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SCHEDULE-Powers of the Tobacco Board of Zambia

CHAPTER 237

TOBACCO

Act No.
64 of 1967
13 of 1994

An Act to provide for the promotion, control and regulation of the production, marketing and packing of tobacco in the Republic, the promotion and control of the export of tobacco from and import of tobacco to the Republic, the direction and promotion of research in connection with tobacco, and for incidental matters.

[1st April, 1968]

PART I PRELIMINARY
PART I

PRELIMINARY

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1. This Act may be cited as the Tobacco Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation
- "auction floor" means premises used for the sale by auction of auctionable tobacco;
- "auctionable tobacco" means any class of tobacco which is prescribed as auctionable tobacco by the Minister pursuant to section *fifty-nine* and as such is required to be sold by auction on a licensed auction floor;
- "Board" means the Tobacco Board of Zambia established under the provisions of section *three*;
- "buyer" means any person who buys tobacco and includes any person who possesses land and who agrees with a third person to permit the said third person to produce tobacco on not more than ten acres of the said land in consideration of the receipt of a share of the said crop when produced or of a share of the proceeds of its sale;
- "delivery quota" means the quantity of auctionable tobacco determined by the Board which may be delivered by or on behalf of a registered grower for sale on any licensed auction floor in each delivery quota period;
- "delivery quota period" means any period during which the Board permits the delivery of delivery quotas by registered growers to licensed auction floors;
- "export on consignment" means the consignment of tobacco to an agent, factor or commission agent for purposes of sale outside the Republic;
- "external market" means the demand for tobacco in any country outside the Republic;
- "external market minimum price" means the minimum price fixed by the Minister, pursuant to section *seventy-four*, for auctionable tobacco sold for the purposes of any external market;
- "financial year", in relation to the Board, means any period of twelve months prescribed as such by the Minister;
- "grader", in relation to tobacco, means any person who grades tobacco as a business or trade;

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"grower", in relation to tobacco, means any person who grows tobacco for purposes of sale, or any person who is deemed to be a grower pursuant to section *twenty-six*;

"inspector" means an inspector appointed pursuant to subsection (1) of section *eleven*;

"internal market" means the demand for tobacco for the purposes of manufacture in the Republic;

"internal market minimum price" means the minimum price fixed by the Minister, pursuant to section *seventy-four*, for auctionable tobacco sold for the purposes of the internal market;

"licensed auction floor" means any auction floor licensed as such by the Board pursuant to Part VIII;

"licensed buyer" means any person licensed by the Board to buy tobacco pursuant to Part VII;

"licensed grader" means any person licensed by the Board to grade tobacco pursuant to Part VI;

"manufacture", in relation to tobacco, means to subject it to a process or treatment other than butting, thrashing, stripping or redrying, and cognate expressions shall be construed accordingly;

"marketing quota" means the weight of tobacco of a class, prescribed pursuant to section *seventy-eight*, which a registered grower may sell in the Republic or export on consignment during a period fixed by an order relating thereto made pursuant to that section;

"member" means a member of the Board;

"non-auctionable tobacco" means any class of tobacco which is prescribed as non-auctionable by the Minister pursuant to section *fifty-nine*, and as such is not required to be sold by auction on a licensed auction floor;

"Permanent Secretary" means the Permanent Secretary, Ministry of Agriculture;

"producer" means any grower not required to be personally registered as such under section *twenty-six*;

"Registrar" means the secretary to the Board;

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"sale at a primary or rural level" means the sale of tobacco by an individual producer or group of producers to a licensed buyer where it is intended that the said tobacco shall later be offered for sale to the trade by the buyer, whether as auctionable or non-auctionable tobacco, as the case may be;

"sales supervisor" means a person appointed by the Board, under the provisions of section *seventy-one*, to supervise the sale of tobacco by auction on a licensed auction floor;

"selling season" means the period in each year fixed by the Board during which auctionable tobacco may be sold;

"surplus tobacco" means tobacco produced by a registered grower in excess of the marketing quota allotted to him pursuant to section *seventy-eight*;

"tobacco" means unmanufactured tobacco (including tobacco stems) of a class prescribed by the Minister pursuant to section *fifty-nine*;

"tobacco research" means-

- (a) research and investigation of any kind in connection with tobacco, tobacco ecology, insect pests of tobacco, bacterial, fungoid and virus diseases and other pests of tobacco; and
- (b) experiments in the planting, handling and curing of tobacco;

"tobacco stem" means the midrib of the tobacco leaf;

"weight" means the weight which is known in the usage of the trade as wet weight.

PART II ESTABLISHMENT OF TOBACCO BOARD

ESTABLISHMENT OF TOBACCO BOARD

3. There is hereby established a board to be known as the Tobacco Board of Zambia which shall be a body corporate with a common seal and capable of suing and being sued and, subject to the provisions of this Act, of doing all acts as a body corporate may by law perform.

Establishment of Tobacco Board of Zambia

4. (1) The Minister shall appoint the members of the Board.

Composition of Board

(2) The Board shall consist of-

- (a) one member chosen by the Minister who shall be designated as Chairman;
- (b) one member representing the growers of Virginia flue-cured tobacco chosen by the Minister;
- (c) one member representing the growers of Oriental tobacco chosen by the Minister;
- (d) one member representing the growers of Burley tobacco chosen by the Minister;
- (e) not more than three members representing the buyers of tobacco chosen by the Minister.

(3) The Minister may appoint to the Board such additional members as he deems essential to the Board in the exercise of its powers and functions.

(4) The Minister may permit the attendance of observers at any meeting of the Board, who shall have no voice in the proceedings of such meeting nor any voting powers.

(5) No person shall be appointed a member or alternate member of the Board-

- (a) while he is an undischarged bankrupt; or
- (b) while he is serving a sentence of imprisonment upon conviction of an offence involving fraud or dishonesty.

5. (1) The Minister may appoint to the Board as an alternate member to each of the members referred to in paragraphs (b), (c), (d) and (e) of subsection (2) of section *four* a person chosen from the same category as the member to whom he is alternate was chosen.

Alternate
appointments to Board

(2) The Minister may appoint to the Board an alternate member to the Chairman.

(3) An alternate member referred to in this section-

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- (a) shall act as a member only when the member to whom he is alternate is unable to exercise his functions on the Board by reason of illness, absence from the Republic or other cause; and
- (b) when acting as a member shall have all the powers and duties of the member to whom he is alternate including, in the case of an alternate member to the Chairman of the Board, the powers and duties of the Chairman.

(4) Alternate members may, when not acting under the provisions of subsection (3), attend meetings of the Board as observers only but shall have no voting powers at any such meeting.

(As amended by Act No. 46 of 1970)

6. (1) Members of the Board shall, subject to the provisions of this section, hold office for a period of two years. Tenure of office and vacancies

(2) A retiring member shall be eligible for reappointment.

(3) On the expiration of the period for which a member is appointed, he shall continue to hold office until his successor has been appointed but in no case shall such further period exceed three months.

(4) The office of a member or alternate member shall be vacated-

- (a) upon his death;
- (b) if he is adjudicated bankrupt;
- (c) if he is absent from three consecutive meetings of the Board without the permission of the Board;
- (d) upon the expiry of one month's notice in writing of his intention to resign his office given by him to the Minister;
- (e) upon the expiry of one month's notice in writing given to him by the Minister;
- (f) if he becomes mentally or physically incapable of performing his duties as such;
- (g) if he is convicted of an offence and sentenced to imprisonment without the option of a fine.

(5) Whenever representation on the Board of any two or more of the categories of membership thereof provided for by subsection (2) of section *four* becomes vacant, the Minister may perform all of the functions and duties of the Board until such time as, by appointment, such categories are duly represented, and all such appointments to the Board necessary to complete the representation of such categories shall, in such event, be made by the Minister within three months of the date of the vacancy last occurring before the Minister exercises his powers under this subsection.

(6) Any member or alternate member who is not a public officer shall be paid out of the funds of the Board such remuneration and allowances, if any, as the Minister may, in his case, fix.

7. (1) Meetings of the Board shall be held at such places and times as the Chairman of the Board may determine and shall be convened by notice given by him: Meetings of Board

Provided that the Chairman of the Board may, himself, at any time, and shall, at the request in writing of any two members of the Board, and within fourteen days after the receipt of such request, convene a special meeting of the Board.

(2) A notice convening a special meeting of the Board shall state the purpose of such meeting.

(3) In the absence from any meeting of the Board of the person entitled to act as Chairman pursuant to this Act, the members present at that meeting may elect one of their number to be Chairman of that meeting.

(4) All decisions at any meeting of the Board shall be by resolution by majority vote of the members present thereat, and in the event of an equality of votes the Chairman shall have a casting vote in addition to his deliberative vote.

(5) A majority of the members of the Board with voting powers shall form a quorum.

8. (1) The Board shall establish and appoint the members of such committees as the Minister may prescribe to implement any of the Board's powers and functions and shall delegate to any such committee such of its powers as the Minister may deem necessary. Committees of Board

(2) The Board may establish and appoint the members of committees, other than those prescribed pursuant to subsection (1), to carry out any special or general functions determined by the Board and may delegate to any such committee such of its powers as it may deem fit.

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(3) (a) No person shall be appointed to any committee established under the provisions of subsection (1) if he would be disqualified for membership of the Board.

(b) The Board, or the Minister in the case of any committee established pursuant to subsection (1), shall appoint a chairman of each committee established under this section.

(c) Each committee may, with the approval of the Minister previously obtained, co-opt as members persons who are not members of the Board and who are not disqualified for membership of the Board.

(d) The Chairman of the Board shall be an *ex officio* member of all committees established pursuant to this section.

(4) Any committee appointed under the provisions of this section shall keep minutes of its meetings, and shall inform the Board and, in the case of a committee established pursuant to subsection (1), the Minister, of its activities, and shall conduct its proceedings in such manner as may be prescribed.

(5) The chairman of each committee may at any time and at any place convene a meeting of the committee of which he is chairman.

(6) The Chairman of the Board may at any time and at any place convene a meeting of any committee.

(As amended by Act No. 46 of 1970)

9. (1) If a member or his spouse-

Member to declare connection with companies and firms dealing with Board

- (a) tenders for or acquires or holds any pecuniary interest in any contract with the Board; or
- (b) knowingly acquires or holds any capital interest in a company or firm applying or negotiating for any contract with the Board; or
- (c) owns any lands or any right or interest in, upon or over any lands or owns any other property whatsoever which ownership, because of any conflict of interest, or other circumstance, might be considered as prejudicial to the interests and rights of the Board or to his duties as a member: the member shall, as soon as practicable after the relevant facts have come to his knowledge, declare the nature of his interest to the Chairman of the Board.

(2) This section shall not apply to a contract with the Board for the delivery, sale or disposal of tobacco, entered into by a member or his spouse, in which the member or his spouse receives no special advantage or preferential treatment.

10. (1) Subject to the approval of the Minister, the Board shall appoint the Secretary to the Board.

Appointment of Secretary to Board

(2) The Secretary to the Board shall be the Registrar for the purposes of this Act.

11. (1) Subject to the approval of the Minister, the Board shall appoint tobacco inspectors, who shall be inspectors for the purposes of this Act.

Tobacco inspectors

(2) The Board shall cause a certificate of authority to be issued to each inspector.

(3) An inspector shall produce for inspection his certificate of authority upon the demand of any person affected by the exercise by him of any of his powers under this Act.

12. An inspector may, for any of the purposes of this Act, and at all reasonable times, enter upon-

Powers of inspector

- (a) any land, building, premises or vehicle which he has reasonable cause to believe is being used in the production, storage, grading, processing or sale of tobacco in contravention of this Act, and inspect the same and any tobacco growing thereon, and any harvested tobacco or any book, record or document found therein, and he may take, in the prescribed manner, samples of any such growing tobacco, and he may seize and detain any such vehicle, or harvested tobacco or any book, record or document found therein which would afford evidence of a contravention of this Act;
- (b) any land, building, premises or vehicle of any registered grower, registered grader, licensed buyer or any licensed auction floor to inspect the same and, in the prescribed manner, to take samples of any tobacco growing thereon or of any harvested tobacco found therein if in his opinion any of the said growing or harvested tobacco is not of a prescribed variety and is being or has been grown on the said land or is being held in the said land, building, premises or vehicle in contravention of this Act and to report to the Board on his findings in that regard, and to inspect any book, record or other document found therein which would relate to any prescribed or required return furnished or to be furnished by any person by or under this Act, and to seize and detain any such book, record or other document which would afford evidence of a contravention of this Act.

13. Subject to the provisions of section *nine*, an agreement contract or other instrument may be entered into or executed on behalf of the Board by any person or persons authorised by the Board generally or specially in that behalf.

Contracts and instruments of Board

PART III FUNCTIONS, DUTIES AND POWERS OF THE BOARDPART III

FUNCTIONS, DUTIES AND POWERS OF THE BOARD

- 14.** The functions and duties of the Board shall, subject to the provisions of this Act, be to-
- Functions and duties of Board
- (a) promote, protect and maintain the production, sale, preparation for subsequent use and export of tobacco grown in the Republic;
 - (b) control and regulate the production, marketing and export of tobacco;
 - (c) carry out tobacco research;
 - (d) obtain and collate statistics relating to the production, marketing, manufacture and consumption of tobacco inside and outside the Republic;
 - (e) provide and operate such services and other facilities as may be necessary or convenient for the tobacco industry;
 - (f) advise the Minister on all matters relating to tobacco; and
 - (g) do all things which the provisions of this Act require to be done by the Board.

- 15.** (1) The powers of the Board shall include every power granted by any express provision of this Act and also every express power enumerated in the Schedule, together with all implied powers necessary to the exercise of any such express power.
- Powers of Board

(2) The Board may exercise any of its powers, functions or duties either absolutely or conditionally and either solely or in conjunction with other persons, and in so doing may deal differently with different persons, premises and areas of the Republic and with different classes of tobacco and with different grades and varieties of those classes of tobacco and with different classes of persons, premises and other things.

- 16.** If at any time it appears to the Minister that the Board is in default in the performance of any duty or obligation of the Board under this Act or under any regulation or requirement made thereunder, he may, by notice in writing, require the Board to make good its default within a time fixed by the Minister in the said notice.
- Power of Minister on default of Board

- 17.** (1) The Board shall, within six months after the end of each financial year, furnish to the Minister an annual report upon its work and operations during the year, and such report shall include a balance sheet, a complete statement of revenue and expenditure duly audited, the report of the auditors and such other information as the Minister may require.
- Reports of Board

(2) The Minister shall lay each such annual report before the National Assembly.

PART IV FUNDS OF THE BOARDPART IV

FUNDS OF THE BOARD

- 18.** The funds of the Board shall consist of-
- Funds of Board
- (a) such sums as may be payable to the Board from moneys appropriated by Parliament for the purpose;
 - (b) such sums as may be payable to the Board pursuant to this or any other Act; and
 - (c) such other moneys or assets as may accrue to or vest in the Board, whether in the course of the exercise of its powers or functions or the performance of its duties or otherwise.
- 19.** If, at any time, the funds referred to in section *eighteen* are not sufficient to meet fully any lawful expenditure incurred by the Board in the exercise of its powers or functions or in the performance of its duties, the amount of such deficiency shall be met by advances made by the Minister out of moneys appropriated for the purpose by Parliament.
- Payments to Board from moneys appropriated by Parliament
- 20.** The Board shall, before the commencement of each financial year, submit to the Minister a detailed statement of estimated revenue and expenditure for the following year for approval by the Minister.
- Statement of revenue and expenditure of Board to be submitted
- 21.** The Board shall keep proper books of account and other records in relation to all its respective operations, undertakings and property and, in addition, such other particular accounts and records in respect of any of its respective operations, undertakings and property as the Minister may direct.
- Accounts of Board
- 22.** (1) The Board shall, with the approval of the Minister, appoint one or more persons who publicly carry on the profession of accountants, hereinafter referred to as auditors, to examine and report to the Board and to the Minister on its accounts not less than once in each financial year.
- Appointment of auditors and audit of accounts of Board
- (2) In addition to the report referred to in subsection (1), the Minister may require the Board to obtain from its auditors such other reports, statements or explanations in connection with operations, undertakings and property of the Board as the Minister may consider expedient.
- (3) The Board shall produce and lay before its auditors all its books and accounts with all vouchers in support thereof and all books, papers and writings in its possession or control relating thereto.

(4) The auditors of the Board shall be entitled at all reasonable times to require from all members and persons in the employ of the Board such information and explanations as may be necessary for the performance of their duties as auditors.

23. It shall be the duty of the auditors of the Board to certify not less than once in each financial year whether or not- Duties of auditors

- (a) they have received from the Board all the information and explanations which, to the best of their knowledge and belief, were necessary for the performance of their duties as auditors; and
- (b) the accounts of the Board have been properly kept; and
- (c) the accounts of the Board present a true and fair view of its financial position according to the information and explanations given and the books and records produced to them; and
- (d) the Board has complied with the provisions of this Part with which it is its duty to comply and with their requirements.

PART V REGISTRATION OF GROWERSPART V

REGISTRATION OF GROWERS

24. The Registrar shall cause such registers of growers to be kept as are prescribed by the Minister. Register of growers

25. The Minister may from time to time by regulation prescribe- Registration periods and duration of registration

- (a) registration periods in respect of classes of tobacco specified in such regulations within which growers or intended growers of any such specified classes of tobacco shall register under this Act;
- (b) the duration of such registrations.

26. (1) Subject to the provisions of this section, any grower or any person who *bona fide* intends to grow tobacco shall be registered as a registered grower, which registration may be in respect of the growing of any particular class or classes of tobacco and shall be for the duration prescribed pursuant to paragraph (b) of section (twenty-five). Growers to be registered

(2) (a) Where the Government or any Government agency assists tobacco producers in any area in the marketing of their tobacco, the Permanent Secretary may define such area as a specific area and may nominate a person to act on behalf of all of the said assisted producers for the purposes of this Act, and such person shall be deemed to be the grower of all of the tobacco produced or to be produced by such assisted producers in the said specific area, and shall register as such under this section. For the purposes of this subsection, "Government agency" means the Board, the Bank of Zambia or any statutory body whose statutory objects include the giving of financial aid by way of grant or loan to farmers.

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(b) Whenever any person is registered as a registered grower pursuant to paragraph (a), the assisted producers therein referred to shall be exempt from registration under this Part.

(3) Any grower who is not usually resident in Zambia and who produces or who *bona fide* intends to produce tobacco in the Republic shall nominate a resident of Zambia who shall apply for registration under this section and, upon such application being granted, such nominee shall be the registered grower of such tobacco for all of the purposes of this Act.

(4) Where tobacco is grown on a licensed buyer's land by a tenant producer under the terms of a contract whereby the tenant producer agrees to produce tobacco on not more than ten acres of the said land and further agrees either to share the crop with the licensed buyer or to pay to the licensed buyer a stated share of the proceeds of the crop in consideration for the tenant producer's use of the land for its production, the licensed buyer shall be deemed to be the grower of such tobacco for the purposes of this Act, and shall register as such under this Part.

(5) Where tobacco is grown by a producer who is a member of a co-operative society, the objects of which include the marketing of tobacco grown by its members, and under the terms of a contract between such producer and such co-operative society the tobacco to be produced by the said producer is to be marketed through the said co-operative society, the said co-operative society shall be deemed to be the grower for the purposes of this Act, and shall register as such under this Part.

(6) A licensed buyer shall be deemed to be grower solely for the purposes of any resale of auctionable tobacco purchased by him on a licensed auction floor and shall be registered accordingly for the purposes only of such resale, and the provisions of subsection (8) shall not apply to his application for such registration, which application may be made orally to the Registrar.

(7) A licensed buyer who has purchased tobacco at a primary or rural level shall, for the purposes of the resale of that tobacco, be deemed to be the grower thereof and shall be registered accordingly solely for the purposes of such resale, and the provisions of subsection (8) shall not apply to his application for such registration, which application may be made orally to the Registrar.

(8) Application for registration as a registered grower shall be made to the Registrar in the form and manner prescribed.

(9) Separate applications shall be made for registration under this section in respect of each class of tobacco as prescribed under the provisions of section *fifty-nine*.

(10) Any grower who was formerly registered as a registered grower under this Part but whose registration was cancelled-

- (a) under the provisions of section *thirty-four*, and is not restored; or
- (b) under the provisions of section *thirty-five*, and the period, if any, of whose ineligibility for registration has not expired;

shall not be registered under this section.

27. (1) If any application for registration under the provisions of section *twenty-six* is made within the registration period prescribed pursuant to paragraph (a) of section *twenty-five*, no fee shall be payable in respect of such registration. Registration fees

(2) If any application for registration under the provisions of section *twenty-six* is made after the termination of the registration period prescribed pursuant to paragraph (a) of section *twenty-five*, the applicant shall pay to the Board such fee for such registration as may be prescribed.

(3) The provisions of subsection (2) shall not apply where the applicant is a public officer and is nominated pursuant to subsection (2) of section *twenty-six*.

(4) The Board may waive the payment of the fee referred to in subsection (2) if the Board considers that there is a reasonable explanation for the failure of the applicant to make his application within the registration period.

28. (1) The Registrar shall allot one and not more than one registered number to each registered grower for each class of tobacco to be grown by that registered grower in each season: Allotment of registered numbers to growers, licensed buyers, etc.

Provided, however, that in the case of a registered grower registered as such under the provisions of subsection (4) of section *twenty-six* in respect of two or more tenant producers, the Registrar shall allot to such registered grower a registered number in respect of each such tenant producer for each class of tobacco to be grown by such tenant producer in each season.

(2) Subject to any regulation or rule in that behalf made pursuant to or under this Act, a sales supervisor may, from time to time for the purpose of resale of auctionable tobacco by any licensed buyer or by any holder of an auction floor licence, allot, in the name of the Registrar, a registered number to such licensed buyer or to such holder of an auction floor licence, as the case may be, and such licensed buyer or such holder of an auction floor licence shall be deemed to be the registered grower for the purposes of such resale.

(3) A registered number allotted pursuant to subsection (1) or (2) shall not be transferable save with the written consent of the registered grower to whom it is allotted and of the Registrar.

(4) Upon an application in that behalf by any registered grower, the Registrar may, with the approval of the Board, cancel any registered number of such registered grower and may allot to the said registered grower another registered number in lieu thereof, if in the opinion of the Board there is sufficient reason for such change of registered number to be made.

29. Any person who discloses to any other person the identity of the registered grower to whom any registered number allotted pursuant to section *twenty-eight* relates shall be guilty of an offence unless the disclosure is-

Prohibition against disclosure of identity of registered growers

- (a) made to an official of the Board; or
- (b) necessary for the proper conduct of the sale of any tobacco; or
- (c) made by the owner of a bale of tobacco upon which that number appears; or
- (d) made with the permission of the owner referred to in paragraph (c); or
- (e) made with the authority of the Minister or of the Board.

30. Any grower who-

- (a) sells any class of tobacco for which he is not registered; or
- (b) exports on consignment or otherwise any class of tobacco for which he is not registered;

Only registered growers to sell or export tobacco on consignment

shall be guilty of an offence.

31. (1) Every registered grower of auctionable tobacco shall mark his bales of auctionable tobacco in the manner prescribed by the Board.

Marking of bales of auctionable tobacco

(2) Any registered grower who delivers for sale to a licensed auction floor any bale of auctionable tobacco which-

- (a) was grown by him and is marked with a number other than his registered number; or
- (b) was not grown by him and is marked with his registered number;

shall be guilty of an offence.

32. (1) Every registered grower of non-auctionable tobacco shall mark his bales of non-auctionable tobacco in the manner prescribed by the Board.

Marking of bales of non-auctionable tobacco

(2) Any registered grower who sells or delivers for sale any bale of non-auctionable tobacco which-

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(a) was grown by him and is marked with a number other than his registered number; or

(b) was not grown by him and is marked with his registered number;

shall be guilty of an offence.

33. (1) Every application for registration under this Part shall contain a clause, to become effective upon registration, whereby the registered grower empowers the Board, as agent of such registered grower in that behalf, to dispose of or destroy or cause to be destroyed or to order the disposal or destruction of any surplus or unsold tobacco belonging to such registered grower and remaining in his possession or under his control at the end of any selling season.

Board agent of registered grower for disposal of surplus or unsold tobacco

(2) The Board may issue a permit in writing to any registered grower to retain until the next selling season any surplus or unsold tobacco belonging to such registered grower and remaining in his possession or under his control at the end of any selling season, and where the Board has issued such a permit, it shall not exercise the authority granted to it pursuant to subsection (1):

Provided that this subsection shall not be interpreted as limiting or restricting any power vested in any person under any written law at any time to destroy or order the destruction of tobacco which is infested with any living tobacco pest, fungus or disease of tobacco.

(3) The authority granted pursuant to subsection (1) shall not be exercised by the Board in respect of auctionable tobacco which-

(a) is grown by a registered grower; and

(b) is kept by the registered grower in his possession or under his control for the purpose of manufacture in accordance with an authority issued by the Minister in that behalf.

34. (1) If any registered grower fails to furnish to the Board within the period prescribed any prescribed return, completed to the satisfaction of the Board, the Registrar shall cancel the registration of the said grower, and, subject to the provisions of subsection (2), the said grower shall not be registered as a registered grower under this Part in respect of any duration prescribed under paragraph (b) of section *twenty-five*, subsequent to that in respect of which he was registered at the date of the cancellation.

Failure to furnish prescribed returns by registered grower

(2) The Registrar may, at any time, restore to the register the name of any grower whose registration was cancelled pursuant to subsection (1) if such grower-

(a) furnishes a late return completed to the satisfaction of the Board; and

- (b) pays to the Board a registration fee, not exceeding one hundred and fifty fee units, prescribed by the Minister.

(3) The provisions of paragraph (b) of subsection (2) shall not apply in the case of a person nominated by the Permanent Secretary pursuant to paragraph (a) of subsection (2) of section *twenty-six* as the grower for a specific area if such person is a public officer.

(4) The Board may waive the payment of the fee prescribed by paragraph (b) of subsection (2) if it accepts as reasonable any explanation given for the failure of the registered grower to render a return within the prescribed time.

(5) The Registrar shall notify the registered grower concerned of the cancellation or restoration, as the case may be, of his registration, and also-

- (a) in the case of a grower of auctionable tobacco, the holders of all auction floor licenses; and
- (b) in the case of a grower of non-auctionable tobacco, all licensed buyers licensed to buy that particular class of tobacco.

(As amended by Act No. 13 of 1994)

35. (1) The Registrar may order the registration of any registered grower to be cancelled if- Cancellation of registration

- (a) the said registered grower has been convicted of an offence under this Act; or
- (b) having considered a report from any inspector or any person thereunto authorised by the Board or under this Act that the said registered grower has-
 - (i) furnished any false information to the Board in any return made under and for the purposes of this Act; or
 - (ii) failed to comply with any condition or perform any duty imposed by or under this Act;

and having afforded such registered grower an opportunity to be heard on any such report, the Registrar is satisfied that the said registered grower has furnished such false information or has failed to comply with such condition or perform such duty, as the case may be.

(2) Any registered grower whose registration has been cancelled under the provisions of subsection (1) shall be ineligible for registration as a registered grower for such period as the Registrar may fix in the order cancelling such registration.

36. (1) Any registered grower who is aggrieved by any order made pursuant to section *thirty-four* or *thirty-five* shall be entitled to appeal to the Minister. Appeal to Minister

(2) No appeal shall lie to any court from the decision of the Minister on any appeal pursuant to subsection (1).

PART VI LICENSING OF GRADERSPART VI

LICENSING OF GRADERS

37. Any person who carries on the business of a grader and is not licensed as such under this Part shall be guilty of an offence. Licensing of graders

38. (1) Application for a grader's licence shall be made to the Board in the manner prescribed by the Board. Application for grader's licence

(2) The Board may refuse any application for a grader's licence if it is of opinion that the applicant is not a proper person to hold such licence, or that the applicant is unable or unwilling to comply with any regulations as regarding premises to be used for grading or any other pertinent regulations prescribed under this or any other written law.

(3) An applicant who is aggrieved by the refusal of the Board to issue to him a grader's licence shall have a right of appeal to the Minister.

39. (1) The Board may cancel or suspend any grader's licence issued under this Part if- Cancellation and suspension of grader's licence

- (a) the licensed grader has been convicted of an offence under this Act; or
- (b) having considered a report from an inspector or a sales supervisor that the said licensed grader has-
 - (i) furnished any false information to the Board or to any registered grower in any return made under and for the purposes of this Act; or
 - (ii) failed to comply with any condition or to perform any duty imposed on him by or under this Act;

and having afforded such licensed grader an opportunity to be heard on any such report, the Board is satisfied that the said licensed grader has furnished such false information or has failed to comply with such condition or perform such duty, as the case may be.

(2) Any licensed grader whose licence has been cancelled or suspended under the provisions of subsection (1) shall not be eligible to hold a licence as a licensed grader for such period as the Board may fix at the time of the cancellation or suspension of such licence.

(3) Any person whose licence as a licensed grader has been cancelled or suspended under the provisions of subsection (1) and who carries on business as a grader of tobacco while such licence is so cancelled or so suspended shall be guilty of an offence.

40. (1) Any person who is aggrieved by the cancellation or suspension of his grader's licence by the Board may appeal to the Minister. Appeal to Minister

(2) No appeal shall lie to any court from the decision of the Minister on any appeal pursuant to subsection (1).

PART VII LICENSING OF BUYERSPART VII

LICENSING OF BUYERS

41. Any person, other than the Board, or an employee or agent of a licensed buyer nominated pursuant to section *forty-three*, who buys tobacco and who is not licensed by the Board as a licensed buyer under this Part, shall be guilty of an offence. Licensing of buyers

42. An application for a licence to buy tobacco shall be made to the Board in the form and manner prescribed by rules by the Board with the approval of the Minister. Application for buyer's licence

43. In any application for a licence under this Part, the applicant may nominate an employee or agent, who, upon the applicant being licensed as a licensed buyer, shall be entitled to buy tobacco for and on behalf of such licensed buyer under his said licence. Nominated agents

44. (1) Subject to the provisions of subsection (2), the Board may, with the approval of the Minister, by rule prescribe grounds upon which it may refuse to issue a buyer's licence under this Part. Grounds of refusal to issue and conditions attaching to buyer's licence

(2) The Board shall refuse to issue a buyer's licence if it is not satisfied with the financial standing of the applicant.

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(3) The Board may attach to any buyer's licence any conditions which it deems reasonable in the circumstances.

(4) (a) The Board may, with the approval of the Minister, issue to any applicant a buyer's licence granting to such applicant the right to buy any class of tobacco, specified by the Board in such licence, to the exclusion of any other licensed buyer.

(b) An exclusive licence issued under paragraph (a) may be confined by its terms to any specific area specified therein by the Board.

45. Any applicant who is aggrieved by the refusal of the Board to issue to him a buyer's licence, or by any condition attaching to such licence, shall be entitled to appeal to the Minister. Appeal to Minister

46. A buyer's licence issued under this Part shall contain the following particulars: Buyer's licence to specify particulars

- (a) the class or classes of tobacco which the buyer is licensed to buy;
- (b) the area or areas, as defined by the Permanent Secretary, in which the buyer is licensed to make his purchases;
- (c) any condition attaching to the said licence;
- (d) such other particulars as may be prescribed.

47. The Minister may by regulation prescribe the conditions under which tobacco may be bought by a licensed buyer at a primary or rural level and the conditions to which any resale of such tobacco shall be subject. Minister may prescribe conditions of sale at primary level

48. (1) The Board may cancel or suspend any buyer's licence issued under this Part if- Cancellation and suspension of buyer's licence

- (a) the licensed buyer had been convicted of an offence under this Act; or
- (b) having considered a report from an inspector or sales supervisor that the said licensed buyer has failed to comply with any condition or perform any duty imposed on him by or under this Act and, having afforded such licensed buyer an opportunity to be heard on any such report, the Board is satisfied that the said licensed buyer has failed to comply with such condition or to perform such duty, as the case may be.

(2) Any person whose licence has been cancelled or suspended under the provisions of subsection (1) shall not be eligible to hold a licence to buy tobacco for such period as the Board may fix at the time of cancellation or suspension of such licence.

(3) Any person whose buyer's licence has been cancelled or suspended by the Board under the provisions of subsection (1), or any nominated employee or agent of such person who buys tobacco while such licence is so cancelled or so suspended, shall be guilty of an offence.

49. (1) A person who is aggrieved by the cancellation by the Board of a buyer's licence issued to him may appeal to the Minister. Appeal to Minister

(2) No appeal shall lie to any court against the decision of the Minister on any appeal pursuant to subsection (1).

PART VIII LICENSING OF AUCTION FLOORSPART VIII

LICENSING OF AUCTION FLOORS

50. (1) Any person who uses or intends to use any premises as an auction floor for the sale of tobacco by auction shall apply to the Board in the form and manner prescribed for a licence of such premises as a licensed auction floor. Licensing of auction floors

(2) The Board shall, with the approval of the Minister, by rule prescribe minimum standards of suitability and sufficiency of premises for licensing under this Part.

(3) The Board may, with the approval of the Minister, by rule prescribe the form and manner of application for a licence under this Part and may, as it deems fit, prescribe, by rule, conditions and requirements in respect thereof and in respect of the operation and maintenance of auction floors licensed under this Part.

(4) The Board may refuse any application for an auction floor licence if it is of opinion that such auction floor is unnecessary or if it is of opinion that the applicant is not a fit or proper person to hold such licence, or that he is unable or unwilling to comply with any prescribed condition or requirement in respect of the operation or maintenance of licensed auction floors.

(5) Any premises operated and maintained by the Board as an auction floor for the sale of tobacco by auction shall be exempt from licensing under this Part, but shall be deemed to be a licensed auction floor for the purposes of this Act.

(6) The Board, with the approval of the Minister, may exempt, either generally or for a specified period of time, any premises from the provisions of this Part.

51. (1) Any person who is aggrieved by the refusal of the Board to grant his application for an auction floor licence under this Part may appeal to the Minister. Appeal to Minister

(2) No appeal shall lie to any court against the decision of the Minister on any appeal pursuant to subsection (1).

52. Any person being the owner or occupier of any premises who uses such premises or permits their use for the sale of auctionable tobacco- Prohibition against sale of auctionable tobacco on unlicensed auction floors

- (a) unless such premises are licensed as a licensed auction floor; or
- (b) while any auction floor licence issued in respect thereof is suspended; or
- (c) unless such premises are exempt from licensing as a licensed auction floor;

shall be guilty of an offence.

53. (1) The Board may cancel or suspend any auction floor licence issued under this Part if- Cancellation and suspension of auction floor licences

- (a) the holder of such licence has been convicted of an offence under this Act; or
- (b) having considered a report from an inspector or a sales supervisor that the said holder of such licence has-
 - (i) furnished any false information to the Board in any return made under and for the purposes of this Act; or
 - (ii) failed to comply with any condition or perform any duty imposed on him by or under this Act;

and having afforded such holder of such licence an opportunity to be heard on any such report, the Board is satisfied that the said holder of such licence has furnished such false information or has failed to comply with such condition or perform such duty, as the case may be.

(2) Any holder of an auction floor licence whose licence has been cancelled or suspended under the provisions of subsection (1) shall not be eligible to hold an auction floor licence for such period as the Board may fix at the time of the cancellation or suspension of such licence.

(3) Any person whose licence has been cancelled or suspended under the provisions of subsection (1) and who carries on the business of an auction floor while such licence is so cancelled or so suspended shall be guilty of an offence.

54. (1) Any person who is aggrieved by the cancellation or suspension of his auction floor licence by the Board may appeal to the Minister. Appeal to Minister

(2) No appeal shall lie to any court from the decision of the Minister on any appeal pursuant to subsection (1).

55. Any person, including the holder of an auction floor licence, who proposes to erect premises intended for use as an auction floor, or to extend or alter premises which include a licensed auction floor, shall apply to the Board in the manner prescribed, with the approval of the Minister, by rules by the Board, for a conditional authority to erect, extend or alter the said premises as proposed.

Conditional authorities for building or extending auction floors

56. The Board may issue a conditional authority referred to in section *fifty-five* to an applicant if the Board is satisfied that-

Issue of conditional authorities

- (a) having regard to the amount of auctionable tobacco which can be sold on existing licensed auction floors, it is desirable to license additional premises as auction floors; and
- (b) the premises to which the application relates will, when erected, extended or altered, as the case may be, be suitable for the sale of auctionable tobacco.

57. Upon the issue of any conditional authority pursuant to section *fifty-six*, the Board may impose conditions and requirements as to the building works proposed to be done under such conditional authority and may require that any plans for such proposed building works be approved by an architect nominated by the Board.

Conditions on issue of conditional authority

58. If, in the opinion of the Board, any building erected under any conditional authority issued pursuant to section *fifty-six* is in substantial conformity with the conditions and requirements imposed by the Board and with the plan, if any, approved by an architect pursuant to section *fifty-seven*, the Board shall issue an auction floor licence in respect thereof or extend the existing auction floor licence to include the said building in a licensed auction floor, as the case may be.

Licensing of improvements

PART IX SALE OF TOBACCO PART IX

SALE OF TOBACCO

59. The Minister may from time to time, by statutory instrument, prescribe-

Auctionable and non-auctionable tobacco

- (a) any class of tobacco as tobacco which is required to be sold on a licensed auction floor, which prescribed class of tobacco shall be auctionable tobacco; and
- (b) any class of tobacco which is not required to be sold by auction, which prescribed class of tobacco shall be non-auctionable tobacco;

which said prescribed classes of tobacco shall be tobacco for the purposes of this Act.

60. (1) Save as provided by subsection (2), any person who-

Prohibition against
sale of auctionable
tobacco otherwise
than by auction

- (a) sells auctionable tobacco otherwise than by auction on a licensed auction floor; or
- (b) buys auctionable tobacco otherwise than at an auction on a licensed auction floor;

shall be guilty of an offence.

(2) The provisions of subsection (1) shall not apply to-

- (a) any further sale or purchase of auctionable tobacco after it has been sold on a licensed auction floor; or
- (b) any sale of auctionable tobacco effected by the Board as agent of any registered grower pursuant to section *thirty-three*; or
- (c) any sale or purchase of auctionable tobacco as a trade sample or for use in research not exceeding two kilogrammes and three hundred grammes in weight; or
- (d) any sale of auctionable tobacco at a primary or rural level to a licensed buyer whose licence empowers him so to buy auctionable tobacco; or
- (e) any sale by the Board of auctionable tobacco purchased by the Board.

61. (1) Any person who sells or buys non-auctionable tobacco by auction shall be guilty of an offence.

Prohibition against
sale of
non-auctionable
tobacco by auction

(2) The provisions of subsection (1) shall not apply to-

- (a) any sale of non-auctionable tobacco effected by the Board as agent of any registered grower pursuant to section *thirty-three*;
- (b) any sale or purchase of non-auctionable tobacco as a trade sample or for use in research not exceeding two kilogrammes and three hundred grammes in weight;

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- (c) any export of non-auctionable tobacco on consignment;
- (d) any sale of non-auctionable tobacco at a primary or rural level to a licensed buyer whose licence empowers him so to buy non-auctionable tobacco; or
- (e) any sale by the Board of non-auctionable tobacco purchased by the Board.

62. The holder of an auction floor licence shall not sell or permit the sale on his auction floor of auctionable tobacco which was grown in the Republic unless the said tobacco was grown and is delivered to him by or on behalf of a registered grower.

Auctionable tobacco to be delivered to auction floor by registered grower

63. Any registered grower who delivers or causes to be delivered to a licensed auction floor auctionable tobacco in excess of the delivery quota fixed for him by the Board shall not, for such period as the Board may fix-

Delivery in excess of delivery quota

- (a) deliver or cause to be delivered auctionable tobacco to a licensed auction floor for sale; or
- (b) export auctionable tobacco.

64. (1) Save as provided by this section, no person may import for sale in the Republic auctionable tobacco not grown in the Republic.

Import of auctionable tobacco for sale in Republic

(2) The Minister may from time to time, subject to any conditions he may deem necessary, by regulation prescribe that any specified class of auctionable tobacco not grown in the Republic may be imported for purposes of sale on licensed auction floors.

(3) The Board may issue to holders of auction floor licences permits to accept for sale, sell or permit the sale of auctionable tobacco imported into the Republic under any regulation made pursuant to subsection (2).

(4) Any person who imports auctionable tobacco not grown in the Republic in contravention of this section or of any regulation made thereunder shall be guilty of an offence.

(5) Any person who accepts for sale, sells or permits the sale of imported auctionable tobacco not grown in the Republic without a permit from the Board pursuant to subsection (3) shall be guilty of an offence.

65. (1) Immediately before auctionable tobacco which was not grown in the Republic is auctioned on a licensed auction floor, the holder of the auction floor licence or his agent shall cause to be publicly announced on the said auction floor the name of the country within which the tobacco was grown.

Duties of auction floor licensee on sale of imported auctionable tobacco

(2) Tobacco referred to in subsection (1) which is auctioned on a licensed auction floor-

- (a) shall be auctioned in lots separate and apart from auctionable tobacco which was grown within the Republic; and
- (b) shall not be purchased for the internal market without the authority in writing of the Minister.

(3) Any person who fails to comply with, or contravenes, any provision of this section shall be guilty of an offence.

66. (1) Any registered grower who has, under a permit from the Board, held any auctionable tobacco over from any selling season, may deliver the said tobacco to an auction floor for sale in any later selling season if he is the holder of a certificate in the form prescribed, issued by an inspector appointed pursuant to section *twenty-two* of the Plant Pests and Diseases Act to the effect that-

Sale of auctionable tobacco grown in earlier season
Cap. 233

- (a) the tobacco has been fumigated in the manner prescribed; and
- (b) the tobacco or a representative sample thereof has been inspected as prescribed and no evidence of the presence of any living pest of tobacco has been found therein;

and which certificate has been issued not more than thirty days before the said tobacco is delivered to the said licensed auction floor.

(2) Immediately before any auctionable tobacco, which has been delivered to an auction floor pursuant to subsection (1), is auctioned on such auction floor, the sales supervisor on the said auction floor shall publicly announce the year of the growth of the said tobacco and that the certificate required by subsection (1) has been issued in respect thereof.

67. Any person who sells, or permits the sale of, auctionable tobacco on any licensed auction floor-

Auctionable tobacco to be sold only on sales days in the selling season, etc.

- (a) on any day which is not a fixed day in any selling season fixed by the Board; or
- (b) at any hour of any day in the selling season which is not an hour fixed by the Board; or
- (c) on any day or at any hour of any day in any selling season which is not fixed by the Board for the sale of auctionable tobacco of that class; or
- (d) at any time in any selling season during which the Board or a sales supervisor has prohibited sales on such auction floor;

shall be guilty of an offence.

68. (1) Every buyer of auctionable tobacco on a licensed auction floor shall pay the purchase price of the tobacco to the holder of the auction floor licence on whose auction floor the tobacco is sold.

Deductions from purchase price of auctionable tobacco

(2) The holder of an auction floor licence, after deducting from the purchase price such charges and deductions as he is authorised to deduct by or under this Act or any other written law, shall pay the balance of the said purchase price to the seller or his agent thereunto authorised in writing.

69. (1) The holder of an auction floor licence-

Weighing, selling and commission charges of holders of auction floor licences

(a) may make-

- (i) such weighing charges in respect of auctionable tobacco which is accepted by him for sale on his auction floor; and
- (ii) such selling, commission and re-handling charges in respect of auctionable tobacco which is sold on his auction floor;

as the Board may, with the approval of the Minister, authorise him to make and he may deduct such charges from the purchase price;

(b) shall not make-

- (i) any weighing, selling, commission or re-handling charges greater than the appropriate charges referred to in paragraph (a); or
- (ii) any charges other than the weighing, selling, commission or re-handling charges referred to in paragraph (a).

(2) After completion of sales on his auction floor in any selling season fixed by the Board, the holder of an auction floor licence may grant to registered growers such rebates of any of the charges referred to in paragraph (a) of subsection (1) as he may think fit.

70. (1) The Board may give notice to an owner or to a registered grower representing the owner of auctionable tobacco which remains unsold on a licensed auction floor after the last day of the selling season to remove the tobacco from the said licensed auction floor within a period fixed by the Board.

Disposal of auctionable tobacco which is left unsold

(2) Any owner or any registered grower representing an owner of tobacco referred to in subsection (1) to whom notice has been given pursuant to that subsection, who fails to remove the tobacco within a period fixed by the Board in the notice, shall be guilty of an offence.

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(3) The Board or the holder of the auction floor licence may, after the expiry of the notice referred to in subsection (1), cause any such tobacco to be returned to the owner thereof, or his agent, at the said owner's expense, and the costs and charges of delivery of the said tobacco to the said owner, or his agent, shall constitute a civil debt to the Board or to the holder of the auction floor licence, as the case may be.

71. The Board shall appoint sales supervisors for the supervision of sales of tobacco on licensed auction floors. Appointment of sales supervisors

72. (1) A sales supervisor shall- Duties and powers of sales supervisors

- (a) attend all sales of auctionable tobacco held on the licensed auction floor to which he is assigned by the Board;
- (b) control and regulate all such sales of auctionable tobacco on the licensed auction floor to which he is assigned, in accordance with instructions supplied to him by the Board;
- (c) if, in his opinion, compliance is not being made with the provisions of this Act relating to the sale of auctionable tobacco, suspend or prohibit the sale for such period as he may fix, and for that purpose give such directions to the holder of the auction floor licence or his agents as the circumstances may require.

(2) The Board shall furnish-

- (a) sales supervisors with instructions in writing relating to their powers to control, regulate, suspend or prohibit sales of auctionable tobacco on licensed auction floors; and
- (b) holders of auction floor licences with copies of all such instructions referred to in paragraph (a) and of any alterations thereto made by the Board from time to time.

73. The Minister may, at the request of the Board, prescribe the manner of sale of any class of non-auctionable tobacco and the periods within which such tobacco may be sold. d. Power of Minister to control sales of non-auctionable tobacco

74. (1) Subject to the provisions of subsection (3), the Minister may, at any time, after consulting with the Board, by Gazette notice, fix minimum prices at which auctionable tobacco may be sold for the internal or external markets, or both. Power of Minister to fix minimum prices for auctionable tobacco

(2) In the exercise of the powers conferred upon him by subsection (1), the Minister may fix different minimum prices in respect of different markets and in respect of different classes and grades of classes of auctionable tobacco.

(3) The minimum price for auctionable tobacco fixed by the Minister at any one time pursuant to subsection (1) shall be for the duration of one selling season only and the Minister shall not vary the same during such selling season.

(4) If the Minister does not fix a minimum price for a class or grade of auctionable tobacco pursuant to subsection (1), the minimum price of that class or grade shall be one hundred kwacha per half kilogramme weight.

75 Licensed buyers shall-

- (a) purchase auctionable tobacco only at or above the appropriate minimum price fixed for the purpose of the market in respect of which the purchase is made; and
- (b) if the Minister has, pursuant to subsection (1) of section *seventy-four*, fixed a minimum price for the internal market or any external market, declare at the time of the purchase the market for the purposes of which the said tobacco is purchased.

Duties of licensed buyers on purchase of auctionable tobacco

76. (1) Save as provided by subsection (2), if any person buys auctionable tobacco for the purposes of any external market at a price less than the internal market minimum price fixed for such tobacco pursuant to subsection (1) of section *seventy-four*, he shall not resell the said tobacco in the Republic for the purposes of the internal market.

Prohibition against resale of auctionable tobacco bought at less than internal market minimum price

(2) If the Minister is satisfied that auctionable tobacco, bought in the Republic at a price less than the appropriate internal market minimum price fixed therefor, pursuant to subsection (1) of section *seventy-four*, will be-

- (a) manufactured in the Republic by cutting at four cuts or more to three centimetres; and
- (b) exported from and sold outside the Republic;

the Minister may, on the recommendation of the Board, issue a permit authorising, subject to such conditions as he may prescribe, the resale of the said tobacco at less than the said appropriate internal market minimum price.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

77. Any person who, without the authority in writing of the Minister-

- (a) manufactures auctionable tobacco whether for sale as manufactured tobacco or otherwise; or
- (b) keeps auctionable tobacco in his possession or under his control for the purposes of manufacture and sale whether as manufactured tobacco or otherwise;

Prohibition against manufacture or keeping of auctionable tobacco not sold on licensed auction floors

unless the said tobacco was initially purchased on a licensed auction floor, shall be guilty of an offence.

PART X MARKETING QUOTAS AND POOLS

MARKETING: QUOTAS AND POOLS

78. If, in the opinion of the Minister, the quantity of tobacco of a particular class or grade which is being produced or is likely to be produced in the Republic for sale will exceed the requirements of the internal and external markets, the Minister may, after consulting with the Board-

Control of marketing of tobacco of specified class or grade

- (a) prescribe the total weight of that class or grade of tobacco which may be sold in the Republic or exported on consignment by registered growers during a specified period, and may make such provision as he may deem necessary or convenient to ensure that the total weight of such tobacco which is sold in the Republic or exported on consignment by registered growers during the specified period does not exceed the amount prescribed;
- (b) for the purposes of paragraph (a), prescribe the manner in which the Board shall determine the weight of such tobacco which any registered grower of that class or grade of tobacco may offer for sale in the Republic or for export on consignment in the specified period, and the weight so determined shall be the marketing quota of such registered grower for the purposes of this Part.

79. Any certificate issued by the secretary to the Board setting forth the amount of any marketing quota of any registered grower shall upon its production in any court be *prima facie* evidence of the amount of such marketing quota.

Evidence of amount of marketing quotas

80. (1) If, at any time, the Board deems it expedient it may, with the approval of the Minister, establish centres within the Republic where surplus tobacco shall be sent by registered growers when so instructed by the Board, and shall be there accumulated for disposal by the Board.

Establishment of pools

(2) For the purposes of this Part, such centres shall be known as pools.

(3) The Minister may from time to time prescribe for the operation, maintenance and administration of pools established pursuant to subsection (1), and for the manner of sale or other disposal of any tobacco accumulated in any such pool.

81. (1) Notwithstanding the establishment and operation of any pool pursuant to section *eighty*, the Board may at any time accept surplus tobacco from registered growers, otherwise than through the medium of such pool, for sale in such manner and on such terms as the Board may deem expedient.

Power of Board to dispose of surplus tobacco otherwise than through pools

(2) Any surplus tobacco accepted by the Board pursuant to subsection (1) shall, in the first instance, be offered by the Board for sale to licensed buyers.

82. Any grower who sells or exports on consignment surplus tobacco of which he is the grower otherwise than-

Prohibition against sale or export of surplus tobacco by grower except through Board

(a) through a pool established pursuant to section *eighty*; or

(b) in pursuance of any arrangement made by the Board for the disposal of surplus tobacco pursuant to section *eighty-one*;

shall be guilty of an offence.

PART XI PRESCRIBED VARIETIES OF TOBACCO PART XI

PRESCRIBED VARIETIES OF TOBACCO

83. (1) The Minister may from time to time, after consultation with the Board, by regulation prescribe any specific variety of tobacco within any prescribed class of tobacco to be tobacco to which this Part shall apply, and may from time to time, after consultation with the Board, by regulation revoke any such regulation.

Power of Minister to prescribe varieties of tobacco

(2) In this Part, "prescribed variety" means any variety of tobacco which is, by virtue of a regulation made by the Minister under this section, for the time being, a prescribed variety for the purposes of this Act.

(3) The Minister may, after consultation with the Board, authorise, subject to such conditions as he deems fit to impose, the growing or the delivery or acceptance for sale, or the sale of tobacco of a variety which is not a variety prescribed pursuant to subsection (1).

84. (1) Any person who grows or sells tobacco not of a prescribed variety shall be guilty of an offence.

Prohibition against growing or selling tobacco not of prescribed variety

(2) Any person who grows or sells a varietal sport of any prescribed variety of tobacco, unless such varietal sport has itself been prescribed as a prescribed variety by the Minister pursuant to subsection (1) of section *eighty-three*, or authorised pursuant to subsection (3) of section *eighty-three*, shall be guilty of an offence. In this subsection, "varietal sport" means any plant which varies singularly and spontaneously from the normal type of plant of the variety in which it appears.

(3) Upon the conviction of any person of an offence under this section, the court may, at the request of the prosecution and in addition to any other penalty imposed, declare any such tobacco not of a prescribed variety, or any such varietal sport, found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

PART XII EXPORT OF TOBACCO

EXPORT OF TOBACCO

85. (1) Save as provided by subsections (3) and (4), any grower who exports tobacco from the Republic save in accordance with a permit issued by the Minister shall be guilty of an offence.

Prohibition against export of tobacco by grower

(2) Any permit to any grower to export tobacco shall be subject to such conditions as the Minister may deem fit to impose.

(3) The Minister may, at any time, after consultation with the Board, and subject to such conditions as he may deem fit to impose, prescribe for the exemption of any grower or class of growers or any class of tobacco from the provisions of subsection (1).

(4) Nothing contained in this section shall apply to or operate to prevent the *bona fide* export of a sample of tobacco by any grower when such sample does not exceed two kilogrammes and three hundred grammes in weight.

86. Subject to the provisions of sections *eighty-five*, *eighty-eight* and *eight-nine*, any person other than a grower or a licensed buyer who exports tobacco from the Republic save in accordance with a permit so to do issued pursuant to section *eight-seven* shall be guilty of an offence.

Prohibition against export of tobacco

87. (1) The Minister may, subject to such conditions as he deems fit to impose, permit any person to export tobacco from the Republic.

Power of Minister to permit export

(2) Any permit issued by the Minister pursuant to subsection (1) shall be in writing.

88. (1) The Minister may, after consultation with the Board, by statutory instrument exempt any person or class of persons or any class of tobacco from the provisions of this Part. Power of Minister to grant exemption from this Part

(2) Any exemption granted pursuant to subsection (1) may be subject to such conditions as the Minister may deem fit to impose.

89. Nothing contained in this Part shall apply to, or operate to prevent, the *bona fide* export of a sample of tobacco by any person, when such sample does not exceed two kilogrammes and three hundred grammes in weight. Export of sample

PART XIII MISCELLANEOUS AND OFFENCESPART XIII

MISCELLANEOUS AND OFFENCES

90. Any licence issued by the Board pursuant to this Act shall not be valid after the 31st December in the year in respect of which the licence is issued. Period of validity of licences issued by Board

91. Any certificate, licence, permit or authority issued under this Act shall be produced by the holder thereof for inspection by any inspector, or other person thereunto duly authorised in writing by the Board. Official documents to be produced to inspector

92. Any person who contravenes or fails to comply with any of the provisions of this Act, or with any regulation, rule, requirement or condition lawfully prescribed, made or imposed thereunder, shall be guilty of an offence. Failure to comply with Act, regulations or rules an offence

93. If any person-

- (a) being a person employed for the purposes of this Act, publishes or communicates without lawful authority to any other person any information acquired by him in the course of his employment; or
- (b) being in possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person;

Secrecy

he shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding fifteen thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(As amended by Act No. 13 of 1994)

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94. Any person who, without lawful authority, alters, defaces or removes-

- (a) any register, index or other such official record maintained in pursuance of this Act or of any order, requirement, regulation or rule made thereunder; or
- (b) any entry appearing in any such register, index or other such official record;

shall be guilty of an offence.

Prohibition against altering, defacing or removing official records

95. Any person who, without lawful authority, alters or defaces any certificate, licence, return, record or other document prescribed, issued, furnished or kept pursuant to this Act or to any order, requirement, rule or regulation made thereunder shall be guilty of an offence.

Prohibition against altering or defacing prescribed records

96. (1) Any person who-

Prohibition against obstruction, etc., of inspectors or sales supervisors

- (a) obstructs or impedes an inspector or a sales supervisor or a duly appointed person, in the exercise of any of the powers conferred upon him by or under this Act; or
- (b) refuses to furnish to an inspector or a sales supervisor or a duly appointed person, on request, any particulars or information to which the said inspector, sales supervisor or duly appointed person is entitled by or under this Act; or
- (c) wilfully or recklessly gives to an inspector or a sales supervisor or a duly appointed person, any false or misleading particular or information with respect to any fact or particular to which the said inspector, sales supervisor or duly appointed person is entitled by or under this Act;

shall be guilty of an offence.

(2) For the purposes of this section, "duly appointed person" means any person to whom duties in connection with the administration of this Act are delegated by the Minister or the Board pursuant to this Act or to any regulation or rule made thereunder.

97. Any person who, being a person required by or under this Act to furnish any return or information to the Minister or to the Board-

Prohibition against failure to furnish returns, etc.

- (a) fails to furnish such return or information as required; or
- (b) fails to furnish such return or information within the time prescribed therefor; or
- (c) with intent to mislead, furnishes a return or information which is false in any material particular;

shall be guilty of an offence.

PART XIV PROCEEDINGS AND PENALTY

PROCEEDINGS AND PENALTY

98. For the purposes of any proceedings for an offence against this Act, the offence may be treated as having been committed either at the place where it was actually committed or at the place where the person charged with the offence is, for the time being, resident, and the appropriate court shall have the power to hear and determine proceedings for any such offence accordingly.

Venue of proceedings
for offences

99. Save where otherwise expressly provided by this Act, any person who is convicted of an offence under this Act shall, in the case of a first such offence, be liable to a fine not exceeding four thousand penalty units or to imprisonment for a term not exceeding six months, or to both, and, in the case of a second or any subsequent offence, to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

Penalty

(As amended by Act No. 13 of 1994)

PART XV REGULATIONS

REGULATIONS

100. The Minister may, by statutory instrument, make regulations for the better carrying out of this Act and, without prejudice to the generality of the foregoing, such regulations may make provisions for-

Regulations

- (a) returns to be furnished to the Minister by registered growers, licensed buyers, licensed graders, holders of auction floor licences, and persons who handle, prepare or process tobacco for the purposes of sale or for export after its sale;
- (b) forms of registers to be kept by the Board;
- (c) forms of records of licenses, permits and authorities issued under and for the purposes of this Act;
- (d) anything that is to be prescribed by or under this Act, which is not expressed to be prescribed by rule by the Board;
- (e) periods of validity of licences, authorities and permits issued under and for the purposes of this Act;
- (f) fees payable upon application for licences, authorities and permits;
- (g) the hearing and determination of appeals to the Minister, and the fees payable upon any such appeal;
- (h) standards of suitability and fitness of buildings used by licensed graders for the purposes of grading tobacco;
- (i) methods of grading to be used by licensed graders in grading tobacco;
- (j) declaring certain organic or inorganic substances to be noxious and unfit for use in the treatment of tobacco;
- (k) prohibiting the sale or other disposal of tobacco which has been treated with any prescribed noxious substance, or which has been reaped from tobacco plants treated with any prescribed noxious substance;
- (l) requiring licensed buyers or persons who process or prepare tobacco for sale or export to disclose such information as the Minister may require with regard to the ownership, sale or export of any tobacco in the hands of such licensed buyers or other persons.

PART XVI TRANSITIONAL PROVISIONS

TRANSITIONAL PROVISIONS

101. Any licence, certificate, authority or permit issued or any registration registered or any application for registration made or any marketing quota determined under the provisions of the Tobacco Marketing and Levy Act, Chapter A.L. 13 of the 1965 Edition of the Applied Laws, which immediately before the commencement of this Act was of, or was capable of, acquiring force or effect, shall, subject to the provisions of this Act, continue to have or to acquire force or effect, as the case may be, and shall on and after such commencement be deemed to have been issued, registered, made or determined under this Act.

Savings

102. Upon the commencement of this Act, the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall be dissolved and shall cease to exist for all purposes except for the purposes of performing any act or executing any document necessary to implement any of the provisions of this Part, and for such purposes the Minister may, by order, nominate any person to perform any such act or to execute any such document on behalf of and in the name of the said dissolved Tobacco Industry Board and such act or document so performed or so executed by such person shall be deemed to be the act or document of the said dissolved Tobacco Industry Board.

Dissolution of Tobacco Industry Board

103. From the commencement of this Act and until such time as the Minister, pursuant to section *four*, appoints members of the Board established by section *three*, those persons who immediately before the commencement of this Act were members of the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall be deemed to be and shall constitute the membership of the Board established under this Act and shall, during the said period, exercise all of the powers and functions of such members as if they had been appointed to the Board pursuant to section *four*.

Composition of Board pending appointment of members

104. Upon the commencement of this Act, all property real or personal and all rights over property, and liabilities arising out of the ownership, possession or occupation of property of any kind and all liabilities in tort, which were subsisting immediately prior to such commencement and were vested in, held, enjoyed or incurred by the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall by virtue of this section be transferred to and vested in the Board established pursuant to section *three*.

Vesting of property in Board

105. Upon the commencement of this Act, the benefit of all deeds, contracts, bonds, securities, or things in action, which were subsisting immediately prior to such commencement and were vested in the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall by virtue of this section be transferred to and vested in and shall inure to the benefit of the Board in the same manner as if the Board had been contracted with instead of the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act, and as if the Board had been party to all such deeds, contracts, bonds, or securities instead of the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act.

Transfer of contractual rights to Board

106. Upon the commencement of this Act, all subsisting or future liabilities or obligations arising out of any deed, contract, bond, security or thing in action imposed upon, suffered or incurred by the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, shall by virtue of this section be transferred to, imposed upon, suffered and incurred by the Board in the same manner as if the Board had been party to each such deed, contract, bond, or other security instead of the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act and in the same manner as if the Board at all times had been the party bound or obliged by or under each such thing in action instead of the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act.

Transfer of contractual and other liabilities to Board

107. In the case of property transferred to and vested in the Board under the provisions of this Part, in respect of the transfer of which any written law provides for registration, it shall be the duty of the Board, within six months from the commencement of this Act, to make written application to the proper officer of the appropriate registration authority for the registration of each such transfer and it shall be the duty of that officer to make such entries in the appropriate register as shall give effect to such transfer and, where appropriate, to issue to the Board a Certificate of Title in respect of the said property or to make the necessary amendments to the register, as the case may be, and, if presented therefor, to make endorsements on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp or other duties shall be payable in respect thereof.

Registration upon
transfer of registered
lands or interests

108. Where, upon the commencement of this Act, any legal proceeding is pending to which the Tobacco Industry Board established pursuant to section *three* of the Tobacco Industry Board (Establishment) Act, Chapter 110 of the 1964 Edition of the Laws, is a party, the Board established pursuant to section *three* of this Act shall be substituted in such proceeding for the said Tobacco Industry Board established pursuant to the said Tobacco Industry Board (Establishment) Act, and such proceeding shall not abate by reason of such substitution.

Proceedings not to
abate

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SCHEDULE

(Section 15)

POWERS OF THE TOBACCO BOARD OF ZAMBIA

1. To acquire any property necessary or convenient for the exercise of its functions and the performance of its duties and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire real and personal property and any interest therein and any rights and privileges over the same and any concessions, grants, rights, powers and privileges in respect thereof, and in particular any lands, buildings, easements, machinery, plant and stock in trade.

2. To maintain, alter or improve property acquired by it.

3. To mortgage any assets or part of any assets and, with the approval of the Minister, to sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions or the performance of its duties for such consideration as it may determine.

Provided that any such last mentioned assets which exceed two thousand kwacha in value shall not be so dealt with without the approval of the Minister.

(As amended by Act No. 46 of 1970)

The Laws of Zambia

4. To own, maintain and operate tobacco auction floors and tobacco packing plants, and, in its discretion, to grant licences or concessions to third persons to use the said tobacco auction floors or tobacco packing plants in and about the sale or packing of tobacco; and to subsidise the operating or capital costs of persons to whom the Board has granted licences or concessions under this power, and to own, maintain and operate any other service or services in connection with tobacco if it should be, in the opinion of the Minister, in the best interests of the tobacco industry of the Republic for the Board so to do.

5. To produce tobacco or tobacco seed whenever and as often as the Board is of the opinion that it is in the best interests of the tobacco industry of the Republic so to do.

6. To draw, make, accept, endorse, discount, execute and issue for the purpose of its functions or duties promissory notes, bills of exchange, bills of lading, securities and other negotiable and transferable instruments.

7. To insure against losses, damages, risks and liabilities which it may incur.

8. With the approval of the Minister, to make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions or the performance of its duties and to modify or rescind such contracts or to modify or rescind such suretyships or guarantees.

9. (a) To raise moneys temporarily or otherwise by such means and for such purposes as the Minister may approve.

(b) To invest any of its moneys not immediately required by it in such manner as it, with the approval of the Minister in consultation with the Minister responsible for finance, may determine and to vary or realise investments so made.

10. With the approval of the Minister, to enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the exercise of its functions or the performance of its duties or any of them and to obtain from such government or authority rights, privileges and concessions which it thinks desirable to obtain; and to carry out, exercise and comply with such arrangements, rights, privileges and concessions.

11. To delegate to sales supervisors such powers and duties as the Board may deem fit.

12. To appoint such professional, technical and other officers, secretaries, accountants, clerks and such servants as may be necessary for the exercise of its functions and the performance of its duties.

13. To pay such remuneration and allowances and grant such leaves of absence and, with the approval of the Minister, to make such gifts, bonuses and other lump sum payments or gratuities to persons in its employ as it may deem fit.

14. To provide pecuniary benefits for persons in its employ on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury, and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for persons in its employ and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.

15. Generally to do all such things as are incidental or conducive to the exercise of the functions and powers or the performance of the duties vested in or conferred or imposed upon it by this Act.

16. To buy tobacco if, in the opinion of the Minister, such course would serve the best interests of the industry and to sell or otherwise dispose of any such tobacco bought by the Board under this power.

17. To do all things which are necessary in the opinion of the Board to promote, protect and maintain the sale of tobacco grown in the Republic, having regard to buyers and trade interests and the stability of the market.

18. To prescribe, with the approval of the Minister, by rules, the returns and forms of returns to be furnished to the Board by registered growers and persons who handle, prepare or process tobacco for sale or for export after its sale.

19. To prescribe, by rules, the fees, approved by the Minister, which shall be paid to the Board in connection with applications for registration or for the issue of authorities, licences and permits.

20. To fix a date in each selling season fixed by the Board on which the Board deems it expedient to begin controlling and to control the rate of delivery of auctionable tobacco for sale on auction floors licensed by the Board, and to fix delivery quota periods from and after that date, and further to determine delivery quotas applicable to each such delivery quota period.

21. To fix a date in each selling season fixed by the Board on which the Board deems it expedient to stop controlling the rate of delivery of auctionable tobacco for sale on auction floors licensed by the Board.

22. To give directions to and prescribe, with the approval of the Minister, by rules, the duties of licensed graders in connection with-

(a) the methods of handling and storing tobacco from the time tobacco is received for grading to the time tobacco is despatched after grading; and

(b) the grading of tobacco; and

(c) the processes to be employed in conditioning or treating tobacco; and

(d) the supervision to be exercised over the handling, grading, storing or despatch of tobacco; and

(e) the manner in which tobacco is to be despatched after it has been graded.

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44. To lease or sub-lease land, or to grant rights of occupancy of lands held by the Board to persons for the purpose of the production of tobacco or other ancillary crops, and to impose conditions of use and occupancy upon any such leases or occupiers.

(As amended by Act No. 46 of 1970)

45. To lend money to any officer or employee of the Board for the purchase of a motor vehicle, a refrigerator or house furniture, or for the purchase of a residential property, or for the construction of a dwelling house on a residential property, or for the improvement of a residential property, or for the discharge of existing liabilities on a residential property.

(As amended by Act No. 46 of 1970)

46. Subject to the directions and with the written authority of the Minister, to act as agent of the Government of Zambia in any matter, or for any purpose, directly or indirectly affecting the tobacco industry.

(As amended by Act No. 46 of 1970)

47. With the approval of the Minister, to establish and operate institutions for the training of persons in the production and marketing of tobacco and in the running of tobacco farms, auction floors or other activity ancillary to the production and marketing of tobacco.

(As amended by Act No. 46 of 1970)

48. To train persons, and to establish and run training courses in the production and marketing of tobacco and in any other activity the Board deems necessary to, and beneficial to, the tobacco industry generally.

(As amended by Act No. 46 of 1970)

49. To appoint and remunerate managing agents, visiting agents and technical and other consultants which the Board deems necessary for the better exercise of the functions and powers conferred upon it by or under this Act.

(As amended by Act No. 46 of 1970)

SUBSIDIARY LEGISLATION

CHAPTER 237

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

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PRELIMINARY

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RETURNS BY REGISTERED GROWERS

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LICENSING OF GRADERS

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LICENSING OF BUYERS

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PART V
LICENSING OF AUCTION FLOORS

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MARKING OF BALES FOR SALE

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PACKING OF TOBACCO FOR SALE

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SECTION 15 AND PARAGRAPHS 18, 19, 22-24, 29, 31, 33-37
AND 40-42 OF THE SCHEDULE-
THE TOBACCO (MARKETING AND LICENSING) RULES

*Rules by the Tobacco Board of Zambia,
with the approval of the Minister*

*Statutory Instruments
142 of 1968
353 of 1969
70 of 1992 Act No. 13
of 1994*

PART I PRELIMINARY PART I

PRELIMINARY

1. These Rules may be cited as the Tobacco (Marketing and Licensing) Rules. Title
2. In these Rules, unless the context otherwise requires- Interpretation

"arbitrator" means a classifier, sales supervisor or a buyer nominated by a sales supervisor and acceptable to the aggrieved buyer;

"auction floor" means premises licensed by the Board for the sale of tobacco by auction, and includes such part of the premises as may be allotted for storage of tobacco;

"auctionable tobacco" means tobacco of a class prescribed as such by the Minister pursuant to section *fifty-nine* of the Act;

"bale" means a bale of tobacco;

"bale ticket" means the coupon attached to a bale by the holder of an auction floor licence for the purpose of recording thereon the details of sale;

"buyer" shall have the meaning ascribed to it in section *two* of the Act;

"catalogue" means the number of bales to be determined from time to time by the Board, contained in a written record compiled by a holder of an auction floor licence, by floor lot numbers for the purpose of conducting a sale of tobacco by mechanical auction as provided by rule 67;

"classifier" means an official of the Board authorised by the Board to classify tobacco;

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"completion" means, in relation to the sale of a bale by auction, the removal of a copy of the bale ticket from the bale for recording purposes by a person authorised for this purpose by the holder of an auction floor licence, and cognate expressions shall be construed accordingly;

"crossing" means cancelling the sale of a bale sold by auction by drawing a cross on the bale ticket pursuant to rule 49, and cognate expressions shall be construed accordingly;

"delivery quota" means the quantity of auctionable tobacco determined by the Board pursuant to paragraph 20 of the Schedule to the Act which may be delivered by or on behalf of a registered grower for sale on any licensed auction floor in each delivery quota period;

"delivery quota period" means any period fixed by the Board pursuant to paragraph 20 of the Schedule to the Act during which delivery quotas may be delivered by or on behalf of registered growers to licensed auction floors;

"employee" means an employee of a licensed buyer;

"floor lot number" means the number allocated to a bale by a holder of an auction floor licence for the purpose of identification during a sale by mechanical auction;

"form" means the appropriate form prescribed in the Schedule;

"funked tobacco" means tobacco which, while appearing to be sound, has in the opinion of an arbitrator an aroma indicating that the tobacco has been or is about to become mouldy;

"grower" means a person registered as a grower or any person deemed to be a grower pursuant to section *twenty-six* of the Act;

"house account" means the house account of the holder of an auction floor licence;

"licensed auction floor" means any auction floor licensed by the Board pursuant to Part VIII of the Act;

"licensed buyer" means any person licensed by the Board to buy tobacco pursuant to Part VII of the Act;

"licensed grader" means any person licensed by the Board to grade tobacco pursuant to Part VI of the Act;

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"loose leaf" means sound leaf tobacco which is packed without being tied into hands;

"lot number" means the identification number of a seller's bale;

"mechanical auction" means the sale by auction of tobacco by the employment of machinery whereby the buyer records his bid by mechanical means;

"nesting" means the packing of tobacco into bales in such a manner as to deceive a buyer about the nature or quality of the contents as a whole, and cognate expressions shall be construed accordingly;

"non-auctionable tobacco" means any class of tobacco prescribed as such by the Minister pursuant to section *fifty-nine* of the Act;

"no-sale bale" means a bale for which no bid has been made at a sale by auction;

"primary or rural level" means the sale of tobacco by an individual producer or group of producers to a licensed buyer where it is intended that the said tobacco shall later be offered for sale to the trade by the buyer, whether as auctionable or non-auctionable tobacco, as the case may be;

"registered number" means a number allotted by the Registrar of a sales supervisor, as the case may be, pursuant to the provisions of section *twenty-eight* of the Act, and shall include a number allotted for the purpose of resale of auctionable tobacco;

"sales floor" means that portion of an auction floor allotted for the sale of tobacco by auction and excludes any area or areas allotted for storage of tobacco;

"sales supervisor" means a person appointed by the Board, under the provisions of section *seventy-one* of the Act, to supervise the sale of tobacco by auction on a licensed auction floor;

"seller" means a person or his agent who sells or offers for sale tobacco;

"selling season" means the period in any year fixed by the Board when tobacco may be sold;

"split bale" means a bale containing two but not more than two grades of tobacco;

"starter" means a person authorised by the holder of an auction floor licence to place an approximate value on tobacco offered for sale by auction;

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"ticket marker" means a person authorised by the holder of an auction floor licence to record on a bale ticket the details of sale of a bale of tobacco sold by auction;

"tobacco" means unmanufactured tobacco of a class prescribed by the Minister pursuant to section *fifty-nine* of the Act.

PART II RETURNS BY REGISTERED GROWERSPART II

RETURNS BY REGISTERED GROWERS

3. (1) Every grower, other than a person deemed to be a grower solely by virtue of the provisions of subsection (6) or (7) of section *twenty-six* of the Act, shall- Crop forecast returns

(a) before the 31st March in any selling season furnish to the Board a preliminary return in writing in Form 1 stating- Form 1

- (i) the total number of acres of tobacco planted by him;
- (ii) the quantity of tobacco which he estimates will be sold by him or on his behalf in that selling season;

(b) on or after the 15th May and before the 1st June in each selling season, furnish to the Board a further return in writing in Form 2 stating- Form 2

- (i) the total number of acres of tobacco planted by him;
- (ii) the quantity of tobacco which he expects will be sold by him or on his behalf in that selling season.

(2) If at any time before the end of a selling season a grower finds that the quantity of tobacco which he then estimates will be sold by him or on his behalf in that selling season will exceed or fall short of the estimated quantity contained in a return made by him in terms of sub-rule (1), he shall immediately inform the Board in writing of his revised estimate.

(3) The requirements of paragraph (a) of sub-rule (1) as regards the estimate of the quantity of tobacco which will be sold by or on behalf of any grower during any selling season shall be deemed to be substantially complied with, unless the last estimate thereof furnished by the said grower-

(a) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than fifteen per centum of such estimate; or

(b) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty-five per centum of such estimate.

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(4) The requirements of paragraph (b) of sub-rule (1) as regards the estimate of the quantity of tobacco which will be sold by or on behalf of any grower during any selling season shall be deemed to be substantially complied with, unless the last estimate thereof furnished by the said grower-

- (a) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than ten per centum of such estimate; or
- (b) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty per centum of such estimate.

(5) The requirements of sub-rule (2) as regards the estimate of the quantity of tobacco which will be sold by or on behalf of any grower during any selling season shall be deemed to be substantially complied with, unless the last estimate thereof furnished by the said grower-

- (a) if furnished before the 15th May-
 - (i) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than fifteen per centum of such estimate; or
 - (ii) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty-five per centum of such estimate;
- (b) if furnished on or after the 15th May-
 - (i) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than ten per centum of such estimate; or
 - (ii) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty per centum of such estimate.

PART III LICENSING OF GRADERSPART III

LICENSING OF GRADERS

4. (1) Application for the issue of a grader's licence shall be made to the Board in Form 3 and shall- Form and manner of application.

- (a) state the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, or, in the case of a partnership, the name of every partner; Form 3
- (b) state the name of the person who will supervise the grading;

- (c) in the case of an applicant who has not previously been licensed as a grader, be accompanied by-
 - (i) a plan showing the site;
 - (ii) a plan and elevations;
 - (iii) a plan and description of the humidification system of the buildings in which it is proposed to carry on the grading or to store tobacco;

- (d) in the case of an applicant who has previously been licensed as a grader, be accompanied by-
 - (i) where the structure of the building or buildings in which it is proposed to carry on the grading or to store tobacco has not been altered since the last licence was issued to such applicant authorising him to grade or store tobacco in such building or buildings, a statement that the structure thereof has not been altered; or
 - (ii) where the structure of the building or buildings in which it is proposed to carry on the grading or to store tobacco has been altered since the last licence was issued to such applicant authorising him to grade or store tobacco in such building or buildings, a plan showing the nature of such alterations;

- (e) be accompanied by a fee of two hundred fee units payable to the Board, which fee however shall be returned to the applicant in the event of his application being unsuccessful.

(2) Every person who makes application for a grader's licence shall, if the Board so requires, submit evidence-

- (a) as to his financial standing;

- (b) as to the efficient management, supervision and organisation of the proposed business of grading.

(As amended by S.I. No. 70 of 1992 and Act No. 13 of 1994)

5. No person shall carry on the business of a grader in premises unless-

Minimum standards of premises

- (a) they are of such design and construction as may be approved by an architect appointed for this purpose by the Board;

- (b) they are provided with storage space sufficient to permit the stacking of tobacco received for grading or awaiting despatch for sale without exceeding a height of eight feet above the level on which the bottom bale rests;

- (c) the floor surface of the grading shed, storage sheds and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, are composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco.

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6. (1) Immediately following receipt of tobacco consigned to him by a grower, a grader shall send to such grower a receipt in Form 4. Receipting of tobacco
Form 4

(2) If for any reason a grader is unable to weigh bales of tobacco received by him immediately after delivery to his premises, he shall complete that part of the receipt in Form 4 as indicates the number of bales received and within three working days thereof issue a further receipt giving the weights.

7. (1) Within seven days of receiving tobacco consigned to him by a grower, a grader shall examine not less than ten per centum of the bales in that consignment and send to the grower a report on the condition thereof. Reports on condition

(2) In the event that a grader fails to send to a grower the report referred to in sub-rule (1), the Board will assume that the tobacco in question was received by him in good condition.

8. Within ten days of completion of grading tobacco consigned to him by a grower for grading at any one time, a grader shall furnish the grower with a return in accordance with Form 5. Grading returns
Form 5

(No. 353 of 1969)

9. Copies of all receipts, reports and returns issued by a grader in terms of this Part shall at the same time be furnished to the Board. Copies of returns to
Board

(As amended by No. 353 of 1969)

10. In addition to any other duty imposed on him by or under these Rules or any other law, a grader shall- Duties of licensed
graders

- (a) effect at his own expense adequate insurance to cover any loss which might otherwise be sustained by a grower while such grower's tobacco is stored in the grader's premises or is being carried in transport by direction of such grader;
- (b) use all reasonable care in handling, storing grading and packing tobacco so as to prevent damage or loss due to breakage, contamination or other causes.

PART IV LICENSING OF BUYERSPART IV

LICENSING OF BUYERS

11. (1) An application for the issue of a licence to buy tobacco shall be made to the Board in Form 6 and shall state- Form and manner of
application for licence.

- (a) the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, and, in the case of a partnership, the name of every partner;
- (b) the names of all persons authorised to buy tobacco on behalf of the applicant;
- (c) the class or classes of tobacco which the applicant intends to buy;
- (d) the manner in which the applicant proposes to buy tobacco;
- (e) whether or not the applicant is a buyer solely by virtue of the ownership of land in respect of which he has agreed to permit a third person to produce tobacco on not more than ten acres of the said land in consideration of a share in the said tobacco when produced, or of a share of the proceeds of its sale, and if so the situation of such land;
- (f) whether or not the application is for the issue of an exclusive licence pursuant to subsection (4) of section *forty-four* of the Act, and if so the area in which the applicant wishes to buy tobacco.

(2) Where an applicant has not previously been licensed as a buyer and indicates, pursuant to paragraph (c) of sub-rule (1), that he intends to buy tobacco by auction, he shall attach to his application statements in writing from the holders of all auction floor licences indicating their willingness to do business with the applicant if he is licensed as a buyer.

(3) An application for a buyer's licence made pursuant to this rule shall be accompanied by a fee of five hundred United States Dollars payable to the Board, which fee shall however be returned by the Board to the applicant in the event of the application being unsuccessful.

(As amended by S.I. No. 70 of 1992)

12. The Board may refuse an application for the grant of a buyer's licence on any or all of the following grounds: Grounds for refusal

- (a) that it is not satisfied with the financial standing of the applicant;
- (b) that in its opinion-
 - (i) the grant of the licence would not be in the best interests of the industry or would detract from the orderly marketing or export of tobacco;

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- (ii) the applicant is not a fit and proper person to hold such licence;
- (c) that the Board has in respect of any particular class of tobacco granted an exclusive licence, or intends, with the approval of the Minister, to issue such exclusive licence to another applicant pursuant to subsection (4) of section *forty-four* of the Act.

13. Every buyer to whom a licence has been issued under this Part shall before the fifteenth day of every month submit to the Board a return in Form 7 of all tobacco purchased by him in the previous month.

Returns by buyers
Form 7

PART V LICENSING OF AUCTION FLOORS PART V

LICENSING OF AUCTION FLOORS

14. An application for the issue of an auction floor licence shall be made in Form 8 and shall-

Form and manner of
application for licence.
Form 8

- (a) state the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, and, in the case of a partnership, the name of every partner;
- (b) be accompanied by-
 - (i) in the case of an application relating to premises not previously licensed as an auction floor where the applicant has not obtained a conditional authority for the premises pursuant to rule 15, a plan showing the site of the premises in relation to road and rail facilities, and a plan and elevations of the premises;
 - (ii) in the case of an application relating to premises previously licensed as an auction floor, a statement giving details of any alteration in the use of the premises as an auction floor since the issue of the last licence for such auction floor;
 - (iii) a fee of eight hundred fee units payable to the Board, which fee however shall be returned by the Board to the applicant if the application is unsuccessful.

(As amended by S.I. No. 70 of 1992 and Act No. 13 of 1994)

15. (1) An application for a conditional authority to erect, alter or extend premises including a licensed auction floor for use as an auction floor, shall be made to the Board in Form 9 and shall-

Application for
conditional authority.
Form 9

- (a) state the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, and, in the case of a partnership, the name of every partner;

- (b) be accompanied-
- (i) in the case of an application relating to existing premises not previously licensed as an auction floor, or to premises which it is proposed to erect, a plan showing the site of the premises or proposed premises in relation to road and rail facilities and a plan and elevations of such premises or proposed premises;
 - (ii) in the case of an application to alter or extend premises licensed or previously licensed as an auction floor, a plan and elevations showing details of the extension or alterations to the structure thereof.

(2) Upon completion of the building works in respect of which a conditional authority has been granted, the applicant shall, notwithstanding the issue of such conditional authority, comply with the provisions of rule 14, provided however that where the conditional authority is for the alteration or extension of licensed premises, no further fee shall be payable during the period of validity of the licence in question.

16. Except where the Board may, with the approval of the Minister, have exempted any premises from the provisions of Part VIII of the Act, no auction floor licence shall be issued in respect of premises-

Minimum standards of premises

- (a) which do not comply with the following minimum requirements:
- (i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales floor;
 - (ii) the total area of platforms and verandahs capable of being used for the loading or off-loading of tobacco shall not be less than forty per centum of the area of the sales floor;
 - (iii) the natural roof lighting of the sales floor shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen per centum of the area of the sales floor;
 - (iv) the floor surface of the sales floor, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;
 - (v) there shall be in a position adjacent to or as part of the auction floor an area set aside for the re-handling of tobacco, which area shall be not less than seven per centum of the area of the sales floor, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board;
- (b) unless the design and construction thereof are such as may be approved by an architect appointed for this purpose by the Board.

- 17. (1)** Every holder of an auction floor licence shall submit to the Board in writing-
- Returns to be submitted
- (a) not later than noon on the next working day following any sale of tobacco on his floor, a return in Form 10 in respect of each class of tobacco sold on the previous day; Form 10
- (b) not later than Monday of each week, a return in Form 11 in respect of each class of tobacco sold on his auction floor during the week ended midnight on the previous Wednesday; Form 11
- (c) not more than thirty days after the date of the last sale of tobacco on his auction floor in any selling season, a return in Form 12 in respect of each class of tobacco sold thereon in such season. Form 12

(2) Whenever a holder of an auction floor licence becomes aware that information submitted by him in any return to the Board in terms of sub-rule (1) contains a material error, he shall forthwith notify the Board accordingly in writing, and as soon as possible thereafter submit an amended return.

- 18.** In addition to any other duty imposed on him by or under these Rules or any other law, the holder of an auction floor licence shall-
- Duties of holders of auction floor licences
- (a) use all reasonable care in handling, storing and despatching tobacco so as to prevent damage or loss due to breakage, contamination or other causes;
- (b) effect at his own expense insurance to cover loss of or damage to any seller's tobacco from time of receipt to completion of sale.

PART VI MARKING OF BALES FOR SALEPART VI

MARKING OF BALES FOR SALE

- 19.** The provisions of this Part shall not apply to tobacco offered for sale at a primary or rural level. Part VI not to apply to sales at primary or rural level

- 20. (1)** Subject to the provisions of this rule-
- Registered numbers
- (a) every seller of Virginia flue-cured tobacco shall mark his bales clearly on the outside of the wrapping material with his registered number in arabic numerals not less than eight centimetres in height and on not less than two sides and one end of each bale, and shall in addition mark above his registered number the letters "VZ" in the same dimensions;

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- (b) every seller of Burley tobacco shall mark his bales clearly on the outside of the wrapping material with his registered number in arabic numerals not less than eight centimetres in height and on not less than two sides and one end of each bale, and shall in addition mark above his registered number the letters "BUZ" in the same dimensions;
- (c) every seller of Oriental tobacco shall mark his bales clearly on the outside of the wrapping material with his registered number in arabic numerals not less than three centimetres and not more than eight centimetres in height and on not less than two sides, and shall in addition mark above his registered number the letters "TZ" in the same dimensions.

(2) In any selling season when the Board shall, in exercise of its powers under paragraph 16 of the Schedule to the Act, have declared its intention to buy tobacco and to do so by classification, it may direct that bales offered for sale shall be marked in such a manner that when the bale wrappings are opened the registered number shall not be visible to a classifier.

(3) For his own identification purposes, a seller, in addition to the registered number referred to in sub-rule (1), may mark his bales after and in the same place as his registered number with an alphabetical letter.

(4) The provisions of this rule shall not apply to any sale by the Board of any tobacco purchased by the Board, nor to any resale of tobacco by the holder of an auction floor licence pursuant to paragraph (b) of sub-rule (3) of rule 59.

21. (1) A seller shall securely attach to a bale offered for sale a bale label on which shall be clearly marked in arabic numerals the lot number of the bale, which lot number shall be exclusive to that bale and shall not be allocated to any other bale during the season.

Bale labels

(2) A seller may if he so wishes mark on the bale label a group number to indicate the order in which bales are to be offered for sale, in which case-

- (a) bales shall be numbered from one upwards for each consignment;
- (b) a numeral or numerals indicating the group number shall be positioned on the bale label above the lot number;
- (c) there shall be no limit to the number of groups in any one consignment;
- (d) no seller may mark his bale labels with group numbers in more than one colour.

(3) The provisions of sub-rule (1) shall not apply to the sale by the Board of any tobacco purchased by the Board.

22. (1) A grader shall securely attach to each bale delivered by him for sale a label bearing his name in printed letters which shall not be less than one centimetre in height. Labelling of bales by graders

(2) A seller or a grader may not deliver for sale a bale labelled so as to indicate that the tobacco has been graded by a grader unless the tobacco has been graded by the grader whose name is printed on the label.

23. Except with the permission of the Board in writing, and subject to the provisions of Part VIII, no seller or other person shall cause to be displayed on a bale offered for sale any marking, identification or other information nor in a manner other than is permitted under this Part: Prohibition of any other markings

Provided however that should he so wish a seller of a bale of Oriental tobacco may, in addition to his registered number, mark on the outside of the wrapping material the lot number of the bale.

PART VII PACKING OF TOBACCO FOR SALEPART VII

PACKING OF TOBACCO FOR SALE

24. The provisions of this Part shall not apply to tobacco offered for sale at a primary or rural level. Part VII not to apply to sales at primary or rural level

25. (1) Subject to the provisions of this rule, every seller of tobacco shall ensure that his tobacco is packed in bales- Wrapping and sewing materials

- (a) having in good condition an outer covering of hessian or such other material as may from time to time be approved by the Board;
- (b) having an inner covering of new or undamaged waterproof paper or such other material as may from time to time be approved by the Board;
- (c) properly sewn with twine in good condition not being made from sisal or jute, so that no single stitch shall exceed eight centimetres in length and no gap between stitches shall exceed eight centimetres in length and all stitches shall be locked on the ends of the bales near the corners.

(2) The provisions of paragraph (c) of sub-rule (1) shall not apply to the sellers of Oriental tobacco which tobacco shall however be offered for sale in bales laced with twine in such manner as the Board may from time to time direct.

26. (1) Subject to the provisions of this rule, a seller shall-

Weights and
dimensions of bales

- (a) pack his Virginia flue-cured tobacco in bales-
 - (i) weighing not less than twenty-three kilogrammes net nor more than one hundred and nine kilogrammes net;
 - (ii) having dimensions of eighty-six centimetres long, sixty-one centimetres high and not more than sixty-six centimetres wide;
- (b) pack his Burley tobacco in bales-
 - (i) weighing not less than nine kilogrammes net nor more than fifty-nine kilogrammes net;
 - (ii) having dimensions of eighty-six centimetres long, sixty-one centimetres high and not more than sixty-six centimetres wide;
- (c) pack his Oriental tobacco in bales-
 - (i) not exceeding twenty-three kilogrammes net in weight;
 - (ii) having dimensions of sixty-nine centimetres long, thirty-eight centimetres high and not more than fifty-one centimetres wide.

(2) Notwithstanding the provisions of sub-rule (1), no seller may offer for sale-

- (a) a split bale of Virginia flue-cured tobacco weighing less than forty-five kilogrammes net;
- (b) a split bale of Burley tobacco weighing less than fourteen kilogrammes net.

PART VIII SALE OF TOBACCO BY AUCTIONPART VIII

SALE OF TOBACCO BY AUCTION

27. The provisions of this Part shall apply-

Application of Part VIII

- (a) to the sale by auction of auctionable tobacco other than a sale of such tobacco at a primary or rural level;
- (b) to the sale by the Board by auction of any non-auctionable tobacco purchased by the Board.

28. (1) A sales supervisor shall-

- (a) ensure that the provisions of the Act and the regulations made thereunder and the rules made and the instructions given by the Board are being complied with;
- (b) report breaches of such Act, regulations, rules and instructions to the Board;
- (c) ensure that bales are properly placed in rows on auction floors and suitably opened and sampled;
- (d) check weighing-in scales;
- (e) from time to time re-weigh bales of tobacco for the purpose of ensuring that they have been correctly weighed;
- (f) report incorrect weighing to the holder of the auction floor licence concerned and cause the necessary adjustments to be made.

(2) A sales supervisor may remove or cause to be removed from an auction floor any bale which does not conform to the standards laid down in these Rules.

(3) A sales supervisor shall have access to all books, receipts and documents kept by the holder of an auction floor licence relating to the arrival, receipting, booking and sale of tobacco.

(4) Should circumstances arise which are not covered by any instructions given to him by the Board pursuant to section *seventy-two* of the Act, a sales supervisor, after consultation with the Secretary to the Board, or, in his absence, an official of the Board acting on his behalf, may, whenever in his opinion it is necessary so to do in order to facilitate the orderly selling of tobacco or to protect the interests of the sellers of tobacco or buyers of tobacco, or both-

- (a) suspend a sale of tobacco for a period not exceeding twenty-four hours;
- (b) give such directions to sellers, buyers or the holders of auction floor licences as may be necessary on any matter not specifically prescribed under this Part.

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29. Any official or agent of the Board duly authorised thereunto by the Board in writing may, at any time, examine books and vouchers of the holder of an auction floor licence to ascertain whether the charges authorised by the Board pursuant to section *sixty-nine* of the Act have been, or are being, adhered to.

Power to inspect records

30. (1) Tobacco may be offered for sale in the form of-

Tobacco which may be offered for sale

- (a) tied leaf;
- (b) straight laid loose leaf;
- (c) clean graded strips;
- (d) clean stemmed scrap;
- (e) clean unstemmed scrap.

(2) In the case of tied leaf, a seller shall ensure that the size of hands of graded tobacco is not less than three centimetres and not more than three centimetres across the butt ends and that the depth of the tie is not less than four centimetres and not more than five centimetres.

(3) A seller shall not offer as loose leaf sound tobacco leaf twenty centimetres or more in length.

(4) No bale offered for sale shall contain ungraded tobacco.

(5) No seller may offer for sale a bale containing more than one class of tobacco.

31. (1) Subject to the provisions of this rule, no person shall knowingly offer for sale a bale which contains-

Declared mixed bales

- (a) leaf of different types, qualities, or colours, mixed in the hand;
- (b) hands of tobacco of different types, qualities, or colours;
- (c) short and long leaf mixed in the hands, or hands of short and long leaf;

- (d) sound leaf mixed with barn rot leaf.

(2) A seller may offer for sale a mixed bale containing tobacco as enumerated in paragraphs (a), (b), (c) and (d) of sub-rule (1), provided that-

- (i) he has affixed to the bale a label additional to the bale label referred to in rule 21 on which is marked the word "mixed" in letters not less than five centimetres in height;
- (ii) the word "mixed" is printed clearly on a notice displayed prominently on the bale by the holder of the auction floor licence;
- (iii) the bale is declared to buyers by the starter to be mixed before being offered for sale.

(3) A bale containing mixed tobacco sold in accordance with the provisions of sub-rule (2) shall not thereafter be repudiated on the grounds that it is mixed unless, in the opinion of an arbitrator, it contains an undue proportion of tobacco of other than bordering types, qualities or colours.

32. (1) Subject to the provisions of this rule, a seller may offer for sale a split bale, that is to say, a bale containing not more than two grades of tobacco, provided that-

Split bales

- (i) the two grades are separated by a sheet of water-proof paper;
- (ii) he attaches to the bale a label additional to the bale label referred to in rule 21 on which is marked the word "split" in letters not less than five centimetres in height;
- (iii) the word "split" is printed clearly on a notice displayed prominently on the bale by the holder of an auction floor licence;
- (iv) the bale is declared by the starter to buyers to be split before being offered for sale.

(2) A split bale offered for sale may not weigh less than forty-five kilogrammes net in the case of Virginia flue-cured tobacco, nor less than fourteen kilogrammes net in the case of Burley tobacco.

33. A seller shall consign his tobacco to an auction floor packed so as to facilitate its sale, storage and handling.

Consignment of tobacco to auction floor

34. (1) In addition to any other duties imposed upon him by the provisions of these Rules, every holder of an auction floor licence shall-

Duties of holders of auction floor licences

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- (a) furnish the sales supervisor before each sale with a statement giving the following particulars about the bales laid on the auction floor for that sale in the order in which they are laid:
 - (i) the registered numbers of the sellers;
 - (ii) the names of the sellers;
 - (iii) the number of bales in each consignment;
 - (iv) whether the bales are up for sale for the first time or whether they are re-handled bales, buyers' resales, house resales or bales which have had their tickets crossed at a previous sale or, if they fall into any other category, what that category is;
 - (v) if the bales have been graded by a grader, the name of the grader;
 - (vi) the row number in which each bale is placed;

- (b) space the bales of tobacco offered for sale as may be required by the Board;

- (c) ensure that the bale ticket clearly shows the following particulars:
 - (i) the registered number of the seller;
 - (ii) the lot number;
 - (iii) the net weight;
 - (iv) the buyer's code letter;
 - (v) the buyer's grade classification if available;
 - (vi) the price per kilogramme;

- (d) ensure that there are sufficient clearly legible copies of the bale ticket available to meet the sale requirements;

- (e) after sale, attach the bale ticket securely to the outside of the bale to which it relates;

- (f) as the sale proceeds, properly repack and securely resew all bales;

- (g) present his accounts to a buyer or his agent not later than 09.00 hours on the day following the day of sale;

- (h) be responsible for any loss occasioned by his errors in weighing or otherwise and make good any loss so occasioned;

- (i) furnish the sales supervisor daily with such information as he may require with regard to-
 - (i) the amount of tobacco in stock;
 - (ii) the future programme of sales.

- (2) The holder of an auction floor licence shall not sell tobacco-
- (a) except with the permission of a sales supervisor, unless it has been weighed during the seventy-two hours immediately preceding the sale of such tobacco;
 - (b) for less than any minimum price which may have been fixed by the Minister pursuant to section *seventy-four* of the Act;
 - (c) in which the starter, auctioneer or any other employee of such holder of an auction floor licence has any interest, without disclosing such interest at the time of the sale;
 - (d) which is not packed in conformity with the provisions of these Rules.

35. (1) The holder of an auction floor licence shall-

Receipting of tobacco

- (a) keep a receipt book in a form approved by the Board;
- (b) issue from such receipt book a receipt in triplicate for every bale received upon his auction floor except for a bale which-
 - (i) is being re-offered for the house account; or
 - (ii) has had its ticket crossed at a previous sale and which has not been returned to the grower; or
 - (iii) is returned for sale by the auction floor's re-handling department; or
 - (iv) is being re-offered and declared as mixed, mouldy or funky.

(2) Each receipt shall be numbered consecutively and shall show-

- (a) the registered number and name of the seller;
- (b) the number of bales received;
- (c) whether the bales come direct from a grower or from a storage firm, a grader or an auction floor;
- (d) the date and time of delivery.

(3) The holder of an auction floor licence shall-

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- (a) deliver the second copy of the receipt to the sales supervisor before the midday following each twenty-four-hour period:

Provided that-

- (i) when such midday following a twenty-four-hour period falls on a Sunday or a public holiday, he shall deliver the second copy of the receipt to the sales supervisor before midday on the next business day;
 - (ii) for the purposes of this sub-rule, "twenty-four-hour period" means the period of twenty-four hours commencing at 07.00 hours on one day and ending at 07.00 hours on the next day;
- (b) keep the third copy of the receipt, which shall be available for inspection by an official of the Board, until the end of the selling season.

(4) The holder of an auction floor licence shall issue receipts for tobacco in order of its arrival at his premises-

- (a) by train, beginning with the consignments contained in the first truck entering the private siding of the premises;
- (b) by lorry, in rotation and immediately following the receipt of the tobacco contained in the last train to be shunted into the siding;
- (c) from storage, as though it had been received by lorry.

(5) When rail consignments from a grower are received with the bales loaded in more than one truck in the same train, the total consignment shall be deemed to have been received in the first truck which is unloaded and which contains tobacco from that grower.

(6) Tobacco stored by a holder of an auction floor licence, other than tobacco referred to in sub-paragraphs (i) to (iv) of paragraph (b) of sub-rule (1), or tobacco for which a receipt has been issued pursuant to sub-rule (1), on the day fixed for the commencement of delivery quotas shall be-

- (a) deemed to have been delivered on that day;
- (b) receipted pursuant to sub-rule (1);
- (c) booked in for sale as though it had been delivered on that day;
- (d) deemed to be part of the delivery quota of the grower who delivered it.

(7) If a seller wishes to deliver to an auction floor several bales of tobacco for sale as one consignment, he may accumulate such bales on the auction floor premises for a period not exceeding twenty-four hours, without such bales being entered into the receipt book, if he informs the holder of the auction floor licence of his intention before or at the same time as his consignment arrives at the auction floor.

(8) The holder of an auction floor licence shall issue a receipt for tobacco accumulated pursuant to sub-rule (7)-

(a) twenty-four hours after the delivery of the first bale; or

(b) when the whole consignment has been accumulated;

whichever is the earlier.

(9) A holder of an auction floor licence shall not sell tobacco, other than tobacco referred to in sub-paragraphs (i) to (iv) of paragraph (b) of sub-rule (1), unless-

(a) a receipt has been issued for that tobacco; and

(b) a duplicate of that receipt has been delivered to the sales supervisor pursuant to paragraph (a) of sub-rule (3).

(10) For the purposes of sub-rules (7) and (8), when calculating the period of twenty-four hours, no public holiday or Sunday shall be included.

36. (1) If a seller notifies the holder of an auction floor licence in writing that he wishes to be present at the sale of his tobacco, and if stocks of tobacco for sale at the auction floor are such that his tobacco will be sold within twenty-four hours of its arrival, such tobacco may, on arrival, be booked in by the sales supervisor so that there will be a period of not less than twenty-four hours between the time of arrival and the time of sale.

Booking of tobacco

(2) The holder of an auction floor licence may book in, for sale at any time convenient to him and the seller, a bale of tobacco which-

(a) is being re-offered for the house account; or

(b) has had its ticket crossed at a previous sale and which has not been returned to the grower; or

(c) is returned for sale by the auction floor's re-handling department; or

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(d) is being re-offered and declared as mixed, mouldy or funky.

(3) The holder of an auction floor licence shall treat tobacco which has-

(a) been graded by him; and

(b) not previously been offered for sale;

as though it had been placed in storage on the auction floor when the grading and packing were completed.

37. Subject to the provisions of sub-rule (1) of rule 36 and of rule 38, the holder of an auction floor licence shall not sell tobacco in an order other than the order in the receipt book:

Order of selling

Provided that-

(i) on the request of the seller made not later than the time at which a consignment of his tobacco is received upon the auction floor, the holder of an auction floor licence may divide up that consignment-

(a) if it consists of thirty bales or more, into groups of not less than fifteen bales;

(b) if it consists of less than thirty bales, into not more than two groups;

(ii) in the case of tobacco which is being re-offered, the consignment may, on the request of the seller made at the time the tobacco was last offered for sale, be divided up into groups of not less than five bales.

38. A sales supervisor may vary the order of sale as shown in the receipt book if he considers such variation necessary in order to-

Sales supervisor may alter order of selling

(a) avoid splitting a consignment of tobacco; or

(b) facilitate the conduct of a sale.

39. The holder of an auction floor licence shall not-

(a) withdraw tobacco from the sale for which it has been booked in; or

(b) permit tobacco receipted by him to be diverted to any other auction floor;

Holders of auction floor licences not to withdraw tobacco

except with the permission of a sales supervisor.

40. (1) Before the tobacco is booked in, the holder of an auction floor licence shall not give a person any information relating to the date or time of sale or the position of tobacco on the auction floor, other than the probable number of days after delivery that the tobacco may have to be stored before sale. Date and time of sale

(2) After the tobacco has been booked in, the holder of an auction floor licence shall, if so requested by the seller and at the seller's cost, notify the seller by telephone or telegram of the probable date on which his tobacco will be sold.

(3) The holder of an auction floor licence shall not-

- (a) be responsible for any change of the date of sale due to circumstances beyond his control; or
- (b) agree to sell tobacco on a specified row or at a specified time.

41. The holder of an auction floor licence shall not-

Storage of tobacco

- (a) stack tobacco more than two hundred and forty-four centimetres above the level on which the bottom bale rests without the permission of a sales supervisor;
- (b) during any period for which delivery quotas are in force, store, without the written authority of the Board, tobacco for which the receipt provided for by rule 35 has not been issued.

42. (1) The provisions of this rule shall apply whenever the Board shall, in exercise of its powers under paragraph 20 of the Schedule to the Act, have fixed a date, hereinafter called the "fixed date", from which it deems it necessary to control the rate of delivery of auctionable tobacco to licensed auction floors and have fixed delivery quota periods from and after the fixed date and determined delivery quotas applicable to each or any of such delivery quota periods. Delivery quotas

(2) The Board shall give notice of such fixed date, delivery quota periods and delivery quotas in such manner as it may determine and may cause a copy of any notice issued for this purpose to be displayed prominently at every licensed auction floor.

(3) Subject to the provisions of this rule, no grower or his agent shall cause to be delivered to an auction floor any tobacco in excess of his delivery quota.

(4) Where, during any first or second delivery quota period, as the case may be, any grower delivers in respect thereof a quantity of tobacco less than his delivery quota, he may, thereafter, during any delivery quota period, not later than the third delivery quota period, deliver tobacco in excess of his delivery quota for the period in which delivery is actually made, up to the undelivered portion or portions of the earlier delivery quota or quotas, if-

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- (a) he gives the Board full particulars in writing of the reasons why he did not deliver his full delivery quota in such period or periods; and
- (b) he receives the written permission of the Board to exceed his delivery quota in the second or third delivery quota period or in the second and third delivery quota periods, as the case may be; and
- (c) he does not exceed in the first three delivery quota periods his total delivery quota for such delivery quota periods; and
- (d) where he did not deliver his full delivery quota because of the inability of a grader to deliver his tobacco, he has sent all the tobacco to be delivered in the second or third delivery quota period or in the second and third delivery quota periods, as the case may be, to the grader before the fixed date.

(5) Subject to the provisions of sub-rule (4), where a grower or his agent delivers to an auction floor any tobacco in excess of his delivery quota, the Board may, in writing, direct the holder of the auction floor licence to whom such tobacco was delivered to return to the grower at a place and by a date specified by the Board and at the grower's risk and expense, a number of bales equal to the number of bales delivered by the grower in excess of his delivery quota.

(6) A grower whose delivery quota as fixed by the Board for any particular quota period is less than twenty-five bales may deliver or cause to be delivered on his behalf to an auction floor-

- (a) in any one of four subsequent consecutive quota periods, hereinafter called a "combined quota period", a quantity of tobacco not exceeding four times his delivery quota for the first quota period of the combined quota period or one hundred bales;
- (b) in any quota period forming part of the combined quota period subsequent to the first such quota period, a quantity of tobacco equivalent to the difference between his delivery quota for such first quota period and such subsequent quota period, provided that such difference is in the form of an increase in delivery quota and not a reduction thereof:

Provided that-

- (i) not less than fifty per centum of the quantity of tobacco so delivered shall have been graded by a grader; and

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- (ii) such grower shall not deliver to an auction floor in a combined quota period more than-
- A. four times his delivery quota for the first quota period of the combined quota period; or
 - B. the total of the four quotas for the combined quota period; or
 - C. one hundred bales;

whichever is the greatest.

(7) A grower who removes mixed, mouldy, damaged or funky tobacco from the auction floor for re-handling may again deliver it to an auction floor and it shall not count against his delivery quota:

Provided that-

- (i) he shall not return more than the number of bales that he removed from the floor; and
- (ii) he notifies the Board in writing of the number of bales removed and the date on which they were removed; and
- (iii) he obtains from the Board a written acknowledgment of the receipt of such notice.

(8) Where two or more growers are using the same grading facilities, other than the grading facilities of a licensed grader, they may combine their delivery quotas:

Provided that permission in writing is first obtained from the Board.

(9) Growers who have been permitted by the Board, pursuant to sub-rule (8), to combine their delivery quotas shall not deliver to the auction floors any tobacco in excess of the total thereof.

(10) The Board may furnish to a licensed grader, if requested to do so by him, information regarding the delivery quota fixed by the Board for any grower whose tobacco has been or is to be graded by such grader.

(11) (a) Notwithstanding the provisions of this rule, the Board may, at any time when it has deemed it necessary to control the rate of delivery of auctionable tobacco to licensed auction floors, further adjust the rate of delivery of such tobacco by means of an increase or decrease, as the case may be, in a grower's delivery quota, which increase or decrease shall be expressed as a percentage thereof and shall give notice of such adjustment, in the manner described in sub-rule (2).

(b) Where such percentage increase or decrease does not produce a whole number, the amount of tobacco which may be delivered shall be calculated to the next higher whole number.

(c) Where in terms of this sub-rule the amount of auctionable tobacco which a grower may deliver or cause to have delivered for sale to an auction floor has been either increased or decreased, the quantity of tobacco thereby determined shall be considered for the purposes of this rule as such grower's delivery quota.

43. (1) At any auction sale the starter, auctioneer and ticket marker shall take their positions together in line and shall not be separated by any other person.

Auction floor officials' and buyers' positions

(2) The auctioneer shall stand facing the main line of buyers and beside the bale which he is in the process of selling and shall not move from that position until the name of the buyer of the bale has been declared by him.

(3) Buyers shall arrange their own positions in the main line of buyers on the auction floor.

(4) If any buyer is unwilling to accept the position in the main line of buyers allotted to him pursuant to sub-rule (3), or wishes to take up a position elsewhere than in the main line, the matter shall be submitted to the Board whose decision shall be final.

44. No person shall bid for tobacco in which he has any interest other than as-

Interested parties

(a) a buyer; or

(b) a person nominated by a buyer pursuant to section *forty-three* of the Act; or

(c) a person authorised by the holder of an auction floor licence to buy tobacco for the house account;

without disclosing such interest at the time of the sale.

45. (1) The rate of selling shall be fixed by the Board or by the sales supervisor with the authority of the Board, but shall not exceed six hundred bales in any period of an hour.

Rate of selling

(2) If the rate of selling at any sale is lower than the rate fixed by the Board or by the sales supervisor, the sales supervisor may fix a time within which such sale shall be concluded.

(3) If the rate of selling at any sale is higher than the rate fixed by the Board or by the sales supervisor, the sales supervisor may suspend the sale for such period as he considers necessary.

46. A buyer may accept the starter's valuation and thereafter bidding shall proceed by bids of not less than one-half of one hundred kwacha per half kilogramme until the bale is knocked down to the highest bidder. Size of bids

47. (1) A no-sale bale shall be re-offered for sale at least once on a day other than the day upon which it was first offered for sale. No-sale bales

(2) If, on the second occasion on which it is offered for sale, no bid is made, the holder of the auction floor licence may dispose of the tobacco contained in such no-sale bale in accordance with the instructions given to him in writing by the owner.

(3) Where no instructions have been given to the holder of an auction floor licence pursuant to sub-rule (2), and where any registered grower has at the end of any selling season in his possession or under his control any surplus or unsold tobacco belonging to such registered grower, the Board may dispose of, destroy, or cause to be destroyed, such tobacco as provided by subsection (1) of section *thirty-three* of the Act.

48. (1) Subject to the provisions of sub-rule (2), no person shall alter any of the particulars recorded on a bale ticket. Alteration of bale tickets

(2) An alteration may, before the completion of the sale of the bale to which the ticket relates, and where appropriate subject to the provisions of sub-rule (1) of rule 59, be made by-

- (a) a sales supervisor or other person authorised for the purpose in writing by the Board;
- (b) the buyer of a bale to record his own grade classifications; or
- (c) a buyer taking over a bale from either the house account or another buyer to record necessary alterations to the bale ticket.

(3) A person making an alteration pursuant to sub-rule (2) shall-

- (a) initial the alteration; and
- (b) in the case of an alteration made pursuant to paragraph (c) of sub-rule (2), obtain the initials of the previous buyer of the bale.

49. (1) Before the sale of a bale has been completed- Crossing of bale tickets

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- (a) the seller may, by drawing a red cross on the bale ticket, refuse to accept the price for such bale;
- (b) if a seller refuses to accept the price for any bale or bales of his tobacco, the original buyer may, by drawing a blue cross on the bale ticket, cancel the sale of an equal number of bales purchased by him from such seller.

(2) A seller shall not cross the bale ticket on any bale of his tobacco-

- (a) if he himself has offered a bid for that bale; or
- (b) while a buyer's contention that the bale is unfit for sale is being considered by an arbitrator pursuant to rule 50; or
- (c) if the buyer's contention is upheld pursuant to rule 50.

(3) A seller whose bale ticket has been crossed shall, within ten days of the crossing of the ticket, either re-book the tobacco for sale or remove it from the auction floor.

(4) A sales supervisor may book for sale at the end of the period of ten days any tobacco not re-booked for sale or withdrawn from the auction floor by the seller pursuant to sub-rule (3).

50. (1) Subject to the provisions of sub-rule (8) and of sub-rule (2) of rule 31, if a buyer contends before the sale of the last bale of a seller's consignment has been completed, that a bale purchased by him containing tobacco sold by that seller is badly handled or mixed, mouldy, funky, damaged or nested or is in some other respect unfit for sale, he may forthwith notify an arbitrator of his desire to repudiate the sale.

Repudiation of bales
at sale

(2) The arbitrator shall investigate the matter and, if he upholds the buyer's contention, the sale may be repudiated.

(3) If the arbitrator does not uphold the buyer's contention, he shall forthwith obtain the opinion of another arbitrator.

(4) If, in the opinion of both arbitrators, the buyer's contention is upheld, the buyer may repudiate the sale.

(5) If, in the opinion of both arbitrators, the buyer's contention is not upheld, the sale shall stand and the decision of the arbitrators shall be final.

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(6) If the opinion of the arbitrators is divided-

- (a) in a case where the buyer has contended that the bale is mixed, the buyer may repudiate the sale;
- (b) in any other case, the arbitrators shall forthwith obtain the opinion of a third arbitrator whose decision shall be final.

(7) Where the buyer's contention has-

- (a) been upheld, an arbitrator shall indicate on the front of the bale ticket the reason for the repudiation;
- (b) not been upheld, an arbitrator shall indicate on the back of the bale ticket that the buyer's contention has been rejected;
- (c) been upheld by one arbitrator and the sale has been repudiated pursuant to paragraph (a) of sub-rule (6), an arbitrator shall mark the bale ticket with the words "mixed dispute, re-offer" and the bale may be re-offered without being re-handled.

(8) The purchase of a bale which has been bought by a buyer at a price of one hundred kwacha per half kilogramme or less shall not be repudiated in terms of this rule on the ground that such bale was mixed unless such bale is made up of tobacco containing stem rot and sound stem.

51. (1) Subject to the provisions of sub-rule (2) and of paragraph (c) of sub-rule (7) of rule 50, no person shall re-offer a bale which has been-

Badly handled, mixed,
damaged or nested
bales

- (a) repudiated at a sale by a buyer because it contains tobacco which is badly handled, mixed or nested; or
- (b) condemned for any of these reasons before the sale by an arbitrator;

until it has been re-handled.

(2) No person shall re-offer a bale containing mixed tobacco unless he complies with the provisions of sub-rule (2) of rule 31.

(3) Within ten days following the repudiation or condemnation of a bale referred to in sub-rule (1), the owner of the bale shall-

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- (a) remove it from the auction floor; or
- (b) have it re-handled by the holder of the auction floor licence.

(4) If the owner of the bale does not remove it, the holder of the auction floor licence may-

- (a) return it to the owner or his agent at the risk and expense of the owner; or
- (b) re-handle and re-offer it.

52. A bale which has been-

Funked tobacco

- (a) repudiated at a sale by a buyer because it contains funked tobacco; or
- (b) condemned for this reason before the sale by an arbitrator;

shall, at the option of the owner of the bale, be-

- (i) returned to him or his agent; or
- (ii) labelled as "funked" and re-offered.

53. (1) Subject to the provisions of sub-rule (2), a bale which-

Mouldy or damaged tobacco

- (a) has been repudiated at the sale by a buyer because it contains tobacco which is mouldy or damaged; or
- (b) has been condemned for either of the reasons specified in paragraph (a) before the sale by an arbitrator; or
- (c) is considered by the owner thereof to contain tobacco which is mouldy or damaged;

may, at the option of the owner of the bale, be-

- (i) returned to him or his agent; or
- (ii) labelled "mouldy" or "damaged", as the case may be, and re-offered, subject to it being declared as such to the buyers by the starter before being re-offered for sale.

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(2) If a bale has been repudiated at a sale by a buyer because it contains tobacco which is mouldy or damaged and, in the opinion of an arbitrator, the tobacco is so mouldy or damaged as to be irreparable by re-handling but, in the opinion of the arbitrator, may nevertheless have some value, the bale may be re-offered by the holder of the auction floor licence as soon as possible without the tobacco being re-handled if the word "mouldy" or "damaged", as the case may be, is printed clearly on a notice displayed prominently on the bale, and the bale is declared as such to the buyers by the starter before being re-offered for sale.

(3) No person shall re-offer a bale referred to in sub-rule (1) until it has been re-handled unless it is labelled "mouldy" or "damaged", as the case may be, pursuant to these Rules.

54. (1) A buyer may, within forty-eight hours of the end of a day's sale, apply to cancel the sale of a bale bought by him on that day on the ground that it contains mouldy tobacco by returning such bale, intact and in its original bale wrappings, to the auction floor for inspection by an arbitrator.

Cancellation of sale of mouldy tobacco

(2) Subject to the provisions of sub-rule (4), if the arbitrator agrees with the buyer that the bale contains mouldy tobacco, the sale shall be cancelled.

(3) Where a mouldy bale has been bought on a day which is followed by a Saturday, Sunday or a public holiday, such bale shall be delivered for inspection not later than 13.00 hours on the next day of sale.

(4) Where, in the opinion of a sale supervisor, the buyer has neglected to examine his purchases adequately on the auction floor before the sale was completed, he may refuse to allow a buyer to cancel the sale, notwithstanding the agreement of the arbitrator pursuant to sub-rule (2).

55. (1) A buyer may, before a bale has left the auction floor, apply to an arbitrator to cancel the sale of the bale on the ground that it is damaged by grease, paraffin or oil.

Cancellation of sale of bales damaged by grease, paraffin or oil

(2) If the arbitrator agrees with the buyer that the bale is damaged by grease, paraffin or oil, the sale shall be cancelled.

56. (1) No seller shall offer for sale any tobacco which is nested.

Nesting

(2) If a buyer discovers and reports to an arbitrator within forty-eight hours of a sale that a bale purchased by him was nested, the arbitrator shall immediately inspect the tobacco and report the result of his inspection to the Board.

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(3) If the Board decides that the bale has been nested, the bale shall be confiscated by the Board.

(4) The Board's decision pursuant to sub-rule (3) shall be final.

(5) The bale shall be re-offered by the Board and the Board shall, with the proceeds of the sale, make a refund to the buyer towards the purchase price of such bale, and the cost of transport.

(6) If, at any time after the period of forty-eight hours referred to in sub-rule (2), the buyer discovers that a bale purchased by him has been nested, the matter shall immediately be reported by the buyer to the Board for investigation and the Board may take such action as it thinks fit.

(7) If tobacco which is offered for sale by a seller is found to be nested on a second or subsequent occasion, his registered number shall be posted in a conspicuous place on the auction floor for the remainder of the selling season.

(8) A report made by a buyer pursuant to sub-rule (2) shall not be of a frivolous or vexatious nature.

57. According to the circumstances, the sales supervisor shall ensure that the sale of a bale is completed before not less than one hundred bales and not more than two hundred bales have been passed since the buyer purchased the bale to which the bale ticket relates.

Completion of sales

58. (1) If two or more buyers claim to be purchasers of the same tobacco it shall, unless the buyers otherwise agree, be re-offered.

Buyers' disputes

(2) If a buyer contends before the sale of a bale is completed that-

(a) the price recorded on the bale ticket was not the price at which the bale was knocked down to him; or

(b) he was not the buyer of the bale;

the matter shall be investigated by a sales supervisor.

(3) The sales supervisor may, if he is satisfied that an error has occurred-

(a) cancel the sale and order that the bale be re-offered; or

- (b) with the agreement of the buyer and the seller or his agent, correct the bale ticket.

59. (1) A person shall not buy tobacco bought for the house account before it is re-offered unless- Tobacco purchased for house account

- (a) the price he pays for the tobacco is not less than one-half of one hundred kwacha per half kilogramme more than the price at which the tobacco was knocked down to the house account; and
- (b) the purchase is made before the sale of the tobacco is completed; and
- (c) the agreement of the holder of the auction floor licence is first obtained.

(2) No person employed by the holder of an auction floor licence shall buy tobacco except for the house account.

(3) If tobacco purchased for the house account is not bought pursuant to sub-rule (1), it-

- (a) shall be resold by auction during the same selling season;
- (b) need not be rebaled in which case it shall be resold under the grower's registered number.

(4) When tobacco purchased for the house account is resold under the grower's registered number pursuant to paragraph (b) of sub-rule (3), the holder of the auction floor licence shall stamp the bale ticket with the word "resale", immediately after the sale of such tobacco and before its removal from the auction floor.

(5) A holder of an auction floor licence shall send to the Secretary to the Board a daily return showing the number of bales bought for the house account that day.

(6) Tobacco purchased for the house account may be offered for resale by a holder of an auction floor licence on any sale.

(7) A holder of an auction floor licence shall place tobacco purchased for the house account which is being re-offered on the floors in lots of not less than five bales.

60. (1) A buyer shall, if so requested by a sales supervisor, remove his purchases from the place of sale on the auction floor to a place indicated by the sales supervisor within half an hour of the closing of the bales after sale. Removal of bales

(2) A buyer shall remove his tobacco from the auction floor within five hours of the close of the sale at which the tobacco was purchased unless an extension of time is authorised by the sales supervisor.

(3) If the buyer fails to remove his tobacco in terms of sub-rule (2), the holder of the auction floor licence shall not be liable for any loss or damage which may be occasioned to such tobacco.

(4) A holder of an auction floor licence shall allot-

(a) an exit point; and

(b) a clipping point; and

(c) a loading area;

to each buyer for his purchases.

(5) A buyer shall clip the bale tickets of his purchases with a distinctive mark at the clipping point allotted to him.

61. Immediately before the sales close on the day of the last sale of the selling season, any unsold tobacco which is badly handled, or mixed, mouldy, funky or damaged which was, earlier on that day- Bales re-offered on final day of selling season

(a) offered for sale and for which no bid was made; or

(b) sold and the sale of which was repudiated;

may, notwithstanding anything contained in these Rules, be re-offered for sale:

Provided that, in the case of tobacco referred to in paragraph (b)-

(i) the tobacco shall be clearly marked so as to indicate the reason why the earlier sale was repudiated; and

(ii) the reason shall be declared to buyers before sale.

62. A bale re-offered by any buyer, other than the Board but including the holder of an auction floor licence, shall, subject to the provisions of paragraph (b) of sub-rule (3) of rule 59, be re-offered for sale marked with the registered number allotted to him by a sales supervisor pursuant to subsection (2) of section *twenty-eight* of the Act.

Resale numbers

63. The holder of an auction floor licence shall, not later than half an hour before the close of banking hours on the day following the day of sale, pay to a seller or his agent thereunto authorised in writing, the proceeds of the sale of his tobacco, less such weighing, selling, commission and re-handling charges as may have been approved by the Board in terms of section *sixty-nine* of the Act, or such other charges as he may be authorised to deduct by or under the Act or any other written law.

Sellers' accounts

64. (1) Except in the case of a dispute reported in writing to the holder of the auction floor licence and only to the extent of such dispute, a buyer or his agent shall settle his account not later than half an hour before the close of banking hours on the day following the day of sale.

Payment of accounts
by buyers

(2) If a buyer or his agent fails to do so, the holder of the auction floor licence may report the matter to the sales supervisor.

(3) A holder of an auction floor licence may, and shall if so instructed by the sales supervisor, refuse to accept a subsequent bid from such buyer until the account in question has been paid in full.

65. (1) A seller shall notify the holder of the auction floor licence of the manner in which the bale wrappings in which his tobacco is packed shall be disposed of.

Disposal of bale
wrappings

(2) The holder of the auction floor licence shall immediately return all bale wrappings received from the buyers to the owners of such wrappings or otherwise deal with the wrappings on the instructions of the owners.

66. (1) The buyer shall promptly return to the auction floor on which he purchased tobacco contained in any bale, the wrappings of such bale, as directed by the Board.

Return of bale
wrappings

(2) A buyer shall take all reasonable steps to ensure that the bale wrappings are not cut or otherwise damaged when the tobacco is unpacked.

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67. Notwithstanding any rule to the contrary in this Part, whenever the Board, by direction given to a holder of an auction floor licence, has instructed that the sale of tobacco be conducted by mechanical auction, the following provisions shall apply:

Special provisions relating to the sale of tobacco by mechanical auction

- (a) the holder of the auction floor licence in question shall include in the statement required by paragraph (a) of sub-rule (1) of rule 34 the floor lot number on which the bale is placed;
- (b) the holder of the auction floor licence shall ensure that the bale ticket clearly shows the floor lot number in addition to the particulars enumerated in paragraph (a) of sub-rule (1) of rule 34;
- (c) the sales supervisor shall ensure that according to circumstances the sale of a bale is completed not later than the commencement of the sale of the catalogue immediately following the one in which the bale is recorded or ten minutes after the sale of the last bale of the catalogue in which it is recorded, whichever shall first occur;
- (d) the provisions of rule 43 shall not apply.

SCHEDULE

(Rule 2)

PRESCRIBED FORMS

(Rule 3)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

PRELIMINARY CROP FORECAST RETURN

I certify-

- (i) that the total acreage of Virginia flue-cured/Burley/Oriental tobacco *(1) planted by me this 19 /19 growing season is acres;
- (ii) that I estimate that the total quantity of Virginia flue-cured/Burley/Oriental tobacco*(2) which will be offered for sale by me or on my behalf this 19 selling season, will be kg.

.....
Date *Signature*

*Delete whichever are inapplicable.

Registered number of grower
 Registered name of grower (*block capitals*)
 Postal address
 Name of farm or farms and I.C.A.....

NOTES:

- (1) This form duly completed must reach the Secretary, Tobacco Board of Zambia, P.O. Box 31963, Lusaka, on or before 31st March, in a selling season.
- (2) Severe penalties are provided for inaccurate estimates of false returns.
- (3) You are required to state the total net area of land, excluding unplanted outcrops, roads, contour ridges, etc., planted on all your farms irrespective of whether the stand is good or bad.

(Rule 3)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

FURTHER CROP FORECAST RETURN

I certify-

- (i) that the total acreage of Virginia flue-cured/Burley/Oriental tobacco*(3) planted by me this 19 /19 growing season is acres;
- (ii) that I estimate that the total quantity of Virginia flue-cured/Burley/Oriental tobacco*(4) which will be offered for sale by me or on my behalf this 19 selling season, will be kg.

.....
Date *Signature*

*Delete whichever are inapplicable.

Registered number of grower.....

Registered name of grower (*block capitals*).....

Postal address.....

Name of farm or farms and I.C.A.....

NOTES:

- (1) This form duly completed must reach the Secretary, Tobacco Board of Zambia, P.O. Box, Lusaka, after 15th May but before 1st June in a selling season.
- (2) Severe penalties are provided for inaccurate estimates or false returns.
- (3) You are required to state the total net area of land, excluding unplanted outcrops, roads, contour ridges, etc., planted on all your farms irrespective of whether the stand is good or bad.

(Rule 4)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

To: The Secretary,
Tobacco Board of Zambia,
P.O. Box 31963,
Lusaka.

APPLICATION FOR GRADER'S LICENCE

I, (name)
of (address)

hereby apply for the issue of a licence to grade tobacco pursuant to Part VI of the Tobacco Act, and in support of my application submit the following particulars:

1. In the case of a company, state the names of all directors
2. In the case of a partnership, state the name of every partner
3. Description of the premises in which it is proposed to carry on the business of a grader.....
4. Name of the person who will supervise the grading
5. Have you previously held a grader's licence? (YES/NO).....
If YES state-
(a) date of issue of last licence.....
(b) the premises in respect of which such licence was issued
6. If you have not previously held a licence, have you enclosed the plans required by rule 4 (1) (c) (see reverse of this form)? (YES/NO)
7. If you have previously held a licence, but the premises have been altered since the last licence was issued, have you enclosed a plan showing the nature of such alterations? (YES/NO)
8. Have you enclosed the licence fee of one hundred and fifty-five fee units? (YES/NO)

.....
Date *Signature*
[P.T.O

The Laws of Zambia

[Reverse side of Form 3]

NOTE 1.-Rule 4 (1) (c) of the Tobacco (Marketing and Licensing) Rules requires the submission of the following:

- (i) a plan showing the site;
- (ii) a plan and elevations;
- (iii) a plan and description of the humidification system of the buildings in which it is proposed to carry on the grading or to store tobacco.

NOTE 2.-The minimum standards of premises which may be licensed by the Board for grading tobacco are specified in rule 5 as follows:

- (a) they are of such design and construction as may be approved by an architect appointed for this purpose by the Board;
- (b) they are provided with storage space sufficient to permit the stacking of tobacco received for grading or awaiting despatch for sale without exceeding a height of two hundred and forty-four centimetres above the level on which the bottom bale rests;
- (c) the floor surface of the grading shed, storage, sheds and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, are composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco.

(Rules 6 and 7)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES
GRADER'S RECEIPT FOR TOBACCO

(Name of Grader)..... (Date)

Received from..... (name of grower).....

registered number by lorry/rail*(5) bales

of Virginia flue-cured/Burley tobacco*(6) for grading, weighing.....kg.

net, on (date received)

Number of bales examined

Report on condition of bales examined

.....

Signature

* Delete whichever is inapplicable.

NOTE 1.-If for any reason a grader is unable to weigh bales immediately following receipt, this form shall be completed for the number of bales received and a further receipt showing the weights shall be sent to the grower within three working days.

NOTE 2.-Unless a report on condition is made in this receipt, such report shall be sent to the grower within seven days of receipt of the tobacco, failing which the Board will assume that the condition thereof is satisfactory.

(Rule 8)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

RETURN BY A GRADER

(Name of Grader)

Grading Return No..... Date.....

Class of Tobacco (Burley or Flue-Cured) .

Grower's NameGrower's Registered No

(a) UNGRADED LEAF RECEIVED TO DATE:

(per receipts issued): Bales kg

(b) GRADED

This return To Date

	Bales	Net kg.	Bales	Net kg.
Issued for grading
Add: "Tails" ex last grading
Mixed ex Auction Floor
.....
<i>Total issued</i>

(c) RESULTS OF GRADING:

Packed for sale ..	.....	.....	.....	.....
"Tails" ..	.....	.....	.....	.....
.....
.....
<i>Total "Saleable"</i> ..	.....	.....	.....	.....

Unsaleable-(1) Mouldy ..

(2) Funked ..	.....	.....	.....	.....
(3) Stem Rot ..	.....	.....	.....	.....
(4) Perished, green, etc. ..	.....	.....	.....	.....
(5) Stems ..	.....	.....	.....	.....
(6) Sand ..	.....	.....	.....	.....
(7) Fine Scrap ..	.....	.....	.....	.....

Total "Unsaleable" ..
Grand Total: ..

Total Grading loss to date: %: Grading loss less (1)-(4) %

Number of hessian wrappers received pieces

Number of hessian wrappers used .. pieces

Old hessian left over .. pieces

New paper issued .. yards

New hessia issued .. pieces

(d) DELIVERIES TO AUCTION FLOORS:

This return To Date

Bales	Net kg.	Bales	Net kg.
Date
Date
Date

Remarks.....

.....

.....

..... Supervisor.

Signature

The Laws of Zambia

(Rule 11)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

To: The Secretary,
Tobacco Board of Zambia,
P.O. Box 31963,
Lusaka.

APPLICATION FOR BUYER'S LICENCE

I, (name)
of (address).....

hereby apply for the issue of a licence to buy tobacco pursuant to Part VII of the Tobacco Act and in support of my application submit the following particulars:

1. In the case of a company, the names of all directors
2. In the case of a partnership, the name of every partner.....
3. Where appropriate, the names of all persons entitled to buy tobacco on your behalf:
.....
.....
4. The class of tobacco which you intend to buy (e.g. Burley, Virginia flue-cured, Oriental).....
5. The manner in which you propose to buy tobacco (e.g. by auction at a licensed auction floor, by private treaty or at a primary or rural level)
6. Whether or not you are a buyer solely by virtue of the ownership of land in respect of which you have agreed to permit a third person to produce tobacco on not more than ten acres of the said land in consideration of a share in the said tobacco when produced, or of a share of the proceeds of its sale, and if so the situation of such land.....
7. Whether or not the application is for the issue of an exclusive licence pursuant to section 44 (4) of the Act, and if so the area in which the applicant wishes to buy tobacco.....
8. If you wish to buy tobacco by auction, and have not previously been licensed as a buyer, have you attached to this application statements in writing from the holders of all auction floor licences that they are willing to do business with you? (YES/NO).....
9. Have you enclosed the licence fee of three hundred fee units? (YES/NO).....

.....
Date Signature

(Rule 13)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

RETURN OF PURCHASES BY A BUYER

Class of tobacco.....
 Area of origin
 Month ending(see note 3)

Market	How purchased (see notes 1 and 2 below)	Total	Less Resales	Net Total
Internal				
External				
<i>Total</i>				

NOTE 1.-Here indicate whether purchased by auction on a licensed auction floor, by private treaty or at a primary or rural level.

NOTE 2.-Except where tobacco covered by this return has been purchased by auction at a licensed auction floor, the buyer shall attach to this return a statement showing in detail the weight purchased from each grower by name and registered number during the month and the gross value thereof.

NOTE 3.-This return is to be submitted to the Secretary, Tobacco Board of Zambia, P.O. Box 31963, Lusaka, not later than the fifteenth of the month following that to which it refers.

(Rule 14)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

APPLICATION FOR AN AUCTION FLOOR LICENCE

To: The Secretary,
Tobacco Board of Zambia,
P.O. Box 31963,
Lusaka.

I, (name)
of (address)
hereby apply for the issue of an auction floor licence pursuant to Part VIII of the Tobacco Act, and in support of my application submit the following particulars:

1. In the case of a company, the names of all directors.....
2. In the case of a partnership, the name of every partner.....
3. Description of the premises.....
4. Have the premises previously been licensed as an auction floor?.....(YES/NO)
 - A. If YES-
 - (a) state the date on which the last licence was issued.....
 - (b) give details of any alteration in the use of the premises as an auction floor since the issue of the last licence
 - B. If NO have you-
 - (a) obtained a conditional authority from the Board? (rule 15) (YES/NO) ; or
 - (b) enclosed a plan showing the site of the premises in relation to road and rail facilities and a plan and elevation of the premises? (YES/NO)
5. Have you enclosed the licence fee of one thousand five hundred fee units? (YES/NO)

.....
Date *Signature*

See Reverse of this Form for Minimum Standards of Auction Floors

[Reverse side of Form 8]

MINIMUM STANDARDS OF PREMISES

Rule 16 reads:

"Except where the Board may, with the approval of the Minister, have exempted any premises from the provisions of Part VIII of the Act, no auction floor licence shall be issued in respect of premises-

- (a) which do not comply with the following minimum requirements:
 - (i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales floor;
 - (ii) the total area of platforms and verandahs capable of being used for the loading or off-loading of tobacco shall not be less than forty per centum of the area of the sales floor;
 - (iii) the natural roof lighting of the sales floor shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen per centum of the area of the sales floor;
 - (iv) the floor surface of the sales floor, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;
 - (v) there shall be in a position adjacent to or as part of the auction floor an area set aside for the re-handling of tobacco, which area shall be not less than seven per centum of the area of the sales floor, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board;
- (b) unless the design and construction thereof are such as may be approved by an architect appointed for this purpose by the Board."

(Rule 15)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

APPLICATION FOR CONDITIONAL AUTHORITY

(Auction Floor)

To: The Secretary,
Tobacco Board of Zambia,
P.O. Box 31963,
Lusaka.

I, (name).....
of (address)
hereby apply for the grant of a conditional authority to erect, extend or alter premises for use as an auction floor pursuant to Part VIII of the Tobacco Act, and in support of my application submit the following particulars:

1. In the case of a company, the names of all directors.....
.....
2. In the case of a partnership, the name of every partner
.....
3. Have the premises for which the conditional authority is sought been previously
licensed? (YES/NO)
If YES-
 (a) describe briefly the proposed alterations or extensions.....

 (b) have you supplied a plan and elevations of the proposed alterations or extensions? (YES/NO)

4. If the premises for which conditional authority is sought-
 (a) do not exist;
 (b) exist but have not previously been licensed as an auction floor*(7);
 have you enclosed a plan showing the site of the premises or proposed premises in relation to road and rail facilities and a plan and elevations of such premises or proposed premises? (YES/NO).....

*Delete (a) or (b) whichever is inapplicable.

.....
Date Signature

For Minimum Standards of Auction Floors see overleaf.

[Reverse side of Form 9]

MINIMUM STANDARDS OF PREMISES

The Laws of Zambia

Rule 16 reads:

"Except where the Board may, with the approval of the Minister, have exempted any premises from the provisions of Part VIII of the Act, no auction floor licence shall be issued in respect of premises-

- (a) which do not comply with the following minimum requirements:
 - (i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales floor;
 - (ii) the total area of platforms and varendahs capable of being used for the loading or off-loading of tobacco shall not be less than forty per centum of the area of the sales floor;
 - (iii) the natural roof lighting of the sales floor shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen per centum of the area of the sales floor;
 - (iv) the floor surface of the sales floor, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;
 - (v) there shall be in a position adjacent to or as part of the auction floor an area set aside for the re-handling of tobacco, which area shall be not less than seven per centum of the area of the sales floor, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board;
- (b) unless the design and construction thereof are such as may be approved by an architect appointed for this purpose by the Board."

(Rule 17)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

AUCTION FLOOR DAILY TOBACCO SALES RETURN

Name of Auction Floor

Class of tobacco

Selling day No Date of sale.....

Weight sold, in kgs.....

Gross value of tobacco sold K

Average price per kg, in kwacha

.....

Date

Signature

(Rule 17)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

AUCTION FLOOR WEEKLY TOBACCO SALES RETURN

Name of Auction Floor.....

Class of tobacco

Selling week No Week ending 19

For Week Season to Date

1. Summary of Net Sales (Excluding Resales)

Number of bales offered	..	..	.....	.....
Number of bales sold	..	..	.....	.....
Percentage sold of bales offered	..	..	.....	.....
Weight sold, in kgs	..	..	.....	.....
Gross value of tobacco sold	..	..	K	K
Average price per kg, in kwacha	..	..	.....	.....
Average weight of bales, in kg	..	..	.....	.....

2. Summary of Resales

Weight resold, in kgs	..	..	.....	.....
Value of tobacco resold	..	..	K	K

.....

Date

Signature

NOTE 1.-All weights to be expressed as wet weight.

NOTE 2.-This return is to be made up for each week during a selling season to midnight on Wednesday, and submitted to the Board by not later than the following Monday.

(Rule 17)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

AUCTION FLOOR SEASONAL TOBACCO SALES RETURN

Name of Auction FloorK

Class of tobacco

Selling season 19.....

Name of Grower*(8)	Grower's Registered Number	Total weight sold	Gross value of tobacco sold	
			K	n
.....
.....
.....
.....
.....
.....
.....
.....
.....
	Totals	.....	.....	.....

.....
Date

.....
Signature

*For the purposes of this return "grower" shall exclude any person deemed to be a grower solely by virtue of section 26 (6) of the Act (i.e. resales).

SECTIONS 24, 25, 26, 27 AND 100-THE TOBACCO
(REGISTRATION OF GROWERS) REGULATIONS

Statutory Instrument
139 of 1968
Act No. 13 of 1994

Regulations by the Minister

- 1.** These Regulations may be cited as the Tobacco (Registration of Growers) Regulations. Title
- 2.** The registers of growers which the Registrar shall cause to be kept shall be in respect of the growers of the following prescribed classes of tobacco: Registers of growers
- (a) Virginia flue-cured;
 - (b) Burley;
 - (c) Oriental;
 - (d) all other prescribed classes.
- 3.** (1) The registration periods in respect of classes of tobacco within which growers or intended growers of any such specified classes of tobacco shall apply for registration shall be- Registration periods
- (a) Oriental tobacco: 1st June to 31st December.
 - (b) All other prescribed classes: 1st April to 31st October.
- (2) The duration of the aforesaid registrations shall be- Duration of registration
- (a) in the case of Oriental tobacco, the period ending on the following 31st December; and
 - (b) in the case of all other prescribed classes, the period ending on the following 31st October.
- 4.** (1) Application for registration as a grower of tobacco shall be made in writing to the Registrar, Tobacco Board of Zambia, Lusaka, in the Form T.A.1 set out in the Schedule. Application for registration
- (2) A separate application shall be made in respect of each prescribed class of tobacco to be grown.

The Laws of Zambia

(3) Each application shall indicate the intended acreage of the particular prescribed class of tobacco to be grown.

(4) Where it is intended to grow more than one prescribed variety of a prescribed class of tobacco, the intended acreage of each prescribed variety shall be indicated on the application form.

5. Where an application for registration is made after the termination of the registration period prescribed by regulation 3 (1), the applicant shall pay to the Board- Registration fee for late application

- (a) for the first late application, a registration fee of sixty fee units;
- (b) for each subsequent late application, a registration fee of one hundred and fifty fee units.

(As amended by Act No. 13 of 1994)

SCHEDULE

PRESCRIBED FORM

THE TOBACCO ACT

THE TOBACCO (REGISTRATION OF GROWERS) REGULATIONS

To: The Registrar,
The Tobacco Board of Zambia,
Lusaka.

Postal address of applicant:

.....
.....
.....

APPLICATION FOR REGISTRATION AS A GROWER OF TOBACCO

Name and initials of applicant (BLOCK CAPITALS)	<input type="text"/>
Class of tobacco (see Notes 1, 2 and 3 overleaf)	<input type="text"/>
Name of farm(s) and I.C.A. or Name of village, Chief and I.C.A.	<input type="text"/>
Acreage to be grown of this class (figures)	<input type="text"/>

- I hereby apply for registration as a grower of tobacco of the above class.
- I intend to grow the following acreages and prescribed varieties (see Note 4 overleaf):

<i>Variety</i>	<i>Acres</i>
.....
.....
.....

3. I hereby appoint the Tobacco Board of Zambia my agent for the purpose of the disposal of any surplus tobacco or of any unsold tobacco belonging to me or remaining in my possession or under my control at the end of the selling season to which this application relates. I further authorise and empower the said Board, as my said agent, to dispose of, to destroy, or to order the disposal or destruction of, such surplus or unsold tobacco, as the Board thinks fit; and I authorise the said Board, its officers, employees or agents to enter upon my lands, at any time, for the purpose of exercising the agency hereby conferred. This agency shall become effective upon the date of my registration as a registered grower by virtue of this application and shall be irrevocable for a period of one year from the date hereof, unless extended by me in writing at any time before or after its determination as herein provided.

4. I have read Note 7 overleaf and I appreciate that my compliance with the Regulations mentioned therein is a condition of my registration.

.....
Date
Signature

[Reverse side of Form T.A.1.]

The Laws of Zambia

NOTES

1. The form overleaf is to be used for all applications for registration as a registered grower, regardless of the prescribed class of tobacco to be grown.

2. A separate application must be made in respect of each prescribed class of tobacco to be grown-the class in each case to be indicated in the space provided at the head of the form.

3. The prescribed classes are-

(a) auctionable-Virginia flue-cured;

(b) non-auctionable-fire-cured, Oriental, sun-cured, sun- and air-cured.

4. Under section 84 of the Act, only prescribed varieties of prescribed classes may be grown or sold. The prescribed varieties, by classes, are-

(a) Virginia flue-cured tobacco-Bonanza, Canadel, Delcrest, Hicks, Jamaica Wrapper, Kutsaga 51, Kutsaga E.1, Kutasaga E.2, Rhomos 7, Trelawney C.7, White Gold, White Stem Orinoco, Yellow Mammoth;

(b) Fire-cured tobacco-Malawi Western;

(c) Burley tobacco-Burley 21, Kentucky 41;

(d) Oriental tobacco-Samsun;

(e) other prescribed classes-Malawi Western.

The prescribed varieties to be grown must be shown separately in paragraph 2 of the form and the acreage of each.

5. Application for registration in respect of the following year's crop must be made within the periods-

(a) Oriental tobacco: 1st June to 31st December;

(b) all other prescribed classes of tobacco: 1st April to 31st October.

6. Section 33 (1) of the Act reads in part: "Every application for registration ... shall contain a clause, to become effective upon registration, whereby the registered grower empowers the Board, as agent ... to dispose of or destroy or cause to be destroyed or to order the disposal or destruction of any surplus or unsold tobacco belonging to such registered grower and remaining in his possession or under his control at the end of any selling season". Paragraph 3 of the form reflects this provision and signature of the form by the applicant signifies the applicant's acceptance of this condition to his registration.

7. Registration is conditional upon the applicant's compliance with the provisions of regulations 3 and 4 of the Plant Pests and Diseases (Tobacco) Regulations, which relate to the destruction of tobacco plants, stalks and roots after cropping. Failure to comply with the regulations may result in the refusal or cancellation of registration. Attention is drawn to this condition in paragraph 4 of the form.

8. The completed application, duly signed, should be sent to the Registrar, Tobacco Board of Zambia, P.O. Box 31963, Lusaka, from whom additional forms are available.

The Laws of Zambia

SECTION 59-THE TOBACCO (PRESCRIBED CLASSES) REGULATIONS

Statutory Instrument
140 of 1968
68 of 1977

Regulations by the Minister

1. These Regulations may be cited as the Tobacco (Prescribed Classes) Regulations. Title

2. The class or classes of tobacco specified in the first column of the Schedule shall be auctionable or non-auctionable tobacco for the purposes of the Act as specified in the second column of the Schedule, opposite the said specified classes. Prescribed classes

The Laws of Zambia

SCHEDULE

(Regulation 2)

PRESCRIBED CLASSES OF TOBACCO

<i>Class</i>	<i>Auctionable/ non-auctionable</i>
Virginia flue-cured tobacco	non-auctionable
Fire-cured, Burley, Oriental, sun-cured, air-cured, sun- and air-cured tobacco	non-auctionable

(As amended by No. 68 of 1977)

The Laws of Zambia

SECTION 83-THE TOBACCO (PRESCRIBED VARIETIES) REGULATIONS

*Regulations by the Minister,
after consultation with the Tobacco Board of Zambia*

Statutory Instruments
141 of 1968
354 of 1969
33 of 1973
178 of 1977
72 of 1983

1. These Regulations may be cited as the Tobacco (Prescribed Varieties) Regulations. Title

2. Of the classes of tobacco specified in the first column of the Schedule, the variety or varieties, as the case may be, specified in the second column of the Schedule, opposite the said specified classes, are prescribed varieties of such classes of tobacco for the purposes of Part XI of the Act. Prescribed varieties

The Laws of Zambia

SCHEDULE

(Regulation 2)

PRESCRIBED VARIETIES OF TOBACCO

<i>Class</i>	<i>Variety</i>
Virginia flue-cured tobacco	Bonanza, Canadel, Delcrest, Hicks, Jamaica Wrapper, Kutsaga 51, Kutsaga E.1, Kutsaga E.2, Rhomos 7, Trelawney C.7, White Gold, White Stem Orinoco, Yellow Mammoth
Burley tobacco	Burley 21, Kentucky 41
Oriental tobacco	Samsun
Fire-cured, sun-cured, air-cured, or sun- and air-cured tobacco . .	Malawi Western
Cigar tobacco	Virginia Mammoth
Virginia flue-cured tobacco	Kutsaga Mammoth E(KME), Speight G.41
Burley air-cured tobacco	Banket A.1, Harian

(As amended by No. 354 of 1969, No. 33 of 1973 and No. 178 of 1977)

SECTION 100-THE TOBACCO (GENERAL) REGULATIONS

Statutory Instrument
138 of 1968

Regulations by the Minister

1. These Regulations may be cited as the Tobacco (General) Regulations.

Title

2. (1) Where, under the provision of sections *thirty-six, forty, forty-five, forty-nine, fifty-one and fifty-four* of the Act, an aggrieved person appeals to the Minister, notice of the appeal shall be given to the Permanent Secretary, in writing, within thirty days of the notification to the aggrieved person of the decision against which he wishes to appeal:

Appeals

Provided that the Minister may, in circumstances which he deems to merit special consideration, consider appeals, notice of which is given after the expiration of the said period of thirty days.

(2) The notice of appeal shall be accompanied by a deposit of twenty kwacha, and shall specify in detail the grounds on which the appeal is made and such other information and representations in support thereof as the appellant may think fit, but the appellant shall have no right to appear in person before the Minister.

(3) The Permanent Secretary shall transmit to the Minister every notice of appeal given to him pursuant to sub-regulation (1), together with such other information and representations as the appellant may have submitted pursuant to sub-regulation (2).

(4) The Minister may, if he deems fit, call upon the Registrar or the Board, as the case may be, to submit, within a stated time, such information or representations in writing as the Registrar or the Board, as the case may be, may wish to submit in respect of any appeal.

(5) After considering the information and representations made by the appellant and such information and representations as the Registrar or the Board, as the case may be, have submitted pursuant to sub-regulation (4), the Minister shall confirm or set aside the decision against which the appeal is made, and, if the decision is so set aside, he may substitute for such decision such alternative decision as to him seems just and equitable.

(6) The Minister shall, in any appeal, make such order for the return or forfeiture of the whole or part of the deposit referred to in sub-regulation (2) as seems to him to be just and equitable.

The Laws of Zambia

3. The registration fee payable by a grower pursuant to section *thirty-four* of the Act in respect of the restoration of his name to the appropriate register shall be- Fee for restoration of registration

- (a) for the first such restoration in any one season, sixty fee units;
- (b) for every subsequent restoration in any one season, one hundred and fifty fee units.

(As amended by Act No. 13 of 1994)

4. (1) An application for a permit to export tobacco, as may be granted pursuant to section *eighty-seven* of the Act, shall be submitted in triplicate in the Form T.A. Gen. 1 set out in the First Schedule, and shall be addressed to the Permanent Secretary. Export of tobacco

(2) The application shall state the class and weight of tobacco to be exported and the date by which the exportation shall have been completed.

(3) Upon the granting of any application made pursuant to sub-regulation (1), the Minister shall endorse the permit to export on each copy of such application and shall specify thereon such conditions as may be applicable, including a date of expiry:

Provided that, if no date is so specified, the permit shall be deemed to expire on the 31st December following the date of issue.

(4) Such permit shall be issued by delivering to the applicant a copy thereof endorsed pursuant to sub-regulation (3), and shall be deemed to have been issued on the date appearing as the date of such endorsement.

5. (1) The substances specified in the Second Schedule are deemed to be noxious and unfit for use in the treatment of tobacco. Prescription of noxious substances

(2) No person shall sell or otherwise dispose of tobacco which has been-

Prohibition against sale of tobacco treated with certain substances

(a) treated with; or

(b) reaped from tobacco plants treated with;
any such scheduled noxious substance.

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6. (1) The inspection of auctionable tobacco held over from any selling season, as required by section *sixty-six* of the Act, shall be carried out by the isolation of the sample or bale and its examination in a manner calculated to ensure that the presence of any living pest of tobacco would by such examination be revealed.

Inspection of tobacco held over

(2) In the course of the inspection, the registered grower shall, if so required, indicate to the inspector the place and manner of storage of the tobacco and shall make any portion of the tobacco as stored available to the inspector at his request.

(3) The certificate in respect of auctionable tobacco certifiable under section *sixty-six* of the Act shall be in the Form T.A. Gen. 2 set out in the First Schedule.

Certificate of inspection

(4) The fumigation of tobacco pursuant to section *sixty-six* of the Act shall be effected at the rate of one kilogramme methyl bromide per 1,000 cubic feet under gas-proof sheets for a period of forty-eight hours.

Fumigation

FIRST SCHEDULE

PRESCRIBED FORMS

APPLICATION FOR PERMIT TO EXPORT TOBACCO

(To be submitted in triplicate)

The Permanent Secretary,
Ministry of Agriculture,
Lusaka.

SEASON 19 /19

1. I hereby apply for a permit to export the following weights of tobacco in the above season:

<i>Prescribed Class</i>	<i>Weight</i>
(a)	
(b)	
(c)	

2. If the permit is granted, I undertake to complete exportation by ,
19

Address of applicant:

..... *Signature*

Date *(name in block capitals)*

PERMIT

The Minister has approved the above application, subject to the completion of
exportation by (date) , 19, and to the following further conditions:

Date.....

File No

.....
*Permanent Secretary,
 Ministry of Agriculture*

(Regulation 6)
FUMIGATION CERTIFICATE

NOTE.-Section 66 of the Act reads:

"(1) Any registered grower who has, under a permit from the Board, held any auctionable tobacco over from any selling season, may deliver the said tobacco to an auction floor for sale in any later selling season if he is the holder of a certificate in the form prescribed, issued by an inspector appointed pursuant to section 22 of the Plant Pests and Diseases Act to the effect that-

Sale of auction tobacco grown earlier season Cap. 2:

Sale of auctionable tobacco grown in earlier season. Cap. 233

- (a) the tobacco has been fumigated in the manner prescribed; and
- (b) the tobacco or a representative sample thereof has been inspected as prescribed and no evidence of the presence of any living pest of tobacco has been found therein;

and which certificate has been issued not more than thirty days before the said tobacco is delivered to the said licensed auction floor.

(2) Immediately before any auctionable tobacco, which has been delivered to an auction floor pursuant to subsection (1), is auctioned on such auction floor, the sales supervisor on the said auction floor shall publicly announce the year of the growth of the said tobacco and that the certificate required by subsection (1) has been issued in respect thereof."

- 1. THIS CERTIFICATE is issued pursuant to section 66 of the Act.
- 2. I hereby certify-
 - (a) that the tobacco (specify)
 -
 - grown by (name of registered grower).....
 - in the season 19 has been fumigated in accordance with these Regulations; and
 - (b) that it or a representative sample thereof has been inspected as prescribed and no evidence of the presence of any living pest of tobacco has been found therein.
- 3. This certificate is valid only for thirty days from the date of issue.

.....
Inspector P.P. and D.A.

Date of issue

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SECOND SCHEDULE

(Regulation 5)

NOXIOUS SUBSTANCE

1. Maleic hydrazide, also known as MH.

Endnotes

1 (Popup - Popup)

Delete whichever are inapplicable.

2 (Popup - Popup)

Delete whichever are inapplicable.

3 (Popup - Popup)

Delete whichever are inapplicable.

4 (Popup - Popup)

Delete whichever are inapplicable.

5 (Popup - Popup)

Delete whichever are inapplicable.

6 (Popup - Popup)

Delete whichever are inapplicable.

7 (Popup - Popup)

Delete (a) or (b) whichever is inapplicable.

8 (Popup - Popup)

For the purposes of this return "grower" shall exclude any person deemed to be a grower solely by virtue of section 26 (6) of the Act (i.e. resales).