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2023**

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**FIRST SCHEDULE—PROVISIONS RELATING
TO THE CONDUCT OF
BUSINESS AND AFFAIRS
OF THE BOARD.****SECOND SCHEDULE—COUNTIES.**

**THE COTTON INDUSTRY DEVELOPMENT BILL,
2023**

A Bill for

AN ACT of Parliament to provide for the production, processing, marketing and distribution of cotton in Kenya and its products; establish the Cotton Industry Development Board; provide a framework for cotton farming; ensure value addition to cotton and its related products; and for connected purposes

ENACTED by the Parliament of Kenya, as follows —

PART I—PRELIMINARY

1. This Act may be cited as the Cotton Industry Development Act, 2023. Short title.

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

—
“Board” means the Cotton Industry Development Board established under section 4;

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

“chief executive officer” means the person appointed as the chief executive officer to the Board under section 15;

“cotton product” means any product, extract or substance obtained or derived from cotton by any treatment or process;

“cotton seed” means cotton seed, including planting seed, produced from raw cotton; and

“county executive committee member” means the county executive committee member responsible for matters relating to agriculture.

3. The objects of this Act is to provide a framework Objects.

-
- (a) to promote a globally competitive cotton industry;
 - (b) to facilitate the production, value addition and processing of safe and healthy cotton and its products;

- (c) to promote the generation of high income for cotton farmers and traders;
- (d) for the continuous and sustained research and extension services for the development of the cotton industry;
- (e) to facilitate the introduction of modern cotton farming techniques and general modernisation of the cotton industry; and
- (f) for the provision of financial support to the various players in the cotton industry.

PART II – THE COTTON INDUSTRY DEVELOPMENT BOARD

4. (1) There is established a Board to be known as the Cotton Industry Development Board.

Establishment of
the Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable or immovable property;
- (c) entering into contracts;
- (d) borrowing and lending money; and
- (e) doing or performing all such other things or acts as may be necessary for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate.

5. (1) The headquarters of the Board shall be in Nairobi.

Headquarters of
the Board.

(2) The Board may establish such other offices anywhere in Kenya as it may consider necessary for the effective performance of its functions under this Act.

6. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act.

Powers of the
Board.

(2) Without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Board in such manner and for such purposes as best promote the purpose for which the Board is established;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and
- (e) open such bank accounts for its funds as may be necessary.

enter (3) The Board may, if it considers it necessary, create or take part in the creation of, become a member of, or associate with a body or corporation designed to assist or promote the cotton industry.

7. (1) The Board shall consist —

Composition of the Board.

- (a) a chairperson appointed by the President by notice in the *Gazette*;
- (b) the Principal Secretary responsible for agriculture;
- (c) six persons representing cotton farmers, one from each region specified in the second schedule, nominated by the farmers' cooperative societies with the largest membership in the respective counties;
- (d) two persons with knowledge of the cotton industry representing cotton farmers nominated by the Council of County Governors established under section 19 of the Intergovernmental Relation Act; and
- (e) the chief executive officer.

Act No. 2 of 2012.

(2) The Cabinet Secretary shall appoint the members under subsection (1)(c) and (d) by notice in the *Gazette*.

(3) The chief executive officer shall be an ex officio member and secretary to the Board and shall have no right to vote at any meeting of the Board.

8. (1) A person is qualified for appointment as a member of the Board under section 7(1)(a), (c) and (d) if that person—

Qualifications for appointment as a member.

(a) is a citizen of Kenya;

(b) holds, in the case of a person appointed —

(i) section 7(1)(a) and (d), a degree from a university recognized in Kenya; and

(ii) section 7(1)(c), a certificate in secondary school education.;

(c) has at least three years' experience in management; and

(d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(2) A person is not qualified for appointment if that person—

(a) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;

(b) is a member of Parliament or county assembly; or

(c) is adjudged bankrupt.

9. A person who is appointed under section 7 shall serve for a term of three years renewable for one further term.

Tenure of appointment.

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

Vacation of office.

(a) is absent, without reasonable cause, for three consecutive meetings of the Board;

(b) becomes an officer, agent or member of staff of the Board;

(c) resigns in writing addressed, in the case of the chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;

(d) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;

- (e) is declared bankrupt;
- (g) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (h) dies.

11. (1) The functions of the Board shall be to —

Functions of the Board.

- (a) regulate and promote the development of the cotton growing and cotton ginning;
- (b) advise the Cabinet Secretary which counties qualify as cotton producing;
- (c) make recommendations to the Cabinet Secretary on the implementation of strategies, plans and policies relating to the cotton sector;
- (d) promote the diversification of cotton products;
- (e) regulate the import and export of cotton lint and cotton seed;
- (f) promote the marketing of cotton products and by-products in both local and foreign markets;
- (g) formulate national standards acceptable in the international markets to ensure that the competitiveness and reliability of the country as a producer and suppliers of cotton products is preserved;
- (h) carry out surveillance and inspections to ensure compliance with the standards and legislation on the cotton sector;
- (i) establish linkages with local and international training and research institutions to conduct scientific research and investigations in all areas pertaining to the development of the cotton industry;
- (j) undertake technology transfer and provide technical assistance to county governments on matters relating to cotton;
- (k) collect, collate and disseminate information on the cotton industry including the appropriate technology and practices to ensure maximisation of yields by cotton farmers;

- (l) regulate the marketing and the exportation of cotton products and by-products to conform to the quality or standards recognized in the international market;
- (m) put in place a framework for capacity building and training of various players in the cotton sector;
- (n) develop and enforce the cotton industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards; and
- (o) carry out such other functions as may be assigned by the Cabinet Secretary or conferred under any other law.

(2) The Board shall consult and collaborate with the county executive committee members in the development, promotion and regulation of the cotton industry in the respective counties.

12. (1) The Board may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.

Committees of the Board

(2) The Board may co-opt any person to sit in a committee established under subsection (1) such persons whose knowledge and skills are found necessary for the performance of the functions of the Board.

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

Delegation by the Board.

14. The members of the Board shall be paid such remuneration, fees or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, determine.

Remuneration of members of the Board.

15. (1) There shall be a chief executive officer of the Board who shall be competitively recruited and appointed by the Board on such terms and conditions as the Board shall determine.

Chief executive officer.

(2) A person is qualified for appointment as the chief executive officer if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years' experience in senior management; and
- (d) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

(3) The chief executive officer shall hold office for a term of five years and is eligible for re-appointment for one further term.

16. The chief executive officer shall be the secretary to the Board and shall, subject to the direction of the Board—

Functions of the chief executive officer.

- (a) be responsible for the day to day management of the affairs of the Board;
- (b) manage the funds, property and affairs of the Board;
- (c) be responsible for the management of the staff of the Board;
- (d) oversee and co-ordinate the implementation of the policies, programmes and objectives of the Board;
- (e) cause to be prepared for the approval of the Board—
 - (i) the strategic plan and annual plan of the Board; and
 - (ii) the annual budget and audited accounts of the Board; and
- (f) perform such other duties as may be assigned by the Board.

17. The chief executive officer shall cease to hold office if that person—

Removal of the chief executive officer.

- (a) resigns in writing, addressed to the Board;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;

- (c) is found liable for gross misconduct or abuse of office in contravention any written law;
- (d) is declared bankrupt;
- (e) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (f) dies.

18. (1) The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.

Staff of the Board.

(2) The persons appointed under subsection (1) shall be competitively recruited and appointed by the Board and shall serve on such terms and conditions as the Board may, in consultation with the Salaries and Remuneration Commission determine.

(3) The staff appointed under subsection (1) shall possess such knowledge and experience as shall be determined by the Board.

19. Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection from personal liability.

20. (1) The common seal of the Board shall be kept in the custody of the chief executive officer or such other person as the Board may direct, and shall not be used except upon the order of the Board.

Common seal of the Board.

(2) The seal of the Board shall be authenticated by the signature of the chief executive officer and the chairperson or a person designated by the Board for that purpose on behalf of the chairperson.

21. All letters and instruments written or made by or on behalf of the Board, other than those required by law to be under seal, and all decisions of the Board, shall be signed under the hand of the chief executive officer or in

Signing authority.

the absence of the chief executive officer, a person authorized by the Board.

22. (1) The business and affairs of the Board shall be conducted in accordance with the provisions set out in the First Schedule.

Meetings of Board.

(2) Except as otherwise provided in the First Schedule, the Board may regulate its own procedure.

(3) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not be entitled to vote on any of the Board's decisions.

PART III – ROLE OF COUNTY GOVERNMENTS

23. (1) Each county government shall —

Role of county governments.

- (a) implement the National Government policy relating to the cotton sector;
- (b) regulate and promote the development of the cotton industry within the respective county;
- (c) consider applications for the certificates, permits and licences;
- (d) regulate the cutting or destruction of cotton in order to conserve and protect the resources devoted to the cotton industry in the respective county;
- (e) co-ordinate the activities of persons, organisations and any other associations within the cotton industry in the respective county; and
- (f) facilitate access by players in the cotton industry to such resources and financial support as may be necessary to promote the development of the cotton industry in the respective county.

(2) Each county executive committee member shall, in ensuring that the county government fulfils its obligations under subsection (1) —

- (a) maintain an up to date register of cotton growers, cotton cooperative societies and other associations as it considers appropriate in that county;
- (b) implement the policies, standards and strategies by the National Government and guidelines on

corporate governance in cotton growers' institutions;

- (c) facilitate the production of cotton in the respective county by implementing and expanding the planting and replanting program of cotton in strategic areas identified as having the most potential and facilitate the rehabilitation and fertilization of existing cotton;
- (d) offer extension services on cotton production and primary processing;
- (e) promote the organisation of cotton farmers co-operatives, associations, and organizations and provide them with credit and financing support;
- (f) provide training, extension service programs and disseminate information to cotton farmers, farm workers and processors relative to production technology, market systems, farm workers, entrepreneurial and other technical skills and values, attitude formation and socio-economic development strategies;
- (g) collaborate with relevant institutions so as to promote access to credit and other financial services;
- (h) formulate and adopt a general program of development geared towards increased farm productivity, through planting of suitable seeds of varieties, rehabilitation and fertilization of cotton, integrated cotton farming systems and product processing;
- (i) inspect cotton farms, ginneries and value addition industries located within their respective counties;
- (j) in collaboration with law enforcement agencies, enhance security in cotton growing areas;
- (k) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies; and
- (l) carry out such other functions as may be conferred upon by any law.

PART IV – REGULATORY PROVISIONS

24. (1) A person or entity shall not carry out the business of a cotton grower, cotton ginner, cotton cooperative society or cotton association unless such person is registered by the respective county government in which the business is to be undertaken. Registration.

(2) A county government shall not charge a fee for the registration of an applicant under subsection (1).

(3) Each county government shall keep and maintain a register of persons registered under subsection (1).

(4) A register under subsection (3), shall include—

(a) the name of the cotton grower, ginner, cooperative society or cotton association;

(b) the location, size and parcel number of the land on which the business or that of its members is located; and

(c) such other particulars as may be prescribed by county legislation.

(5) A county government shall annually submit to the Board a copy of the register under subsection (3).

(6) Any person may inspect the register and obtain a copy of an extract from the register, on payment of a prescribed fee.

(7) The respective county executive committee members shall prescribe, in county legislation, the form and procedure for the application for registration under subsection (1).

25. (1) A person shall not engage in the manufacture or processing of cotton products unless such person has applied for, and obtained, a licence in accordance with this Act. Licensing of manufacturer or processor.

(2) A person who intends to manufacture or process cotton products shall submit an application in the form prescribed in county legislation to the county executive committee member together with —

(a) such documents and information as the county executive committee member may prescribe; and

(b) the prescribed fees.

(3) A county executive committee member shall consider an application within fourteen days, and may –

(a) grant a licence unconditionally;

(b) grant a licence subject to satisfying such conditions as the county may specify; or

(c) with sufficient cause, refuse to issue or renew the licence.

(4) A decision made under subsection (3) on an application for a licence shall be communicated to the applicant by the respective county executive committee member, in writing within, fourteen days from the date of the decision.

(5) Where the county executive committee member refuses to grant an application for a licence, the county executive committee member shall, in its notification under subsection (3), specify the reasons for the refusal.

(6) A county executive committee member shall, at least thirty days before granting a new licence under this Act, publish a notice of the proposed grant by notice in the *Gazette* and in such other manner as the county executive committee member may determine.

(7) The county executive committee member shall, in publishing the notice under subsection (6) –

(a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;

(b) state the purpose and the date for which the licence is proposed to be issued; and

(c) invite objections to the proposed grant of licence and direct that such objections be lodged with the county executive committee member within fourteen days from the date of the notice.

(8) The county executive committee member shall consider any objection submitted to it under subsection (6) and may grant the licence applied for subject to such terms and conditions as the county executive committee member shall consider appropriate.

(9) A licence issued under this Act shall not be transferable.

(10) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or twice the value of the cotton or cotton products, whichever is great, or to imprisonment for a term not exceeding two years or both.

26. (1) The county executive committee member may refuse to grant a licence where the application does not comply with the requirements imposed under this Act or prescribed under the specific county legislation.

Refusal to grant a licence.

(2) The county executive committee member shall notify the applicant of the decision within fourteen days of such refusal in accordance with section 25(3) and (4).

27. (1) The county executive committee member may revoke a licence under this Act if the licensee —

Revocation of a licence.

(a) fails to meet any condition imposed by this Act or county legislation; or

(b) surrenders the licence together with a notice setting out a request that the licence be revoked.

(2) The county executive committee member shall not revoke the licence under subsection (1) unless the committee executive member —

(a) issues to the person, a notice of at least fourteen days of the intention to revoke the licence;

(b) issues to that person a compliance notice in the prescribed form; and

(c) grants the person, an opportunity to be heard on the revocation.

28. (1) A compliance notice issued under section 27(2) shall —

Compliance notice.

(a) be in writing;

(b) set out the areas of non-compliance and the steps required to be undertaken in order to comply; and

(c) specify the period within which the person is required to comply with the notice.

(2) The county executive committee member may, upon request by the licensee and, where there are sufficient grounds shown by the licensee, extend the period of compliance for such period as the committee member may consider necessary to ensure compliance.

29. (1) Where a person who receives a compliance notice under section 28 fails to comply with such notice, the county executive committee member shall —

Effect of
revocation of a
licence.

(a) revoke the licence of that person;

(b) notify the person in writing of—

(i) the revocation and the reasons thereof; and

(ii) indicate the date of revocation.

(2) For purposes of this Act, a cancellation of licence takes effect on the date on which the licence is cancelled by the county executive committee member.

30. (1) An applicant who is aggrieved by the decision of the county executive committee member not to issue a licence under this Act may appeal to the county executive committee against the decision within thirty days of the receipt of the decision.

Appeals.

(2) An applicant who is aggrieved by the decision of the county executive committee under subsection (1) may appeal to the High Court against the decision within fourteen days of receipt of the decision.

31. (1) The county executive committee member shall designate such collection centres as the member shall, in consultation with the cotton growers in the county, determine.

Designation of
collection centres.

(2) The county executive committee member shall, in designating a collection centre, —

(a) ensure that a centre meets such standards as may be prescribed by the Cabinet Secretary; and

(b) take into account such codes of practice and standards as may be applicable to cotton collection centres.

32. (1) A person shall not import or export cotton, cotton seed or cotton products unless such person has applied for, and obtained a licence for the said import or export.

Licensing of
importers and
exporters.

(2) A person who intends to import or export cotton, cotton seed or cotton products shall submit an application, in the prescribed, form to the Board.

(3) The Board shall, at least thirty days before granting a new licence under this section, publish a notice of the proposed grant in the Gazette and in such other manner as the Board may determine.

(4) The Board shall, in publishing the notice under subsection (2)—

- (a) specify the name or other particulars of the person or class of persons to whom the license is to be granted;
- (b) specify the purpose and the date on which the license is proposed to be issued; and
- (c) invite comments on the proposed grant of license and direct that such comments be lodged with the Board within fourteen days from the date of the notice.

(5) The Board shall consider any objection submitted to it under paragraph (c) and may grant or deny the license applied for subject to such terms and conditions as the Board shall consider appropriate.

(6) The Board shall consider an application within thirty days, and may —

- (a) grant a licence unconditionally;
- (b) grant a licence subject to satisfying such conditions as the Board may specify; or
- (c) with sufficient cause, refuse to issue or renew the licence.

(6) A decision made under subsection (2) shall be communicated to the applicant, in writing within, seven days from the date of the decision.

(7) The licence granted to an applicant under subsection (3) shall be in the prescribed form.

(8) A licence issued under this section shall not be transferable.

(9) Where the Board refuses to grant an application for a licence under subsection (4), the county executive committee member shall, specify the reasons for the refusal.

(10) A person who is dissatisfied with the decision of the Board may appeal to the Cabinet Secretary.

33. (1) A licence issued under section 32 shall be valid for a period of one year from the date it was issued.

Renewal of a licence.

(2) A person who intends to renew a licence under subsection (1) shall submit an application in the prescribed form at least thirty days before the date of expiry of the licence.

(3) The procedure for the application of a licence under section 32 shall apply to the application for the renewal of a licence

34. (1) The Board may revoke a licence issued under section 32 or renewed under section 33 if the licensee —

Revocation of a licence.

(a) fails to meet any condition prescribed under this Act; or

(b) surrenders the licence together with a notice setting out a request that the licence be revoked.

(2) The Board shall not revoke the licence under subsection (1) unless the committee executive member—

(a) issues to the licensee, a notice of at least fourteen days of the intention to revoke the licence;

(b) issues to that person a compliance notice in the prescribed form; and

(c) grants the person, an opportunity to be heard on the revocation.

35. (1) A compliance notice issued under section 34(2) shall—

Compliance notice.

(a) be in writing;

(b) set out the areas of non-compliance and the steps required to be undertaken in order to comply; and

- (c) specify the period within which the person is required to comply with the notice.

(2) The Board may, upon request by the licensee and, where there are sufficient grounds shown by the licensee, extend the period of compliance for such period as the Board may consider necessary to ensure compliance.

36. (1) Where a person who receives a notice under section 34 fails to comply with such notice, the Board shall

Effect of
revocation of a
licence.

- (a) revoke the licence of that person;
- (b) notify the person in writing of—
 - (i) the revocation and the reasons thereof; and
 - (ii) indicate the date of revocation.

(2) For purposes of this Act, a cancellation of licence takes effect on the date on which the licence is cancelled by the Board.

PART VI – FINANCIAL PROVISIONS

37. (1) The funds of the Board shall consist of—

Funds of the
Board.

- (a) monies appropriated by Parliament for the purposes of the Board;
- (b) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or any other written law;
- (c) monies received in respect of the levies and fees; and
- (d) donations, grants, loans or gifts made to the Board and approved by the Cabinet Secretary for finance.

38. The Cabinet Secretary may, in consultation with the Board, the county governments and the Cabinet Secretary responsible for the National Treasury, and by notice in the Gazette, impose a levy payable to the Board for the development of the cotton industry.

Imposition of
levy.

39. (1) At least three months before the commencement of each financial year, the Board shall

Annual Estimates.

cause to be prepared estimates of the revenue and expenditure of the Board for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned.

(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in the National Assembly and the Senate.

40. (1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

Accounts and
Audit.

No. 34 of 2015.

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

(b) such other statements of accounts as the Cabinet Secretary may approve.

(2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

(3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.

41. (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.

Annual report and
publication.

(2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements

submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to the National Assembly and the Senate the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports and statements.

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

Financial year of the Board.

PART VI – MISCELLANEOUS PROVISIONS

43. The Cabinet Secretary responsible for finance may from time to time implement such measures, including tax incentives in order to promote the development of the cotton industry.

Incentives.

44. Each county government may enact county specific legislation setting out –

Enactment of county specific legislation.

- (a) the criteria for the registration of a cotton grower within the respective county;
- (b) criteria for the issuance of a licence to an applicant within the respective county;
- (c) information required to be submitted by an applicant for registration or issuance of a licence;
- (d) process of determination of an application for registration or issuance of a licence;
- (e) the conditions for the issuance or renewal of a licence under this Act;
- (f) process of application for the renewal of licences and revocation of a licence issued to an applicant under this Act.
- (g) the grounds for the rejection of an application or cancellation of a licence issued under this Act; and
- (h) process of application for the renewal of registration and de-registration.

45. (1) A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine of not less than twenty thousand

Penalties.

shillings or a fine not exceeding twice the value of the cotton or cotton by products or, to imprisonment for a term not exceeding six months, or to both.

(2) Where an offence under this Act is committed by a partnership, company, association or co-operative society, every person who at the time when the offence was committed—

- (a) was director, partner or officer;
- (b) had knowledge or should have had knowledge of the commission of the offence; and
- (c) did not exercise due diligence to ensure compliance with this Act,

commits an offence and is liable for the offence as if they had committed the offence, unless they prove that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer concerned as aforesaid and to all the circumstances.

46. (1) The Cabinet Secretary may, in consultation with the Board and the Council of County Governors, make regulations generally for the effective carrying out the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations providing for the —

- (a) nomination of the persons representing cotton farmers under section 7(1)(c); and
- (b) regulation of the processing, importation and exportation of cotton and cotton product.
- (c) conditions for the issuance of certificates, licenses and permits under this Act;
- (d) forms, certificates and manner of application for registration and licensing under this Act;
- (e) manner in which cotton may be produced, harvested, graded, processed, warehoused, packaged and traded;

- (f) charges for services rendered under this Act by the Board;
- (g) forms and procedure for appeals under this Act;
- (h) establishment of a cotton price stabilization mechanism;
- (i) contracts entered by growers and processors and;
- (j) apportionment of any levy imposed under this Act.

47. (1) The Cabinet Secretary may on the advice of the Board review the list of counties that grow cotton under the Second Schedule of this Act.

Publication of cotton growing counties.

(2) The Cabinet Secretary shall publish annually the list under subsection (1) in the *Gazette*.

48. Part 1 of the First Schedule to the Crops Act is amended by deleting the following item —

Consequential amendment.

Cotton.....*Gossypium app.*

FIRST SCHEDULE**(s. 22(2))****PROVISIONS RELATING TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF THE BOARD**

1. (1) The Board shall have at least ten meetings in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

Meetings.

(2) Meetings shall be convened by the chief executive officer in consultation with the chairperson and shall be held at such times and such places as the chairperson shall determine.

(3) The respective Chairpersons shall preside over all meetings and in the absence of the Chairperson, by a person elected by the Board as the case may be at the meeting for that purpose.

(4) The Chairperson may at any time convene a special meeting of the Board as the case may be, and shall do so within one month of the receipt by the Chairperson of a written request signed by at least five other members.

(5) Unless half of the members of the Board otherwise agree, at least seven days' notice of a meeting shall be given to every member of the Board as the case may be.

2. The quorum of a meeting of the Board is half of the total number of members.

Quorum.

3. A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

Voting.

4. Minutes of all meetings shall be kept and entered in records kept for that purpose.

Minutes.

5. (1) If a person is present at a meeting of the Board or respective committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest.

Disclosure of
interest.

(2) The person making the disclosure of interest under subsection (1) shall not, unless the Board or committee

otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(4) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

(5) A member or employee of the Board shall not transact any business or trade with the Board.

**SECOND SCHEDULE
COUNTIES****(s 47)****COAST REGION**

Kwale County
Kilifi County
Lamu County
Taita-Taveta County
Tana River County

CENTRAL REGION

Kiambu
Kirinyaga
Muranga

RIFT VALLEY REGION

Baringo
Elgeyo Marakwet
Kajiado-South East
Kericho
Turkana
West Pokot

EASTERN REGION

Embu
Isiolo
Kitui
Machakos
Makueni
Marsabit
Tharaka Nithi
Meru

WESTERN REGION

Bungoma
Busia
Kakamega

NYANZA REGION

Homa Bay
Kisumu
Migori
Siaya

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the policy and institutional framework within which cotton industry operates by among others establishing the Cotton Industry Development Board. The cotton industry was once a major foreign exchange earner whose collapse led to massive loss of revenue to the government and farmers. Governmental issues, regulatory challenges, national and international economic realities, and scientific reliability are some of the pressing concerns that need to be addressed by the institution responsible for cotton industry development in order to attain success in the industry.

There is therefore a genuine need for a strong and robust policy and institutional foundation to support and guide the multitude of activities, operations, and interactions within the industry with the aim that the growth of the industry will result to a strengthened agricultural economy for the various counties across the country.

The highlight of this Bill is the revamping of cotton farming in order to make it a profitable, sustainable and development-oriented activity.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

Clauses 41 of the Bill does delegates powers to the Cabinet Secretary for the purpose of giving effect to the provisions of the Act. The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Agriculture is a devolved function set out in paragraph 1 of Part 2 of the Fourth Schedule to the Constitution. By facilitating the development of the cotton industry in the country, the Bill seeks to ensure that cotton farmers have opportunities to enhance cotton farming and value addition to cotton products. This will in turn facilitates the growth and development of the economy of the counties that produce cotton and the country at large.

The Bill therefore concerns county governments in terms of Articles 110(1) (a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 20th January, 2023.

BETH SYENGO,
Senator.





