

KENYA SUGAR AUTHORITY ORDER, 1973

[L.N. 32/1973, L.N. 320/1974, L.N. 225/1977, L.N. 208/1992, L.N. 156/1995.]

[Rev. 2012]

~~1. This Order may be cited as the Kenya Sugar Authority Order, 1973.~~

2. There is hereby established an authority to be known as the Kenya Sugar Authority (hereinafter called the Authority) for promoting and fostering the effective and efficient development of sugar-cane for the production of white sugar, in any area of Kenya.

(1) The Authority shall consist of the following members—

- (a) a chairman appointed by the Minister;
- (b) not more than four members appointed by the Minister from panels of names submitted by sugar-cane growers in accordance with arrangements made by the Minister, and who shall be persons who, in the opinion of the Minister, are representative on a basis, as near as is practical, that is proportionate to the production figures of the main sugar-cane producing provinces;
- (c) not more than four members to represent millers appointed by the Minister;
- (d) one member appointed by the Minister by reason of his knowledge of banking or financial matters;
- (e) the Permanent Secretary of the Ministry the agriculture or his representative;
- (f) the Permanent Secretary of the Ministry of finance and planning or his representative;
- (g) the Permanent Secretary of the Ministry of commerce and Industry or his representative;
- (h) the Director of Agriculture or his representative;
- (i) the Commissioner for Co-operative Development or his representative;
- (j) the Director of Settlement or his representative.

(2) In the absence of the chairman from any meeting of the Authority the members present shall elect one of their number to preside at that meeting.

(3) At every meeting of the Authority the chairman or other member presiding shall have a casting as well as a deliberative vote.

(1) Any member of the Authority appointed by the Minister may with the prior written approval of the Minister nominate an alternate member to act in his place during his absence or inability to act as such member.

(2) An alternate member shall be subject in all respects (except as regards the right to appoint an alternate) to the provisions of this Order applicable to members and shall discharge all the duties of the member whom he shall represent until his nomination is withdrawn by the member whom he represents or until the Minister withdraws his approval, whichever first shall happen.

(3) An alternate member shall cease to be an alternate member whenever his appointer ceases for any reason to be a member.

(1) This paragraph shall apply to the chairman and other members of the Authority who are appointed by the Minister.

(2) Subject as hereinafter provided the chairman and other members to whom this paragraph applies shall hold office for such period not exceeding three years as may be specified in the instruments respectively appointing them but shall be eligible for reappointment.

(3) The chairman and any other member to whom this paragraph applies may at any time, by a notice in writing addressed to the Minister, resign his office.

(4) If the Minister is satisfied that the chairman or any other member to whom this paragraph applies—

- (a) has been absent from three consecutive meetings of the Authority without the permission of the Authority; or
- (b) has become bankrupt or made an arrangement with his creditors; or
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of his office; or
- (e) is otherwise no longer likely to be of benefit to the Authority,

the Minister may declare his office as chairman or member of the Authority, as the case may be, to be vacant, and shall notify the fact in such manner as the Minister thinks fit; and thereupon the office shall become vacant.

6. The Authority may co-opt to serve on it for such length of time as it thinks fit any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Authority or be counted as a member for the purpose of forming a quorum.

7. The chairman of the Authority shall convene meetings of the Authority whenever it may be necessary or expedient for the transaction of its business, and in any event not less than once in every period of three months; and a special meeting of the Authority may be called to deal with any special or urgent matters thereof.

(1) A quorum of the Authority at any meeting shall be constituted by not less than five members.

(2) All acts, matters and things authorised to be done by the Authority shall be decided by a resolution at a meeting of the Authority at which a quorum is present.

(3) Notwithstanding subsection (2), where the chairman so directs, a decision may be made by the Authority without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any majority of members may require that a decision shall be deferred for consideration at a meeting of the Authority.

9. In case any irregularity shall occur in the convening or holding of any meeting of the Authority, or in any other proceedings taking place at or prior to any such meeting, all proceedings of the meeting shall be of the same force and validity as if no irregularity had occurred but, if any irregularity shall be publicly noticed and objected to, the chairman shall decide thereon and his decision shall be final.

10. Minutes in proper form of each meeting of the Authority shall be kept, and shall be signed by the chairman of that or the next succeeding meeting.

11. Subject to any directions given by the Minister and to the provisions of this Order, the Authority may regulate its own procedure.

12. The Authority may appoint such committees, whether wholly or partly of its own members or otherwise, and with such advisory or executive functions, as the Authority may consider necessary.

(1) Subject to the provisions of this paragraph, the Authority may borrow money required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Authority to borrow shall be exercisable with only the approval of the Minister given with the consent of the Minister for the time being responsible for finance, as to the amount, as to the powers of the borrowing and as to the terms on which the borrowing may be effected, and any such approval may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

(1) The Authority shall keep proper accounts and other records in relation to the business of the Authority, and shall prepare in respect of each financial year a statement of accounts in such form as the Minister with the approval of the Minister for the time being responsible for finance may direct.

(2) The accounts of the Authority shall be audited annually by the Controller and Auditor-General.

(3) The Authority shall produce and lay before the Controller and Auditor-General all books and accounts of the Authority, with all vouchers and other documents in its possession or control relating thereto, and the Controller and Auditor-General shall be entitled to require from all members, officers, agents and employees of the Authority all such information and explanation as may be necessary for the performance of his duties as auditor.

(4) The expenses of and incidental to the audit shall be paid by the Authority.

(1) The Authority shall, as soon as possible after the end of each financial year, send to the Minister—

- (a) a copy of the statement of their accounts together with a copy of any report made by the Controller and Auditor-General on that statement or on the accounts of the Authority;
- (b) a report on the exercise and performance by the Authority of its functions during that year and on its policy and programmes.

(2) The report of the Authority for any year shall set out any direction given by the Minister to the Authority during that year, unless the Minister has notified the Authority of his opinion that it is against the public interest to do so.

(1) The Authority may pay to each member thereof (other than a member who is a public officer in receipt of a salary), in respect of his office as such, such remuneration as may be determined by the Minister and may pay to the chairman thereof, in respect of his office as such, such additional remuneration as he may determine.

(2) The Authority may pay to each member of any committee of the Authority (other than a member who is a public officer in receipt of a salary), in respect of his office as such, such remuneration as may be determined in accordance with the provisions of subsection (1).

(3) The Authority may in its discretion pay such travelling and other expenses as may be reasonably incurred by any member of the Authority or of any committee thereof by reason of the duties of their office.

(1) The Authority may employ such officer, servants or agents as may appear to it to be necessary for the efficient discharge of its functions.

(2) The Authority may—

- (a) pay to its officers, servants and agents such remuneration as may be determined by the Authority with the approval of the Minister; and

- (b) as regards any officers, servants or agents in whose case it may be determined by the Authority with the approval of the Minister to make provision for the payment of pensions, gratuities or other like benefits on their death, injury or retirement, pay or provide for the payment to them or to others by reference to their service, of such pensions, gratuities or other like benefits, as may be so determined.

(3) Provision for pensions, gratuities or other like benefits under the foregoing subsection may be made either by contributory or by non-contributory arrangements or partly by one and partly by the other.

(1) The fixing of the Common Seal of the Authority shall be authenticated by the signatures of—

- (a) the chairman of the Authority, or some other member thereof authorised either generally or specially by the Authority to act in his stead for that purpose; and
- (b) some other person authorized by the Authority, either generally or specially, to act for that purpose.

(2) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority for that purpose.

(1) The Authority may, and upon the request of the Minister shall, tender its advice to the Minister upon any matter falling within the scope of its functions.

(2) The Authority shall exercise its functions in accordance with the general or special directions that may from time to time be given to it by the Minister.

20. The Authority shall, in respect of the development of sugar-cane—

- (a) advise on the effective and efficient development of sugar-cane production for the manufacturing of white sugar;
- (b) advise on price of cane to growers;
- (c) advise on rules and regulations necessary to enable the effective and efficient functioning and development of the sugar-cane industry;
- (d) advise on all aspects of sugar-cane research services;
- (e) develop and implement upon approval by Minister a cane testing service and a sugar-cane quality control system;
- (f) advise on all aspects of sugar-cane processing;
- (g) register all sugar-cane producers within sugar factory zones;
- (h) ensure the availability of adequate statistical information relating to all aspects of the sugar-cane industry;
- (i) advise on the utilization of sugar by-products;
- (j) with the approval of the Minister, by order in the *Gazette*, impose a levy or levies on growers for the purpose of financing the operations of the Authority and for such other purposes as the Minister may approve;
- (k) with the approval of the Minister make an Order published in the *Gazette* regulating the manufacture, distribution, storage and marketing of sugar and sugar by-products, and also the quantity and quality of locally produced and imported sugar.

[L.N. 208/1992, s. 2, L.N. 156/1995, s. 2.]