by-products;
  - (d) the establishment of weigh bridges and collection centres;
  - (e) standards on grading, sampling and inspection, tests and analysis, specifications, units of measurement, code of practice and packaging, preservation, conservation and transportation of sugar and sugar by-products to ensure safety and proper trading;
  - (f) production and import of sugar to ensure adequate sugar availability in the country;
  - (g) guidelines on general industry agreements between growers and millers and between parties in the sugar industry;

- (h) minimum period within which farmers are to be paid for sugar crop delivered and penalties for delayed payments;
  - (i) cane harvesting and transportation;
  - (j) the conditions with respect to the delivery, measurement, examination and testing of sugar crop;
  - (k) the seizure by an inspector of books, documents and sugar crop which, in the opinion of the inspector, may afford evidence of a contravention 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 this Act;
  - (l) the procedure for election of farmers' and millers' representatives to the Board and the pricing committee; and
  - (m) penalties for non-adherence to sugar industry agreements.
- (3) Without prejudice to the generality of this section, the Cabinet Secretary shall make the regulations necessary to operationalize this Act within six months from the date of commencement of this Act.

## Part X – CONSEQUENTIAL AMENDMENTS

### 62. Amendment of the First Schedule to (Cap. 317)

The Agriculture and Food Authority Act (Cap. 317) is amended in the First Schedule by deleting paragraph 1(ii).

### 63. Amendment of the First Schedule to (Cap. 318)

The Crops Act (Cap. 318) is amended in Part I of the First Schedule by deleting the words "Sugarcane..... Saccharum spp".

## Part XI – SAVINGS AND TRANSITIONAL PROVISIONS

### 64. Transfer of Staff

- (1) Upon the commencement of this Act, a person who was a member of the staff of the former Sugar Board of Kenya before the commencement of the Agriculture and Food Authority Act (Cap. 317) and current staff of the Sugar Directorate not being under any notice of dismissal or resignation shall upon commencement of this Act and subject to subsection (2) become a staff of the Board on their current or improved terms and conditions of service.
- (2) The pensions of staff under the provident fund of Agriculture and Food Authority-Sugar Directorate shall on the commencement of the Act vest in the Board.

### 65. Transfer of assets and liabilities

All property, except such property as the Cabinet Secretary may specify in writing, which, immediately before the commencement of this Act, was vested in the Government for the use of the Sugar Directorate of the Agriculture and Food Authority, shall, on the date of commencement of this Act, vest in the Board subject to all interests, liabilities, charges, obligations and trusts affecting that property.

**66. Pending proceedings and claims**

All legal proceedings and claims pending in respect of actions and activities to which this Act apply shall be continued or enforced by or against the Board in the same manner as they would have been continued or enforced by or against the Agriculture and Food Authority had this Act not been enacted.

**FIRST SCHEDULE****[S. 2, 6(1)(b), 19(1), 20, and 21(c)]****DELINEATION OF SUGAR CATCHMENT AREAS**

| <b>SUGAR CATCHMENT AREA</b> | <b>COUNTIES</b>  |
|-----------------------------|--|
| Central                     | Kisumu, Southern Nandi, and Kericho Counties   |
| Upper Western               | Bungoma, Kakamega - excluding Mumias area, Trans-Nzoia, Uasin-gishu, and Northern Nandi Counties |
| Lower Western               | Mumias, Busia and Siaya Counties   |
| Southern                    | Migori, Homa Bay, Kisii, Narok Counties  |
| Coastal                     | Kwale, Tanariver, and Lamu Counties  |

**SECOND SCHEDULE [s. 10]****PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD****1. Meetings**

- (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- (2) Notwithstanding the provisions of subparagraph (1), the Chairperson may, and upon request in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.
- (3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.
- (4) The quorum for the conduct of the business of the Board shall be two thirds of the members of the Board provided that in the case of a tie, the chairperson shall have a casting vote.
- (5) The chairperson shall preside at every meeting at which he or she is present but, in his or her absence, the members shall elect one of their members to preside who shall with respect to that meeting and the business transacted thereat have all the powers of the chairperson.
- (6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

- (7) Subject to paragraph (4), no proceeding of the Board shall be invalid by reason only of a vacancy among the members thereof.
- (8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

## 2. Disclosure of interest

- (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.
- (2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

## 3. The common seal

The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson and the Chief Executive Officer:

Provided that the Board shall, in the absence of either the Chairperson or the Chief Executive Officer in any particular matter, nominate one member to authenticate the seal of the Board on behalf of either the Chairperson or the Chief Executive Officer.

## 4. Contracts and instruments

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

# THIRD SCHEDULE [s. 46.]

## PROVISIONS AS TO THE MEETINGS AND PROCEDURE OF THE TRIBUNAL

### 1. Resignation

Any member of the Tribunal may, at any time, by notice in writing to the Chief Justice, resign his office.

### 2. Vacation of office

- (1) If a member of the Tribunal becomes a member of the Board or, in any case where a member other than the Chairperson is appointed to the service of the Government his or her office shall become vacant.
- (2) The Chairperson or a member of the Tribunal may be removed from office by the Chief Justice if the member is—
  - (a) unable to discharge the functions of his office by reason of mental or physical infirmity; or
  - (b) an undischarged bankrupt; or
  - (c) convicted of an offence involving fraud or dishonesty; or
  - (d) convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings.

- (3) In the event of the inability of any member of the Tribunal to attend for the purpose of any particular proceedings, the Chief Justice may appoint another person to be a member of the Tribunal for the remainder of the term of the member whose vacancy caused the appointment.

**3. Disclosure of interests**

If any member of the Tribunal has any interest in any particular proceedings before the Tribunal, he or she shall so inform the Chief Justice and the Chief Justice may, after considering that interest, appoint another member in his place for the purpose of the particular proceedings.

**4. Majority decisions**

The decision of the Tribunal shall be that of the majority and shall be signed by the members thereof agreeing thereto.

**5. Quorum**

The quorum of the Tribunal shall be three members.

**6. Proceedings to be valid**

No proceedings of the Tribunal shall be invalid by reason only of a vacancy among the members thereof.

**7. Venue**

The Tribunal shall sit at such place as it may consider most convenient having regard to all the circumstances of the particular proceedings.

**8. Rules**

Subject to the provisions of this Schedule, the Tribunal shall have power to make rules governing its procedure.

**9. Proof of document**

A document purporting to be a copy of any order of the Tribunal, and certified by the Chairperson to be a true copy thereof, shall in any legal proceedings be *prima facie* evidence of the order.