

# **THE FIBRE CROPS BILL, 2021**

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*Clause*

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# THE FIBRE CROPS BILL, 2021

## A Bill for

**AN ACT** of Parliament to provide for the regulation of the production and promotion of fibre crops, to provide for establishment of the Fibre Crops Authority; to provide for the roles of County Governments and for connected purposes

**ENACTED** by the Parliament of Kenya as follows—

## PART I—PRELIMINARIES

Short title.                    1. This Act may be cited as the Fibre Crops Act, 2021.

Interpretation.            2. In this Act—

“association” means an organization whose members are growers and that represents the interests of growers, and includes a co-operative society;

“Authority” means the Fibre Crops Authority established in accordance with section 4;

“Board” means the Board of the Authority constituted in accordance with section 5;

“Cabinet Secretary” means the Cabinet Secretary responsible for agriculture;

“Chief Executive Officer” means the chief executive officer of the Authority appointed in accordance with section 11;

“classing” means assessing the quality of cotton lint by the Authority;

“collection centre” means a place designated for the aggregation, buying picking up or selling of fibre crop produce or a fibre crop product;

No. 12 of 1997            “co-operative society” has the meaning assigned to it under the Co-operative Societies Act;

“cotton” includes a hybrid and a progeny of a hybrid of cotton;

“cotton lint” means cotton fibre that is derived from ginning seed cotton;

“cotton seed” means a seed produced from seed cotton after ginning;

“cotton seed milling” means the mechanical crushing of cotton seed for the production of cotton seed oil, cotton seed cake or any other by-products;

“cotton textile milling factory” means premises for converting cotton lint into cotton yarn, woven fabrics or other finished cotton fibre products;

“county government” means the county government provided for under Article 176 of the Constitution;

“dealing” includes retailing, ginning, cotton seed milling, spinning, handloom weaving, sisal processing, warehousing, transporting, exporting and importing ;

“dealer” includes a retailer, ginner, cotton seed miller, spinner, handloom weaver, sisal processor, warehouse operator, stores operator, transporter, exporter and importer;

“decortication” means the process of the mechanical removal of the pulpy material of sisal;

“farm development” means farm planning, farm mechanization and support for irrigation systems and farm input schemes;

“fibre crop” means a crop specified in the First Schedule;

“fibre crops processor” means a person carrying out decortication, brushing, baling, weaving, ginning or spinning of fibre crop produce;

“fibre crop produce” includes seed cotton and a sisal leaf;

“fibre crop product” includes cotton seed, cotton lint, cotton seed cake, cotton seed meal, cotton seed oil, hull, linter, sisal fibre, twine, a rope, textile and yarn;

“ginner” means a person who undertakes ginning;

“ginning” means the separating of seed cotton into lint and cotton seed;

“ginnery” means a factory where ginning takes place;

“grower” means a person who cultivates a fibre crop;

“grower entity” means an organisation of growers and includes a co-operative society, association or company;

“handloom weaver” means a person that makes a fabric or a fabric item by interlacing threads made from a fibre crop;

“infested area” means an area declared as such in accordance with section 45;

“inspector” means a person appointed as such in accordance with section 35;

“levy” means a levy imposed under this Act;

“licence” means licence issued under this Act;

“plantation grower” means—

(a) a grower who cultivates sisal on a parcel of land that exceeds forty hectares;

(b) a grower who cultivates cotton on a parcel of land that exceeds five hectares;

(c) a cooperative society whose members cultivate sisal on land whose aggregate size exceeds forty hectares; or

(d) a cooperative society whose members cultivate cotton on land whose aggregate size exceeds five hectares;

“premises” means a building or structure where a fibre crops or fibre crop products are collected, stored, processed or traded;

No. 28 of 2013. “research institutions” means an organization in which research in the production of fibre crop produce or a fibre crop product undertaken by any person and which is registered in accordance with the Science, Technology and Innovation Act, 2013;

“retailer” means a person who trades in fibre crops or fibre crops products;

Cap. 326. “seed” has the meaning assigned to it under the Seed and Plant Varieties Act;

“sisal” means the plant *Agave Sisal Ana*, a plant of another species of *Agave*, or a hybrid thereof;

“sisal fibre” means processed, machined or carded fibre and tow and any other substance or by-product derived therefrom;

“smallholder grower” means a grower who cultivates sisal on a parcel of land that does not exceed forty hectares or cultivates cotton on a parcel of land that does not exceed five hectares;

“surveillance” means monitoring of activities or information of actors in the value chain for purposes of information gathering, influencing, managing, enforcement or directing the fibre crops value chain;

“unprocessed sisal leaf” means the raw leaf harvested from sisal plants;

“value addition” means the processing of raw fibre crop produce into intermediary and secondary products and includes but is not limited to sisal leaving decortication, seed cotton ginning, cotton lint spinning, sisal fibre spinning and textile garment production; and

“value chain” means a set of activities that transform a fibre crop from farm to consumer and includes input application, production, processing, storage, packaging, the transportation and the marketing of fibre crop produce or a fibre crop product.

Declaration of  
fibre crops.

3. (1) The crops specified in the First Schedule shall be fibre crops for the purposes of this Act.

(2) The Cabinet Secretary may by notice in the *Gazette* amend the First Schedule.

## **PART II—THE FIBRE CROPS AUTHORITY**

Establishment of  
the Authority.

4. (1) There is established an Authority known as the Fibre Crops Authority.

(2) The Authority 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) purchasing or otherwise acquiring, holding, charging or disposing of moveable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all such other acts or things necessary for the proper performance of its functions under this Act as may be lawfully done or performed by a body corporate.

Composition of  
the Board

5. (1) There shall be a Board of the Authority which shall consist of—

- (a) a chairperson appointed by the President by notice in the *Gazette*;
- (b) four members representing the different actors in the fibre crops value chain, who shall be appointed by the Cabinet Secretary by a notice in the *Gazette*;
- (c) the Principal Secretary responsible for Agriculture or a representative designated by the Principal Secretary;
- (d) the Principal Secretary responsible for the national treasury;

- (e) the Principal Secretary responsible for the development of co-operative societies;
- (f) a representative from the Council of Governors who should have relevant knowledge in the fibre crops subsector; and
- (g) the Chief Executive Officer.

(2) A person qualifies to be appointment as the chairperson of the Board if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a University recognized in Kenya;
- (c) meets the requirements of leadership and integrity outlined in Chapter Six of the Constitution;
- (d) has experience of at least ten years in the agricultural sector or related field; and
- (e) has held a position of senior management for not less than five years.

(3) A person qualifies to be appointed as a member of the Board if the person—

- (a) has at least three years of experience in dealing in fibre crop produce or a fibre crop product; and
- (b) meets the requirements of Chapter Six of the Constitution.

(4) The chairperson and members of the Board appointed under subsection (1) (b) shall serve for a term of three years and shall, subject to satisfactory performance, be eligible for re-appointment for one further term of three years.

(5) The appointment of members under subsection (1) shall comply with constitutional requirements on gender.

Cessation of membership of Board.

**6.** (1) The chairperson or a member of the Board appointed under section 5 (1) (b) shall cease to hold office if that person—

- (a) resigns from office by issuing a notice in writing addressed to the President in the case of the chairperson of the Board, or to the Cabinet Secretary in the case of a member of the Board appointed under section 5 (1) (b);
- (b) is absent from three consecutive meetings of the Board without the permission of the chairperson;

- (c) is adjudged bankrupt;
- (d) is incapable of fulfilling the functions of the office because of physical or mental illness;
- (e) is otherwise unable or unfit to discharge the functions of his office;
- (f) contravenes the provisions of Chapter Six of the Kenya Constitution 2010; and
- (g) is convicted of a criminal offence and imprisoned for a period not less than six months.

(2) If the office of a member of the Board appointed under section 5 (1) (b) becomes vacant, the Board shall notify the interested group or organization which nominated that member to nominate a replacement.

Objects of the Authority.

7. The objects of the Authority shall be to promote production, processing and marketing of fibre crops and fibre crops products, and to regulate the fibre crops industry, in consultation with the county governments.

Functions of the Authority

8. The functions of the Authority shall be to—

- (a) advise the Cabinet Secretary in relation to a policy affecting the fibre crops industry;
- (b) carry out registration and licensing of dealers;
- (c) undertake training, technology transfer and technical assistance to county governments or stakeholders on matters relating to the fibre crop industry;
- (d) provide advisory services related to fibre crops production, processing, promotion, quality enhancement and compliance with standards and regulations;
- (e) collect, collate and analyse data and maintain a database on the production and dealings in fibre crop produce or fibre crop products;
- (f) determining the research priorities along the fibre crops value chain and to advise the research institutions conducting the research thereof;
- (g) coordinate the multiplication and distribution of seeds and to ensure good quality seed maintenance on the farms;

- (h) represent the country in national or international fora on matters relating to fibre crops;
- (i) collaborate with a national or international trade organisation on matters relating to fibre crops;
- (j) coordinate the establishment of standards for the production, processing, grading, classing, transportation, packing and storage of fibre crop produce and fibre crops products;
- (k) conduct surveillance and enforce compliance to policies and fibre crops standards;
- (l) advise the Cabinet Secretary on levies and fees in respect of fibre crop produce or fibre crop products;
- (m) carry out market research and gather market intelligence on the pricing mechanisms and promotion of fibre crop produce and fibre crop products, and disseminate information on its findings to stakeholders;
- (n) provide infrastructural support including physical infrastructure development, financial and market information; and
- (o) carry out such other functions as may be assigned to it by this Act.

Powers of the Authority.

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

- (a) enter into contracts;
- (b) control, supervise and administer the assets of the Authority in such manner and for such purposes as best promotes the objects of the Authority;
- (c) receive grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) access all such relevant information as may be necessary for the effective administration of the fibre crops industry;
- (e) enter into association with organisations that the Board may consider appropriate in furtherance of the objects of the Authority;
- (f) open such bank accounts as may be necessary for the funds of the Authority;
- (g) in consultation with the Cabinet Secretary and the Cabinet Secretary responsible for the National Treasury, raise or borrow money to finance the operations of the Authority;

- (h) in consultation with the National Treasury, invest any funds of the Authority not immediately required for its purposes;
- (i) promote partnership between the public and private sector in matters relating to fibre crops; and
- (j) in consultation with the Cabinet Secretary advise the Cabinet Secretary responsible for the National Treasury on the imposition of levies for the purposes of this Act.

Conduct of business and affairs of the Board.

**10.** (1) The business and affairs of the Board shall be conducted in accordance with the Second Schedule.

(2) Except as provided in the Second Schedule, the Board may regulate its own procedure and the procedure of any of its committees.

Chief Executive Officer.

**11.** (1) There shall be a Chief Executive Officer of the Authority who shall be competitively recruited and appointed by the Board on such terms and conditions as the Board may on the advice of the Salaries and Remuneration Commission, determine.

(2) The Chief Executive shall serve for a term of three years and shall, subject to satisfactory performance, be eligible for re-appointment for one further term of three years.

(3) The Chief Executive Officer shall be an *ex-officio* member of the Board and shall have no right to vote at any meeting of the Board.

(4) The Chief Executive Officer shall be responsible for the day-to-day management of the Authority.

(5) A person shall qualify to be appointed to the position of a Chief Executive Officer if such person—

- (a) has a degree from a university recognized in Kenya;
- (b) has at least ten years' knowledge and experience in a relevant field;
- (c) has at least five years' experience in a position of senior management; and
- (d) meets the requirements of Chapter Six of the Constitution.

(6) The Chief Executive Officer shall cease to hold office if the person—

- (a) resigns in writing, addressed to the chairperson of the Board;

- (b) is in breach of code of conduct of the Authority or Chapter Six of the Constitution;
- (c) is convicted of a criminal offence;
- (d) is adjudged bankrupt;
- (e) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- (f) dies.

Corporation  
Secretary.

**12. (1)** There shall be a Corporation Secretary who shall be appointed by the Board on such terms and conditions as the Board may determine.

(2) A person qualifies to be appointed as a Corporation Secretary, if that person—

- (a) has a degree from a university recognized in Kenya;
- (b) is a registered certified secretary;
- (c) is a member in good standing of the Institute of Certified Secretaries of Kenya;
- (d) has proven experience as a corporation secretary or a similar governance role; and
- (e) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(3) The Corporation Secretary shall—

- (a) be the secretary to the Board;
- (b) keep minutes and other records of the Board; and
- (c) carry out such other function as may be assigned by the Board or the Chief Executive Officer.

Delegation by the  
Board.

**13.** The Board may, either generally or in any particular case, delegate to any committee established under section 14 or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

Committees of  
the Board.

**14. (1)** The Board may establish such committees as it may consider appropriate for the proper discharge of its functions.

(2) The Board may co-opt to into the committees established under subsection (1) such other persons whose knowledge and skills as are necessary to assist it in any particular matter before the Board.

Staff of the  
Authority.

15. The Authority may appoint such members of staff as it considers necessary for the proper discharge of the functions of the Authority upon such terms and conditions of service as the Board with the advice of the Salaries and Remuneration Commission may determine.

Remuneration of  
the Board and  
Staff.

16. The chairperson and members of the Board shall be paid such remuneration, fees or allowances on the advice of the Salaries and Remuneration Commission.

The common seal  
of the Authority.

17. (1) The common seal of the Authority shall be kept in the custody of the Corporation Secretary and shall not be used except upon the order of the Board.

(2) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Authority shall be authenticated by the signature of the chairperson of the Board and the Chief Executive Officer.

(4) The Board may, in the absence of either the chairperson or the Chief Executive Officer, in any particular matter, nominate one member of the Board to authenticate the seal of the Authority on behalf of either the chairperson or the Chief Executive Officer.

Protection from  
personal liability.

18. Nothing done by a member of the Board or staff of the Authority shall, if the thing is done in good faith when executing the functions or the powers of the Authority under this Act, render the member of the Board or staff or a person acting on the direction of the member of the Board or staff personally liable to any action, claim or demand whatsoever.

Liability for  
damages.

19. The provisions of section 18 shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to that person, that person's property, or any of that person's interests caused by the exercise of any function or power conferred by this Act or by the failure of any works thereof.

### **PART III—ROLE OF COUNTY GOVERNMENTS**

Roles of the  
County  
Governments in  
matters relating  
to fibre crops.

20. (1) A county government shall be responsible for—

- (a) implementing the national agriculture policy ;
- (b) providing extension services to growers;
- (c) enhance the capacity of a grower entity to produce, process or market fibre crop produce or a fibre crop product within the county;
- (d) registering and licensing a commercial nursery;
- (e) establishing a database of the growers of a fibre crop within the respective county;
- (f) regulating the movement of fibre crop produce or fibre crop products; and
- (g) monitoring and reporting any incidence of a pest or an outbreak of a disease affecting fibre crops, fibre crop produce or fibre crop products and take appropriate action in collaboration with the Authority and other relevant government agencies.

(2) A county government may develop programmes for ensuring the provision of the following incentives or facilities to a grower—

- (a) farm inputs including quality seeds and planting materials;
- (b) promote value addition initiatives and market linkages; and
- (c) establish county fibre crops stakeholder fora.

#### **PART IV—REGISTRATION AND LICENSING**

Registration by  
the Authority.

**21.** (1) A person shall not deal in fibre crop produce or fibre crop products unless that person is registered by the Authority.

(2) The Authority shall maintain a register of—

- (a) all fibre crops plantation growers; and
- (b) all dealers in fibre crop produce or fibre crop products,

and shall share the register with the respective county government.

(3) Subsections (1) and (2) do not apply to a person who operates a commercial nursery of a fibre crop but does not deal in fibre crop produce or fibre crop products.

(4) A person who contravenes subsection (1) commits an offence.

Registration by a grower entity.

22. (1) A smallholder fibre crops grower may register with a grower entity which operates within the county in which the grower delivers fibre crop produce or fibre crop products.

(2) The grower entity referred to in subsection (1) shall keep a register of its members and ensure that the register is available to the Authority or the respective county government upon request.

(3) Where a grower entity has reasonable cause to believe that a person whose particulars are recorded in the register referred to in subsection (2) has ceased to be a grower, it may, after giving that person written notification of its intention to do so, deregister that person.

(4) The entry of a person's name in the register referred to in subsection (2) shall be *prima facie* proof of the fact that a person is a registered as a grower.

Registration by a county government.

23. (1) A person shall not cultivate a commercial nursery of a fibre crop unless that person is registered by the county governments within which the commercial nursery is located.

(2) A county government shall maintain a register of all the commercial nurseries of fibre crops located within the respective county.

(3) A county government shall ensure that the register referred to in subsection (2) is available to the Authority within three months after the end of each financial year or upon request by the Authority.

(4) Where a county government has reasonable cause to believe that a person whose particulars are recorded in the register referred to in subsection (2) has ceased to cultivate the commercial nursery, it may, after giving that person written notification of its intention to do so, deregister that person.

(5) The entry in the register referred to in subsection (2) shall be *prima facie* evidence of the fact that a person is a registered as a person who cultivates a commercial nursery.

(6) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand shillings, or to imprisonment for a period not exceeding three months, or to both.

Licenses issued by the Authority.

24. (1) A person shall not deal in fibre crop produce or fibre crops products unless that person has a licence issued by the Authority for that purpose in accordance with this section.

(2) A person who intends to operate a collection centre shall obtain a retailer licence from the Authority.

(3) A person who intends to conduct the business of cotton ginning, sisal leaf processing, fibre crops spinning or cotton textile milling shall obtain a fibre crops product manufacturing licence from the Authority.

(4) A person who intends to import or export a fibre crops product shall obtain a fibre crops product import licence or a fibre crops product export licence, as the case may be, from the Authority.

(5) A person who intends to conduct the business of warehousing of fibre crop produce or a fibre crop product shall obtain a warehouse operator's licence from the Authority.

(6) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand shillings, or to imprisonment for a period not exceeding three months, or to both.

Commercial  
nursery licences.

25. (1) A person shall not operate a commercial nursery of a fibre crop without a licence issued by the respective county government.

(2) A person who intends to operate a commercial nursery of a fibre crop shall obtain a commercial nursery licence from the county government within which the commercial nursery is located.

(3) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand shillings, or to imprisonment for a period not exceeding three months, or to both

Licensing  
provisions.

26. (1) The Authority shall, at least fifteen days before granting a licence under section 25, give notice of the proposed grant in the *Gazette* and invite a comment or objection from the members of the public.

(2) A county government shall, at least fifteen days before granting a commercial nursery licence, give notice of the proposed grant in the *Gazette* and invite a comment or objection from the members of the public.

(3) The Authority may, after considering a comment or objection raised pursuant to subsection (1), grant the licence applied for, subject to such terms and conditions as may be specified in the licence, or deny the grant of the licence.

(4) A county government may, after considering a comment or objection raised pursuant to subsection (2), grant the licence applied for, subject to such terms and conditions as may be specified in the licence, or deny the grant of the licence.

(5) A licence shall not be transferable.

Movement permit.	<p><b>27.</b> (1) A person shall not transport a fibre crop or a fibre crops product unless that person has a movement permit.</p> <p>(2) A person who intends to transport cotton lint, sisal fibre or cotton seed cake for the purpose of exporting or having just imported the cotton lint, sisal fibre or cotton seed cake, shall obtain a movement permit from the Authority.</p> <p>(3) A person who intends to transport seed cotton, or sisal fibre from one county to another shall obtain a movement permit from the county of origin.</p> <p>(4) The requirement of subsection (3) shall not apply to a smallholder grower.</p> <p>(5) A person who contravenes subsection (1) commits an offence.</p>
Processing capacity.	<p><b>28.</b> The Authority shall consider the existing processing capacity and potential source of raw materials when considering an application for a manufacturing licence made in accordance with section 24 (3).</p>
Validity of a licence.	<p><b>29.</b> A licence shall expire on the thirtieth of June of the next year after the licence is issued.</p>
Renewal of a licence.	<p><b>30.</b> A person who intends to renew a licence shall make an application for the renewal of the licence to the Authority.</p>
Suspension and revocation of a licence.	<p><b>31.</b> (1) The Authority may suspend or revoke a licence issued in accordance with section 24 or section 30, if the holder of the licence has contravened section 38 or has breached a condition of the licence.</p> <p>(2) A county government may suspend or revoke a commercial nursery licence issued in accordance with section 25 or 30 if the holder of the licence has contravened section 38 or has breached a condition of the licence.</p>

## **PART V—FIBRE CROPS PRODUCTION, PROCESSING AND MARKETING**

Fibre crops development.	<p><b>32.</b> The Authority shall enhance the capacity of the county governments in implementing National Government policies in production, processing and marketing.</p>
Processing of fibre crops.	<p><b>33.</b> (1) The processing of fibre crop produce or a fibre crop product shall be conducted at premises that are specified under the manufacturing licence issued in accordance with section 24.</p> <p>(2) A person who conducts the processing of fibre crop produce or a fibre crop product shall submit returns on the fibre crops produce and fibre crops products that the person deals in to the Authority.</p>

(3) A person who conducts the processing of fibre crop produce or a fibre crop product shall comply with the Cotton Industry-Code of Practice (KS 2857) or the Sisal Industry-Code of Practice (KS 2858), as the case may be.

Quality, safety  
and health  
control measures.

34. (1) The Authority shall enforce the Cotton Industry-Code of Practice (KS 2857) or the Sisal Industry-Code of Practice (KS 2858), as the case may be, along the value chain, for purposes of quality assurance.

(2) A dealer shall ensure that the fibre crop produce or the fibre crop product the dealer is dealing in is in compliance with Cotton Industry-Code of Practice (KS 2857) or Sisal Industry-Code of Practice (KS 2858) as the case may be.

Inspection.

35. (1) The Authority may conduct a surveillance, inspection or an audit of a collection centre, ginnery, sisal factory, spinning factory or warehouse to ensure compliance with this Act.

(2) The Authority may conduct an inquiry into the conduct of a retailer, exporter or importer to ensure compliance with this Act.

(3) The Authority shall appoint an inspector to carry out inspections of all fibre crops, fibre crop produce or fibre crop products for quality assurance and compliance with this Act.

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

(5) A person who conducts the processing of fibre crop produce or a fibre crop product shall remit a sample of the fibre crop produce or fibre crop product to the Authority.

(6) The Authority may submit a copy of the surveillance, inspection or audit report, made pursuant to subsection (1) with the relevant county government.

(7) A person who contravenes subsection (4) or (5) commits an offence.

Pricing  
committee.

36. The Cabinet Secretary may, in consultation with the Authority, make regulations establishing the fibre crops products pricing committee to develop pricing guidelines and models.

Marketing  
agreements.

37. (1) A grower may enter into an agreement with a dealer for the purpose of marketing fibre crop produce or fibre crop products.

(2) An agreement entered into in accordance with subsection (1) shall be registered with the Authority.

Packaging,  
weighing,

38. A dealer shall only trade in fibre crop produce or a fibre crop product which conforms to the Cotton Industry-Code of Practice (KS

labelling and grading.

2857), the Sisal Industry-Code of Practice (KS 2858) or the Standard test methods for measurement of physical properties of raw cotton by cotton classification instruments (KS 2174), as the case may be.

Importer and exporter.

**39.** (1) The fibre crop produce or a fibre crop product forming the consignment of an importer or an exporter of fibre crops produce or a fibre crops product shall be subjected to quality analysis and shall be issued with a quality compliance certificate.

(2) An importer or exporter of fibre crop produce or a fibre crop product whose consignment does not conform to the Standard test methods for measurement of physical properties of raw cotton by cotton classification instruments (KS 2174), shall be impounded and reshipped to the country of origin or detained by the Authority.

(3) The Authority may apply to the court for an order to destroy a consignment detained in accordance with subsection (2).

(4) In addition to the decision made under subsection (2), The Authority may suspend or revoke the licence issued under section 24 (5) to the contravening importer or exporter.

## **PART VI—FINANCIAL PROVISIONS**

Funds of the Authority.

**40.** The funds of the Authority shall comprise—

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

Levy imposed by Authority.

**41.** (1) The Cabinet Secretary may, in consultation with the Authority and the Cabinet Secretary responsible for the National Treasury, by notice in the Gazette, impose a levy not exceeding four per cent of the value of the fibre crop produce or fibre crop product on which levy is payable.

(2) The Cabinet Secretary may, upon the advice of the Authority, by notice in the Gazette, alter the rate of the levy imposed under subsection (1).

(3) The Cabinet Secretary may prescribe a different rate of the levy imposed under subsection (1) for a different fibre crop produce or fibre crop product.

(4) The Cabinet Secretary shall specify the manner in which the levy imposed under subsection (1) may be collected and remitted.

(5) The levy imposed under subsection (1) shall be remitted to the Authority.

(6) The levy imposed under subsection (1) shall be used for—

- (a) the promotion and development of the fibre crops industry; and
- (b) the areas prioritized by the Authority for research.

(7) All moneys due on account of the levies shall be a debt due to the Authority.

(8) Any person who contravenes subsection (5) commits an offence.

Financial year.

**42.** The financial year of the Authority shall be the period of twelve months ending on the thirtieth of June of every year.

Annual estimates.

**43. (1)** Before the commencement of each financial year, the Authority shall cause to be prepared estimates of revenue and expenditure of the Authority for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Authority for the financial year concerned and in particular, shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Authority;
- (b) the payment of allowances and other charges in respect of members of the Board.
- (c) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Authority;
- (d) the proper maintenance of the premises of the Authority;
- (e) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Authority;
- (f) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or

replacement of buildings or equipment, or in respect of such other matters as the Authority may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall not be increased without the prior consent of the Authority.

Accounts and  
audit.

44. (1) The Authority shall cause to be kept all proper inventories, books and records of accounts of the income, expenditure, assets and liabilities of the Authority.

(2) Within a period of four months from the end of the financial year, the Authority shall submit to the Auditor General or to an auditor appointed under subsection (3), the accounts of the Authority together with—

- (a) a statement of the income and expenditure of the Authority during that year; and
- (b) a statement of the assets and liabilities of the Authority on the last day of that year.

(3) The accounts of the Authority shall be audited by the Auditor General or by an auditor appointed by the Board with the written approval of the Auditor General.

(4) The appointment of an auditor under subsection (3) shall not be terminated by the Board without the prior written consent of the Auditor General.

(5) The Auditor General may give directions to an auditor appointed under subsection (3) and the auditor shall comply with such directions.

(6) An auditor appointed under subsection (3) shall report directly to the Auditor General on any matter relating to the directions given under subsection (4).

(7) Within a period of six months after the end of each financial year, the Auditor General shall report on the examination and audit of the accounts of the Authority to the Cabinet Secretary and where an auditor has been appointed under subsection (3), such auditor shall submit a copy of the report to the Auditor General.

(8) The fee payable to an auditor, appointed under subsection (3) shall be determined and paid by the Board.

(9) Nothing in this Act shall be construed to prohibit the Auditor General from carrying out an inspection of the records and accounts of the Authority whenever it appears desirable.

## PART VII—MISCELLANEOUS

- Infested areas.      **45.** The Cabinet Secretary may, in consultation with the Authority, by Order published in the *Gazette*—
- (a) declare an area or fibre crops processing facility which is infested with a fibre crops disease or pest to be an infested area;
  - (b) prohibit the cultivation, collecting, storing, processing, baling or any other activity in relation to fibre crops, fibre crop produce or fibre crop products in an infected area;
  - (c) prohibit the transportation of seeds, raw fibre crops, fibre crop produce or fibre crop products, within an infected area; and
  - (d) revoke the declaration of an area or fibre crops processing facility as infested area.
- Review.      **46.** (1) A person who is not satisfied by the issuance, refusal to issue, suspension or revocation of a licence or certificate by the Authority, or by any other decision of the Authority, may apply to the Cabinet Secretary for a review of that decision, within thirty days after being notified of the decision.
- (2) A person who is not satisfied by the issuance, refusal to issue, suspension or revocation of a commercial nursery licence or a certificate by a county government or any other decision of a county government, may apply to the County Executive Committee Member responsible for agriculture within that county government, for a review of that decision, may within thirty days after being notified of the decision.
- Supersession.      **47.** If a conflict arises between the provisions of this Act and any other Act with respect to the production, marketing or regulation of fibre crops, fibre crop produce or fibre crop products, this Act shall prevail.
- Offences by a body corporate.      **48.** Where an offence under this Act is committed by a body corporate every person involved in the management of the affairs of the body corporate commits the offence and liable, on conviction, to the penalty of that offence, unless it that person proves that, through no act or omission, the person was not aware that the offence was being committed or that the person took a reasonable step to prevent the commission of that offence.
- General penalty.      **49.** A person who commits an offence for which no penalty is prescribed, shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a period not exceeding one year, or to both.
- Seizure pursuant to conviction for an offence.      **50.** The court may order that any fibre crop produce or fibre crop product, in relation to which a person has been convicted of an offence and any vehicle, vessel or conveyance used in the commission of that offence

under this Act to be seized by the Authority, or by the respective county government.

Regulations.

**51.** (1) The Cabinet Secretary may, in consultation with the Authority, make regulations for the better carrying out of this Act.

(2) Without prejudice to the generality subsection (1), make regulations—

- (a) prescribing the procedure for registration and licensing under this Act;
- (b) prescribing the manner of establishing the processing capacity and control of the quality of food crop produce or a food crop product from a fibre crop processing facility;
- (c) prescribing the manner in which fibre crops, fibre crop produce or fibre crop products may be produced, harvested, processed, warehoused, packaged or traded;
- (d) prescribing the manner of submitting returns under this Act;
- (e) prescribing the fees or charges for services rendered under this Act by the Authority;
- (f) prescribing the procedure for the issuance of a quality compliance certificate under this Act;
- (g) providing for the manner of grading and classification of fibre crop produce or fibre crop products;
- (h) prescribing a distinguishing mark for a fibre crop product or fibre crop produce;
- (i) prescribing the out-turn number of a fibre crop product or fibre crop produce;
- (j) prescribing regulations for establishment of fibre crops price stabilization mechanism;
- (k) prescribing regulations for a standard form of a contract entered by dealers;
- (l) prescribing the procedure for conducting research in relation to fibre crops, fibre crop produce or fibre crop products;
- (m) prescribing the manner of declaring an infested area.

Amendment of  
the First

**52.** The First Schedule to the Crops Act, 2013 is amended by deleting the following items—

- (a) “Cotton..... *Gossypium spp.*” appearing in Part 1;
- (b) “Kenaf.....*Hibiscus cannabinus L*” appearing in Part 2;
- (c) “Flax .....*Linum usitatissimu L.*” appearing in Part 3;  
and
- (d) “Sisal ..... *Agave spp.*” appearing in Part 3.

#### **PART VIII—TRANSITIONAL PROVISIONS**

Assets and  
liabilities.

**53.**(1) On the appointed day, all assets acquired by the former Authority in respect of the directorate shall vest in the Authority.

(2) On the appointed day, all rights, powers and liabilities, which were vested in, imposed on or enforceable against the former Authority in respect of the directorate shall vest in, be imposed on or be enforceable against the Authority.

Provided that the Authority may enter into such arrangement or agreement as it deems necessary over the rights and obligations in respect of an asset or liability arising under any loans which vests in the Authority on the appointed day.

Reference to  
former Authority.

**54.** Any reference in any written law or in any document or instrument to the former Authority in respect of the directorate shall on the appointed day be construed to be a reference to the Authority.

Proceedings of  
the former  
Authority.

**55.** On the appointed day, a suit, appeal, arbitration or any other proceedings in relation to the former Authority in respect of the directorate, shall not abate, be discontinued or be in any way prejudicially affected, and such suit, appeal, arbitration or any other proceedings shall be continued, and enforced by or against the Authority.

Agreements,  
deeds, etc

**56.** On the appointed day any agreement, deed, bond or other instrument in relation to the directorate or which affected the directorate, and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the Authority were a party thereto or affected thereby instead of the directorate and as if for every reference (whether express or implied) therein to the directorate in the agreement, deed, bond or other instrument, was substituted with the Authority in respect of anything to be done on or after the appointed day.

An administrative  
decision.

**57.** An administrative decision made by the former Authority or the Cabinet Secretary in respect of the directorate, and which is in force immediately before the appointed day shall have force as if it was a decision made by the Authority or the Cabinet Secretary made under this Act.

Staff.                   **58.** A person who, is a member of staff of the former Authority in relation to the directorate and not being under notice of dismissal, resignation or retirement, on the appointed day, shall become a member of staff of the Authority on their current or improved terms and conditions of service.

Disciplinary proceedings                   **59.** (1) If on the appointed day any disciplinary proceedings against a member of staff of the former Authority in relation of the directorate are in the course of being heard or instituted, or have been heard or investigated by the former Authority but no order or decision has been made thereon, the Authority shall carry on and complete the hearing or investigation and make an order or render a decision, as the case may be.

(2) If on the appointed day a member of staff of the former Authority in relation to the directorate is under interdiction or suspension, the Authority shall deal with such member of staff in such manner as it deems appropriate having regard to the offence committed by the member.

(3) If on the appointed day, a penalty, other than dismissal, has been imposed on a member of staff within the directorate pursuant to disciplinary proceedings against the member and the penalty has not been, or remains to be, serviced by such member of staff, such member shall serve or continue to serve the penalty to its full determination as if it had been imposed by the Authority.

Interpretation of Part.                   **60.** In this Part—

“appointed day” means the day on which this Act comes into force;

No. 13 of 2013.                   “directorate” means the directorate responsible for fibre crops established pursuant to section 11 (4) of the Agriculture and Food Authority Act, 2013; and

No. 13 of 2013.                   “former Authority” means the Agriculture and Food Authority established pursuant to section 3 of the Agriculture and Food Authority Act, 2013;

## **FIRST SCHEDULE**

*(section 3(1))*

### **FIBRE CROPS**

Cotton.....*Gossypium spp.*;

Sisal.....*Agave spp.*;

Kenaf.....*Hibiscus cannabinus L*;

Flax.....*Linum usitatissimu L.*

## **SECOND SCHEDULE**

*(section 10(1))*

### **CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD**

A meeting of the  
Board.

1. (1) The Board shall meet at least four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The Board at its first meeting shall elect a vice-chairperson from among their members who shall be a person of a different gender than that of the chairperson.

(3) The chairperson shall chair every meeting of the Board at which the chairperson is present and in the absence of the chairperson, the vice-chairperson shall preside over the meeting.

(4) In the absence or inability to chair a meeting, of both the chairperson and the vice-chairperson, the members present at the meeting shall appoint one from the members present to preside over the meeting.

(5) A vice chairperson or a member of the Board who presides over a meeting shall have the same powers of the chairperson in relation to that meeting.

(6) Despite subparagraph (1), the chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

Notice of  
meetings.

2. Unless three quarters of the members of the Board otherwise agree, at least fourteen days' written notice of every meeting shall be given to every member of the Board.

Quorum.

3. The quorum for a meeting of the Board shall be five members.

Decision making  
by the Board.

4. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

Disclosure of  
interest by Board  
members.

5. (1) If a member is directly or indirectly interested otherwise than as a member of the Board in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the

consideration or discussion of, or vote on, any question with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or to both.

Execution of  
instruments.

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

Minutes of  
meetings.

7. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

Committees of  
the Board.

8. The Board shall adhere to the directives of the State Corporations Advisory Committee in establishing the number of committees of the Board.

## **MEMORANDUM OF OBJECTS AND REASONS**

The principal object of this Bill is to provide for the regulation of the production, processing and marketing of Fibre Crops and to provide for the establishment of Fibre Crops Authority.

**PART I** of the Bill provides for preliminary matters including interpretation of terms.

**PART II** of the Bill provides for the establishment, objects, functions and powers of the Fibre Crops Authority. It specifies the composition and conduct of business of the Board of the Fibre Crops Authority.

**PART III** of the Bill provides for the role of county governments.

**PART IV** of the Bill provides for the registration and licensing of grower entities and other dealers by the Fibre Crops Authority. It also provides for registration and licensing of commercial nursery and issuance of fibre crop movement permits by county governments.

**PART V** of the Bill provides for the development of the fibre crop industry in areas of its production, processing and marketing. It also provides for fibre crops standards and industry codes of practice.

**PART VI** of the Bill provides for quality assurance, inspection, surveillance and appointment of fibre crops inspectors.

**PART VII** of the Bill provides for trading and marketing of fibre crops and fibre crop products. It provides for the establishment of Fibre Crops Pricing Committee(s), packaging, weighing, labelling and grading of fibre crops and fibre crops products. It also specifies compliance to standards on imports and exports of fibre crop products.

**PART VIII** of the Bill provides for the financial provisions. This Part provides for the funds of the Fibre Crops Authority, the annual estimates of the Authority and the accounts, audits, and annual reports of the Authority.

**PART IX** of the Bill provides for action by the cabinet secretary with regard to fibre crops disease or pests infected areas. It also provides for review of decisions made by the Authority and county governments by the cabinet secretary and the County Executive Committee Member responsible for matters relating to agriculture. In addition, it provides for development of industry regulations and the general penalty as well as seizure of commodities of persons who have been convicted of an offence under the Act.

**PART X** of the Bill provides for transitional provisions on assets and liabilities and staff members.

### **Statement on the Delegation of Legislative Powers and Limitation of Fundamental Rights and Freedoms**

The Bill delegates legislative powers to the Cabinet Secretary. It does not limit fundamental rights and freedoms.

**Statement on Whether the Bill Concerns County Governments**

The Bill affects the functions of the county governments within the meaning of Article 110 of the Constitution and is therefore a Bill concerning counties for purposes of the Standing Orders.

Dated .....2021.

**PETER MUNYA,**  
*Cabinet Secretary for Agriculture, Livestock, Fisheries and Cooperatives.*

*First Schedule to No. 16 of 2013 which the Bill proposes to amend—*

## **SCHEDULED CROPS**

### **Part 1 — Crops with breeding program under compulsory certification**

Sugarcane.....	Saccharum spp.
Coffee.....	Coffea spp.
Rhodes grass .....	Chloris gayana
Irish potatoes.....	Solanum tuberosum L.
Cotton.....	Gossypium spp.
Sunflower .....	Helianthus annuus L.
Soya beans .....	Glycine max (L.) Merr.
Beans.....	Phaseolus vulgaris L.
Barley.....	Hordeum vulgare L.
Finger millet.....	Elezisine coracana (L.) Gaetrn.
Maize.....	Zae mays L.
Pearl millet.....	Pennisetum (L.) R.Br.
Rice.....	Oryza sativa L. (1)
Sorghum.....	Sorghum bicolor (L.) Moench.
Wheat.....	Triticum aestirum.
Wheat (pasta).....	Triticum monococcum L.

### **Part 2 — Crops with breeding program under voluntary certification**

Bananas.....	Musa spp.
French beans .....	Phaseolus ulgaris L.
Silver leaf desmodium.....	Desmodium uncinatum
Lupin.....	Lupinus spp.
Lucerne.....	Medicago sativa L.
Green leaf desmodium.....	Desmodium intorium (Miller).

Setaria.....	Setaria spp.
Congo signal.....	Bracharia spp.
Coloured guinea grass .....	Panicum coloratum
Pyrethrum.....	Chrysanthemum spp.
Cassava.....	Manihot esculenta
Sweetpotato.....	Ipomoea batatas
Kenaf.....	Hibiscus cannabinus L
Sesame.....	Sesamum indicum L.
Safflower.....	Carthamus tinctorius L.
Ground nut.....	Arachis hypogaea L.
Pigeon pea.....	Cajanus cajan.
Dolichos bean .....	Dolichos lablab L.
Cowpea.....	Vigna unguiculata (L.) Walp.
Chick peas.....	Cicer arietinum L.

### **Part 3 — Crops with no breeding program**

Oats.....	Avena sativa L.
Rye.....	Secale cereale L.
Triticale.....	Triticosecale Wittm.
Broad beans.....	Vicia faba L.
Cluster bean .....	Cyamopsis tetragonoloba.
Pea.....	Pisum sativum L.
Common Vetch.....	Vicia sativa L.
Castor bean.....	Ricinus communis L.
Jojoba.....	Simmondsia chinensis.
Linseed .....	Linum unitatissimum L.
Oil seed rape.....	Brassica napus L.

Flax .....	<i>Linum usitatissimu</i> L.
Sisal.....	<i>Agave</i> spp.
Beet.....	<i>Beta vulgaris</i> L.
Turnip.....	<i>Brassica rapa</i> L.
Other flower species.....	Liliaceae, Umbelliferae, Roses, etc
Blue stem grass .....	<i>Andropogon</i> spp.
Buffel grass .....	<i>Cenchrus ciliaris</i> L.
Cock's foot.....	<i>Dactylic glomerata</i> .
Columbus grass.....	<i>Sorghum almum</i>
Paspalum grass.....	<i>Paspalum gayanus</i>
Rye grass .....	<i>Lolium</i> spp.
Sudan.....	<i>Sorghum sudanense</i> .
Love grass.....	<i>Eragrostis</i> spp.
Bermuda grass.....	<i>Cynodon dactylon</i> .
Butterfly pen.....	<i>Clitoria ternatea</i> .
Centrosema.....	<i>Centrosema pubescens</i> Benth.
Clover.....	<i>Trifolium</i> spp.
Leucaena.....	<i>Leucaena lencocephala</i> .
Siratro.....	<i>Macroptilium atropurpureum</i>
Stylosanthes.....	<i>Stylosanthes guianensis</i>
Amaranth.....	<i>Amaranthus</i> spp.
Artichoke.....	<i>Cynara scolymus</i> .
Asparagus.....	<i>Asparagus officinalis</i> .
Sugar beet .....	<i>Beta vulgaris</i> L.
Broccoli/cauliflower.....	<i>Brassica oleracea</i> var. <i>botrytis</i> L.
Brussels sprouts .....	<i>Brassica oleracea</i> var. <i>gemnifera</i>

Cabbage .....	<i>Brassica oleracea</i> var. <i>capitata</i> L.
Cantaloupe/ Muskmelon .....	<i>Cucumis melo</i> L.
Carrot.....	<i>Daucus carota</i> L.
Celery / Celeriac .....	<i>Apium graveolens</i> L.
Chicory.....	<i>Cichorium intybus</i> L.
Chinese cabbage.....	<i>Brassica chinensis</i> L.
Chirvil.....	<i>Anthriscus cerefolium</i> .
Collards / Kale.....	<i>Brassica oleracea</i> var. <i>ancephala</i> DC
Corriander.....	<i>Coriandrum sativum</i>
Cucumber.....	<i>Cucumis sativus</i> L.
Dill.....	<i>Arethum graveolens</i> L.
Eggplants.....	<i>Solanum melongena</i> L.
Endive .....	<i>Cichorium endivia</i> L.
Garden cress.....	<i>Lespidium sativa</i> L.
Karella .....	<i>Cucumis</i> spp.
Kohlrabi .....	<i>Brassica oleracea</i> var. <i>gongylodes</i> .
Leek .....	<i>Allium porrum</i> L.
Lettuce .....	<i>Lactuca sativa</i> .
Okra .....	<i>Hibiscus esculentus</i> L.
Onion.....	<i>Allium cepa</i> L.
Parsley .....	<i>Petroselinum crispum</i> (Mill) Nym.
Parsnip .....	<i>Pastinaca sativa</i> L.
FIRST SCHEDULE—continued	
Pea.....	<i>Pisum sativum</i> L. <i>Sensulato</i> .
Pepper.....	<i>Capsicum</i> spp.
Pumpkin/Squash/Courgette .....	<i>Cucurbita pepo</i> L.

Radish .....Raphanus sativus L.  
 Rhubarb .....Rheum rhaponticum L.  
 Rutabaga.....Brassica napus var. napobrassica L.  
 Spinach .....Spinacea oleracea L.  
 Swiss chard.....Beta vulgaris.  
 Tomato .....Solanum lycopersicon.  
 Turnip ..... Brassica rap L.  
 Water cress .....Nasturtium officinale Ribr.  
 Water melon.....Citrullus spp.  
 Coconut.....Cocos nucifera.  
 Cashewnut ..... Indigenous Vegetables.  
 (Blacknightshade, Spider plant, etc.).  
 Guava.....Psidium.  
 Fruit trees ..... (Mangoes, Avocado, Citrus, Pawpaw, etc.).  
 Miraa ..... catha edulis.

