

## **CHAPTER 318 - Agriculture Act**

**An Act of Kenya except the former Northern Province:**

*1st July, 1955*

*The former Northern Province: 18th June, 1963*

**An Act of Parliament to promote and maintain a stable agriculture, to provide for the conservation of the soil and its fertility and to stimulate the development of agricultural land in accordance with the accepted practices of good land management and good husbandry**

### **Part I – PRELIMINARY**

Short title

1. This Act may be cited as the Agriculture Act.

Interpretation

27 of 1959, Sch., 47 of 1960, s. 2, 7 of 1962, s. 3, 25 of 1963, Sch., 27 of 1963, s. 11, 9 of 1967, Sch., L.N. 352/1963, L.N. 365/1964, Cap. 323, Cap. 28, Cap. 280, Cap. 281, Cap. 282, Cap. 300.

2.(1) In this Act, unless the context otherwise requires—

"agriculture" means cultivation of land and the use of land (whether or not

"Agricultural Appeals Tribunal" means the tribunal established under Part XV;

"Agricultural Finance Corporation" means the corporation of that name established by the Agricultural Finance Corporation Act;

"agricultural land" means all land which is used for the purpose of agriculture, not being land which, under any law relating to town and country planning, is proposed for use for purposes other than agriculture;

"agricultural subcommittee" means a committee established under section 27;

"assisted owner" means a person, not being a tenant farmer, who has been granted an advance under Part XI;

"Central Agricultural Board" means the board established by section 35;

"chattels" has the meaning assigned to it by section 2 of the Chattels Transfer Act;

"dairy produce" includes—

(a) milk and cream; and

(b) butter, cheese and all other products of milk or cream, whether produced therefrom by manufacturing processes or otherwise;

"district agricultural committee" means a committee established under section 22;

"drainage" means the removal and disposal by surface drainage or sub drainage of water from land by natural, artificial or mechanical means, but does not include drainage of permanent swamps;

"essential crops" means crops declared as such under section 100;

"farm" includes the aggregate of the agricultural holdings of the members of a co-operative society or of a partnership;

"Fund" means the Agricultural Settlement Fund established under section 168;

"guaranteed minimum return" means the minimum return of money guaranteed by the Government under sections 110 and 111;

"land development order" means an order made under section 64;

"land preservation order" means an order made under section 48 (2);

"large-scale farm" means a farm which produces a gross income of not less than ten thousand shillings a year;

"producer" means a producer of agricultural produce and includes any marketing organization acting on behalf of producers;

"production approval" means an approval made under section 104 (2);

"production order" means an order made under section 104 (3);

"programme of production" means a programme prepared under section 101 or section 103, as the case may require;

"provincial agricultural board" means a board established under section 29;

"register of titles", in connexion with land, means a register, kept under some Act relating to the registration of title to land, wherein the title to the land is for the time being registered;

"Registrar of Titles" means the officer responsible for making entries in a register of titles;

"scheduled animal product" means any animal product for the time being specified in the Second Schedule;

"scheduled crop" means any crop for the time being specified in the First Schedule;

"settler" means a person holding land in an approved settlement scheme, and includes an assisted owner or tenant farmer;

"small-scale farm" means any farm which is not a large-scale farm;

"special crop" means a crop declared as such under section 190;

"tenant farmer" means a person to whom a lease of agricultural land has, under Part XI or any rules made thereunder, been granted for his life or for a term of years, or a person with whom an agreement for such a lease has been made.

(2) Any reference in this Act to good husbandry shall be deemed to refer to such farming of land as, having regard to the character and situation of the land, the standard of management thereof by the owner and other relevant circumstances, maintains a reasonable standard of efficient production as respects both the kind of agricultural produce and the quality and quantity thereof, while keeping the land in a condition to enable such a standard to be maintained in the future.

(3) Any reference in this Act to good land management shall be deemed to refer to such management of land as is reasonably adequate to enable good husbandry to be practised by the occupier thereof.

(4) In this Act, "owner", in relation to any agricultural land, means, subject as hereinafter appearing, the person in whom for the time being is vested—

(a) where the land is held in freehold of the Government under a title registered under the Government Lands Act or the Registration of Titles Act, the freehold;

(b) where the land is held in leasehold of the Government under such a title, the Government lease;

(c) where the title to the land is registered under the Land Titles Act, the freehold;

(d) where the land is situated in the special areas and the title to the land is registered under the Registered Land Act;

(e) where the title to the land is not registered, the person for the time being claiming to be entitled thereto under the Land Titles Act:

Provided that—

(i) where a Government lease is subject to a sublease whereunder a nominal reversion only is reserved to the Government lessee, the sublessee shall be deemed to be the owner;

(ii) a mortgagee or chargee not in possession shall not be deemed to be the owner of the land to which the mortgage or charge relates.

(5) Where, by reason of any claim by adverse possession or prescription or by reason of any other circumstances whatsoever, doubt arises as to who is the owner of any land, the Minister may determine that some person shall be deemed for the purposes of this Act to be the owner of the land:

Provided that—

(i) in making any such determination the Minister shall have regard to the respective interests, whether registered under any Act relating to the registration of title, or title deeds, to land or not, of the persons interested in the land; and

(ii) any person aggrieved by any such determination may appeal to the Agricultural Appeals Tribunal.

(6) References in this Act to the farming of land include references to the carrying on in relation to the land of any agricultural activity; and in relation to any agricultural activity the person having the right to carry it on shall be deemed to be the occupier of the land.

## Provisions as to servant and agents

3. Anything which under this Act may be required or authorized to be done by, or to or in respect of, an owner or occupier may, where an agent or servant of the owner or occupier is responsible for the management of farming, as the case may be, of the land in question, be required to be done by, or to or in respect of, such agent or servant, and references in this Act to an owner or occupier shall be construed accordingly.

## Part II - GUARANTEED PRICES AND MARKETING

### Provisions for securing efficient agricultural production

4. This Part shall have effect for the purpose of promoting and maintaining, by the provision of guaranteed prices and assured markets for scheduled crops and scheduled animal products, a stable and efficient agricultural industry capable of producing such part of Kenya's food and other agricultural produce as in the interest of Kenya it is desirable to produce therein, and of producing it at minimum prices due regard being had to the interests of all persons engaged or employed, or having capital invested, in the industry.

Annual review of the agricultural industry  
47 of 1960, s. 3. L.N.352/1963. L.N.365/1964

5.(1) The Minister shall, before the 15th December in each year, review the prospects of the agricultural industry, having particular regard to the costs of production, market prospects and any obligations to supply external demands, with the object of determining—

(a) the kinds of agricultural produce which should be specified as scheduled crops in the First Schedule;

(b) the prices for scheduled crops, and the prices and guaranteed prices for scheduled animal products, which are to be or may be fixed in accordance with sections 7 and 8 respectively;

(c) the kinds of scheduled crops which should be declared to be essential crops under section 100; and

(d) an overall programme of production of essential crops in Kenya, to which the Central Agricultural Board shall have regard in exercising its powers to make production approvals and production orders.

(2) In holding any review under this section the Minister shall consult with such bodies of persons as appear to him to represent the interests of producers generally in Kenya.

### Special review of the agricultural industry

6.(1) If it appears to the Minister at any time between two annual reviews under section 5 that there has been, or is likely to be, a change in the economic condition of the agricultural industry or any section thereof, and that the change is, or is likely to be, of sufficient importance to require that he should exercise his powers under this section, the Minister may hold a special review of the matters referred to in section 5.

(2) Whenever the Minister holds such a special review, the provisions of this Act shall apply thereto as they apply to an annual review:

Provided that sections 7 and 8 shall have effect in their application as aforesaid as if there were substituted for the periods respectively specified therein such periods respectively as the Minister may determine.

Fixing of prices for scheduled crops.  
58 of 1956, s. 2, 47 of 1960, s.4, L.N.750/1963.

**7.** The Minister shall, in the light of his conclusions from the annual review held by him under section 5, after consultation with the Minister for the time being responsible for finance, before the 1st February in each year, by order published in the Gazette, fix the prices for scheduled crops to be paid (whether by agents constituted or appointed under section 14 or by any person authorized or required by or under any enactment to purchase any such crops) to producers of such of those crops as may be planted in the calendar year in which the order is made:

Provided that, in the case of any particular scheduled crop which is not an essential crop, the price therefor may be fixed at any time before the general beginning of harvesting thereof in Kenya, and may be fixed in the light of the conditions then prevailing.

Fixing of prices and guaranteed minimum prices for scheduled animal products  
2 of 1959, s.2, L.N.750/1963.

**8.** (1) The Minister may, in the light of his conclusions from the annual review held by him under section 5, after consultation with the Minister for the time being responsible for finance, before the 1st January in each year, by order published in the Gazette, fix—

(a) the prices for scheduled animal products to be paid (whether by agents constituted or appointed under section 14 or by any person authorized or required by or under any enactment to purchase any such product) to producers of such of those products as may be sold by the producers in the calendar year commencing on such 1st January; and

(b) the prices to be guaranteed to producers of scheduled animal products for all such products as may be sold by the producers in each of the two calendar years immediately succeeding any year for which prices shall have been fixed under paragraph (a):

Provided that, whenever a price is not fixed or guaranteed in respect of any scheduled animal product for any period under the foregoing provisions of this subsection, the Minister shall agree with such bodies of persons as appear to him to represent the interests of producers of that product, the price at which that product may be acquired and the period for which the agreed price shall be effective.

(2) Any price fixed under paragraph (a) of subsection (1) in respect of any scheduled animal product for any year shall not be less than the guaranteed price subsisting under paragraph (b) of subsection (1) for the same product in respect of the same year.

Effect given to fixed prices, etc

**9.** (1) For the purpose of giving effect to prices fixed under section 7 or section 8, or prices agreed under the proviso to section 8, in so far as scheduled crops or scheduled animal products may be purchased by agents constituted or appointed under section 14, the Minister shall issue orders to the agents requiring them to purchase those crops or products at prices not less than those fixed or agreed.

(2) Except so far as is or may be provided to the contrary by any other enactment, no producer of any agricultural produce in respect of which a price has been fixed or agreed shall sell or attempt to sell it otherwise than to or through the agency of any agent who is constituted or appointed under section 14

for the purchase of that produce and who is required by an order made under subsection (1) to purchase that produce.

(3) Any producer who contravenes subsection (2) shall be guilty of an offence, subject to such general or special exemptions from that subsection as may from time to time be prescribed.

(4) Except where the order under which a price is fixed otherwise provides, every price shall be deemed to be the price free on rail at the railway station nearest to the farm where the agricultural produce in question is produced.

(5) Any person who, not being an agent constituted or appointed under section 14 or a person empowered or required by any other enactment so to do, purchases or attempts to purchase from any producer any agricultural produce in respect of which any price has been fixed or agreed shall be guilty of an offence.

(6) References in this Act to an agent constituted or appointed under section 14 shall, in the case of an agent who is constituted or appointed for a part only of Kenya or a particular quantity, grade, quality or variety of any agricultural produce or for a particular class or kind of transaction or for a particular time of the year, be construed as references to an agent having such a limited authority.

Variation of prices after special review  
L.N.750/1963

**10.(1)** Whenever the Minister holds a special review under section 6, he may, if it appears to him expedient so to do, after consultation with the Minister for the time being responsible for finance, by order published in the Gazette, vary any price or guaranteed price fixed for any period at the last annual or special review, or any price agreed with the representatives of producers for any period, with respect to any scheduled crop or scheduled animal product and with effect for the remainder of the period.

(2) Any order authorized by this section shall be made and published within one month after the Minister has completed the special review and shall take effect from such date as shall be specified therein not being earlier than fourteen days from the date of publication thereof.

(3) An order may be made under this section for varying any price or guaranteed price notwithstanding that the period for which any such price has been fixed or agreed under this Act is unexpired.

(4) Whenever it appears to the Minister that any order made under the preceding provisions of this section will result in inequality as between different producers or different classes of producers of the same type of scheduled crop or scheduled animal product marketed in the same season, he may, after consulting with such bodies of persons as appear to him to represent the interests of such producers, make a scheme for removing such inequality.

(5) A scheme made under subsection (4) may provide—

(a) for reducing any price otherwise payable under an order made under the preceding provisions of this section to any producer in respect of any scheduled crop or scheduled animal product purchased by or on behalf of the Minister after the date on which the order came into force where the producer has received in respect of any crop or product of the same type, purchased by or on behalf of the Minister before the date the order came into force, any payment based on a price which was operative before that date;

(b) otherwise for equating the prices received for the same type of crop or product marketed in the same season by all producers irrespective of the date of purchase thereof by or on behalf of the Minister;

(c) for the payment by the Minister to, or recovery by the Minister from, any producer of any sum payable by or to the Minister under the terms of the scheme, and may contain such provisions as appear to the Minister, after consultation as aforesaid, to be necessary for securing the due operation and enforcement of the scheme; and any sum payable to the Minister by any producer under a scheme shall be deemed to be a debt due from that producer to the Minister and be recoverable accordingly.

Different prices for different qualities, etc.

**11.** In exercising his powers under section 7, section 8 or section 10, the Minister may, subject to this Act, fix different prices or different guaranteed minimum prices for different agricultural produce, for produce produced in different areas of Kenya, for different quantities, grades, qualities or varieties of any produce, for different classes or kinds of transactions and for different times of the year.

Amendment of First and Second Schedule  
L.N.352/1963,

**12.**(1) Subject to this Act, the Minister may, from time to time, after consultation with the Central Agricultural Board, by order published in the Gazette, vary or amend the First Schedule by adding thereto or deleting therefrom any agricultural crop, and may likewise vary or amend the Second Schedule by adding thereto or deleting therefrom any agricultural produce other than an agricultural crop.

(2) An order made under this section may modify this Act and any other Act so far as may appear to the Minister necessary for carrying the order into effect.

(3) Before any order is made under this section, a draft thereof shall be laid before the National Assembly, and no order shall have effect unless the National Assembly has by resolution approved the draft, or, if the National Assembly resolves that the order be modified, except as so modified.

(4) No order deleting any scheduled animal product from the Second Schedule shall be made under this section so as to take effect at a date earlier than the date of the expiration of the period for which a guaranteed minimum price subsists in respect of that product.

(5) Where an order adding any agricultural produce to the First Schedule or Second Schedule is made under this section, section 7 or, as the case may be, section 8 shall have effect in relation to that produce as if there were substituted for the periods respectively specified in those sections such periods respectively as the Minister may specify in the order.

Control of purchase, marketing, etc  
6 of 1959, Sch., L.N.352/1963, 7 of 1985, s.32. Cap.338. Cap.363.

**13.** The control of the purchase, collection, storage and marketing of all scheduled crops and scheduled animal products is vested in the Minister, and such control shall be exercised as provided by this Part:

Provided that nothing in this section contained shall apply to—

(i) maize and maize products as defined in the National Cereals and Produce Board Act;

(ii) wheat or to flour as defined by National Cereals and Produce Board Act;

(iii) slaughter stock as defined by the Kenya Meat Commission Act, or to any produce derived from any such slaughter stock including the hides.

Constitution or appointment of agents by the Minister.  
58 of 1956, s.3

**14.(1)** The Minister may, by notice in the Gazette, constitute or appoint an agent or agents for the purchase, collection, storage and marketing of any scheduled crop or scheduled animal product, or for any of those purposes, and the Minister may in the same manner revoke or vary a constitution or appointment.

(2) An agent may be constituted or appointed to act for all or any of the purposes specified in subsection (1), and different agents may be constituted or appointed for different areas of Kenya, for different agricultural produce, for different quantities, grades, qualities or varieties of any agricultural produce, for different classes or kinds of transactions and for different times of the year.

(3) All scheduled crops and scheduled animal products the control of the purchase, collection, storage and marketing of which is vested in the Minister under section 13, and not being crops or products consumed on the holding upon which they are produced, shall, unless in any case the Minister directs otherwise, until marketed or disposed of by or under the direction of the Minister, be held on behalf of the Government and shall become the property of the Government upon delivery thereof to an agent of the Minister, or, whichever shall be the earlier, upon payment of any part of the purchase price thereof by or on behalf of the Minister.

Minister's orders to agents

**15.(1)** The Minister may, after consultation with the Minister for the time being responsible for finance, issue to any agent constituted or appointed under section 14 orders, not being contrary to any law in force in Kenya, respecting the agency in relation to—

(a) the expenses which may be incurred and the charges which may be made by the agent; and

(b) the deductions which may be made or allowed by the agent from the proceeds of sale of any agricultural produce.

(2) Any such order may be made applicable generally to all agents or specially to any particular agent or class of agents.

Prices on marketing of scheduled crops and products by agents  
L.N.750/1963

**16.(1)** The Minister may from time to time, after consultation with the Minister for the time being responsible for finance, by order published in the Gazette, fix the price at which any scheduled crop or scheduled animal product may be marketed by any agent constituted or appointed under section 14.

(2) Different prices may be fixed under subsection (1) in like manner as different prices may be fixed under section 11.

Agents to comply with orders and supply information

**17.(1)** Every agent constituted or appointed under section 14 shall comply with all orders lawfully issued to him by the Minister under sections 9 and 15, and shall, on demand by the Minister, or by any person authorized by him in writing in that behalf, supply to the Minister all such accounts, returns,



audited statements and other information relating to scheduled crops or scheduled animal products purchased, collected, stored or disposed of by such agents as the Minister may require.

(2) No agent shall be required under subsection (1) to furnish any balance sheet or profit and loss account, but this subsection shall not prevent the requiring of information under subsection (1) by reason only that it is or might be contained as an item in a balance sheet or account.

(3) Any agent who contravenes subsection (1) shall be guilty of an offence.

Deduction from net price for noxious weeds  
Cap. 325

**18.**(1) An order issued under section 9 or section 15 may provide for the deduction by the agent from the price to be paid by him to any producer in respect of any scheduled crop of such sum by way of penalty for delivering to the agent any scheduled crop containing a noxious weed within the meaning of the Suppression of Noxious Weeds Act as may be specified in the order, and for the disposal of any money so deducted.

(2) Subsection (1) shall have effect in respect of crops produced in any area within the special areas, notwithstanding section 6 of the Suppression of Noxious Weeds Act.

Establishment of price equalization funds  
L.N. 352/1963

**19.**(1) The Minister may establish and administer in accordance with the provisions of this section a price equalization fund for any scheduled crop or scheduled animal product.

(2) If, in any respect of any year of guarantee, the proceeds from the sales of any scheduled crop or scheduled animal product marketed by or on behalf of the Minister are greater than the expenditure incurred by the Minister in the purchase and marketing thereof, the Minister shall pay into the appropriate price equalization fund, if any, an amount equal to the difference.

(3) If, in respect of any year of guarantee, the proceeds from the sales of any scheduled crop or scheduled animal product marketed by or on behalf of the Minister are less than the expenditure incurred by the Minister in the purchase and marketing thereof, the difference shall be met from the appropriate price equalization fund, if any.

(4) If, at the expiration of three complete years from the establishment of any price equalization fund or of any year thereafter, the amount of moneys standing to the credit of such fund is greater than an amount equal to ten per centum of the average of the gross proceeds per annum of the sales of the scheduled crop or scheduled animal product in respect of which the fund is maintained during the last preceding three years, the Minister may, after consulting the Central Agricultural Board and the Minister for the time being responsible for finance, apply a sum equal to the difference in or towards such purposes connected with the scheduled crop or scheduled animal product, or the marketing thereof, as he may think fit.

(5) For the purposes of this section, "year of guarantee" means in respect of any scheduled crop or scheduled animal product any period of twelve months during which prices for that crop or product are fixed or guaranteed under this Part.

Power to require returns

**20.**(1) Whenever it appears to the Minister expedient so to do for the better carrying out of the provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, for

the purpose of obtaining assistance in the holding of any annual or special review to be held under section 5 or section 6, he may, after consultation with the Central Agricultural Board—

(a) by notice published in the Gazette, require the owners and occupiers of land used for agriculture to complete and return, periodically or otherwise, to such person as may be specified in the notice, and within such time and with respect to such date or dates or such period or periods as may be so specified, such forms and returns relating to the land, or the use, management or farming thereof, or the livestock or animals thereon, agricultural produce produced therefrom or persons employed thereon, as the Minister shall specify or as may be prescribed;

(b) serve upon any owners or occupiers of land which the Minister has reason to believe may be usable for agriculture notices requiring them to complete and return to such person as may be specified in the notices, and within such time and with respect to such date or dates or such period or periods as may be so specified, the forms and returns specified in paragraph (a),

and a notice may apply either to owners or occupiers generally or to any class or description of owners or occupiers.

(2) For the purpose of obtaining statistical information relating to agriculture, any person authorized by the Minister in that behalf may, by written notice, require the owner or occupier of land to furnish to him within a specified period, being not less than twenty-one days, either orally or in writing as the owner or occupier may elect, such information as the authorized person may require.

(3) No person shall be required under the foregoing provisions of this section to furnish any balance sheet or profit and loss account, but this subsection shall not prevent the requiring of information by reason only that it is or might be contained as an item in a balance sheet or account.

(4) No information relating to any particular land or business obtained under this section shall be published or otherwise disclosed without the previous consent in writing of the person by whom the information was furnished:

Provided that nothing in this section shall restrict the disclosure of information—

(i) to the Minister, or any officer authorized by the Minister;

(ii) to any authority having power under any enactment to promote or give permission for the development of land, for the purpose of assisting that authority in the preparation of proposals regarding the development or in considering whether or not to give permission;

(iii) to any person for the purpose of any legal proceedings under this Act, or the use of that information in any manner which the Minister thinks necessary or expedient in connexion with the objects of this Act.

(5) Any person who fails to furnish information in compliance with a requirement made under this section shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or in default of payment to imprisonment for a term not exceeding one month.

(6) If any person—

(a) in purported compliance with a requirement made under this section knowingly or recklessly furnishes any information which is false in any material particular; or

(b) publishes or otherwise discloses any information in contravention of subsection (4), he shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding one month or to both.

Rules  
39 of 1956, Sch. L.N.352/1963

**21.**(1) The Minister may, after consultation with the Central Agricultural Board, make rules for the better carrying out of the provisions of this Part, and, without prejudice to the generality of the foregoing, in particular for—

- (a) prescribing anything required to be prescribed under this Part;
- (b) regulating and controlling the purchase, collection, storage and disposal, whether by way of marketing or otherwise, of scheduled crops and scheduled animal products;
- (c) prescribing the standards to which scheduled crops and scheduled animal products must conform in order that guaranteed minimum prices shall be payable therefor;
- (d) prescribing the factors to be applied or taken into account in determining standards;
- (e) securing that any producer who is aggrieved by the act or omission of an agent may refer the matter to the Minister, and for the manner in which a reference is to be heard and determined;
- (f) the terms and conditions upon which an agent referred to in section 14 shall be constituted or appointed;
- (g) the manner in which an agent shall perform the duties of the agency;
- (h) empowering an agent to produce any specified commodity from any agricultural produce purchased by him as such, or to sell, grade, pack, store, adapt for sale, insure, advertise or transport that produce or commodity;
- (i) empowering an agent to co-operate with any other person in doing anything which the agent is or might be empowered to do under this Act;
- (j) regulating the manner in which any scheduled crop or scheduled animal product or any description or quantity thereof is to be graded or otherwise dealt with under this Act.

(2) Rules made under this section may contain—

- (a) different provisions for different parts of Kenya;
- (b) different provisions for different classes of producers and for different classes or kinds of transactions;
- (c) different provisions for different quantities, grades qualities or varieties of any agricultural produce;
- (d) exemptions or conditional exemptions from the operation of any rule made under this section.

(3) No rules varying the standards or grades of any scheduled crop or scheduled animal product, or the factors to be applied or taken into account in determining those standards, shall be made so as to operate to the prejudice of any producer of that crop or product during the currency of any price fixed or agreed under this Part in respect thereof.

### **Part III - AGRICULTURAL COMMITTEES AND BOARDS**

#### **District Agricultural Committees 9 of 1967, Sch. L.N.352/1963, L.N.67/1968**

**22.**(1) Except where the Minister otherwise approves, there shall be established a district agricultural committee for each district.

(2) Every district agricultural committee shall consist of-

(a) not less than six and not more than ten persons who are owners or occupiers of farms in the district, elected or appointed in such manner as the Minister may prescribe:

Provided that—

(i) where there are large-scale farms in the district, some of the members shall be elected or appointed by the owners or occupiers of those farms, and the number of members so elected or appointed shall bear the same proportion to the total number of members elected or appointed under this paragraph as the area of large-scale farms bears to the area of the district;

(ii) where there is communally owned land in the district, the election or appointment of members to represent the community using the land shall be such as the Minister may prescribe;

(b) the District Commissioner of the district;

(c) the senior officer of the Agricultural Department serving in the district;

(d) the senior officer of the Veterinary Department serving in the district;

(e) the senior officer of the Forestry Department serving in the district;

(f) the senior officer of the Co-operative Development Department serving in the district; and

(g) two persons appointed by the county council having jurisdiction in the district from among the persons representing the district on the county council.

(3) The chairman of a district agricultural committee shall be appointed by the Minister from among the members thereof.

(4) The members of a district agricultural committee shall elect annually a deputy chairman from among the persons elected or appointed under paragraph (a) of subsection (2).

(5) If the chairman and the deputy chairman are absent from a meeting, the members present at the meeting shall elect one of themselves to preside at that meeting.

(6) For the purposes of this Part, owners or occupiers of large-scale farms in a province shall be registered in such manner as the Minister may prescribe.

Tenure of office, etc  
9 of 1967, Sch. L.N.352/1963

**23.** The tenure of office, disqualifications, rotation and filling of vacancies of members of a district agricultural committee shall be such as may be prescribed by the Minister.

Meetings  
9 of 1967, Sch., L.N.352/1963

**24.**(1) The chairman of a district agricultural committee shall convene a meeting of the committee at least once in every three months, and the committee shall meet at such place as he directs.

(2) Minutes of the proceedings at every meeting shall be regularly entered in books kept for the purpose by the secretary or other appropriate officer of the committee.

(3) A simple majority of the members of a district agricultural committee shall constitute a quorum.

(4) The procedure governing meetings and voting at meetings shall be such as may be prescribed by the Minister.

(5) A district agricultural committee may appoint committees, constituted in such manner as it may determine, for exercising and performing on behalf of the committee all or any of the powers conferred upon the committee by this Act.

Functions of district agricultural committee  
L.N. 352/1963

**25.** The functions of every district agricultural committee shall be—

(a) to exercise such powers and perform such duties as may be conferred or imposed on it by or under this Act or any other written law;

(b) to advise and assist the provincial agricultural board on such matters as may be referred to it by that board, and to bring to the notice of that board such matters as it thinks fit in relation to the powers and duties of the district agricultural committees; and

(c) with the approval of the provincial agricultural board, to advise the agricultural Finance Corporation.

Staff  
L.N.352/1963, 9 of 1967, Sch.

**26.** A district agricultural committee may appoint such officers and servants, on such terms and conditions, as the Minister may approve, both for itself and for an agricultural subcommittee established by it under section 27.

Agricultural subcommittees  
L.N. 352/1963

**27.** A district agricultural committee may establish an agricultural subcommittee for any particular area of its district.

Constitution, etc., of agricultural subcommittees  
L.N. 352/1963.

**28.** The constitution, functions, mode of appointment and tenure of office of the members of an agricultural subcommittee shall be determined by the district agricultural committee.

Provincial agricultural boards  
9 of 1967, Sch., L.N. 352/1963, L.N. 67/1968.

**29.**(1) There shall be established a provincial agricultural board for each province.

(2) Every provincial agricultural board shall consist of—

(a) one member appointed by each district agricultural committee in the province from amongst the members elected or appointed under section 22 (2) (a);

(b) the Provincial Commissioner of the province;

(c) the senior officer of the Agricultural Department serving in the province;

(d) the senior officer of the Veterinary Department serving in the province;

(e) the senior officer of the Forestry Department serving in the province; and

(f) the senior officer of the Co-operative Development Department serving in the province.

(3) The chairman of a provincial agricultural board shall be appointed by the Minister from among the members thereof.

(4) The members of a provincial agricultural board shall elect annually a deputy chairman from among the persons appointed under paragraph (a) of subsection (2).

(5) If the chairman and the deputy chairman are absent from a meeting, the members present at the meeting shall elect one of themselves to preside at that meeting.

Tenure of office, etc  
9 of 1967, Sch., L.N. 352/1963

**30.** The tenure of office, disqualifications, rotation and filling of vacancies of members of a provincial agricultural board shall be such as the Minister may prescribe.

Meetings  
9 of 1967, Sch., L.N. 352/1963

**31.**(1) The chairman of a provincial agricultural board shall convene a meeting of the board at least once in every three months, and the board shall meet at such place as he directs.

(2) Minutes of the proceedings at every meeting shall be regularly entered in books kept for the purpose by the appropriate officer of the board.

(3) A simple majority of the members of a provincial agricultural board shall constitute a quorum.

(4) The procedure governing meetings and voting at meetings shall be such as may be prescribed by the Minister.

Functions of provincial agricultural boards  
9 of 1967, Sch., L.N. 352/1963.

**32.** The functions of a provincial agricultural board shall be—

(a) to exercise such powers and perform such duties as may be conferred or imposed on it by or under this Act or any other written law;

(b) to advise and assist the Central Agricultural Board on such matters as may be referred to it by that Board, and to bring to the notice of that Board such matters as it thinks fit;

(c) to carry out such other functions as the Minister may direct;

(d) to render such assistance as is required by the Agricultural Finance Corporation;

Staff  
9 of 1967, Sch., L.N. 352/1963.

**33.** A provincial agricultural board may appoint such officers and servants, on such terms and conditions, as the Minister may approve

Committees of provincial agricultural boards  
L.N. 352/1963

**34.** A provincial agricultural board may appoint committees constituted in such manner as it may determine, for exercising and performing on behalf of the board all or any of the powers and duties conferred or imposed on the board by this Act.

Central Agricultural Board  
9 of 1967, Sch., L.N. 352/1963, L.N. 397/1963, L.N. 398/1963, L.N. 473/1963.

**35.**(1) There is hereby established the Central Agricultural Board, consisting of—

(a) seven members, one to represent each of the seven provinces, appointed by the Minister;

(b) seven members, one appointed by each proving agricultural board from amongst the members of the Board appointed under section 29 (2) (a);

(c) the Permanent Secretary of the Ministry, or a person deputed by him generally or in respect of a particular meeting;

(d) the Director of Agriculture;

(e) the Director of Veterinary Services;

(f) the Commissioner for Co-operative Development;

(g) the Director of Settlement; and

(h) six persons who in the opinion of the Minister will benefit the work of the Board, appointed by the Minister. (2) Each of the agricultural and marketing organizations specified in the Third Schedule shall be an associate member of the Central Agricultural Board, and the following provisions shall have effect in relation thereto—

(a) the chairman of the Board may invite any associate member to send a representative to attend any meeting of the Board at which an item which he thinks is likely to be of particular interest to the organization concerned;

(b) an associate member invited under paragraph (a) to attend a meeting, and any associate member which thinks that an item which is to be discussed at a meeting is likely to be of particular concern to it, shall, if it desires to attend that meeting, send a representative to attend at the beginning thereof, and the Board shall thereupon either disallow his attendance at the meeting (whereupon the representative shall leave the meeting) or allow his attendance thereat during the discussion and disposal of such items of agenda as it determines, and the associate member so allowed to attend shall during that time be deemed to be a full member of the Board and shall be entitled to vote on those items accordingly.

(3) The Minister may from time to time, after consultation with the Board, by order amend the Third Schedule by adding thereto or deleting therefrom any agricultural or marketing organization.

(4) Where an organization which is an associate member of the Board is dissolved or is deleted from the Third Schedule, it shall cease to be an associate member of the Board.

(5) The term of office of a member of the Board appointed under paragraph (a) or paragraph (b) of subsection (1) shall be such as may be prescribed by the Minister.

(6) The chairman of the Board shall be a person appointed by the Minister either from among the members of the Board or from elsewhere, and if he is not already a member of the Board—

(a) he shall thereupon become a member of the Board in addition to the members prescribed by subsection (1); and

(b) his term of office as chairman and member shall be three years.

(7) The members of the Board may elect a deputy chairman from among their number.

#### Meetings L.N. 352/1963

**36.**(1) The chairman of the Central Agricultural Board shall convene a meeting of the Board at least once in every period of three months beginning on the first day of the month, and the Board shall meet at such place as he directs.

(2) Minutes of the proceedings of every meeting of the Board and of every committee thereof shall be regularly entered in books kept for that purpose by the chief executive officer of the Board.

(3) A simple majority of the members of the Central Agricultural Board shall constitute a quorum.

(4) At every meeting of the Board, all questions shall be decided by a majority of members present and voting at the meeting; and in the event of an equality of votes the chairman or other person presiding at the meeting shall have a second or casting vote.

#### Functions of central Agricultural Board



L.N. 352/1963, L.N. 438/1963, 38 of 1968, Sch.

**37.**The functions of the Central Agricultural Board shall be—

- (a) to advise the Minister on all matters of national agricultural policy;
- (b) to co-ordinate agricultural policy on matters affecting more than one province;
- (c) to advise the Minister in the determining of scheduled crops, and on the fixing of prices, in accordance with Part II;
- (d) to carry out such other executive or advisory functions as are conferred upon it by or under this Act or any other written law, or as the Minister, after consultation with the Board, may delegate to it;
- (e) (*Deleted by 38 of 1968, Sch.*).

Staff  
L.N. 352/1963.

**38.**The Central Agricultural Board shall appoint a suitable person to be chief executive officer of the Board, and may appoint such other officers and servants, on such terms and conditions, as the Minister may approve.

Committees of Central Agricultural Board  
L.N. 352/1963

**39.**The Central Agricultural Board may appoint committees for such purposes as it thinks fit, and may empower a committee to co-opt persons who are not members of the Board; and the constitution, functions and procedure of a committee shall be such as the Board may determine either generally or specifically.

#### **Part IV - THE PRESERVATION OF THE SOIL AND ITS FERTILITY**

Land preservation rules  
39 of 1956, Sch., 2 of 1959, s.5, 47 of 1960, s.21, L.N.256/1963 L.N.352/1963 L.N.365/1964.  
Cap.372. Cap.265.

**48.(1)** Whenever the Minister considers it necessary or expedient so to do for the purposes of the conservation of the soil of, or the prevention of the adverse effects of soil erosion on, any land, he may, with the concurrence of the Central Agricultural Board, make rules for any or all of the following matters—

(a) prohibiting, regulating or controlling—

(i) the breaking or clearing of land for the purposes of cultivation;

(ii) the grazing or watering of livestock;

(iii) the firing, clearing or destruction of vegetation including stubble, when such prohibiting, regulating or controlling is deemed by the Minister, with the concurrence of the Central Agricultural Board, to be necessary—

- (a) for the protection of land against storms, winds, rolling stones, floods or landslips;
  - (b) for the preservation of soil on ridges, or slopes, or in valleys;
  - (c) for preventing the formation of gullies;
  - (d) for the protection of the land against erosion or the deposit thereon of sand, stones or gravel;
  - (e) for the maintenance of water in a body of water within the meaning of the Local Government Act;
  - (f) for the protection of roads, bridges, railways or other lines of communication and for the protection of land from deterioration arising from the disposal of water from or through roads, bridges, railways or other communications or structural works, aerodromes, factories or military encampments (whether, in the case of any of the foregoing, in use or abandoned), municipalities, townships or urban districts or such other areas as may be prescribed;
  - (g) otherwise for the preservation of the soil and its fertility;
- (b) requiring, regulating or controlling—
- (i) the afforestation or re-afforestation of land;
  - (ii) the protection of slopes, catchment areas or areas where rules made under paragraph (e) are in force;
  - (iii) the drainage of land, including the construction, maintenance or repair of artificial or natural drains, gullies, contour banks, terraces and diversion ditches;
- (c) requiring the uprooting or destruction, without payment of any compensation therefor, of any vegetation which has been planted in contravention of a land preservation order;
- (d) requiring the supervision of unoccupied land;
- (e) prohibiting, restricting or controlling the use of land for any agricultural purpose including the depasturing of stock.

(2) Any rule made under the provisions of subsection (1) may empower a district agricultural committee, with the approval of the Minister given after consultation with the Minister for the time being responsible for local government and the Central Agricultural Board, to make regulations, applicable to its area or a part thereof, for any of the purposes for which rules may be made under that sub-section, and any such rule, and any such regulations, may empower the Director of Agriculture to issue orders (in this Act referred to as land preservation orders) to any person requiring acts or things to be performed or done or prohibiting acts or things from being performed or done to the satisfaction of the Director of Agriculture or any specified person or authority, imposing conditions upon any such requirement, and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(3) Any rule made under subsection (1) may empower local authorities generally, or particular local authorities or classes of local authorities, with the approval of the Minister given after consultation with the Minister for the time being responsible for local government and the Central Agricultural Board, to make by-laws, applicable to their respective areas or any part thereof, for any of the purposes for which rules may be made under that subsection, and any such rule, and any such by-law, may empower the Director of Agriculture to issue such orders as are referred to in sub-section (2).

(4) Any rule or regulation under this section, and any land preservation order, may provide—

(a) for such exemptions or conditional exemptions from the operation thereof as may be specified;

(b) for the grant of permits or conditional permits of exemption from the operation thereof;

(c) for its application to certain periods or seasons of the year;

(d) for restricting its application to specified persons or any class or description of person or to any area or areas;

(e) for requiring or prohibiting any act or thing to be done to or in respect of any land notwithstanding that the purpose of such rule or order or its carrying into effect is or will be to the benefit of any other land or land in the ownership or occupation of another person.

(5) Where in this Act or in any other written law, reference is made to rules or regulations made under this section or this Part, such reference shall, except where the context otherwise requires, be deemed to include a reference to any by-laws made under rules made under this section.

(6) The procedure for the making, approval and publication of by-laws made under rules made under this section shall be that prescribed under the Local Government Act, and for the purposes of the enforcement thereof and the disposal of fines imposed for contravention thereof those by-laws shall be deemed to be by-laws made by the same local authority under that Act.

(7) All by-laws made by a county council and in force in any area immediately before the commencement of the Local Government Act, which could be validly made under any rule made by the Minister under this section shall remain in force as if so made and the county council which, under that Act, has jurisdiction in that area in place of the county council which made those by-laws shall be deemed to have been empowered by the Minister under this section to make by-laws for the purposes for which those by-laws were made.

(8) Rules may be made by the Minister under this section notwithstanding that they may be inconsistent with or repugnant to any by-law of a local authority in force in the area to which those rules apply, and to the extent, if any, of the inconsistency or repugnancy those rules shall prevail.

#### Further provisions regarding rules

**49.** Rules made under section 48 may provide for the seizure and forfeiture of any stock depastured in contravention of a land preservation order.

#### Powers of director to make land preservation orders 58 of 1956, s.11, L.N. 352/1963, L.N.365/1964.

**50.**(1) No land preservation order shall be made by the Director of Agriculture except after consultation with the appropriate district agricultural committee, or, in cases of urgency, the chairman of that district agricultural committee.

(2) A land preservation order may be made against the owner or occupier of land, or against both the owner and occupier either at the same time or at different times.

(3) The Director of Agriculture shall forward a copy of every land preservation order made by him to the Central Agricultural Board and to the district agricultural committee concerned.

## Powers of Minister to make land preservation orders

**51.**Notwithstanding anything in this Part, or in any rules made thereunder, the Minister may, whenever it appears to him to be urgently necessary in the public interest so to do, exercise any of the powers of the Director of Agriculture under this Part; and the Minister shall be the sole judge of the necessity for any action taken by him under this section, subject only to such appeal to the Agricultural Appeals Tribunal as is provided for by this Act.

### Appeals to Minister against orders L.N.352/1963, L.N.365/1964

**52.**(1) Any person aggrieved by the making of a land preservation order by the Director of Agriculture may appeal to the Minister within thirty days of the issue of the order and upon an appeal the Minister may confirm, vary or cancel the order.

(2) The Minister may, with the concurrence of the Central Agricultural Board, make rules for the conduct of appeals.

### Cancellation and amendment of orders L.N.352/1963, L.N.365/1964.

**53.**(1) Without prejudice to his powers on appeal as provided in section 52. the Minister may, after consultation with the Central Agricultural Board, by order, cancel any land preservation order, or exempt the person on whom any such order has been served from complying with any of the terms of the order, or extend the period within which any of the terms of the order is to be complied with.

(2) Whenever the Minister exercises the powers conferred by subsection (1) he shall cause a notice to be served on the person concerned specifying the manner in which those powers have been exercised, and the order in respect of which those powers have been exercised shall thereupon be deemed to be cancelled or amended accordingly.

### Registration of land preservation orders. 25 of 1963, Sch, L.N.352/1963, L.N.365/1964.Cap. 281.Cap. 300.

**54.**(1) The Director of Agriculture shall cause a register (hereinafter referred to as the register) to be kept containing the names and addresses of all persons upon whom land preservation orders are served and containing also copies of those orders, and, where any order does not contain them, particulars of the survey or land reference number of the land to which each order relates.

(2) Upon any land preservation order being fully complied with, or being varied or cancelled under any of the powers conferred by this Act, an appropriate entry recording compliance, variation or cancellation shall be made in the register.

(3) The register shall at all reasonable times be open to inspection by any person upon payment of a fee to be prescribed by the Central Agricultural Board, and any person inspecting the register may take copies of or extracts from any entry therein.

(4) Any person may on payment of a fee to be prescribed by the Central Agricultural Board require to be furnished with a copy of or extract from any entry in the register certified to be a true copy by an officer of the Board.

(5) Forthwith upon a land preservation order, or any cancellation or variation of such an order, coming into effect, the Director of Agriculture shall cause a notification thereof, and of the survey, land reference or title number of the land affected thereby, to be given to the Registrar of Titles, who shall,

without fee, enter against the title of the land in the appropriate register of titles a memorandum or note of the making, cancellation or variation of the order.

(6) Every land preservation order shall be deemed to be an encumbrance on the land to which the order relates for the purposes of the Registration of Titles Act and the Registered Land Act.

Registration of orders made  
Cap. 164. (1948)

**55.** The Director of Agriculture shall cause to be entered in the register to be maintained under section 54 all subsisting orders made under the Land and Water Preservation Ordinance (now repealed), together with the particulars required to be entered in the register, and thereupon the provisions of that section shall apply to the orders as those provisions apply to land preservation orders made under this Part.

Default in compliance with orders  
L.N.352/1963,  
L.N.365/1964,  
38 of 1968, Sch.

**56.**(1) Where any owner or occupier against whom a land preservation order is made refuses or fails to comply with the terms of the order, the Minister may authorize the Director of Agriculture, or any other person or body of persons, to enter upon the land to which the order relates and to carry out such works thereon or to place such things in, on or over the land as are required to be done by the order or which are otherwise necessary to comply therewith; and any person who obstructs the execution of any such works, or any part thereof, or the placing of any such things in, on or over the land shall be guilty of an offence.

(2) The expenses incurred in or about the exercise of the powers conferred by subsection (1) shall be a debt due to the Government from the owner or occupier of the land affected, as the Minister with the agreement of the Central Agricultural Board may determine, or from the owner and occupier of the land affected in such proportions as the Minister, with the agreement of the Board, may determine.

(3) *(Deleted by 38 of 1968, Sch.)*

(4) So long as any debt under subsection (2) remains due, interest at such rate as may be prescribed by the Minister in consultation with the Minister for the time being responsible for finance shall be payable thereon as from the date upon which the expenses were incurred.

(5) The certificate of the Director of Agriculture as to the date upon which expenses were incurred shall be final for the purposes of this section.

Powers of Minister in cases of absentees.

**57.**(1) Where the Minister is satisfied that a land preservation order should be made in respect of any agricultural land, but, after having made such inquiries and given such notices, by advertisement or otherwise, of his intention to exercise his powers under this section in respect of that land, as he shall think fit, is further satisfied that the person on whom such an order should be served is not in Kenya or cannot be found, the Minister may authorize the Director of Agriculture, or any other person or body of persons, to enter upon the land and to carry out such works thereon, or to place such things in, on or over the land, as the Minister may consider necessary to conserve the soil or to prevent soil erosion.

(2) Subsections (2), (4) and (5) of section 56 shall apply in respect of the exercise of the powers conferred by this section and any expenses incurred thereunder as they apply in respect of the exercise of the powers conferred by section 56 and any expenses incurred thereunder.

#### Appeals to Agricultural Appeals Tribunal

**58.** Any person aggrieved by—

(a) the making of a land preservation order by the Director of Agriculture and by the rejection of an appeal made to the Minister under section 52;

(b) the making of a land preservation order by the Minister under the powers conferred on him by section 50; or

(c) any apportionment of liability under section 56 or section 57, may appeal to the Agricultural Appeals Tribunal.

#### Effect of order pending appeal

**59.** So long as any appeal against a land preservation order either to the Minister or to the Agricultural Appeals Tribunal is pending—

(a) all prohibitions or restrictions contained in an order shall be of full force and effect;

(b) no person shall be required to expend any money in compliance with an order unless the Minister otherwise directs.

#### Penalties for Failure to comply with order

**60.** Subject to the provisions of this Act relating to appeals to the Agricultural Appeals Tribunal, any person who contravenes or fails to comply with the terms of any land preservation order duly served upon him shall be guilty of an offence punishable as provided by section 213, and in addition, in the case of a continuing offence, to a fine not exceeding one hundred shillings for each day on which the offence continues.

#### Right of lessee to compensation for work done in compliance with order.

Cap. 49. Cap. 290

**61.**(1) Subject in all respects to the terms of his lease, where a lessee of any land has incurred expenditure on the land in complying with the terms of any land preservation order, he shall be entitled, at the termination of his lease, on quitting the land, to obtain from the lessor, as compensation for that expenditure, such sum as fairly represents the residuary value of the expenditure to the lessor.

(2) No claim for compensation under this section shall be enforceable unless before the expiration of two months after the termination of the lease the lessee has served notice in writing on his lessor of his intention to make the claim; and a notice under this subsection shall specify the nature of the claim and particulars of the expenditure incurred by the lessee.

(3) The lessor and the lessee may, within the period of four months after the termination of the lease, by agreement in writing, settle a claim under this section, and the Minister may, upon the application of the lessor or lessee made within that period, extend that period by three months.

(4) Where, on the expiration of the period and any extension thereof made under subsection (3), a claim has not been settled, it shall cease to be enforceable unless before the expiration of one month from the end of the period and any extension, or within such longer time as the Minister may in special circumstances allow, an arbitrator has been appointed by agreement between the lessor and the lessee under the provisions of this Act in that behalf or an application for the appointment of an arbitrator under those provisions has been made by the lessor or the lessee.

(5) Where a lessee lawfully remains in occupation of part of the land in respect of which expenditure referred to in subsection (1) was incurred after the termination of a lease, references in this section to the termination thereof shall, in the case of a claim relating to that part of the land, be construed as references to the termination of the occupation.

(6) A claim for compensation under this section shall, in default of agreement, be determined by the arbitration of a single arbitrator, and the provisions of the Arbitration Act shall apply to the arbitration.

(7) For the purposes of this section, "lessor" includes a landlord and a licensor, "lessee" includes a tenant and a licensee and "lease" includes a tenancy and a licence.

(8) Nothing in this section shall affect the provisions of Part VI of the Trusts of Land Act relating to improvements in respect of land held upon trust for sale.

#### Change of owner or occupier affect order

**62.** Where a land preservation order is in force in respect of any land, any disposition (including a testamentary disposition), devolution or transmission of the land to which the order relates shall not affect the continued operation of the order, and accordingly the order shall remain in force and be binding on the new owner or occupier as if it had been made so as to relate to the new owner or occupier as well as to the former owner or occupier.

### **Part V - DEVELOPMENT OF LAND**

#### Minister's power to make land development orders L.N.352/1963, L.N.365/1964

**64.**(1) Subject to this Part, the Minister may make orders (in this Act referred to as land development orders) requiring the execution in respect of any agricultural land by the owners or the occupiers thereof of development programmes to be carried out at such rate and to be completed within such period as may be specified in the orders.

(2) A land development order may be made against the owner or occupier of land, or against both the owner and occupier, either at the same or at different times.

(3) For the purposes of this Act, "development programme" means the adoption of such system of management or farming practice or other system in relation to the land in question (including the execution of such work and the placing of such things in, on or over the land, from time to time) as the Central Agricultural Board may consider necessary for the proper development of the land for agricultural purposes.

#### Preliminaries to making of land development orders 9 of 1967, Sch., L.N.352/1963, L.N.365/1964.

**65.**(1) Whenever a district agricultural committee considers that it is in the interests of good land management or good husbandry or the proper development of the land for agricultural purposes that a land development order should be made in respect of any agricultural land against the owner or occupier thereof, the committee may serve on the owner or occupier a notice to the effect that the committee intends to submit a report on the matter to the provincial agricultural board having jurisdiction in the area of the committee; and every such notice shall indicate the general nature of the report proposed and shall afford the person upon whom it is served an opportunity to show cause within fourteen days why a report should not be made.

(2) As soon as practicable after the expiration of the period of fourteen days, the provincial agricultural board, having taken into consideration any representations made to it under subsection (1), may submit a report embodying any of those representations and such facts and circumstances relating to the management or development of the land as are known to it, to the Central Agricultural Board, and, whether or not it decides to submit a report, communicate its decision in writing to the person upon whom the notice was served:

Provided that no report shall be made without prior inspection of the land by at least one member of the provincial agricultural board, the owner or occupier having been given reasonable opportunity for himself or his representative to attend the inspection.

(3) In the event of the committee deciding to submit a report, the person to whom that decision is communicated under subsection (2) may, by written notice delivered to the provincial agricultural board within fourteen days after receipt by him of the communication, object to the decision by notice in writing, stating the grounds of his objection, to the provincial agricultural board.

(4) Upon receipt of a report pursuant to this section, the provincial agricultural board shall, if it supports the report, forward the report to the Central Agricultural Board with a recommendation for the acceptance thereof, and in any event inform the committee and the person concerned, in writing, of its decision and reasons:

Provided that, in the event of an objection having been lodged under subsection (3), the provincial agricultural board shall not make any decision without having invited the person objecting to attend before it and having heard him if he has attended.

Development Programmes  
L.N.352/1963, L.N.365/1964, 9 of 1967, Sch

**66.**(1) Upon receipt of the recommendation of a provincial agricultural board under subsection (4) of section 65, the Central Agricultural Board shall, if it accepts the recommendation, serve a notice on the person concerned, being the owner or occupier, as in the opinion of the Board the case may require, of the land to which the recommendation relates, requiring him to submit to the appropriate district agricultural committee, before a date to be specified in the notice, a development programme in respect of such land.

(2) A development programme shall be submitted in such form and shall contain such estimates of cost and other information as may from time to time be prescribed or required by the Central Agricultural Board.

(3) Where, upon receipt of any recommendation, the Central Agricultural Board decides not to accept it, it shall inform the district agricultural committee, the provincial agricultural board and the person concerned, in writing, of its decision and the reasons therefor.



(4) Whenever an owner or occupier fails to submit a development programme within the time specified in a notice served on him under this section, the Central Agricultural Board shall itself prepare a development programme for the land to which the notice relates.

Approval of development programmes by district agricultural committees and provincial agricultural board

L.N.352/1963, L.N.365/1964.

**67.**(1) On receipt of a development programme submitted by an owner or occupier under section 66, the district agricultural committee shall forward it to the provincial agricultural board having jurisdiction in the area of the committee endorsed with its approval or, after consultation with the person concerned but not necessarily with his consent, with its approval subject to such conditions thereof as the committee may deem expedient.

(2) A provincial agricultural board, on receiving a development programme with endorsements under subsection (1) shall forward it to the Central Agricultural Board together with such recommendations of its own as it shall think fit to make thereon.

Approval of development programmes by Board

**68.**(1) The Central Agricultural Board upon receipt of a development programme endorsed under subsection (1) of section 67, and after consideration of the recommendations made thereon to the Board under subsection (2) of that section, may approve the development programme with or without modifications, and it may thereupon recommend to the Minister the making of a land development order against the owner or the occupier, as in the opinion of the Board the case may require, of the land to which the development programme relates.

(2) In any case in which the Central Agricultural Board itself prepares a development programme under section 66, the Board shall recommend to the Minister the making of a land development order against the person who, having been required so to do under section 66, has failed to submit a development programme in accordance with that section or his successor in title or interest.

Modification of development programmes

L.N.352/1963, L.N.365/1964.

**69.**Any modifications of a development programme made under section 67, and any modifications made by the Central Agricultural Board under section 68 (1), may include the substitution, wholly or in part, of another development programme for that submitted by the owner or occupier of the land affected.

Power to make land development order

**70.**Whenever a recommendation has been made to the Minister under section 68, the Minister shall, unless he sees special reason to the contrary, forthwith make a land development order, in the terms of the recommendation, and cause it to be served upon the owner or occupier against whom it is made.

Appeal against order

47 of 1960, s.24.

**72.**Any person aggrieved by the making of a land development order, may appeal to the Agricultural Appeals Tribunal.

Penalty for non-compliance with order

**73.** Any person who contravenes or fails to comply with the terms of a land development order shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or in default of payment to imprisonment for one month, and in the case of a continuing offence to a fine not exceeding one hundred shillings for every day of which the offence continues.

Application of certain section to land development orders  
58 of 1956, s.12, 25 of 1963, Sch., L.N.352/1963, L.N.365/1964

**74.** The following sections of this Act shall apply to land development orders as they apply to land preservation orders—

53—cancellation\* and amendment of land preservation orders;

56—default in compliance with land preservation orders;

57—powers of Minister in cases of absentees;

59—effect of land preservation orders pending appeal;

61—right of lessee to compensation for work done in compliance with land preservation order;

62—changes of owner or occupier not to affect land preservation orders.

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\* Power to cancel land development orders delegated to the Permanent Secretary of the Ministry, by L.N. 81/1958.

Register of land development orders.  
Cap.281. Cap.300

**74A.**(1) The Central Agricultural Board shall cause a register (in this section referred to as the register) to be kept containing the names and addresses of all persons upon whom land development orders are served and containing also copies of the orders, and, where any order does not contain them, particulars of the survey or land reference number of the land to which each order relates.

(2) Upon any land development order being fully complied with, or being varied cancelled under any of the powers conferred by this Act, an appropriate entry recording compliance, variation or cancellation shall be made in the register.

(3) The register shall at all reasonable times be open to inspection by any person upon payment of a fee to be fixed by the Central Agricultural Board, and any person inspecting the register may take copies of or extracts from any entry therein,

(4) Any person may, on payment of a fee to be fixed by the Central Agricultural Board, require to be furnished with a copy of or extract from any entry in the register certified to be a true copy by an officer of the Board.

(5) Upon a land development order, or any cancellation or variation of such an order, coming into effect, the Central Agricultural Board shall cause a notification thereof, and of the survey, land reference or title number of the land affected thereby, to be given to the Registrar of Titles, who shall, without fee, enter against the title of the land in the appropriate register of titles a memorandum or note of the making, cancellation or variation of the order.

(6) Every land development order shall be deemed to be an encumbrance on the land to which the order relates for the purposes of the Registration of Titles Act and the Registered Land Act.

## **Part VI - GENERAL SCHEMES FOR LAND PRESERVATION AND LAND DEVELOPMENT**

Preparation of schemes  
L.N.352/1963, L.N.365/1964.

**75.** Whenever the Minister, on representations by the Central Agricultural Board, considers it to be for the general benefit of any area of land that work should be carried out on the land for any of the purposes referred to in section 48 or section 64, he may cause to be prepared a draft scheme for that purpose in the manner hereinafter provided.

### **Contents of schemes**

**76.** Every draft scheme prepared under this Part shall set out—

- (a) the area of the land to be affected by the scheme;
- (b) a description of the works proposed to be executed in pursuance of the scheme;
- (c) the estimated cost of preparing and carrying out the scheme;
- (d) the contribution, if any, which the Minister, in consultation with the Minister for the time being responsible for finance, proposes should be made towards the cost out of public funds, having regard to any prospective liability under section 80;
- (e) the basis of apportionment, as between the holdings comprised in the area of the draft scheme and as between the owners of interests in and occupiers of the holdings, of the net cost of the scheme after deduction of the contribution, if any, to be made thereto;
- (f) the manner in which and the period during which payments to become due from the owners and occupiers under the terms of the draft scheme are to be made, and the rate of interest to be payable on any payment for the time being in arrear.

Publication of and objection to draft schemes, and adoption thereof  
L.N.352/1963, L.N.365/1964

**77.**(1) The Central Agricultural Board shall give to the owners of interests in and occupiers of the holdings comprised in the area of any draft scheme prepared under this Part notice of the making thereof, of the place where it can be inspected and of the time (which shall not be less than twenty-one days from the date of the notice) within which objections thereto may be made to the Board.

(2) After considering any objections which have not been withdrawn and making any modifications in the draft scheme which he thinks expedient having regard to any such objection, and upon the Central Agricultural Board certifying that such persons as appear to the Board to represent interests amounting to not less than three-fourths of the improved value of the area comprised in the draft scheme consent thereto, the Minister may adopt the scheme.

(3) No land shall be included in the area of any scheme as adopted by the Minister which was not included in the area of the draft scheme of which notice was given under subsection (1).

Approval of schemes by National Assembly  
L.N.365/1964.

**78.**(1) Every scheme adopted by the Minister under section 77 shall be submitted to the National Assembly for approval, and the National Assembly may approve or reject the scheme or may approve the scheme subject to such modification in the amount of the contribution to be made out of public funds towards the cost of the scheme as it may think fit.

(2) As soon as may be after the approval of a scheme by the National Assembly, the Minister shall cause notice thereof and of the contents thereof to be published in the Gazette and served upon every owner and occupier affected thereby.

Execution of schemes and recovery of costs thereof  
L.N.365/1964

**79.**(1) Where a scheme has been approved by the National Assembly under section 78—

(a) the Director of Agriculture, or any other person or body of persons authorized by the Minister in that behalf, may execute the scheme, and for that purpose shall have the same powers as may be conferred by the Minister under section 56 (1); and

(b) the persons between whom the net cost of the scheme is apportioned under section 76 (e) shall be liable respectively to pay to the Government, in the manner and within the period provided for by the scheme, the amounts apportioned to them by the scheme.

(2) Any person who obstructs the execution of any scheme, or any part thereof, shall be guilty of an offence.

Compensation to person's injuriously affected by schemes  
L.N.365/1964.

**80.**(1) Compensation assessed by the Minister in accordance with the Fourth Schedule shall be payable out of moneys provided by Parliament in respect of the execution of any scheme under this Part to the owner or occupier of any land injuriously affected thereby.

(2) Where compensation is due to any person under this; section and any sum is due from him in respect of the net cost of any scheme, the compensation and sum shall be set off the one against the other and the difference only, if any, shall be payable to or by that person

Appeals to Agricultural Appeals Tribunal

**81.**Any person aggrieved by the making of a scheme under this Part may appeal to the Agricultural Appeals Tribunal; and for the purposes of Part XV the date of the making of a scheme shall be deemed to be the date of the publication thereof under section 78 (2).

## **Part VIII - THE ENSURED PRODUCTION OF A SUFFICIENCY OF FOOD CROPS FOR THE REQUIREMENTS OF KENYA**

### **Declaration of essential crops**

58 of 1956,s.13, 6 of 1959, Sch., 47 of 1960,s. 31, L.N.21/1964. Cap. 338.

**100.**(1) The Minister may, as soon as may be after every annual review made under section 5, by order published in the Gazette, declare such scheduled crops as in his opinion are necessary for the requirements of Kenya and for fulfilling any obligations to supply East African demands or are necessary for good land agreement, to be essential crops for the purposes of this Part.

(2) In making a declaration under subsection (1) the Minister may declare a particular variety only of a scheduled crop to be an essential crop.

(3) For the purposes of this section, "scheduled crops" includes maize as defined in the Maize Marketing Act.

### **Programmes of production of essential crops**

58 of 1956,s.14, 2 of 1959,s.8, L.N.352/1963, L.N.365/1963.

**101.**(1) Within fourteen days of the publication of an order under section 100, the chief executive officer of the Central Agricultural Board shall send by post to every person who in his opinion will or is likely to produce an essential crop, and who is also registered as the owner or occupier of a large-scale farm under section 22 (4), such forms relating to farming operations concerning the production of essential crops as may be prescribed by the Board for the purposes of this Part.

(2) Any person who is registered under section 22 (4) may, within forty-two days of the publication of an order under section 100, apply in writing to the chief executive officer of the Central Agricultural Board for such forms as may relate to farming operations concerning the production of essential crops as may be prescribed by the Board; and on receipt of the application the chief executive officer shall forthwith send the forms by post to the applicant.

(3) Every person to whom forms are sent under subsection (1) or subsection (2) shall complete them and submit them to the district agricultural committee before such date as may be specified by the Central Agricultural Board, either generally or by reference to any crop or area in Kenya, by notice in the Gazette:

Provided that not less than twenty-one days from the date on which, in due course of post, the prescribed forms ought to have reached him shall be allowed to a person for the completion and submission thereof by him.

(4) The Central Agricultural Board may, with the approval of the Minister, by notice published in the Gazette, direct that each form submitted under this section to a committee shall be accompanied by such map, plan and aerial photograph, and on such scale, as the Board may specify.

(5) Separate forms or sets of forms shall be completed in respect of each farm or farming unit of which the person is the owner or occupier:

Provided that, where a form is completed in respect of part only of a farm other parts of which are occupied by another person or persons, there shall be attached to the form a rough sketch plan of the land which it is proposed to plant showing its relation to the farm as a whole, together with details of the kind of crop or crops which it is intended to plant on that land.

(6) The forms referred to in this section shall require details of the owner's or occupier's planting programme of essential crops, and shall when completed in accordance with this section constitute his programme of production of the crops in respect of the land to which the forms relate.

(7) Any person who knowingly or recklessly gives any false information or withholds any material information in any form referred to in this section or in any programme of production, whether in those forms or not, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or in default of payment to imprisonment for a period not exceeding one month.

Programme of production to be forwarded  
L.N.352/1963, L.N.365/1964.

**102.**Where a programme of production is submitted to a district agricultural committee under section 101, the committee shall proceed to consider it and shall, within one month of its receipt, forward it to the provincial agricultural board having jurisdiction in the area of the committee, endorsed with such recommendations as the committee may think fit to make thereon; and the provincial agricultural board, on receipt of the programme of production, shall within one month thereof consider and forward it, together with its recommendations thereon, to the Central Agricultural Board:

Provided that the provincial agricultural board may, with the consent of the Central Agricultural Board, arrange for any programme of production to be forwarded direct to that Board by the committee endorsed only with the recommendations of the committee.

Board's powers to prepare programme of production.  
L.N.352/1963, L.N.365/1964.

**103.**(1) Where any occupier of agricultural land required under section 101 to submit a programme of production fails so to do, the Central Agricultural Board may itself prepare a programme of production of essential crops in respect of that land; and nothing in this subsection shall prejudice the taking of proceedings for an offence under that section.

(2) Every programme of production shall specify, in such manner as the Board thinks proper, the planting and other acts or things required to be done thereunder.

Production approval and production orders  
47 of 1960, s.32, L.N.352/1963, L.N.365/1964.

**104.**(1) Upon receipt of a programme of production and the recommendations thereon of the provincial agricultural board or the district agricultural committee under section 102, the Central Agricultural Board may—

- (a) approve the programme of production, or approve it with such modifications as it thinks fit; or
- (b) refuse to approve the programme of production.

(2) Where, under paragraph (a) of subsection (1), the Board has approved, or approved with modifications, a programme of production, it may, at the request of the owner or occupier who has submitted the programme of production, make and issue to the owner or occupier of the land to which the programme of production relates a production approval approving the programme of production.

(3) Where, under section 103, the Board has itself prepared a programme of production, it may make and serve on the occupier of the land to which the programme of production relates a production order ordering the production on the land or on a specified part thereof of the essential crops therein specified.

(4) Wherever it appears to the Minister necessary in the national interest to do so, he may direct the Board in specified cases or classes of cases to make and serve production orders in lieu of making and issuing production approvals in cases where, but for such direction, production approvals would have been made and issued.

(5) Every production approval and every production order shall be in such form as may be prescribed, and shall be subject to such conditions as may be prescribed and endorsed thereon by the Board.

(6) Where a production approval or a production order is in force in respect of any land, a disposition (including a testamentary disposition), devolution or transmission of the land shall not affect the continued operation of the approval or order, and accordingly the approval or order shall remain in force and be binding on every person for the time being in occupation of the land as if it had been made so as to relate to that person as well as to the person in occupation at the date of the making thereof.

(7) The Board may, by resolution, delegate to any officer of the Board the exercise of any of the powers conferred upon the Board by this section, either generally or in any particular case.

Variation and cancellation of production approvals and production orders  
47 of 1960,s.33, L.N.352/1963, L.N.365/1964.

**105.**(1) The Central Agricultural Board may at any time, by order, cancel any production approval or production order, or vary the terms thereof, or extend the period allowed thereby for compliance with the terms thereof.

(2) The Board shall give effect to an order made under subsection (1) by serving a copy of the order on the person affected by the production approval or production order.

Appeal against making of production approval or production order  
47 of 1960,s.33.

**106.**Any person who is aggrieved by the making of a production approval or production order in his respect may, within fourteen days after the issue to him of the approval or the service on him of the order, appeal to the Agricultural Appeals Tribunal.

Failure to comply with production order or production approval  
47 of 1960,s.33.

**107.**Any person who fails to comply with the terms of a production order, and any person to whom a production approval has been issued for the production of an essential crop and who, having received an advance under section 116, fails to produce the essential crop in accordance with the terms of the production approval, shall be guilty of an offence.

Additional powers to vary production approvals and production orders  
47 of 1960,s.34, L.N.352/1963, L.N.365/1964

**108.**(1) Where a person served with a production order, at any time after the time limited for an appeal to the Agricultural Appeals Tribunal against the order, considers that compliance with the order would entail grave hardship to him, he shall forthwith notify in writing the appropriate district agricultural committee thereof, stating the circumstances giving rise to the alleged hardship.

(2) Where a person has submitted a programme of production, or where under the provisions of section 103 the Central Agricultural Board has prepared a programme of production in respect of the land occupied by any person, and, at any time after that person is issued with a production approval or

served with a production order, he wishes to increase or vary the programme, he shall forthwith notify in writing the appropriate district agricultural committee thereof.

(3) A district agricultural committee receiving a notification under subsection (1) or subsection (2) shall forward it through the provincial agricultural board having jurisdiction in the area of the committee to the Central Agricultural Board with such recommendations as the committee may think fit to make thereon, and the latter Board may thereupon exercise the powers conferred upon it by section 105 in respect of the production approval or production order to which the notification relates or make a new production approval or production order.

(4) A person who has submitted a notification to a district agricultural committee under subsection (2) shall not be entitled to the benefit of any guarantee referred to in section 110 unless the Central Agricultural Board has consented in writing to the proposals contained in the notification.

#### Return of essential crops

58 of 1956,s.16, 47 of 1960,s.35, L.N.352/1963, L.N.365/1964.

**109.**(1) Every person registered as an owner or occupier of a large-scale farm under section 22 (4) shall, if so required by the Board, in each year within fourteen days of the appointed day, submit a return to the appropriate district agricultural committee, showing—

(a) the total acreage of land which has been planted with essential crops;

(b) the quantity of those crops which have been harvested; and

(c) the quantity of those crops which that person has retained or wishes to retain for consumption on his farm.

(2) The Committee, on receipt of a return submitted under subsection (1), shall forward it to the Central Agricultural Board.

(3) The return to be submitted under this section shall be in such form as may be prescribed, and where no crop has resulted a return to that effect shall be submitted.

(4) Any person who fails to submit a return in accordance with the requirements of this section shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or in default of payment to imprisonment for a term not exceeding one month.

(5) If any person in purported compliance with the requirements of this section knowingly or recklessly submits a return or furnishes any information which is false in any material particular, or withholds any material information in a return, he shall be guilty of an offence.

(6) For the purposes of this section, "the appointed day" means such day in each year as the Board may, by notice in the Gazette, appoint for the submission of returns in respect of essential crops; and the Board may appoint different dates for different essential crops or for different areas of Kenya.

Guaranteed minimum returns 47 of 1960,s.36, L.N.365/1964.

**110.**Every person upon whom a production approval or a production order has been served shall, subject to this Act, be guaranteed by the Government such minimum return of money for every acre of land appropriate for planting with an essential crop, in compliance with the terms of the approval or the order, as may from time to time be prescribed by order made by the Minister.



Assessment of guaranteed minimum return  
47 of 1960, s.37, L.N. 352/1963, L.N. 365/1964.

**111.**(1) The sum of money which, subject to this Act, shall be paid out of public funds as representing the guaranteed minimum return provided for by section 110 shall be the aggregate of the following amounts—

- (a) in respect of every acre of essential crops actually harvested, the prescribed sum per acre;
- (b) in respect of every acre of land actually planted with essential crops, exclusive of any acreage in respect of which a payment is due under paragraph (a), the prescribed sum per acre;
- (c) in respect of every acre of land prepared for planting under the terms of the production approval or production order, but not in fact planted due to causes which, in the opinion of the Central Agricultural Board, were outside the control of the person concerned, such sum per acre as, in the opinion of the Board, is sufficient to cover the expenditure necessarily incurred in preparing the land for planting:

Provided that—

(i) in any case where a person is required under section 114 to replant any acreage of land, the amount of the guaranteed minimum return in respect of the crop concerned may, in the discretion of the Board, but subject to any rules made under any Act, be deemed to be increased by such additional sum of money as, in the opinion of the Board, is sufficient to cover the actual expenditure incurred by the farmer in replanting the land and where the Board has directed that the land shall be replanted with a crop different from the crop originally planted an additional sum per acre may be paid on the direction of the Board at such rate as may be prescribed;

(ii) the sum per acre payable under paragraph (b) shall be less than the sum per acre payable under paragraph (a), and the sum per acre payable under paragraph (c) shall be less than the sum per acre payable under paragraph (b);

(iii) the value of any essential crops reaped by the person concerned, including the value of any proportion of those crops retained by him, shall be deducted from any payments due to him under the preceding provisions of this subsection;

(iv) for the purposes of paragraph (iii) of this proviso, the value of any essential crops reaped by the person concerned shall be calculated, if the crops are scheduled crops, on the prices fixed or agreed for those crops under Part II, less such amount as may be prescribed in respect of transport between the farm where the crops are grown and the place where the crops are, or would but for their retention have been, delivered to an agent constituted or appointed under Part II;

(v) no amount shall be payable in respect of any acreage exceeding the maximum acreage required to be planted by a production approval or production order.

(2) Different sums per acre may be prescribed for different essential crops or for different areas of Kenya, for any of the purposes of subsection (1).

(3) Where any person is required under the terms of any production approval or production order to produce one kind of essential crop upon two or more farms, the value, if any, of all crops of that kind produced on both or all those farms shall be aggregated for the purpose of determining any deductions which may be made under paragraphs (iii) and (iv) of the proviso to subsection (1).

(4) Where any person is required under the terms of a production approval or production order to produce more than one kind of essential crop, no account shall be taken, in determining whether or not he is entitled to payment of the guaranteed minimum return for any particular kind of crop, of the value of any other kind of essential crop produced by him.

Adjustments for advances made, and repayment of advances  
L.N.352/1963, L.N.365/1964

**112.**(1) There shall be deducted from the amount due under this Act to any person on account of the guaranteed minimum return in respect of any essential crop all amounts outstanding on account of any advance made to him under section 116 together with all interest due thereon.

(2) Where the sum of money which under this Act may be paid to any person on account of the guaranteed minimum return in respect of any essential crop is less than the amount outstanding on account of any advance made to him together with interest thereon, the difference between that sum of money and the amount so outstanding, with interest, shall be a debt due by that person to the Central Agricultural Board.

(3) Where a person has received an advance against the guaranteed minimum return in respect of any essential crop, and the value of the essential crop, calculated as provided by section 111, equals or exceeds the guaranteed minimum return in respect of that crop, the amount outstanding on account of the advance together with interest thereon shall be a debt due by that person to the Central Agricultural Board.

(4) Where a person has received an advance against the guaranteed minimum return in respect of any essential crop and the value of the essential crop calculated under section 111, if any, does not equal or exceed the guaranteed minimum return in respect of that crop, and the Central Agricultural Board is satisfied that the failure to attain a return from that crop equal to the guaranteed minimum return is due to neglect or default on the part of that person, the amount outstanding on account of the advance together with interest thereon shall be a debt due from that person to the Board.

(5) Every debt due to the Board under this section shall accrue and become due and payable on such date as the Board demands payment thereof.

When and to whom guaranteed minimum return to be paid  
2 of 1959, s.10, L.N.352/1963, L.N.365/1964.

**113.**(1) It shall be a condition precedent to any claim for payment of the guaranteed minimum return, or any sum on account thereof, that in the event of—

(a) failure, or anticipated failure, of an essential crop; or

(b) failure, or partial failure, of the harvesting of an essential crop,

the producer of the crop shall give written notification thereof to the chairman of the appropriate district agricultural committee and afford such facilities as the committee may reasonably require for inspection of the crop in its then state; a producer shall be presumed to anticipate a failure of a crop whenever he ought reasonably so to do in the circumstances of any case.

(2) Payments of the guaranteed minimum return or any portion thereof in respect of any essential crop may be made in one sum or by instalments as the Central Agricultural Board may determine, at the end of the crop year, or at such time or times as may be prescribed, on proof to the satisfaction of the Board being furnished by the person claiming any such payment—

(a) that at the end of the crop year, or at such time as may be prescribed, his financial return in respect of the essential crop does not equal or exceed the amount of the guaranteed minimum return; and

(b) that his failure or inability to obtain a financial return equal to or exceeding the amount of the guaranteed minimum return is not due to any neglect or default, in any respect, on his part;

(3) Where any dispute or question arises as to the person entitled to claim or receive any payment on account of the guaranteed minimum return in respect of any essential crop, or as to the amount of any such payment, the dispute may be determined by the Board, whose decision shall be final.

#### Replanting of crops if destroyed

2 of 1959,s.11, 47 of 1960,s.38, L.N.352/1963, L.N.365/1964.

**114.**(1) Where any essential crop which a person is producing under the terms of a production approval or production order is destroyed or substantially damaged by insect pests or plant disease or act of God, that person shall forthwith report the destruction or damage to the chairman of the appropriate district agricultural committee who may require him to replant as soon as possible the acreage of land affected with such essential crops as the chairman directs.

(2) The chairman of the district agricultural committee shall forthwith give written notification to the Central Agricultural Board of any instance in which he has required land to be replanted under this section, and of the details thereof, and the Board shall thereupon vary the terms of the appropriate production approval or production order so as to conform to that requirement.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding four thousand shillings or in default of payment to imprisonment for a term not exceeding two months.

#### Harvesting of essential crops

47 of 1960,s.39, L.N.352/1963, L.N.365/1964.

**115.**(1) Every person who, under the terms of a production approval or production order, is producing any essential crop shall, unless the Central Agricultural Board exempts him from so doing, harvest every essential crop produced by him in accordance with the terms of the order, and, without prejudice to the taking of proceedings under subsection (2), the Board, by any person authorized by them in that behalf, may enter upon the land and harvest and market the crops, reimbursing themselves, out of the proceeds of sale thereof, the expenses thereby incurred.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or in default of payment to imprisonment for a term not exceeding three months.

#### Advances against guaranteed minimum returns

2 of 1959,s.12, 47 of 1960,s.40, L.N.352/1963, L.N.365/1964.

**116.**(1) Any person to whom a production approval has been issued for the production of, and any person required by the terms of a production order to produce, any essential crop may apply for an advance up to the amount of the guaranteed minimum return estimated to be payable in respect of that crop; applications for such advances shall be made, in such form as the Central Agricultural Board may prescribe, to the Board, through the appropriate district agricultural committee.

(2) The Board may require any person applying for an advance under this section to submit such evidence and such particulars in relation to the purposes for which it is intended to expend the advance as the Board may think fit, and the evidence and particulars shall be furnished in such form as the Board may determine or as may be prescribed.

(3) Upon application being made the Central Agricultural Board may make an advance against the guaranteed minimum return, and the advance may be made in instalments or in any other manner approved by the Board:

Provided that the amount of the advance shall not exceed such amount, or such percentage of the guaranteed minimum return, or estimated guaranteed minimum return, as may be prescribed.

(4) The Board may, by resolution, delegate to any officer of the Board the exercise of any of the powers conferred upon the Board by this section, either generally or in any particular case.

Purposes for which advance may be applied  
2 of 1959,s.13, L.N.352/1963, L.N.365/1964.

**117.**An advance made under section 116 against a guaranteed minimum return shall, unless the Central Agricultural Board approves otherwise, be used for the purpose only of meeting actual expenditure incurred in preparing and fertilizing the land on which it is proposed to plant the essential crop to which the guaranteed minimum return relates, or in planting the crop, bringing the crop to maturity or harvesting, storing, insuring or transporting the crop, and shall not be used for any other purpose whatsoever; and any person who fails to comply with this section shall be guilty of an offence punishable as provided by section 213, and, in addition, shall be liable forthwith to repay the advance with interest at such rate as may from time to time be prescribed by the Minister with the concurrence of the Treasury from the date of payment of the advance.

Effect of cancellation or variation of production approval or production order on advance  
47 of 1960,s.41, 27 of 1963,s.11, L.N.

**118.**Where the Central Agricultural Board has, under section 105, cancelled or varied the terms of any production approval or production order and such cancellation or variation affects the amount of any advance made or which may be made to the person affected by the approval or order under section 116, the Board shall inform the Agricultural Finance Corporation accordingly, and the Agricultural Finance Corporation shall comply with the terms of such instructions as the Board may issue in respect of the advance; and the Board may require the immediate repayment of the whole or any part of the advance, but shall have regard to the amount of any expenses already incurred by the person affected by the approval or order in complying with the terms of the approval or order prior to its cancellation or variation.

Interest on advance

**119.**The amount for the time being outstanding on account of any advance made under section 116 shall until repaid bear interest at such rate as may be prescribed by the Minister with the concurrence of the Minister for the time being responsible for finance.

Security for advance against guaranteed minimum return  
2 of 1959,s.14, 27 of 1963, s.11, L.N.352/1963, L.N.365/1964. Cap.28. Cap.486.

**120.**(1) All moneys advanced to any person under the provisions of section 116, together with interest thereon and all charges incidental thereto and to the repayment thereof, shall, subject to any prior charge duly registered under the Chattels Transfer Act or the Companies Act, become on registration of the notification referred to in this subsection a first charge on the essential crop in respect of which the advance is made and upon such other chattels of that person as the Central Agricultural Board may specify; and the Agricultural Finance Corporation shall cause written notification of every such advance to be given to the registrar concerned, who shall without fee register the notification as if it were an instrument within the meaning of the Chattels Transfer Act or a charge within the meaning of the Companies Act, and the Chattels Transfer Act or the Companies Act shall thereupon apply as if the

advance were secured by an instrument or charge duly made and registered under and in accordance with the Act applicable.

(2) Notwithstanding any provision of the Chattels Transfer Act or the Companies Act, every registration of a notification under subsection (1) shall remain in force until cancelled.

(3) Where any advance the subject of a notification under subsection (1) has been repaid or written off or replaced by an instrument or charge registered under the Chattels Transfer Act or the Companies Act, as the case may be, the Agricultural Finance Corporation shall notify the cancellation of the notification to the registrar concerned, who shall without fee record the cancellation.

Insurance by person to whom advance has been made  
47 of 1960, s.42, L.N.352/1963, L.N.365/1964

**121.**(1) Every person to whom an advance against a guaranteed minimum return has been made under section 116 shall take out an insurance policy against fire and against such other risks as the Central Agricultural Board may require over the crop in respect of which the advance is made in a sum not less than the amount of the advance.

(2) For the purposes of this section, "crop" means the crop when severed from the soil.

(3) An insurance policy shall be taken out with an insurance company approved by the Board in the joint names of the recipient of the advance and the Board, and shall be endorsed with a memorandum of or otherwise refer to their respective rights and interests.

(4) Any person to whom a production approval has been issued or upon whom a production order has been served, whether or not he has applied for or received an advance, shall not be eligible to claim the guaranteed minimum return in respect of any essential crop if his claim is based on the destruction or damage of the crop by fire or other risk referred to in subsection (1) and he has failed to take out an insurance against that risk or, in the opinion of the Central Agricultural Board, to take reasonable precautions against the risk.

(5) Any person who fails to comply with subsection (1) shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or in default of payment to imprisonment for a term not exceeding six months.

Construction of Part in relation to Part II

**122.**Nothing in this Part shall be construed as affecting the application of Part II to essential crops.

Deduction by agents from sale moneys of essential crops.  
2 of 1959,s.15.

**123.**(1) Every agent constituted or appointed under Part II or under any other enactment controlling the purchase, collection, storage or marketing of any scheduled crop or scheduled animal product is hereby empowered to deduct from any moneys derived from the sale of any essential crop produced by any person marketed through that agent the amount outstanding on account of any advance made to that person under section 116.

(2) Deductions may be made under subsection (1) notwithstanding that any person would, but for the provisions of this section, be entitled, at law or in equity, to, or to a charge on the proceeds of sale of, or to, or to a charge on, the guaranteed minimum return in respect of, the essential crops; and, for the purposes of this subsection, "charge" includes any mortgage, lien, pledge, hypothecation or other charge or security whatsoever.

Restrictions on termination of lease, etc., of land on which essential crop is grown  
47 of 1960,s.43, L.N.352/1963, L.N.365/1964.

**124.**(1) Notwithstanding the provisions of any lease, tenancy agreement or licence of land in respect of which a production approval has been issued or a production order has been served under this Act, and notwithstanding any law for the time being in force, the lessor, landlord or licensor shall not, except with the consent of the Central Agricultural Board, exercise any power of determination of the lease, tenancy agreement or licence by notice, forfeiture or otherwise so as to determine it before the harvesting and disposal of any essential crop produced by the lessee, tenant or licensee on the land in accordance with the production approval or the production order.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or in default of payment to imprisonment for a term not exceeding one month, and any purported determination shall be void and of no effect.

Funds for carrying out provisions of Part. 27 of 1963,s.11.  
L.N.352/1963, L.N.365/1964.

**125.**(1) The Minister for the time being responsible for finance is hereby authorized to place at the disposal of the Minister all such moneys as may from time to time be provided by Parliament for the purposes of this Part, and to afford the Agricultural Finance Corporation all such guarantees or other credit facilities as may be approved by the National Assembly for those purposes; and the Minister may place any portion of those moneys, as he may from time to time think fit at the disposal of the Central Agricultural Board for the like purposes.

(2) All repayments made on account of the capital amounts of advances made in respect of guaranteed minimum returns shall be transferred by the Agricultural Finance Corporation on the direction of the Minister for the time being responsible for finance to the Consolidated Fund.

Agricultural Finance Corporation to act as agent for advances, etc.  
27 of 352/1963,s.11 L.N.352/1963, L.N.365/1964.

**126.**The Agricultural Finance Corporation shall act as agent for the Central Agricultural Board in making, on the order of the Board, out of moneys provided under this Act—

(a) advances under section 116; and

(b) payments of or on account of guaranteed minimum returns, and in collecting and accounting for all repayments of capital and interest and other payments on account of all such advances and payments.

Rules  
L.N.352/1963, L.N.365/1964.

**127.**The Minister may, after consultation with the Central Agricultural Board, make rules prescribing—

(a) anything required to be prescribed under this Part;

(b) the terms and conditions subject to which the guaranteed minimum return shall be payable in respect of any essential crop;

(c) the time at which any guaranteed minimum return may be paid;

(d) the method of ascertainment of the persons entitled to the guaranteed minimum return;

(e) the amounts or the method of calculation of the amounts which shall be deducted in respect of transport of any essential crop in connexion with any of the purposes of this Act.

## **Part XI - THE AGRICULTURAL SETTLEMENT FUND**

Settlement Fund Trustees  
L.N.352/1963, L.N.396/1963

**167.**(1) There is hereby established a body of trustees, to be known as the Settlement Fund Trustees, which shall consist of the Minister, the Minister for the time being responsible for agriculture and the Minister for the time being responsible for finance.

(2) The Settlement Fund Trustees shall, by that name, be a body corporate having perpetual succession and a common seal, and may in its corporate name sue and be sued, and, for and in connexion with the purposes of this Part, may purchase, hold, manage and dispose of movable and immovable property, and may enter into such contracts as it may deem necessary or expedient.

(3) The seal of the Settlement Fund Trustees shall be authenticated by the signature of one of its members or of the officer administering the Fund.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the Settlement Fund Trustees may be signified under the hand of one of the Trustees or of the officer administering the Fund.

Agricultural Settlement Fund  
L.N.352/1963, L.N.365/1964, 9 of 1967, Sch., 38 of 1968, Sch.

**168.**(I) There is hereby established an Agricultural Settlement Fund, which shall be vested in the Settlement Fund Trustees.

(2) There shall be paid into the Fund—

(a) any sums from time to time provided by Parliament for the purposes of the Fund;

(b) all rentals, interest on advances and repayments of advances or instalments thereof;

(c) all moneys derived from the sale of any land acquired by the Central Land Board for the purposes of any approved settlement scheme or for any other purpose approved by the Minister;

(d) all moneys derived from the sale of any surplus assets which may have been acquired by the Central Land Board in the exercise of its functions;

(e) all moneys derived from the resale of land;

(f) all sums raised or borrowed under section 169 (5);

(g) *(Deleted by 38 of 1968, Sch.)*

(h) all other receipts of whatsoever fund derived from or arising out of the operation of any approved settlement scheme; and

(i) all receipts from any other source approved in that behalf by the Settlement Fund Trustees.

(3) The Settlement Fund Trustees shall appoint a member of their staff or a public officer to be the officer responsible for administering the Fund.

Financial Provisions  
L.N.352/1963

**169.**(1) The Settlement Fund Trustees may out of the Financial Agricultural Settlement Fund expend money on—

(a) carrying on the business of agriculture, or establishing permanent improvements, on any land acquired by the Central Land Board;

(b) purchasing any livestock and chattels suitable for farming purposes;

(c) making such advances, for such periods and subject to such conditions as may be prescribed, to settlers, co-operative societies or such other persons as may be approved by the Trustees, for the purpose of carrying out the provisions of this Part;

(d) purchasing any land for resale;

(e) defraying any expenses incurred by the Government for any purpose in connexion with this Part;

(f) reimbursing the Government for the salaries, gratuities, pensions, retiring allowances and other costs of the staff engaged in carrying out the provisions of this section;

(g) paying the salaries, gratuities, pensions, retiring allowances or other emoluments of any officer or employers engaged under section 170;

(h) remunerating any agents or other persons employed in the carrying out of the provisions of this section;

(i) repaying any moneys borrowed under this Part, and paying interest on those moneys;

(j) making any payment for any purpose approved in that behalf by the Trustees.

(2) The Trustees may grant relief with regard to repayment of capital of, and payment of interest on, advances and write off such debts as they may from time to time determine.

(3) The Trustees may dispose of any surplus assets which have been acquired in the exercise of any of the powers contained in this Part (or in the Part replaced by this Part), and shall pay the proceeds of any such disposal into the Fund.

(4) The Trustees may establish within the Fund such reserves as may to them appear from time to time be necessary.

(5) The Trustees may raise or borrow, whether by way of mortgage, bank overdraft or otherwise, such sums of money for or in connexion with the exercise of their functions, powers and duties under this section and for the purposes of this as they may deem necessary.



**170.**The Settlement Fund Trustees may appoint at such salaries, and for such terms as they may think fit, such officers and servants of the Trustees as they may deem necessary.

Accounts of Fund  
L.N.352/1963.

**171.**(1) The officer administering the Fund shall keep such books of account and other books in relation thereto and to all their undertakings, funds, activities and property as the Settlement Fund Trustees deem necessary and shall within a period of four months after the end of their financial year, or within such longer period as the Trustees may approve, prepare, sign and transmit to the auditor—

(a) a balance sheet showing in detail the assets and liabilities of the Fund; and

(b) such other statements of account as the Trustees may require.

(2) The accounts of the Fund shall be examined, audited and reported upon annually by the Controller and Auditor General.

(3) The officer administering the Fund shall produce and lay before the auditor all books and accounts of the Fund, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditor shall be entitled to require such information and explanation as he may consider to be necessary for the performance of his duties as auditor; and the expenses of and incidental to the audit shall be paid by the Fund.

(4) The Trustees shall, within a period of seven months after the end of their financial year or within such longer period as they may approve, lay before the National Assembly a report of the operations of the Trustees during that year, together with the yearly balance sheet and such other statements of accounts as they have required and the auditors report thereon; and they shall cause them to be published.

Delegation of powers  
L.N.352/1963.

**172.**The Settlement Fund Trustees may delegate such of the powers conferred on them by this Part as they may decide to the officer administering the Fund, who in turn may delegate those powers to an officer of the Trustees approved by them.

Security for advances.  
L.N. 352/1963, L.N. 473/1963. Cap.28.

**173.**All moneys advanced from the Fund to settlers, together with interest thereon and all charges incidental thereto or to the repayment thereof, shall be secured by a legal mortgage or charge or by an equitable mortgage or charge or otherwise, as the Settlement Fund Trustees may direct, and in addition thereto or in lieu thereof if the Trustees so determine shall be secured on the land or on the chattels of the settler by notification of the advance made in the prescribed form and delivered to the Registrar of Titles or the Registrar-General, as the case may be, and—

(a) on receipt of such a notification the Registrar of Titles shall without charge register it in the Register of Titles, and upon registration the moneys advanced shall become charged upon the land, subject to all prior registered mortgages or charges; and

(b) on receipt of such a notification the Registrar-General shall without charge register it as if it were an instrument within the meaning of the Chattels Transfer Act, and the notification shall thereupon

take effect as if it were such an instrument and the provisions of that Act, as modified by the provisions of this section, shall apply.

(2) Notwithstanding the provisions of section 10 of the Chattels Transfer Act, registration of a notification under sub-section (1) of this section shall remain in force until cancelled.

(3) The Trustees may at any time, in writing, consent to any particular chattels of a settler which are subject to a notification under this section being released from the security thereof, and thereupon those particular chattels shall be discharged absolutely from the security.

(4) In this section and in any notification thereunder, "chattels" includes all chattels which the settler acquires or becomes entitled to after the execution of the notification.

Remedies for recovery of advances on land. 16 of 1965,s.2, L.N.352/1963, 9 of 1967,Sch. Cap.323.

**174.**(1) Where an advance has been made and secured upon any land under this Part, the Settlement Fund Trustees, or any person duly authorized by the Trustees in writing in that behalf, may exercise all such remedies for the recovery of the advance as the Agricultural Finance Corporation is empowered to exercise under the Agricultural Finance Corporation Act.

(2) If any sum of money, whether principal or interest, due in respect of any advance made by the Settlement Fund Trustees, such advance not being secured upon any land under this Part, is unpaid, that sum shall be a civil debt recoverable summarily.

(3) If any sum of money, whether principal or interest, due in respect of any advance made by the Settlement Fund Trustees, such advance not being secured upon any land under this Part, is unpaid for more than six months, whether or not action has been taken under subsection (2), the Settlement Fund Trustees may, without recourse to any court, terminate any interest (whether express or implied) in land in respect of which the advance was made and which is vested in or deemed to be vested in the person to whom the advance was made, and thereupon that interest shall vest in the Settlement Fund Trustees, who may thereupon take possession of the land in question.

Limitations laws not to apply  
L.N.352/1963.

**175.**Notwithstanding anything to the contrary contained in any law relating to limitation, no suit, application or proceeding by the Settlement Fund Trustees shall be rejected or dismissed on the ground only that the suit, application or proceeding is barred by limitation under any such law.

Exemption from stamp duty and other charges  
L.N.352/1963. Cap.480.

**176.**(1) No duty shall be chargeable under the Stamp Duty Act in respect of any instrument executed by, or on behalf of, or in favour of, the Central Land Board or the Settlement Fund Trustees in cases where, but for this exemption, the Board or the Trustees would be liable to pay such duty.

(2) No registration or other fee or charge whatsoever shall be payable by the Central Land Board or the Settlement Fund Trustees in respect of any grant, lease or transfer of property (otherwise than by way of mortgage, charge or other security for an advance) to the Board or the Trustees, nor in respect of any search or inspection by or on behalf of the Board or the Trustees in any register of titles, deeds registry or other registration office.

Purchase of reversion of freehold estates by Settlement Fund Trustees  
3 of 1982,s.2. L.N. 718/63.

**177.**Notwithstanding the provisions of any other written law, where a leasehold estate or interest in any land situated in the areas to which section 198 of the Constitution of Kenya established under the provisions of the Kenya Independence Order in Council, 1963, applied, vests in the Settlement Fund Trustees, being an estate or interest the immediate reversion to which is vested in the Government and in respect of which no other person or authority has a superior estate or interest, the reversion shall be extinguished and the leasehold estate or interest vested in or acquired by the Settlement Fund Trustees shall be converted into an estate in fee simple, but without prejudice to any estate, interest or right, by way of mortgage, charge or otherwise subject to which the Settlement Fund Trustees may have acquired the leasehold estate or interest.

Rules  
47 of 1960, s.56, L.N.352/1963.

**181.**(1) The Minister may, with the consent of the Board, make rules—

- (a) prescribing what shall be, and the terms of, an approved settlement scheme;
- (b) prohibiting, or controlling and regulating, the growing of any crop, and prescribing what crops shall be grown, by a settler;
- (c) prohibiting the keeping of any particular kinds of livestock, and regulating and controlling the number of any kind of livestock which may be kept, and prescribing the kind of stock and the number thereof that shall be kept, by a settler;
- (d) prescribing the terms and conditions of any lease granted to any settler;
- (e) defining what shall be regarded as the beneficial occupation of land, where that expression is used in connexion with any approved settlement scheme;
- (f) prescribing the forms of application to participate in an approved settlement scheme, or for an advance under this Part, the person to whom the application shall be made, and the details and particulars which an applicant shall give in connexion with the application;
- (g) prescribing anything which may be prescribed under this Part;
- (h) for any other purpose, whether of a like nature to the foregoing or not, which he may deem necessary or desirable for the proper carrying out of the provisions of this Part.

(2) Rules made under subsection (1) may require acts or things to be performed or done to the satisfaction of a specified authority, may prohibit acts or things being performed or done without the prior approval of a specified authority, may empower a specified authority to impose conditions, and may prescribe periods or dates upon, within or before which any such act or thing shall be performed or done or any such condition shall be fulfilled.

**Part XII - RULES FOR THE PRESERVATION, UTILIZATION AND DEVELOPMENT OF  
AGRICULTURAL LAND**

Minister may make general rules for the preservation, utilization and development of agricultural land  
47 of 1960,s.56, L.N.256/1963, L.N.352/1963.

**184.**(1) The Minister may, on the advice of the Central Agricultural Board, make general rules for the preservation, utilization and development of agricultural land, either in Kenya generally or in any particular part thereof.

(2) Without prejudice to the generality of subsection (1), rules made thereunder may—

- (a) provide for requiring owners (whether or not also occupiers) to manage their land in accordance with rules of good estate management;
- (b) provide for requiring occupiers to farm their land in accordance with the rules of good husbandry;
- (c) provide for regulating, controlling or prohibiting the cultivation of land or the keeping of stock or any particular kind of stock thereon;
- (d) provide for regulating the kinds of crops which may be grown on land;
- (e) provide for controlling the erection of buildings and other works on agricultural land;
- (f) confer upon agricultural workers the right to harvest and remove crops grown by them on land provided by their employer for their use, or to be compensated therefor in lieu;
- (g) limit the size of the plots of land which may be provided by an employer of agricultural workers for their use for cultivation or for grazing, and require stock grazing on any such land to be branded;
- (h) provide for the determination by a subordinate court of disputes arising out of the provision by an employer of land for the use of any of his workers for cultivation or for grazing;
- (i) provide for such exemptions or conditional exemptions from the provisions thereof as the Minister may think fit;
- (j) empower specified persons or authorities to make orders providing for any of the matters specified in the foregoing paragraphs of this subsection, in relation to particular areas of land;
- (k) empower local authorities generally, or particular local authorities or classes of local authorities, with the approval of the Minister for the time being responsible for local government, to make by-laws for any of the purposes for which rules may be made under this section.

(3) For the purposes of this section and of any rules made thereunder, and of any by-laws or orders made under those rules—

- (a) an owner of agricultural land shall be deemed to fulfil his responsibilities to manage it in accordance with the rules of good estate management in so far as his management of the land and (so far as it affects the management of that land) of other land managed by him is of such a standard as, having regard to the character and situation of the land and other relevant circumstances, to enable an occupier of the land reasonably skilled in husbandry to maintain efficient production as respects both the kind of produce and the quality and quantity thereof;
- (b) the occupier of agricultural land shall be deemed to fulfil his responsibilities to farm it in accordance with the rules of good husbandry in so far as the extent to which and the manner in which the land is being farmed (as respects both the kind of operations carried out and the way in which they are carried out) are such that, having regard to the character and situation of the land, the standard of management thereof by the owner (if the occupier is not the owner) and other relevant circumstances, the occupier is maintaining a reasonable standard of efficient production, as respects both the kind of

produce and the quality and quantity thereof, while keeping the land in a condition to enable such a standard to be maintained in the future;

(c) "relevant circumstances", in relation to an owner or occupier, includes all circumstances affecting management or farming other than the personal circumstances of the owner or occupier.

(4) The procedure for the making, approval and publication of by-laws made under rules made under this section shall be that prescribed by the Local Government Act, and, for the purposes of the enforcement thereof and of the disposal of fines imposed for their contravention, such by-laws shall be deemed to be by-laws made under that Act.

(5) Orders made, by virtue of the provisions of paragraph (j) of subsection (2), under rules made under this section shall be published in the Gazette, and shall be subject to such provisions in regard to the making and approval thereof as may be contained in the rules.

### **Part XIII - DISPOSSESSION OF OWNERS AND OCCUPIERS OF AGRICULTURAL LAND**

Minister's powers on persistent contravention of rules  
47 of 1960,s.56, L.N.352/1963

**185.**(1) Subject to subsections (2), (3) and (4), where the Minister is satisfied that an occupier of agricultural land has persistently contravened any rules made under section 184, and certifies accordingly, then, with the consent of the Central Agricultural Board—

(a) where the occupier is not the owner of the land, the Minister shall have power by order to terminate his interest in the land or any part thereof specified in the order, as from such date not earlier than three months after the making of the order as may be specified therein, and to require that the owner shall as from that date either farm it himself, if he so elects and the Minister approves, or let it to a tenant approved by the Central Agricultural Board;

(b) where the occupier is the owner of the land, the Minister shall have power either—

(i) by order to direct that as from the date referred to in paragraph (a) the occupier shall give up his occupation of the land, or any part thereof specified in the order, and let it to a tenant approved by the Central Agricultural Board; or

(ii) to agree with the owner and all other persons having an interest therein for the purchase thereof, and thereafter to purchase the land accordingly; or

(iii) to acquire the land or any part of the land compulsorily.

(2) The Minister shall not give any certificate under subsection (1), subsection (5) or subsection (6) until, after affording to the owner or occupier, as the case may be, an opportunity, within a specified period of not less than one month, of making representations to the Minister, whether in writing or on being heard by the Minister or a person appointed by him, the Minister has given to the owner or occupier notice in writing of the proposal to give the certificate together with such particulars as appear to the Minister requisite for informing him of the grounds on which the Minister is satisfied as mentioned in subsection (1).

(3) Any person to whom notice of a proposal is given under subsection (2) may, within one month after the service thereof on him, require that the proposal be referred to the Agricultural Appeals Tribunal, which may either confirm the proposal, or confirm the proposal subject to such

modifications or conditions as it may think fit, or direct that the proposal be not proceeded with, and such a reference shall be deemed to be an appeal for the purposes of Part XV.

(4) Where, under subsection (3), the Agricultural Appeals Tribunal confirms a proposal (whether with or without modifications or conditions), the person at whose instance the proposal was referred to the Tribunal may, within one month after the date of the decision of the Tribunal, appeal to the High Court, which shall hear the matter *de novo* and may either confirm the proposal, or confirm the proposal subject to such modifications or conditions as it may think fit, or order that it be not proceeded with, and whose decision shall be final.

(5) Where, under subsection (1), the Minister proposes to purchase or acquire compulsorily any land, and is satisfied that it is necessary for the purpose of securing the proper management thereof that he should acquire any other land which is being managed by the same person in conjunction with the first-mentioned land, and certifies accordingly, the Minister shall, subject to this section, have power to agree for the purchase of that other land or acquire it compulsorily.

(6) Where any person having an interest in land, by notice in writing served on the Minister within six months of the giving by the Minister of a certificate under subsection (5) relating to any other land, represents to the Minister that the first-mentioned land was at the time when the certificate was given being managed in conjunction with that other land and that it is not reasonably practicable to manage it except in conjunction herewith, and requires that the Minister shall purchase that interest, then, unless the Minister is satisfied that the representation is not justified and certifies accordingly before the expiration of the prescribed period, the Minister shall be deemed on the date on which that period expires to have been authorized to agree for the purchase of the land or to acquire it compulsorily in accordance with this section.

(7) Where an order is made under paragraph (a) of sub-section (1)—

(a) it shall be delivered to the Registrar of Titles for registration in the register of titles in accordance with the law under which the title to the land is registered, and shall not take effect until after it has been so registered;

(b) if it is made so as to terminate the interest of a tenant in part only of his holding, the tenant shall be entitled to a reduction of rent proportionate to the part to which the order relates.

Power to acquire unoccupied land  
47 of 1960, s.56, L.N. 365/1963.

**186.**(1) The Central Agricultural Board, if it is satisfied, with respect to any agricultural land, that—

(a) the land is not in the actual occupation and management of the owner or his manager or a tenant of his or is not being utilized for an agricultural purpose; and

(b) having regard to the ecological characteristics of the land and the principles of good land management and good husbandry, the land is not reasonably capable of being profitably farmed without the addition thereto of other land; and

(c) it is in the interests of the proper development of the land for agricultural purposes that it should be added to and farmed with particular adjacent agricultural land; and

(d) the owner of such adjacent land is willing to acquire it, may in writing recommend to the Minister that the land be acquired by the Government for the purpose of sale to the owner of the adjacent land.

(2) Where, under subsection (1), the Minister receives a recommendation from the Central Agricultural Board for the acquisition of land, and is satisfied that the conditions specified in paragraphs (a) to (d) of subsection (1) apply, and certifies accordingly, he may agree with the owner and all other persons having an interest therein for the purchase thereof and thereafter purchase the land accordingly.

(3) Where the Minister is unable to agree with the owner and other interested persons for the purchase of any land under subsection (2), or is unable so to agree without unreasonable delay, he may, after affording to the owner and other persons interested an opportunity, within a specified period of not less than one month, of making representations to the Minister, whether in writing or on being heard by the Minister or a person appointed by him, give to the owner and those persons notice in writing of the proposal to acquire the land compulsorily, together with such particulars as appear to the Minister requisite for informing him of the grounds on which the Minister is satisfied as mentioned in subsection (2).

(4) Any person to whom notice of a proposal is given under subsection (3) may, within one month after the service thereof on him, require that the proposal be referred to the Agricultural Appeals Tribunal, which may either confirm the proposal, or confirm the proposal subject to such modifications or conditions as it may think fit, or direct that the proposal be not proceeded with, and such a reference shall be deemed to be an appeal for the purposes of Part XV.

(5) Where, under subsection (4), the Agricultural Appeals Tribunal confirms a proposal (whether with or without modifications or conditions), the person at whose instance the proposal was referred to the Tribunal may, within one month after the date of the decision of the Tribunal, appeal to the High Court, which shall hear the matter *denovo*, and may either confirm the proposal or confirm the proposal subject to such modifications or conditions as it may think fit or order that it be not proceeded with, and the court's decision shall be final.

(6) Subject to any direction of the Agricultural Appeals Tribunal or the High Court under subsection (4) or subsection (5), the Minister shall have power to purchase the land or any part of the land compulsorily.

(7) Where land has been purchased or compulsorily acquired under this section, the Minister shall arrange as soon as practicable for the sale thereof to the adjacent owner for sale to whom the land was purchased or acquired.

Power to acquire land for production of particular crop.  
31 of 1963, s. 2.

**186A.**(1) Where the Minister, after consulting the Central Agricultural Board, is satisfied, in relation to a particular area of land, that—

(a) the land within the area is peculiarly suitable for the production of a particular crop; and

(b) all the land within the area, so far as is practicable, should, in the interests of the development of the land in such manner as to promote the public benefit, be used for the production of that crop but is unlikely to be so used unless it is acquired by the Government under this section; and

(c) suitable facilities for the processing of the whole of the crop which can conveniently be produced within the area will be forthcoming if the land within the area is devoted to the production of that crop, he may agree with the owner and all other persons having an interest in the land within the area for the purchase of the land and thereafter purchase the land accordingly.

(2) Where the Minister is unable to agree with the owners and other interested persons for the purchase of any land under subsection (1), and is satisfied that—

(a) the owners or the occupier of the land have had sufficient time, since they obtained possession of the land, to bring the land into use for the production of the crop in question; and

(b) the necessity for obtaining the land is such as to afford reasonable justification for the causing of any hardship that may result to the owners and other interested persons, he may acquire the land within the area, or any part thereof, compulsorily.

(3) Where land has been purchased or compulsorily acquired under this section, the Minister shall make such arrangements, whether by sale, letting or otherwise, as will ensure that the land is used, so far as is practicable, for the production of the particular crop and for the provision of suitable facilities for its processing if such do not already exist.

Power to zone land for delivery of crop for processing  
31 of 1963, s. 2

**186B.**Where the Minister, after consulting the Central Agricultural Board, is satisfied that it is necessary, in the interests of a particular agricultural industry, that the whole of the crop produced in the course of that industry in a particular area should be processed in a factory in that area, he may, by order—

(a) declare all land in that area to be zoned for the purpose of delivery of that crop to that factory;

(b) require that the whole of that crop produced on the zoned land shall be delivered to that factory for processing and to no other factory; and

(c) make such supplemental provision as may be necessary or expedient for the carrying into effect of the order, including the provision of penalties, not exceeding imprisonment for twelve months or a fine of ten thousand shillings or both, for the contravention of the order.

Minister's power with respect to inadequately managed or supervised land  
47 of 1960, s. 56, 45 of 1962, s. 2, L.N.352/1963, L.N.365/1964

**187.(1)\*** Where the Minister is satisfied that any holding of agricultural land—

(a) has ceased to be managed or supervised and that it is necessary for preventing or delaying the deterioration of the holding to do so; or

(b) is being managed or supervised so inadequately that it is necessary for preventing or delaying the deterioration of the holding to do so, and certifies that he is so satisfied, he may, after consultation with the agricultural committee for the area within which the holding is situated, make and serve on the owner an order (hereafter in this section called a management order) directing that as from a specified date the holding shall, subject to the provisions of this section, be occupied and managed by the Minister, to the exclusion of the owner.

(2) Where a management order is in force in respect of any holding, the holding shall, except while it is leased or let, and until it is sold, under an order made under subsection (4), be exclusively occupied and managed by the Minister, his agents and servants of the Government, without liability for any kind of waste committed by them in the course of such occupation and management, but with due attention to the need for careful management, and for such purpose the Minister, his agents and the servants of the Government shall have power—



- (a) to manage and farm the holding in such manner as they may think fit;
- (b) to utilize all fixed and other equipment, foodstuffs, manure and fertilizers in or about the holding;
- (c) to sell the produce (including timber) of the holding;
- (d) to effect such improvements and to execute such other works and things on or about the holding as they may think necessary or expedient.

(2A) Where the Minister makes a management order—

- (a) the owner shall be entitled to be compensated by the Government for any loss which he may suffer by reason of the making of the order, but so that the compensation shall in no case exceed the amount of any loss suffered, and in calculating the amount thereof, any increase in the value of the land or in its profitability which is due to the execution of the management order shall be disregarded;
- (b) the compensation, if any is payable, shall take the form of an annual sum, payable yearly in arrear, for so long as the management order is in force; and
- (c) the Government may retain out of the compensation, if any is payable, any sums owing to it by the owner.

(3) The Minister may, at any time during which a management order is in force in respect of any holding, by notice in writing served on the owner, call upon the owner to show cause, within a period of one month after the date of service of the notice, to the satisfaction of the Minister, why an order should not be made by the Minister, with the consent of the Central Agricultural Board—

- (a) ordering that the holding or a part thereof and all or any of the fixed and other equipment thereon be leased or let to such a tenant, and on such terms and conditions as may, with the approval of the Central Agricultural Board, be determined by the Minister; or
- (b) ordering that the holding or a part thereof, or the interest therein of the owner, and all or any of the fixed and other equipment thereon, be sold at the best price which in the opinion of the Minister may reasonably be obtained for it in the circumstances then prevailing, and that the proceeds of sale (after deducting any expenses incurred in connexion with the sale and any sums owing to the Government) be paid to the owner.

(4) Where, in response to a notice under subsection (3), the owner does not show cause to the satisfaction of the Minister, the Minister may, with the consent of the Central Agricultural Board, make and serve on the owner an order for all or any of the purposes specified in the notice.

(5) Where the Minister leases, lets or sells any holding under this section, the instrument of lease, letting or sale, and any other instrument necessary or expedient to effectuate the leasing, letting or sale, may be executed by the Minister as if he were the attorney of the owner duly appointed under a power of attorney registered in the register of titles.

(6) Where a holding in respect of which a management order is in force is subject to a mortgage or charge, or to an equitable mortgage or charge, which has been, or a memorandum whereof has been, duly registered in the register of titles (hereafter in this section referred to as a mortgage), then, notwithstanding the foregoing provisions of this section—

- (a) the Minister may exercise all the powers conferred by this section, in accordance with this section, but any money which, under subsection (2A), would, but for this provision, have been payable to the

owner shall be payable to the mortgagee, and where any moneys are payable to the owner under subsection (3) (b) there shall be paid to the mortgagee thereout all such sums as are owing to the mortgagee under the mortgage, and the balance only shall be paid to the owner;

(b) where an order is made under subsection (4), notice shall also be given to the mortgagee;

(c) an instrument of sale executed by the Minister under subsection (5) may, if the Minister thinks fit, be expressed to take effect, and shall then take effect, free from the mortgage, but in that case the Minister shall hold the proceeds of sale in trust to pay thereout (so far as they will suffice) the moneys due to the mortgagee under the mortgage:

Provided that, where a management order is in force in relation to the holding, the mortgagee, if he desires to exercise any of his powers of taking possession or appointing a receiver of the holding, or of leasing or selling the holding, or of foreclosing his mortgage, may give written notice to the Minister of his desire, and thereupon the Minister shall make arrangements for the winding up as soon as practicable of the management, and on completion thereof shall, under subsection (10), revoke the management order.

(7) Where, under an order made under subsection (4), any moneys are due to an owner whose present address or whereabouts is not known to the Minister, the Minister shall make diligent inquiry of such address or whereabouts with a view to informing the owner of the moneys due to him, and if, at the end of a period of not less than two years, there appears to the Minister no practical possibility of so informing the owner, he may direct that the money be forfeited and paid into the Consolidated Fund.

(7A) Where a management order is made in respect of any holding, the owner thereof may—

(a) at any time after the making of the order, apply to the Minister for a review of the order;

(b) at any time after one year has elapsed from the date of the making of the order, appeal to the Agricultural Appeals Tribunal, and section 186 (4) shall apply *mutatis mutandis* with respect thereto.

(8) Where an order is made under subsection (4) in respect of any holding or a part thereof or an order is amended under subsection (10) (except where the owner has not made any endeavour to show cause in response to the notice served upon him under subsection (3) within the period prescribed by that notice), the owner may, within one month after the date of the service thereof on him, appeal against the order to the Agricultural Appeals Tribunal, and sub-sections (4) and (5) of section 186 shall apply *mutatis mutandis* with respect thereto.

(9)\* Where the address of an owner or mortgagee on whom the Minister intends to serve an order or notice under this section is not certainly known to the Minister, the Minister may, in addition to or in lieu of any other form of service, publish the notice or order (addressed to the owner or mortgagee, as the case may be) in the Gazette, and the publication shall be deemed to be good service of the notice or order on that person, whether or not some other method of service has also been used.

(10)\* Any order under this section may be amended by the Minister with the consent of the Central Agricultural Board, or may be revoked by the Minister by a further order served on the owner.

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\* Powers of the Minister delegated to the Permanent Secretary of the Ministry, the Chief Executive Officer, Central Agricultural Board and the Assistant Secretary, Central Agricultural Board, by L.N. 211/1967.

Mode of acquisition  
47 of 1960, s.56, 38 of 1968, Sch. Cap.295.

**188.**Where land is acquired compulsorily under this Part, it shall be acquired in accordance with the Land Acquisition Act.

Rules  
47 of 1960,s.56, L.N.352/1963.

**189.**The Minister, with the consent of the Central Agricultural Board, may make rules generally for carrying into effect the intent and purposes of this Part, and any such rules may provide penalties, not exceeding a fine of an amount not exceeding two thousand shillings or imprisonment for a term not exceeding two months or both for their contravention.

#### **Part XIV - DEVELOPMENT OF CERTAIN CROPS**

Special crops  
47 of 1960,s.56, L.N.352/1963, 38 of 1968,Sch.

**190.**Where the Minister is satisfied that the development of a particular crop which is grown in Kenya for the purpose generally of sale should be promoted or fostered under this Part, he may, after consultation with the Central Agricultural Board and after giving thirty days' notice in the Gazette of his intention so to do, by order in the Gazette, declare that crop to be a special crop.

Order establishing authority for development of a special crop  
47 of 1960,s.56.

**191.**(1) Whenever a crop is declared to be a special crop under section 190, the Minister shall, after consultation with the Treasury, by order in the Gazette, establish an Authority for promoting and fostering the development of that crop for such area, and consisting of such members, as the Minister shall in the order specify:

Provided that nothing in this subsection shall prevent an Authority being made responsible for the development of more than one special crop.

(2) An Authority established under subsection (1) shall, by the name by which it is established by the Minister, be a body corporate having perpetual succession and a common seal, and may in its corporate name sue and be sued, and, for and in connexion with the purposes of this Part, may purchase, sell, lease or otherwise acquire or dispose of, hold and manage movable and immovable property, and may enter into such contracts as may be necessary or expedient.

Contents of order, and amendment and revocation thereof  
47 of 1960, s.56.

**192.**(1) An order under section 191 establishing an Authority may, in relation to the Authority and to the special crop, make provision for all or any of the following matters—

(a) the authentication of the seal, the signification of decisions and the execution of documents of the Authority;

(b) the appointment of a chairman of the Authority and the regulation of and procedure and voting at its meetings;

- (c) the terms of office of members;
- (d) the remuneration of an allowances to be paid to members;
- (e) the appointment of committees and the delegation of powers to those committees or to officers of the Authority;
- (f) the appointment and remuneration of officers;
- (g) the functions of the Authority, which may include—
  - (i) the establishment and management of nurseries;
  - (ii) the purchase and sale of seed and seedlings;
  - (iii) the control and supervision of cultivation of crops;
  - (iv) the inspection of growing and harvested crops;
  - (v) the purchase, transportation and storage of crops;
- (h) the powers of the Authority, which may include power—
  - (i) to employ and remunerate agents;
  - (ii) to borrow money;
  - (iii) to impose levies on growers for financing its operations and for other purposes approved by the Minister, and to provide for the manner in which and the persons by whom any such levies shall be collected;
  - (iv) to create and operate price stabilization funds;
  - (v) to make loans for the purpose of the development of crops;
  - (vi) to engage in the marketing of crops;
  - (vii) to regulate and control the marketing of crops by growers and others, including the requiring of growers and others to sell crops to particular persons only;
  - (viii) to establish or acquire, and to operate, factories for the processing of crops, and to enter into agreements with other persons operating factories for them to purchase or process crops;
  - (ix) to invest moneys not immediately required for use;
  - (x) with the approval of the Minister, to do such other things as in the opinion of the Authority will assist in the development of crops in the area for which the Authority is established;
  - (xi) to do any other thing which is incidental or conducive to the exercise of its powers under this Part;
- (i) the manner of utilization of profits;
- (j) the manner in which accounts shall be kept, audited and produced by the Authority;

(k) the imposition of a penalty, which shall not exceed a fine of an amount not exceeding one thousand shillings or imprisonment for a term not exceeding one month, for the contravention of any of the provisions of the order.

(2) An order under section 191 may make different provision in regard to different special crops or in relation to different parts of the area for which the Authority is established.

(3) An order under section 191 shall not be made so as not to conflict with the provisions of any other Act relating to agricultural crops.

(4) The Minister may, by order in the Gazette, amend or revoke an order, and any order of revocation may provide for winding up the affairs of an Authority and for distributing, transferring or otherwise disposing of the property and liabilities of the Authority, and for all such matters as appear to the Minister to be connected with or incidental to the dissolution of the Authority.

## **Part XIV A - AGRICULTURAL CESSES**

### **Agricultural cesses**

L.N.352/1963, L.N.397/1963, L.N.398/1963, 12 of 1950. 30 of 1967, s.2. 2 of 2002, Sch. 7 of 1999.

**192A.**(1) Subject to subsection (1A) a local authority may, with the consent of the Minister given after consultation with the Minister for the time being responsible for local government, by by-laws, impose a cess on any kind of agricultural produce, and may in the by-laws make such incidental provision as is necessary or expedient; and the cess shall form part of the local authority's revenues.

(1A) Notwithstanding the provisions of subsection (1), eighty percent of all monies collected as cess under that subsection shall be used in maintaining roads and other services, in the local authority, related to the sectors in respect of which such monies are levied, and the remaining twenty percent shall be credited to the general account of the local authority:

Provided that the eighty percent of the cess collected in respect of tea and coffee shall be transmitted to the respective District Roads Committee.

(1B) For the purposes of this section, "District Roads Committee" has the meaning assigned to it in section 2 of the Kenya Roads Board Act, 1999.

(2) The incidental provisions which may be made in by-laws under subsection (1) may include provision—

(a) requiring any person (whether within or outside the area of jurisdiction of the local authorities) who buys or markets on behalf of a producer agricultural produce on which the cess is payable, and on which no cess has then been paid, to deduct from the money payable to the seller an amount equal to the cess payable on the produce, and to remit the amount to the authority to whom the cess is payable;

(b) providing that in any proceedings it shall be presumed, where agricultural produce on which a cess is payable is brought, that no cess has been paid on that produce, until the contrary is proved.

(3) The procedure for the making, approval and publication of by-laws made under subsection (1) shall be that prescribed by the law under which the local authority is established, and, for the purposes of the enforcement thereof, such by-laws shall be deemed to be by-laws made under that law.

(4) All by-laws made by an African district council under section 37 (17) of the African District Councils Ordinance, 1950 (now repealed) imposing a tax or cess in respect of the production, sale, purchase or possession of any natural product or of any animal or the product of animal or agricultural husbandry, and in force immediately before the repeal of that Ordinance, shall, notwithstanding the repeal, continue in force after the repeal, and may be amended or revoked by by-laws made under subsection (1).

## **Part XV - APPEALS TO THE AGRICULTURAL APPEALS TRIBUNAL**

### **Establishment of Agricultural Appeals Tribunal L.N.352/1963, L.N.635/1963**

**193.**(1) There shall be established a tribunal, to be called the Agricultural Appeals Tribunal, in this Part called the Tribunal, which shall consist of a chairman to be appointed and two members to be selected in the manner provided.

(2) The chairman shall be a person to be appointed by the Chief Justice, being a barrister or solicitor of not less than seven years' standing and being, in the opinion of the Chief Justice, possessed of the necessary experience to discharge the duties of the office of chairman of the Tribunal; the appointment of the chairman shall be published in the Gazette, and before entering upon the duties of his office the chairman shall take an oath in the form of the oath for due execution of office prescribed by the Promissory Oaths Act before judge.

(3) Whenever the Chief Justice is satisfied that the chairman of the Tribunal is prevented by sickness or any other reason from attending any sitting of the Tribunal to hear an appeal, the Chief Justice may appoint another person, being a person qualified to be appointed chairman of the Tribunal, to act as chairman of the Tribunal for the purposes of that appeal, and any person so appointed shall, for the purposes of that appeal and for all matters incidental thereto, have the powers of the chairman of the Tribunal, first taking the oath for due execution of office as prescribed.

(4) The Minister shall, by notice published in the Gazette, appoint a panel of persons, being preferably persons having experience in or knowledge of the agricultural industry, and being persons are considered suitable to serve as members of the Tribunal for the hearing of appeals, and, whenever an appeal to the Tribunal is pending, the chairman shall select two persons from the panel to serve as members of the Tribunal on the hearing of the appeal; and every such member shall on first selection before entering on the duties of his office as a member of the Tribunal take the oath prescribed for due execution of office before the chairman of the Tribunal.

(5) If a member of the panel becomes, in the opinion of the Minister, unfit to be selected to serve as a member of the Tribunal or incapable of performing any duties as such, the Minister shall forthwith declare his office to be vacant and shall notify the fact in such manner as he thinks fit, and thereupon the office shall become vacant.

(6) Subject to subsection (5), the appointment of a member of the panel shall be for such term as may be determined by the Minister and shall be subject to such conditions as may be so determined.

(7) The chairman or any other member of the panel may resign from office by notice in writing to the Chief Justice, or, as the case may be, to the Minister.

(8) A person who ceases to hold office as a member of the panel shall be eligible for reappointment thereto.

### How jurisdiction of Tribunal to be exercised

**194.**(1) Subject to this Act, the jurisdiction of the Tribunal shall be exercised by the chairman and two members selected in the manner provided by section 193, and references in this Act to the Tribunal shall be construed accordingly.

(2) Whenever an appeal is dealt with by the Tribunal—

(a) the chairman shall preside at the hearing; and

(b) a decision shall be taken in the event of a difference between the members dealing with the appeal by the votes of the majority:

Provided that any point of law arising at any hearing of an appeal shall be reserved to, and pronounced upon exclusively by, the chairman.

### Jurisdiction of Tribunal L.N.352/1963.

**195.**(1) It shall be within the jurisdiction of the Tribunal to determine such appeals as may be made to the Tribunal under this Act.

(2) No appeal shall be deemed to be validly made under this Act unless, within thirty days, or such other period as may be expressly provided for by this Act in the case of any particular form of appeal, from the date of the service on the appellant of notice of the order or determination appealed against, notice is given by the appellant, stating the grounds of his appeal, to such person and in such form as may be prescribed and copies of that notice are sent by registered post both to the chief executive officer of the Central Agricultural Board and to the Minister; and notice shall be given to the appellant of the date and place of hearing of the appeal.

(3) On any appeal the Tribunal shall determine—

(a) whether any conditions precedent to the making of the order or determination appealed against, including any condition requiring the service of any notice or consultation with any person or body, were regularly fulfilled; and

(b) whether, having regard to their findings under paragraph (a) and to all the circumstances of the case, the order or determination appealed against is an order or determination which might reasonably have been made, whether or not the Tribunal itself would, if so authorized, have made the order or determination, and shall report to the Minister accordingly; and the Minister shall forward a copy of the report to the appellant.

(4) Whenever an appeal is determined by the Tribunal, the Minister and all persons or authorities affected by the appeal shall act in accordance with the report of the Tribunal and not otherwise.

### Statement of case by tribunal

**196.**(1) The chairman of the Tribunal may, and shall on the application of any party to an appeal to the Tribunal, state a case on a question of law for the opinion of the High Court.

(2) Where a case is stated on a question of law for the opinion of the High Court, the High Court shall (subject to subsection (3)) hear and determine the question or questions of law arising on the case stated, and shall remit the matter to the Tribunal with the decision of the Court thereon, and may make such order as to costs as it may think fit, and any determination or order made by the High Court in the exercise of its powers under this subsection shall be final and conclusive on all parties.

(3) The High Court may cause a case stated to be sent back for amendment or restatement by the chairman of the Tribunal, and thereupon it shall be amended or restated accordingly, and the question or questions of law shall be heard and determined under subsection (2) after the case has been so amended or restated.

(4) Subject to the foregoing provisions of this section, every determination of the Tribunal shall be final and conclusive

Rules of Tribunal  
L.N. 635/1963.

**197.**(1) The chairman of the Tribunal may, with the approval of the Minister, make rules—

(a) prescribing the procedure of the Tribunal, and in particular—

(i) the form in which any decision, order or determination of the Tribunal is to be given;

(ii) the taking of evidence on oath, affirmation or otherwise in proceedings before the Tribunal, and the summoning and examination of witnesses; and

(iii) the evidence which may be admitted in any such proceedings;

(b) enabling the Tribunal to sit with assessors when dealing with cases calling, in the opinion of the chairman, for special knowledge;

(c) prescribing the forms to be used and the fees to be paid upon every appeal to the Tribunal; and

(d) generally, for anything required to be prescribed under this Part and all matters in connexion with the bringing, hearing and determining of appeals to the Tribunal, including costs and expenses.

(2) In the hearing or determination of any appeal the Tribunal shall not be bound by any rule of law, other than a rule made under subsection (1), relating to the admissibility of evidence, or relating to the form in which evidence should be adduced.

**Part XVI – GENERAL**

No action maintainable against Minister, etc

**198.**Neither the Minister nor any other person or body of persons shall be personally liable to any action or proceedings for or in respect of any act or thing done or omitted to be done in good faith in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Act.

Representation 2 of 1959, s.16, L.N.352/1963

**199.**Notwithstanding any other written law, in all actions, suits and proceedings the Central Agricultural Board may be represented by the Attorney-General or by such other person as may be appointed by him for the purpose.

Convictions and forfeiture of livestock

**200.**It shall not be a bar to conviction or punishment of any person for an offence under this Act that any livestock belonging to that person has been seized, impounded or sold under this Act or any rules



made thereunder, and, where under this Act or any rules made thereunder any person is empowered to seize, impound or sell the livestock of any person, those powers may be exercised notwithstanding the conviction or punishment of the owner of the livestock for the offence.

Saving of  
Cap.372.

**201.** Nothing in this Act or any rules made thereunder shall prejudice or affect the provisions of the Water Act, and where anything in this Act or any rule is inconsistent with any such provision that provision shall prevail.

Service of document

**202.** Any order, notice or other document required or authorized to be served under this Act shall be served either—

- (a) by delivering it to the person on whom it is to be served; or
- (b) by sending it by registered post addressed to that person at his last known postal address;
- (c) in the case of a corporate body, by delivering it to its secretary or clerk, or sending it by letter addressed to its secretary or clerk at its registered office; or
- (d) if it is not practicable after reasonable inquiry to ascertain the name or address of the person on whom it should be served, being a person having an interest in land, by addressing it to him by the description of the person having that interest in the land (naming it), and by delivering it to some responsible person on the land or, by affixing it, or a copy of it, to some conspicuous part of or object on the land.

Advances and grants exempt from attachment

**203.** No part of any loan, advance or grant made under this Act which has become mixed with other assets, and no loan, advance or grant to be made under this Act, shall be liable to levy or attachment in execution of any judgment or decree of any court.

Powers of entry  
47 of 1960, s.57, L.N.352/1963, L.N.398/1963

**204.**(1) Any authorized officer may, at all reasonable times and on giving reasonable notice, without a search warrant—

- (a) enter upon any land for the purpose of inspection thereof or of ascertaining whether, and if so in what manner, any of the duties or powers imposed or conferred by or under this Act should be exercised in relation to the land, or ascertaining whether, and if so in what manner, any requirement imposed under any such duty or power has been complied with, or of ensuring that any loan, advance or grant made by or under the provisions of this Act is being used for the purpose for which it was made;
- (b) enter any building or structure on any land and examine and inspect it or any fixed equipment or chattels thereon or therein, or crops or other produce for the time being stored or being therein; and
- (c) enter any land, building or structure and examine any livestock being thereon or therein:

Provided that a private dwelling-house shall not be entered under the powers conferred by this subsection.

(2) Any person who knowingly obstructs or hinders any authorized officer in the exercise of his powers or the performance of his duties under the provisions of this section shall be guilty of an offence.

(3) Every officer of the Agricultural Department, and every person appointed by the Central Agricultural Board, the Settlement Fund Trustees or an Authority established under section 191 in that behalf, shall be an authorized officer for the purposes of this section.

Central Agricultural Board to be body corporate  
L.N.352/1963.

**205.**(1) The Central Agricultural Board shall be a body corporate by that name with perpetual succession, and shall be capable in law of suing and being sued and of acquiring, letting and alienating any property, movable or immovable.

(2) All instruments or documents made by, and all decisions of, the Board may be signified under the hand of the chairman, or the deputy chairman, or any authorized officer of the Board pursuant to a resolution by the Board in that behalf.

References to owners and occupiers of land

**206.**Any reference in this Act to an occupier of land shall have effect notwithstanding that such person is also the owner of the land, and any reference in this Act to an owner of land shall have effect notwithstanding that such person is also the occupier of the land.

Indemnification of Agricultural Finance Corporation  
27 of 1963,s.11

**207.**All expenses and all losses, if any, incurred or sustained by the Agricultural Finance Corporation in connexion with the administration of this Act shall be met out of funds provided by Parliament for the purposes of this Act, and no part of any such expenses or losses shall fall to be met at of any other funds of the Corporation.

Accounts of Agricultural Finance Corporation  
27 of 1963, s. 11, L.N.365/1964.

**208.**The Agricultural Finance Corporation shall once in every year, and at other times when required by the Minister, transmit to the Minister a statement of accounts and balance sheet, duly audited and certified, relating to those funds in respect of which it has, in the course of that year, acted as an agent under the provisions of this Act, and the Minister shall cause the accounts and balance sheet to be laid before the National Assembly.

Misapplication of loan, advance or grant

**209.**Any person who, without the consent of the Minister, applies any loan, advance or grant made to him under this Act for any purpose other than the purpose for which it is made, or who, without that consent, fails to comply with any condition relating to it, shall be guilty of an offence.

False statements  
47 of 1960, s. 58.

**210.**Any applicant for an advance under this Act who wilfully fails to disclose any material information within his knowledge, or who wilfully, makes any statement which he knows to be false or does not believe to be true, shall be guilty of an offence and, without prejudice to the imposition of any penalty which he may incur under this Act, shall be liable forthwith to repay all sums advanced to him under this Act together with interest thereon.

Secrecy  
47 of 1960, s.58.

**211.**Any person having the possession of, or control over, any document, information, return or form relating to applications for advances or the making of advances under this Act who communicates or attempts to communicate that information or anything contained in that document, return or form to any person—

(a) other than a person to whom he is authorized to communicate it; or

(b) otherwise than for the purposes of this Act, shall be guilty of an offence.

Protection from personal liability of members and employees of boards, etc.  
47 of 1960, s. 58.

**212.**No matter or thing done by the chairman or any other member, or any officer or employee, of any board, committee, subcommittee or authority established by or under this Act shall, if the matter or thing be done bona fide for the purpose of executing any provision of this Act, render the chairman, member, officer or employee, or any person acting by his directions, personally responsible to any action, liability, claim or demand whatsoever.

General penalty

**213.**(1) Any person who is guilty of an offence under this Act for which no special penalty is provided by this Act shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both and any rules made under this Act may provide for penalties for the breach thereof not exceeding the foregoing penalties.

(2) Where a person convicted of an offence under this Act or any rules made thereunder is a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

(3) Any agent or servant who does or omits to do any act or thing which if done or omitted to be done by his employer or principal would be an offence under this Act or any rules made thereunder shall himself be guilty of an offence and liable to the penalty provided by this Act or by the rules, as the case may be.

(4) Every employer or principal, being the owner or occupier of any land, shall be answerable for the acts or omissions of his servant or agent in relation to the land and the farming thereof, and if any servant or agent commits an offence under this Act or any rules made thereunder the employer or principal shall also be guilty of an offence and liable to the penalty provided by this Act.

No election of members to be questioned

**214.**No election, appointment or nomination of any person to any body or authority established or constituted by or under this Act shall be questioned in any legal proceedings whatsoever.

#### Defects in membership of authorities not to invalidate duties or powers thereof

**215.**(1) Neither the powers nor the duties of any authority or body established or constituted or functioning by or under this Act shall be prejudiced or affected by any vacancy in the membership thereof, or by the fact that it is afterwards discovered that there is some defect in the election, appointment, nomination or qualifications of any person purporting to be a member thereof.

(2) If in any legal proceedings any question or dispute shall arise as to the constitution of any authority or body established, constituted or functioning by or under this Act, or as to whether any authority or body purporting to exercise any powers or duties under this Act is legally constituted or established, the question shall be referred to the Minister, whose determination of any such question or dispute shall be final and conclusive.

#### Procedure of various authorities

**216.**Subject to this Act and any rules made thereunder, every authority or body established, constituted or functioning by or under this Act is empowered to regulate its own procedure.

#### Expenses of various authorities

**217.**The Minister may, in consultation with the Minister for the time being responsible for finance, make rules providing for the payment of travelling and other expenses and subsistence allowances to members of any authority or body established, constituted or functioning by or under this Act, not being persons in the public service.

#### Officers to be public servants for certain services Cap. 63.

**218.**The officers of an authority or body constituted, established or functioning by or under this Act shall be deemed to be persons employed in the public service for the purposes of the Penal Code.

#### Certificates by Central Agricultural Board L.N.352/1963, L.N.365/1964

**219.**(1) The Central Agricultural Board may certify—

(a) whether any area is within the area of jurisdiction of a particular provincial agricultural board or district agricultural committee;

(b) whether any, and if so what, amount is due as a debt to the Minister or the Board by virtue of this Act or any rules made thereunder or any act or thing done or omitted to be done thereunder.

(2) A certificate purporting to be, a certificate of the Central Agricultural Board under subsection (1), and to be signed by the chairman or executive officer thereof, shall be presumed, until the contrary is proved, to be conclusive as to matters or things stated therein.

#### Power to extend time L.N.352/1963, L.N.365/1964

**220.**The Central Agricultural Board, with respect to any act or thing to be done or omitted to be done or to be done by the Board itself, may extend any time therefor or alter any date fixed by or under this Act in relation thereto.

Expenses  
L.N.352/1963, L.N.365/1964.

**221.**Any expenses which are incurred for the purposes of this Act by the Minister, the Central Agricultural Board, the Agricultural Appeals Tribunal, the Agricultural Finance Corporation or a district agricultural committee, and which are not hereinbefore directed to be defrayed in any other manner, shall be defrayed out of moneys provided by Parliament, but without prejudice to the provisions of this Act, or of any rules made thereunder, authorizing the recovery of such expenses, or any part thereof, from any person.

Provisions of rules to prevail over by-laws  
47 of 1960, s.59, 30 of 1952, 12 of 1950, L.N.352/1963, 9 of 1967, Sch. Cap. 265.

**222.**The provisions of any rules or regulations made under section 48 or section 184 shall prevail over those of any by-laws made by a local authority under the Local Government Act, to the extent of any inconsistency between the two, or in so far as the subject matter of the rules or regulations and the by-laws is the same.

Saving of rules and orders under Cap. 164 (1948)

**223.**Notwithstanding the repeal of the Land and Water Preservation Ordinance—

(a) all rules made under that Ordinance and in force at the commencement of this section shall, except only so far as they conflict with this Act, remain in force until revoked as if they were rules made under this Act; and

(b) all orders made under that Ordinance and subsisting at the commencement of this section shall remain in force as if they were land preservation orders made under this Act.

FIRST SCHEDULE (ss. 2 (1), 5 and 12)

6 of 1969., L.N. 74/1956, L.N.502/1957, L.N 96/1959 L.N.333/1966.

SCHEDULED CROPS

Wheat.  
Barley.  
Oats.  
Beans (rose coco. Canadian wonder, white haricot, mixed, lima).  
Millet (finger).  
Sorghum (white, red/mixed).  
Rice.  
Sunflower.  
Sugar-cane for the production of white sugar.

SECOND SCHEDULE (ss. 2 (1) and 12)

SCHEDULED ANIMAL PRODUCTS

Cattle and sheep for slaughter.

L.N.78/1968.

### THIRD SCHEDULE (s. 35)

#### Cap. 338 AGRICULTURAL AND MARKETING ORGANIZATIONS

Cap. 363. The National Cereals and Produce Board established by the National Cereals and Produce Board Act.

Cap. 343. The Kenya Meat Commission established by the Kenya Meat Commission Act.

Cap. 340. The Tea Board of Kenya established by the Tea Act.

Cap. 361. The Pyrethrum Board of Kenya established by the Pyrethrum Act.

Cap. 333. The Pig Industry Board established by the Pig Industry Act.

Cap 341. The Coffee Board of Kenya established by the Coffee Act.

Cap. 336. The Sisal Board of Kenya established by the Sisal Industry Act.

Cap 320. The Kenya Dairy Board established by the Dairy Industry Act.

Cap323. The Kenya Maize and Produce Board established by the Agricultural Produce Marketing Act.

Cap 346. The Agricultural Finance Corporation established by the Agricultural Finance Corporation Act.

Cap. 347. The Agricultural Development Corporation established by the Agricultural Development Corporation Act.

Cap. 335. The National Irrigation Board established by the Irrigation Act.

Cap 328. The Cotton Lint and Seed Marketing Board established by the Cotton Lint and Seed Marketing Act.

Sub. Leg. The Canning Crops Board established by the Canning Crops Act.

Sub. Leg. The Pineapple Development Authority established by the Pineapple Development Authority Order.

Sub. Leg. The Horticultural Crops Development Authority established by the Horticultural Crops Development Authority Order.

The Kenya Tea Development Authority established by the Kenya Tea Development Authority Order.

L.N.352/1963. FOURTH SCHEDULE (s. 80)

COMPENSATION IN RESPECT OF CONSTRUCTION OF WORKS, ETC.

1. Compensation shall be payable only if the annual value of the land is diminished by reason of the exercise of the powers conferred by this Act, in this Schedule called "the powers".
2. The compensation payable shall, in the first instance, be the sum calculated by reference to the diminution of the annual value of the land ascribable to the exercise of the powers, and shall be paid in instalments, half-yearly in arrear, to the person who for the time being is entitled to occupy the land.
3. The compensation shall be considered as accruing from day to day, and shall be apportionable in respect of time accordingly.
4. There shall be deducted from, or set off against, the compensation any benefit or betterment of any other land accruing to the person entitled, or otherwise entitled, to the compensation by reason of the exercise of the powers.
5. If, at any time after compensation has become payable under the preceding provisions of this Schedule, the Minister—
  - (a) causes the land in respect of which the powers were exercised, so far as practicable, to be restored to the condition in which it would be but for the exercise of such powers; or
  - (b) serves upon the person for the time being entitled to occupy the land a written notice of intention to discharge the liability for compensation by making, not earlier than the date specified in the notice, payment of a lump sum in accordance with the following provisions of this Schedule,  
  
the period in respect of which compensation is payable under the preceding provisions of this Schedule shall end on the day immediately preceding the day on which restoration is completed, or, as the case may be, the date specified in the notice.
6. Where, by virtue of the operation of paragraph 5, the period in respect of which compensation in respect of the exercise of the powers is payable comes to an end, then if, at the expiration of that period, the value of any interest which a person then has in the land is less than it would be but for the exercise of the powers, there shall be paid to him, by way of compensation, a sum equal to the amount of the said depreciation; and that compensation shall be taken to accrue due at the expiration of the said period:  
  
Provided that there shall be deducted from or set off against that compensation any benefit or betterment to any other land which has accrued or may accrue to the person entitled to that compensation by reason of the exercise of the powers.
7. For the purposes of this Schedule, no account shall be taken of any diminution or depreciation in value ascribable only to loss of pleasure or amenity.
8. In this Schedule—

(a) "annual value" means, in relation to any land, the rent at which the land might reasonably be expected to let from year to year, if the tenant undertook to bear the costs of the repairs and insurance and other expenses, if any, necessary to maintain the land in a state to command that rent, and to pay all the usual tenant's rates and taxes: and

(b) "diminution of the annual value" means the amount by which the annual value of the land is less than it would be if the powers had not been exercised in respect thereof.

9. All compensation shall carry interest as from the date on which it accrues due until payment at the rate of six per centum per annum or at such rate as may from time to time be prescribed.

10. No claim for any compensation shall be entertained unless notice of the claim has been given in writing to the Central Agricultural Board within the period of three months, or such longer period as the Board may, either generally or in relation to any particular claim, allow, beginning in either case with the date on which the compensation accrues due.

11. The Minister may make rules—

(a) for prescribing the procedure for notifying and presenting claims for compensation and all matters incidental thereto; and

(b) for requiring persons to produce and give discovery and inspection of documents to the Minister or any person authorized by him in that behalf in a similar manner as in proceedings in the High Court.