

THE SISAL INDUSTRY ACT, 1996

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THE UNITED REPUBLIC OF TANZANIA



NO. 2 OF 1997

I ASSENT,
BENJAMIN W. MKAPA
President
4th April 1997

An Act to repeal the replace the Sisal Industry Act, 1973, to provide for an orderly development of the Sisal Industry, and establishment of the Tanzania.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

- 1. This Act may be cited as the Sisal Industry Act, 1997 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint. Short title and commencement
- 2. In this Act, unless the context otherwise requires – Interpretation
 - “Authority” means the Tanzania Sisal Authority established by section 3 of the Tanzania Sisal Board established by section 3; Act No.20 of 1973
 - “Minister” means the Minister for the time being responsible for agriculture;
 - “producer” means any person. Company, Society or stallholder who grows for sell, buys, sells imports or deals in sisal fibre or its derivatives or who manufactures for sale any article containing sisal fibre or its derivatives;
 - “sisal” means the plant *Agave* “*Sisalama*” or other species of the genus *Agave*, or of the hybrids of any such species and fibre thereof, and includes brush tow, flume tow, twines, ropes, yarns, or any other product manufactured which contains predominately fibre or any of its derivatives;
 - “Sisal Association of Tanzania” means an association of all members of the sisal industry registered under the Companies Ordinance. Cap.212
 - “Sisal inspector” means an inspector appointed by the Board under the provisions of this act;
 - “Society” means a co-operative society registered under the Co-operative Societies Act, 1991: Act No.15 of 1991

PART II

THE TANZANIA PYRETHRUM BOARD

Establishment
and constitution
of the Board

3. – (1) There shall be established a Board to be known as the Tanzania Sisal Board.

(2) Subject to any directions of the Minister, the Board shall acquire by virtue of this Act and without further assurance any or all assets and liabilities of the Authority.

(3) The provisions of the Schedule to this Act shall have effect as to the constitution, tenure of office, and proceedings of and otherwise in relation to the Board.

(4) The Minister may by order published in the *Gazette*, amend, add to vary or replace the First Schedule to this Act.

Board to be body
corporate

4. The Board shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued in its corporate name, of purchasing, holding, managing and disposing of any property whatsoever, whether movable or immovable, and whether by way of investment or otherwise, and of entering into any such contract as may be necessary or expedient for the performance of its functions under this Act or any other written law.

The functions of
Board

5. – (1) The functions of the Board shall be and include the carrying on of such activities and the doing of such things as are necessary, advantageous, proper or for the benefit of sisal growers and the sisal industry, and, in particular, but without prejudice to the generality or the foregoing, shall be: -

- (a) to promote the development and improvement of the sisal industry;
- (b) to make regulations for the control of pests and disease;
- (c) to finance and or conduct research directly or through agents in any matter relating to sisal industry;
- (d) to issue export and import licences upon such terms and conditions as the Board may impose of sisal or sisal product;
- (e) to regulate and control the quality, marketing and export of sisal;
- (f) to collect, refine, and disseminate information concerning sisal and promote its use,
- (g) to advise the government on all matters pertaining to the sisal industry;
- (h) to carry out such other functions in relation to the sisal industry as the Minister may from time to time direct.

(2) In particular, and without prejudice to the generality of the provisions of subsection (1), and subject to any special or general directions the Minister, the Board shall have power: -

- (a) to register sisal products and to determine the qualifications and conditions for such registration;
- (b) to make orders or give directions for compulsory registration of all producers of sisal or sisal products or of any particular category of producers;
- (c) to collect from producers information and statistics for use by industry;
- (d) to establish quality standards for sisal and sisal products and to ensure the compliance of such standards by persons so licensed;
- (e) to issue export licences for sisal and sisal products;
- (f) to do anything or enter into any transaction which, in the opinion of the Board is calculated to facilitate the proper and efficient carrying out of the Board's activities and the proper exercise of its functions;

- (g) with the approval of the Minister, by order published in the *Gazette*, to impose a levy on all sisal whether produced, sold or exported, any such Order may prescribe different rates for different species, grades, descriptions or origins of sisal and in determining the amount of such levy the Board shall take into account what moneys are required for the purpose of maintenance, operation, research and training, marketing information system, extension and any other uses as the Board may determine; and
- (h) in liaison with producers to represent the Government and the industry at all international for a relating to or dealing with the sisal industry;
- (i) in consultation with farmers associations to represent the government in all international for a;
- (j) subject to the prior approval in writing by the Minister, to perform any commercial functions as the Minister may consider necessary.
- (3) The export and import licences to be issued by the Board shall be: -
- in the prescribed form;
 - subject to such terms and conditions as may be prescribed or endorsed therein;
 - issued subject to the payment of fees as may be prescribed by the Board.
6. – (1) The Minister may, by order published in the *Gazette*, amend, vary, add to or otherwise replace the functions of the Board as provided in Section 5 of this Act. Minister may give directions, vary functions of the Board etc.
- (2) The Minister may, in consultation with the Minister for the time being responsible for finance, direct the Board, subject to such terms and conditions as he may think fit, transfer any investment or shares or interest of the Board to any Institution, or otherwise dispose of all or any of its shares or interest in any investment made under this section.
- (3) The Minister may give to the Board directions of a general or specific character as to the exercise or performance by the Board of any of its functions under this Act as the Minister may deem fit and the Board shall give effect to every such direction.
7. – (1) When any order is made or direction is given by the Board under this Act the Board shall convey or cause to be conveyed the contents of the orders and directions to the persons concerned in such manner as the Board may from time to time determine, provided that if any such order or directions is published in the *gazette* all persons shall be deemed to have notice thereof Order and directions of Board
- (2) Contravention of any order or direction given or issued by the Board and in force at the time at such contravention shall be an offence against this Act.
8. - (1) The Board shall establish a Sisal Industry Development Trust Fund into which all the moneys collected by the Board by way of levy pursuant to paragraph (f) subsection (2) of sections 5 shall be deposited Establishment of Sisal trust fund
- (2) The following members shall form the Sisal Industry Development Trust Fund Committee: -
- three members representing the Sisal Association of Tanzania,
 - The Commissioner for Research and Training (or his delegate) of the Ministry;
 - The Chief Executive Officer of the Board.

- (3) The Trust Fund money may be applied for all or any of the following purpose: -
- (a) experiments, investigation and research in connections with sisal industry;
 - (b) the promotion of production, development, sales and marketing information system;
 - (c) to pay for any other services which in the opinion of the Board or the Trust Fund Committee as the case may be, is calculated to promote the welfare of small holders and pyrethrum industry and enhance its economic production;

PART III

ADMINISTRATION AND FINANCIAL PROVISIONS

Appointment of
Chief Executive
and of employees

9. – (1) The Board shall, with the prior approval of the Minister, appoint the Executive Secretary who shall be the Chief Executive Officer of and Secretary to the Board.

(2) The Board of Directors may from time to time appoint, at such salaries and upon such terms and conditions as it may think fit, such officers and employees of the Board as it may deem necessary for the proper and efficient conduct of the business and activities of the Board.

Remuneration and
allowances of the
Board members

10. The Board of Directors shall be entitled to receive such remunerations, allowances and other benefits as the Minister may approve.

Benefits of
Employees

11. The Board may: -

- (a) grant gratuities or other retirement allowances or benefits to the officers and employees of the Board;
- (b) establish and provide for contribution by the Board to a superannuation fund and a medical benefits fund the officers and employees of the Board;
- (c) require any officer or employee of the Board to contribute to any such superannuation fund or medical benefits fund and fix the amounts and method of payment of such contributions

Agents and
contractors

12. The Board of Directors may, from time to time appoint and employ, upon such terms and conditions as it thinks fit such agents and contractors of the Board as it deems necessary.

Power of Board to
delegate functions

13. – (1) Subject to subsection (6) of this section the Board of Directors may from time to time, by writing under the seal of the Board delegate, subject to such terms, conditions and restrictions as it may specify, to any committee of the Board or to any person or servant of the Board or all or any of its functions, powers, authorities or duties under this Act, and where any delegations is so made the delegated function, power authority or duty may be performed or as the case may be exercised by the delegate subject to the terms, conditions and restrictions specified in the instrument of delegation.

(2) Any delegation under subsection (1) may be made to the holder of an office under the Board specifying the office but without naming the holder, and in every such case each successive holder of the office in question and each person who occupies or performs the duties of that office may, without any further authority, perform or as the case may be exercise the delegated function, power, authority or duty in accordance with the delegation made.

- (3) The Board of Directors may revoke a delegation made by it under this section.
- (4) No delegation made under this section shall prevent the Board from itself performing or exercising the function, power authority or duty delegated.
- (5) Any delegation made under this section shall be published in the Gazette, and upon such publication shall be judicially noticed and shall be presumed to be in force unless the contrary is proved.
- (6) The Board of Directors shall not have power under this section to delegate:-
- (a) its power of delegation; or
 - (b) the power to approve the annual budget or any supplementary budget of receipts and expenditure, the annual balance sheet.

14. The funds and resources of the Board shall consist of: -

- (a) such sums as may be provided for the purpose by Parliament either by way of grant or loan;
- (b) any loan granted to the Board by the Government or any other person;
- (c) any sum or property which may in any manner become payable to or vested in the Board as a result of the performance of its functions;
- (d) any monies raised by cess or levy imposed by the Board under provisions of the Act.

Funds and
resources of the
Board

15. – (1) In this Act “financial year” means any period not exceeding twelve consecutive months designated in that behalf by the Board of Directors;

Provided that the first financial year after the commencement of this Act shall commence on the date of the commencement of this Act and may be of a shorter or longer period than twelve months.

(2) Not less than two months before the beginning of any financial year (other than the first financial year) the Board of Directors shall, at its meeting especially convened for that purpose, pass a detailed budget (in this Act called the annual budget) of the amounts respectively: -

- (a) expected to be received; and
- (b) expected to be disbursed by the Board during that Financial year

(3) If in any financial year the Board requires to make any disbursement not provided for or of an amount in excess of the amount provided for in the annual budget for the year, the Board of Directors shall at a meeting, pass a supplementary budget detailing such disbursement.

(4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may direct.

16. With the prior approval of the Minister the Board of Directors may, from time to time, borrow moneys for use by the Board by way of loan or overdraft, and upon such security and such terms and conditions relating to the repayment of the principal and the payment of interest as subject to any direction by the Minister, the Board deems fit.

Power to borrow

17. – (1) The Board of Directors shall cause to be provided and kept proper books of accounts and records with respect to:

- (a) the receipt and expenditure of moneys by and other financial transactions of the Board;
- (b) the assets and liabilities of the Board and shall cause to be made out for every financial year a balance sheet of the Board.

Accounts and Audit

(2) At least once in every financial year the accounts, including the balance sheet of the Board shall be audited by the Tanzania Audit Corporation or any other reputable audit firm approved by the Minister.

(3) Every such audited balance sheet shall be placed before a meeting of the Board of Directors and, if adopted by the Board shall be endorsed with a certificate that it has been so adopted.

(4) As soon as the accounts of the Board have been audited, and in any case not later than six months after such audit the Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report there on made by the auditors.

(5) As soon as practicable after the receipt by him of the copy of the statement together with the copy of the report submitted pursuant to subsection (4) the Minister shall lay a copy of the statement together with a copy of the report before the National Assembly.

PART IV

MISCELLANEOUS PROVISIONS

Liability of members, etc
Cap. 16 Acts,
1970 No. 7

18. Without prejudice to the provisions of section 284 of the Penal Code or of the Specified Officers (Recovery of Debts) Act, 1970, no act or thing done, or omitted to be done by any member of the Board or by any officer, servant or agent of the Board shall, if done or omitted *bona fide* in the execution of his duties as such member, officer servant or agent subject any such person to any action, liability or demand whatsoever.

Powers of sisal inspectors

19. – (1) Any sisal inspector may at any reasonable hour of the day, enter any place where sisal is grown, processed or stored and inspect or examine the same for the purpose of ensuring that the provision of this Act, or of any regulations made hereunder, or of any directions given or order made by the Board are being complied with.

(2) A sisal inspector may, for the purpose of security compliance with the provisions of this Act or of any regulations made hereunder, or of directions given or order made by the Board or for the purposes of detecting and establishing any breach of any such provisions or directions or order take samples of any sisal found in any plantation, processing plant, sisal store or any other place, and may submit such samples of such tests as he may deem necessary.

(3) Any person who obstructs a sisal inspector in the exercise of the powers conferred upon him by this section, or who neglects or refuse to produce to the sisal inspector any book or record which the sisal inspector may request to be produced for his inspection, shall be guilty of an offence.

Regulations

20. – (1) The Board may, with the approval of the Minister make regulations for all or any of the following purposes: -

- (a) to require the submission of information and statistics relating to sisal and sisal products, including (but not restricted to) such matters as production, machinery, labour, equipment, storage facilities, sales, deliveries, shipments and stock, and to prescribed forms in connection therewith;
- (b) to prescribe the procedure for the compulsory registration of Sisal producers and the forms to be used in connection therewith;

- (c) to prescribe the manner in which sisal shall be stored by producers and the manner in which such place where the sisal is stored shall be maintained and the specifications of any store to be used for the storage of sisal;
 - (d) to provide for the definitions of grades of sisal offered for sale for export and to make orders prohibiting sale of sisal for export that does not comply with such grades;
 - (e) to provide for the inspection, weighting and measuring of sisal and for the appointment of inspectors, and to prescribe the duties of such inspectors;
 - (f) to provide for records to be kept by the producers sellers or exporters and returns;
 - (g) to prescribe the manner in which any fees prescribed by the Board shall be calculated, levied and collected;
 - (h) to provide for any matter incidental to any of the matters herein before mentioned;
 - (i) to prescribe anything which is to be or may be prescribed and generally for the carrying into effect of any provisions or purposes of this Act including the performance by the Board.
- (2) Regulations made under this section may be made applicable to the United Republic of Tanzania as a whole or to any part thereof.

21. Any person who commits an offence against this Act or any subsidiary legislation made hereunder shall, unless some other punishment is prescribed therefore, be liable on conviction to a fine not exceeding five million shillings or imprisonment for a term not exceeding seven years, or to both such fine and imprisonment and in every case of an offence under this Act or under subsidiary legislation made hereunder the sisal or sisal product in relation to which the offence is committed shall, upon conviction be forfeited to the Board.

Penalties

PART V

REPEAL AND SAVINGS

22. The Sisal Industry Act, 1973 is hereby repealed.

Repeal Act No. 2
of 1973

23. Notwithstanding the repeal of the Sisal Industry Act, 1973 all directions given and all rules made by the Tanzania Sisal Authority under the provisions of the Sisal Industry Act, 1973 shall be deemed to be directions given and regulations made by or on behalf of the Board under the provisions of this Act, and shall remain in force until revoked by directions given or regulations made under this Act.

Savings Act No.2
of 1973.

SCHEDULE

1. – (1) The Board of Directors shall consist of the following members:
- (a) a Chairman who shall be appointed by the Minister
 - (b) not less than two and not more than four other directors appointed by the Minister from amongst person who are in his opinion, experienced in the production or marketing of sisal or sisal products, in banking or financial institutions, in public administration in economics and planning;

Constitution

(c) Two members nominated by Sisal Association of Tanzania

(2) The members of the Board shall, from among their number, elect a vice-chairman, who shall hold office for so long as he remains a member of the Board.

(3) A member of the Board shall, unless his appointment is sooner determined by the Minister, or he otherwise ceases to be a member, hold office for such period as the Minister may specify in his appointment, or if no period is so specified, for a period of three years from the date of his appointment, and shall be eligible for re-appointment, provide that in case to be a member upon his ceasing to hold that office.

(4) Any member of the Board may at any time resign by giving notice writing to the Minister and from the date specified in the notice, or if no date is so specified, from the date of the receipt of the notice by the Minister, he shall cease to be a member.

Alternative member

2. If a Board member is unable for any reason to attend a meeting of the Board or the Ministry, as the case may be, which he represents may, in writing, nominate another person in his place for the purpose of that meeting.

Minister may appoint member Meetings

3. Where any member ceases to be a member for any reason before the expiration of his term of office, the Minister shall appoint another person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

4. – (1) An ordinary meeting of the Board of Directors shall be convened by the Chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than fourteen days before the date of such meeting. In case the chairman is unable to act by reason of illness, absence from Tanzania or other sufficient cause, the vice-chairman may convene such meeting.

(2) The Chairman, or in his absence, the Vice-Chairman, shall be bound to convene a special meeting of the Board upon receipt of a request in writing in that behalf signed by not less than three members of the Board. Not less than fourteen days' notice of such meeting shall be given to all members of the Board in the manner prescribed in sub-paragraph(1).

(3) The Chairman, the Vice-chairman, or the interim chairman elected in accordance with the provisions of paragraph 5(2) presiding at any meeting of the Board may invite any person who is not a member to participate in the deliberations of the Board, but any such person shall not be entitled to vote.

Quorum

5. – (1) One-half of the total number of the members of the Board or four members, shall form a quorum for a meeting of the Board.

(2) In the absence of the chairman from a meeting of the Board the Vice-Chairman shall preside. In the absence of both the chairman and the Vice-Chairman from any meeting, the members present shall elect one of their number to be an interim Chairman of that meeting.

(3) At any meeting of the Board a decision of the majority of the members present and voting shall be deemed to be a decision of the Board.

In the event of an equality of votes the chairman of the meeting shall have a casting vote in addition to his deliberative vote.

(4) Notwithstanding the provisions of sub-paragraph (2), where the chairman so directs, a decision may be made by the Board of Directors without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any member shall be entitled to require that any such decision shall be deferred until the subject matter shall be considered at a meeting of the Board.

6. Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting. Minutes
7. The Seal of the Board shall not be affixed to any instrument except in the presence of the Secretary and one member of the Board Seal
8. Subject to the provisions of paragraph 5 relating to quorum, the Board of Directors may act notwithstanding any vacancy in the members thereof and no act or proceeding of the Board shall be invalid by reason only of some defect in the appointment of a person who purports to be a member thereof. Improper appointment not to invalidate proceedings
9. All orders, regulations, directions, notices or documents made or issued by the Board shall be signed by:- Orders, direction etc
- (a) the Executive Secretary; or
 - (b) any member of the Board or other officer of the Board authorized in writing by the Secretary in that behalf.
10. Subject to the provision of this Schedule the Board of Directors shall have power to regulate its own proceedings. Board may regulate own proceedings.

Passed in the National Assembly on the 28th January, 1997

George Francis Mlawa,
Clerk of the National Assembly