THE AGRICULTURE CREDITS AND WAREHOUSE RECEIPTS BILL, 2025

MEMORANDUM

The objects of this Bill are to —

(a) continue the existence of the Warehouse Licensing Authority and re-define its functions;

(b) reconstitute the Board of the Warehouse Licensing Authority and re-define its functions;

(c) establish the Electronic warehouse Receipt System and provide for its management;

(d) regulate warehouses that issue warehouse receipts in the Republic;

(e) provide for the rights and obligations of warehouse operators, depositors of agricultural commodities, holders of warehouse receipts, holders of agricultural charges and lenders under contracts of advance;

(f) regulate contracts of advance and agricultural charges as security for agricultural commodities;

(g) repeal and replace the Agriculture Credits Act, Cap.224; and

(h) provide for matters connected with, or incidental, to the foregoing.

M. D. KABESHA,
Attorney-General

N.A.B. 34, 2025
17th November, 2025

THE AGRICULTURE CREDITS AND WAREHOUSE RECEIPTS BILL, 2025

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A BILL

ENTITLED

An act to continue the existence of the Warehouse Licensing Authority and re-define its functions; reconstitute the Board of the Warehouse Licensing Authority and re-define its functions; establish the Electronic warehouse Receipt System and provide for its management; regulate warehouses that issue warehouse receipts in the Republic; provide for the rights and obligations of warehouse operators, depositors of agricultural commodities, holders of warehouse receipts, holders of agricultural charges and lenders under contracts of advance; regulate contracts of advance and agricultural charges as security for agricultural commodities; repeal and replace the Agriculture Credits Act, Cap. 224; and provide for matters connected with, or incidental, to the foregoing.

ENACTED by the Parliament of Zambia. Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Agriculture Credits and Warehouse Receipts Act, 2025, and shall come into operation on the date appointed by the Minister, by statutory instrument. Short title and commencement

Interpretation

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

"additional assets" means any tangible assets, excluding land and warehouse receipts that belong to a farmer, trader or related business, relating directly or indirectly to agricultural production, processing or trade, all accounts receivable, chattel paper and promissory notes and includes savings accounts on deposit with a bank, credit union, savings institution or other similar organisation;

Act No. of 2025

"advance" means a loan, credit facility, financial accommodation or input for agricultural production granted against the security of a warehouse receipt;

"agricultural charge" means a security that allows a farmer, trader or related business to borrow money using their farming stock and other agricultural assets as collateral;

"agricultural commodity" has the meaning assigned to the words in the Food Reserve Act, 2025;

"agricultural credit" means financing for farmers and agricultural businesses in agricultural transactions consisting of various credit mechanisms that include loans, notes, bills of exchange and lines of credit;

"Authority" means the Warehouse Licensing Authority continued under section 3;

Cap.91

"associate" has the meaning assigned to the word in the Anti-Corruption Act;

"bank" has the meaning assigned to the word in the Banking and Financial Services Act, 2025;

Act No. 2025

"Board" means the Board of the Warehouse Licensing Authority constituted under section 5;

"certificate of compliance" means a certificate issued by the Authority under this Act;

"Chairperson" means a person elected as Chairperson of the Board under section 5;

"citizen" has the meaning assigned to the word in the Constitution;

Cap.1

"collateral" has the meaning assigned to the word in the Movable Property (Security Interest) Act;

Cap.429

"Collateral Registry" has the meaning assigned to the words in the Movable Property (Security Interest) Act;

Cap.429

"company" has the meaning assigned to the word in the companies Act; Cap.388

"conditioning" means the drying or cleaning of an agricultural commodity in a warehouse;

"contract" means a legally binding agreement, including spot contracts, advance contracts, futures contracts, or any other derivative contracts, relating to an agricultural commodity stored in a warehouse;

"delivery" means the transfer of an agricultural commodity stored in a warehouse to a holder of a warehouse receipt or to any other person specified in this Act;

"depositor" means a person who deposits an agricultural commodity in a warehouse;

"Director" means a person appointed as Director under section 7;

"electronic warehouse receipt" means a warehouse receipt generated in electronic form;

"Emoluments Commission" means the Emoluments Commission established under the Constitution; Cap.1

"farming stock" means an agricultural commodity, but does not include an agricultural commodity that is subject to a warehouse receipt;

"financial institution" has the meaning assigned to the words in the Banking and Financial Services Act, 2025; Act No. of 2025

"fungible agricultural commodities" means agricultural commodities of which any unit is, from its nature or by mercantile custom, treated as equivalent of any other unit;

"honorary inspector" means a person appointed as an honorary inspector under section 68;

"inspector" means a person appointed as an inspector under section 67;

"insolvent" has the meaning assigned to the word in the Corporate Insolvency Act; Cap.431

"legally disqualified" means the absence of legal capacity as provided under section 4 of the Mental Health Act; Cap.305

"lender" includes a bank, financial institution, or a person authorised to advance credit under any other written law;

"licence" means a warehouse licence issued by the Authority under this Act;

"lien" means the right of a warehouse operator to recover the expenses incurred for services rendered or supplied by the warehouse operator in accordance with this Act;

Act No. of 2025 "market player" has the meaning assigned to the words in the Agricultural Marketing Act, 2025;

"negotiable warehouse receipt" means a warehouse receipt which is endorsed in blank, to the bearer or to a specific named person, and which can be transferred to another person;

"non negotiable warehouse receipt" means a warehouse receipt which is endorsed to a specific named person and is marked "non negotiable" on the front, and which cannot be transferred;

"other agricultural assets" means assets related to agricultural business but does not include farming stock or additional assets;

Cap.429 "perfected security interest" has the meaning assigned to the words in the Movable Property (Security Interest) Act;

"register" means a register referred to under section 73;

Cap.91 "relative" has the meaning assigned to the word in the Anti-Corruption Act;

"Registrar" means a person appointed as Registrar under section 7;

"related business" means an individual, a company, a cooperative, a partnership, an association and any group of persons acting together, who or which, as the case may be, gives loans to farmers for the purchase of inputs or other items required for agricultural production;

Cap.224 "repealed Act" means the Agricultural Credits Act;

"Secretary" means a person appointed as Secretary under section 7;

Cap.429 "security interest" has the meaning assigned to the words in the Movable Property (Security Interest) Act;

"settlement" means the process of fulfilling the terms of a contract by the delivery or receipt of the agricultural commodity or cash equivalent;

"trader" means a broker or dealer who acquires an agricultural commodity from a farmer or other person, through purchase for the purpose of re-sale or processing;

"Vice-Chairperson" means a person elected as Vice-Chairperson of the Board under section 5;

"warehouse" means any building structure or enclosure in which agricultural commodities are or may be stored and where warehouse receipts are issued;

"warehouse operator" means a person licensed to operate a warehouse that issues warehouse receipts under this Act;

"warehouse receipt" means a receipt relating to agricultural commodities, whether negotiable or non-negotiable, issued under this Act;

"Zambia Agricultural Commodities Exchange" means the authorised agency that was appointed in accordance with section 6 of repeal Act to perform the functions of the Authority; and

"Zambian Agricultural Marketing Council" means the Zambia Agricultural Marketing Council established under the Agricultural Marketing Act, 2025. Act No. of 2025

PART II
THE WAREHOUSE LICENSING AUTHORITY

Continuation of Warehouse Licensing Authority

3. (1) The Warehouse Licensing Authority established under the repealed Act is continued as if established under this Act as a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do all acts and things that a body corporate may, by law, do or perform.

(2) The First Schedule applies to the Authority.

Functions of Authority

4. The functions of the Authority are to—

(a) regulate warehouses that issue warehouse receipts in the Republic;

(b) issue licences to warehouse operators;

(c) certify warehouses owned by a warehouse operator licensed under this Act;

(d) manage the Electronic Warehouse Receipt System;

(e) in collaboration with relevant authorities, provide storage requirements for agricultural commodities;

(f) promote efficient, sustainable, and inclusive agricultural credit services in the Republic;

(g) classify certified warehouses as prescribed;

(h) issue guidelines and standards for the proper storage of agricultural commodities in warehouses;

(i) investigate and mediate complaints and disputes relating to warehouse operations or warehouse receipts, as prescribed;

(j) assess the financial soundness of the warehouse operators; and

(k) advise the Minister on matters relating to this Act.

Board of Authority

5. (1) There is constituted the Board of the Authority which consist of the following part time members appointed by the Minister:

(a) a representative from the ministries responsible for—

(i) agriculture;

(ii) finance; and

(iii) commerce.

(b) a representative of the Attorney General;

(c) a representative of the Bankers Association of Zambia;

(d) a representative of the farmers organisations;

(e) a representative of grain traders;

(f) a representative of the insurance industry; and

(g) a representative of the agro processing industry.

(2) The members referred to under subsection (1) shall be nominated by their respective ministries, institutions or organisations for appointment by the Minister.

(3) The members shall elect the Chairperson and the Vice-Chairperson of the Board from amongst the members referred to under subsection(1*)(c), (d), (e), (f)* and *(g)*.

(4) A person shall not be nominated or appointed as a member of the Board if that person—

(a) is not a citizen;

(b) is an undischarged bankrupt;

(c) is legally disqualified from performing the functions of a member;

(d) has been convicted of an offence under this Act or any written law and sentenced to imprisonment for a term exceeding six months without the option of a fine; or

(e) is a member of the Board of the Food Reserve Agency or a member of the Board of the Zambian Agricultural Marketing Council.

(5) The First Schedule applies to the Board.

Functions of Board

6. (1) Subject to the other provisions this Act, the Board shall perform the functions of the Authority and provide strategic policy direction to the Authority.

(2) Despite the generality of subsection (1), the functions of the Board are to—

(a) formulate the policies, programmes and strategies of the Authority;

(b) approve the annual budget estimates and financial statements of the Authority;

(c) approve the annual work plans, action plans and activity reports of the Authority;

(d) monitor and evaluate the performance of the Authority against the budget and plans; and

(e) promote effective corporate governance of the Authority.

(2) The Board may, by direction in writing and on conditions that the Board considers necessary, delegate to the Director any of the Board's functions under this Act.

(3) A delegation made under subsection (3) shall not prevent the Board from performing the function so delegated.

Director, Registrar, Secretary and other staff

7. (1) The Board shall appoint a Director who shall be—

(a) the chief executive officer of the Authority; and

(b) responsible for the day to day administration of the Authority under the direction of the Board.

(2) The Director shall be an *ex-officio* member of the Board.

(3) The Board shall appoint—

(a) a Secretary who shall perform corporate secretarial duties for the Board and other functions that the Board may determine, under the direction of the Board and the Director; and

(b) Registrar to manage the Electronic Warehouse Receipt System.

(4) The Board shall appoint other staff of the Authority that the Board considers necessary for the performance of the Authority's functions.

(5) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Director, Registrar, Secretary and other staff of the Authority.

(6) The Board shall determine the terms and conditions of service, other than emoluments, of the Director, Registrar, Secretary and other staff of the Authority.

PART III

Licensing of Warehouses

Prohibition of operating warehouse that issues warehouse receipts without licence

8. (1) A person shall not operate a warehouse that issues warehouse receipts without a licence issued under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Application for licence to operate warehouse

9. (1) A person who intends to operate a warehouse that issues warehouse receipts shall apply to the Authority for a warehouse licence in a prescribed manner and form on payment of a prescribed fee.

(2) An application referred to under subsection (1) shall be accompanied by—

(a) proof of intention to execute a financial security in form of a bond, bank guarantee or insurance which is sufficient to secure—

(i) an amount based on the warehouse maximum capacity;

(ii) the nature and value of agricultural commodities to be stored; and

(iii) any risk factors as may be prescribed; and

(b) any other information as may be prescribed.

(3) The Authority shall, before a licence is issued for an application referred to under subsection (1) —

(a) conduct an inspection of the warehouse of the applicant in a prescribed manner and on payment of a prescribed fee, to determine whether the warehouse is suitable for the storage of agricultural commodities for which the licence is required; and

(b) issue a certificate of compliance in a prescribed form, if the warehouse is—

(i) suitable for the storage of agricultural commodities;

(ii) insured as prescribed; and

(iii) satisfies prescribed conditions.

(4) The Authority shall, within thirty days of receipt of an application referred to under subsection (1), grant or reject the application.

(5) The Authority shall, where the Authority rejects an application referred to under subsection (1), inform the applicant in a prescribed manner and form, stating the reasons for the rejection.

(6) The Authority shall, where the Authority grants an application referred to under subsection (1), issue the applicant with a warehouse licence in a prescribed form on terms and conditions that the Authority may determine, if —

(a) the applicant satisfies the requirements under this section;

(b) the applicant is in possession of a warehouse as a tenant or owner; and

(c) the applicant has been issued with a certificate of compliance in accordance with section 3*(b)*.

(7) The Authority shall, where an applicant referred to under subsection (1) intends to conduct the licenced activity with two or more warehouses, issue the applicant with a single licence in a prescribed form on terms and conditions that the Authority may determine, if the warehouses satisfy the requirements of this section.

(8) The warehouses registered under a single licence referred to under subsection (7) shall be treated as a single warehouse for purposes of this Act.

(9) Despite subsection (8), a warehouse operator shall, where a warehouse operator has two or more warehouses, issue separate warehouse receipts for each warehouse.

Financial security for licence

10. (1) A holder of a licence shall, within fourteen days of receipt of the licence issued in accordance with section 9, execute a financial security referred to under section 9(2)*(a)* and submit the financial security with the Authority.

(2) The Authority may call upon the financial security referred to under subsection (1), where the —

(a) holder of a licence defaults in any obligation under this Act;

(b) holder of a licence becomes insolvent; or

(c) licence is suspended, cancelled or surrendered, while the liabilities of the holder of the licence remain outstanding.

(3) The Authority shall, where the Authority calls upon a financial security in accordance with subsection (2) apply the funds of the financial security, in the following order of priority:

(i) to satisfy claims of holders of warehouse receipts and lenders relating to stored agricultural commodities;

(ii) to discharge any statutory fees, penalties, or charges due to the Authority; and

(iii) to meet costs of enforcement or liquidation.

(4) The Authority shall, where the funds of a financial security are applied in accordance with subsection (3), return any surplus from the funds of the financial security to the holder of the licence.

(5) The financial security referred to under subsection (1) shall remain in force for a period of at least six months after the expiry, suspension, cancellation or surrender of the licence, to cover any claims arising from the period during which the warehouse was licensed.

(6) The Authority may, where the Authority determines that the financial security executed under this section is or has become insufficient, require a holder of a licence to execute an additional financial security.

(7) The Authority may, where a holder of a licence fails to comply with this section, suspend or cancel the licence and impose an administrative penalty.

(8) The Minister may, on the recommendation of the Authority, by statutory instrument, make Regulations providing for—

(a) additional types of financial securities;

(b) minimum terms and conditions of a financial security; and

(c) allowing for the adjustment of the warehouse maximum capacity based on agricultural commodity price indices or other economic indicators.

Insurance relating to warehouse licence

11. (1) A holder of a licence shall, within thirty days of receipt of a licence issued in accordance with section 9, file a certificate of insurance with the Authority as prescribed.

(2) A holder of a licence shall, where a fire, explosion, lightening or any other risk destroys or damages an agricultural commodity in a warehouse, on demand by a holder of a warehouse receipt, and on being presented with the warehouse receipt or other evidence of ownership, and after deducting the charges of the holder of the licence and advances obtained, make settlement with the insurance company, at the market value of the agricultural commodity.

(3) A holder of a licence shall, within ten days of the settlement with the insurance company, make complete settlement to all holders of warehouse receipts whose agricultural commodities are stored in the warehouse, which is damaged or destroyed.

(4) The Authority shall, where the Authority determines that the certificate of insurance referred to under subsection (1) is insufficient, require the holder of the licence to acquire an additional insurance cover, based on an annual adequacy review of the insurance cover, certified by an actuary.

(5) The Authority shall, where a holder of a licence fails to comply with this section, suspend or cancel the warehouse licence and impose an administrative penalty.

Validity of licence

12. A licence issued under this Act shall be valid for three years.

Display of licence

13. A holder of a licence shall display a licence in a conspicuous place at the warehouse.

Variation of terms and conditions of licence

14. (1) A holder of a licence may, at any time during the validity of the licence, apply to the Authority for variation of the terms and conditions of the licence in a prescribed manner and form on payment of a prescribed fee.

(2) The Authority shall, within twenty one days of receipt of an application referred to under subsection (1), grant or reject the application.

(3) The Authority shall, where the Authority rejects an application referred to under subsection (1), inform the applicant in a prescribed manner and form, stating the reasons for the rejection.

(4) The Authority shall, where the Authority grants the application referred to under subsection (1), vary the terms and conditions of a licence and issue the applicant with a licence containing the varied terms and conditions in a prescribed manner and form.

Renewal of licence

15. (1) A holder of a licence may, sixty days before the expiration of the validity of the licence, apply to the Authority for renewal of the licence in a prescribed manner and form on payment of a prescribed fee.

(2) The Authority shall, within thirty days of receipt of an application referred to under subsection (1), grant or reject the application.

(3) The Authority shall, where the Authority rejects an application referred to under subsection (2), inform the applicant in a prescribed manner and form, stating the reasons for the rejection.

(4) The Authority shall, where the applicant satisfies the prescribed requirements, issue the applicant with a renewed licence in a prescribed form.

Transfer of licence

16. (1) A holder of a licence shall not transfer a licence to a third party without the prior approval of the Authority.

(2) A holder of a licence who intends to transfer a licence shall apply to the Authority for approval to transfer the licence, in a prescribed manner and form on payment of a prescribed fee.

(3) An application referred to under subsection (2) shall be accompanied by—

(a) a report on the financial affairs of a holder of a licence certified by a registered auditor; and

(b) any other requirements as may be prescribed.

(4) The Authority shall, within thirty days of receipt of an application referred to under subsection (2), approve or reject the application.

(5) The Authority shall, where the Authority rejects the application referred to under subsection (2), inform the applicant, in a prescribed manner and form, stating the reasons for the rejection.

(6) The Authority shall, where the Authority approves the transfer of the licence, issue the applicant with a letter of approval, in writing, if—

(a) the applicant satisfies the requirements under this Part; and

(b) the transferee satisfies the prescribed requirements.

Surrender of licence

17. (1) A holder of a licence issued under this Part shall, where the holder of the licence decides to discontinue the licenced activity, notify the Authority, in writing, and shall agree with the Authority on the terms and conditions of surrender of the licence.

(2) The Authority shall cancel a licence that is surrendered in accordance with subsection (1).

Suspension or cancellation of licence

18. (1) Subject to the other provisions of this Act, the Authority may suspend or cancel a licence, if the holder of the licence—

(a) obtained the licence through fraud, misrepresentation or concealment of a material fact;

(b) cancels the insurance cover relating to the warehouse without the approval of the Authority; or

(c) contravenes any provision this Act or terms and conditions of a licence.

(2) The Authority shall, before suspending or cancelling a licence in accordance with subsection (1), notify the holder of the licence of the Authority's intention to suspend or cancel the licence in a prescribed manner and form and shall—

(a) give reasons for the intended suspension or cancellation; and

(b) require the holder of the licence to show cause, within a period of not more than thirty days, why the licence should not be suspended or cancelled.

(3) The Authority shall not suspend or cancel a licence under this section if the holder of the licence takes remedial measures to the satisfaction of the Authority within the period referred to in subsection (2) *(b)*.

(4) The Authority shall suspend or cancel a licence if the holder of the licence, having been notified in accordance with subsection (2), does not—

(a) show cause to the satisfaction of the Authority why the licence should not be suspended or cancelled; or

(b) take remedial measures to the satisfaction of the Authority within the period specified in subsection (2) *(b)*.

(5) A holder of a licence that is cancelled shall, within thirty days of being notified of the cancellation, surrender the licence to the Authority and the unused warehouse receipts.

(6) A person who contravenes subsection (5) commits an offence.

(7) The Authority shall, where the Authority suspends or cancels a licence under this section, publish the suspension or cancellation in a daily news paper of general circulation in the Republic.

Re-registration

19. (1) A person whose licence is cancelled may apply for re-registration in a prescribed manner and form on payment of a prescribed fee, if that person takes remedial measures to the satisfaction of the Authority.

(2) An application for re-registration of a licence may be made within thirty days from the date of the cancellation of the licence.

Duplicate licence

20. (1) A holder of a licence whose licence is destroyed or lost may apply to the Authority for a duplicate licence in a prescribed manner and form on payment of a prescribed fee.

(2) The Authority may, within fourteen days of receipt of an application under subsection (1), issue a duplicate licence to the applicant.

PART IV

Electronic Warehouse Receipt System And Warehouse Receipts

Electronic Warehouse Receipt System

21. (1) The Authority shall establish and maintain an Electronic Warehouse Receipt System in which all warehouse receipts issued by a warehouse operator in accordance with this Act, contracts of advance and agricultural charges shall be recorded.

(2) The database of warehouse receipts, contracts of advance and agricultural charges in the Electronic Warehouse Receipt System shall be linked with the Collateral Registry.

(3) The Authority shall ensure that the database of warehouse receipts, contracts of advance and agricultural charges referred to under subsection (1) are accessible, on payment of a prescribed fee, to members of the public for purposes of searching and verifying the status of warehouse receipts, contracts of advance and agricultural charges.

(4) The Minister may, by statutory instrument, make Regulations to provide for security, access and use of the database of warehouse receipts, contracts of advance and agricultural charges in the Electronic Warehouse Receipt System.

Deposit of agricultural commodities for storage

22. (1) A person who intends to store a prescribed quantity of agricultural commodities in a warehouse shall deposit the agricultural commodity with a warehouse operator as prescribed.

(2) A depositor of an agricultural commodity referred to under subsection (1) shall when depositing an agricultural commodity provide the following information to a warehouse operator:

(a) the full particulars of the depositor;

(b) the source of the agricultural commodity, and where the depositor is not the owner, the details of the original owner or chain of ownership, if known;

(c) any peculiarities in the nature of the agricultural commodity;

(d) where the agricultural commodity is subject to any agricultural charge, the details of the agricultural charge; and

(e) any other information that may be prescribed.

(3) A warehouse operator shall, before accepting an agricultural commodity for storage in a warehouse, verify with the Collateral Registry whether or not the agricultural commodity is subject to an agricultural charge.

(4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Deposit of agricultural commodities for purposes other than storage

23. (1) An agricultural commodity that is deposited with a warehouse operator for purposes of processing, cleaning and holding the agricultural commodity and returning the cleaned or processed agricultural commodity to the depositor, shall not be considered to be an agricultural commodity for purposes of this Act.

(2) A warehouse operator who is in possession or in control of an agricultural commodity referred to under subsection (1), shall maintain the agricultural commodity in a manner that preserves the identity of the agricultural commodity.

Issuance and lodgment of warehouse receipts

24. (1) A warehouse operator shall, issue a warehouse receipt to a depositor of an agricultural commodity within twenty four hours of the deposit of the agricultural commodity in a prescribed manner and form.

(2) A warehouse operator shall, within twenty four hours of issuance of a warehouse receipt, lodge the warehouse receipt in the Electronic Warehouse Receipt System.

(3) A warehouse receipt referred to under subsection (1), shall be *prima facie* evidence of the proprietary rights of the holder of the warehouse receipt in an agricultural commodity in respect of which the warehouse receipt is issued.

(4) Despite subsection (3), a holder of a warehouse receipt acquires proprietary rights in an agricultural commodity under a warehouse receipt, if the holder of the warehouse receipt is entitled to the ownership of the agricultural commodity.

(5) The propriety rights of a holder of a warehouse receipt in an agricultural commodity referred to under subsection (3), shall not be affected by the failure of a warehouse operator to comply with subsections (1) or (2).

(6) The Authority may, where a warehouse operator fails to comply with subsections (1) or (2), impose on the warehouse operator an administrative penalty that the Minister may, on the recommendation of the Authority, prescribe.

(7) A warehouse operator who issues a warehouse receipt knowing that the agricultural commodity for which the warehouse receipt is issued has not been deposited with the warehouse operator commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Negotiable and non-negotiable warehouse receipts

25. (1) A warehouse operator shall, issue a —

(a) negotiable warehouse receipt where an agricultural commodity is not subject to an agricultural charge; or

(b) non-negotiable warehouse receipt where the warehouse operator discovers that an agricultural commodity that has been deposited in a warehouse is subject to an agricultural charge.

(2) A person shall not insert, or cause to be inserted, in a negotiable warehouse receipt, words that render the negotiable warehouse receipt as non negotiable.

Negotiating negotiable warehouse receipt

26. (1) A negotiable warehouse receipt to the order of a name of a person may be negotiated by endorsement and delivery —

(a) after endorsement in blank or to the bearer; or

(b) after endorsement to a specific person.

(2) A negotiable warehouse receipt referred to under subsection (1), may be negotiated by the person named in the negotiable warehouse receipt.

(3) Subject to subsection (1), negotiation of a negotiable warehouse receipt after the negotiable warehouse receipt is endorsed to a specific named person shall require the endorsement of the endorsee.

(4) An endorsement made in accordance with subsection (3) shall be made to a specified person and may be negotiated to another specified person and subsequent negotiations shall be made in a like manner.

(5) For the purposes of this section, a negotiable warehouse receipt shall be regarded as duly negotiated if the negotiable warehouse receipt is negotiated in the manner stated under this section to a person who purchases the negotiable warehouse receipt in good faith and for value, without notice of any defect or claim to the negotiable warehouse receipt on the part of any person.

Rights acquired after negotiation of negotiable warehouse receipt

27. Subject to this section, a person to whom a negotiable warehouse receipt is negotiated shall acquire —

(a) the title to the agricultural commodity;

(b) the right to demand delivery of the agriculture commodity from the warehouse operator;

(c) the right to use the negotiable warehouse receipt as collateral for financing; and

(d) all rights accruing under the law of agency and estoppel.

Transfer of negotiable warehouse receipt without negotiation

28. A negotiable warehouse receipt may be transferred without negotiation, if it is transferred by —

(a) the holder of the negotiable warehouse receipt to another person under a separate arrangement or agreement; or

(b) order of the court.

Rights of transferee of negotiable warehouse receipt

29. (1) A transferee of a negotiable warehouse receipt which is transferred in accordance with section 28 shall acquire —

(a) against the transferor, title to an agricultural commodity;

(b) the right to compel a transferor to—

(i) lodge the negotiable warehouse receipt in the Electronic Warehouse Receipt System; and

(ii) where endorsement is essential for negotiation, deliver the endorsed negotiable warehouse receipt to the transferee within three days of the endorsement.

(2) The title acquired by the transferee under subsection (1) shall be subject to the terms of the agreement with the transferor.

(3) Where the endorsement of a negotiable warehouse receipt is essential before the negotiable warehouse receipt is transferred, the negotiable warehouse receipt shall not be regarded as negotiated until the transferor endorses it.

(4) The transferee shall not be liable for any default or fraudulent acts on the negotiable warehouse receipt, occasioned by the warehouse operator or previous endorsers, where the endorsement of a negotiable warehouse receipt is in good faith.

(5) A court may, in case of a dispute or enforcement of lawful claims, order a negotiable warehouse receipt to be transferred —

(a) where it is proved that there was an agreement for the transfer of the negotiable warehouse receipt between the transferor and the transferee; or

(b) in the interest of justice including cases of insolvency.

(6) A transferee shall, where a transferred negotiable warehouse receipt becomes non negotiable, in order to acquire title to an agricultural commodity, notify the warehouse operator of the transfer of such negotiable warehouse receipt to the transferee.

Alteration of warehouse receipt

30. (1) A warehouse receipt referred to under this Part may be altered by a warehouse operator as prescribed.

(2) An alteration of a warehouse receipt referred to under subsection (1) shall be treated as —

(a) immaterial, if the alteration does not affect any proprietary rights of the holder of the warehouse receipt;

(b) authorised, if the alteration is made with the consent of the holder of the warehouse receipt; or

(c) unauthorised, if the alteration is made without the consent of the holder of the warehouse receipt.

Rights of purchaser of altered warehouse receipt against warehouse operator

31. (1) A *bonafide* purchaser of a warehouse receipt for value, without notice of an alteration to the warehouse receipt, shall acquire the same proprietary rights against the warehouse operator which the purchaser would have acquired if the warehouse receipt had not been altered at the time of purchase.

(2) Despite subsection (1), a purchaser of a warehouse receipt shall be deemed to have had notice of an alteration of a warehouse receipt, if prior to the purchase of the warehouse receipt, the purchaser or the purchaser's agent took part in, or influenced, the alteration of the warehouse receipt.

Lost, stolen or destroyed warehouse receipt

32. (1) A holder of a warehouse receipt shall, within forty eight hours of the loss, theft or destruction of a warehouse receipt, report the occurrence to the Authority.

(2) The Authority shall, immediately on receipt of the report referred to under subsection (1), suspend the original warehouse receipt in the Electronic Warehouse Receipt System.

Duplicate warehouse receipt

33. (1) A holder of a warehouse receipt whose warehouse receipt is lost, stolen or destroyed in accordance with section 32, may apply to a warehouse operator for a duplicate warehouse receipt.

(2) An application for a duplicate warehouse receipt referred to under subsection (1) shall be accompanied by —

(a) a police report of the lost, stolen or destroyed warehouse receipt; and

(b) in the case of a prescribed value of the lost, stolen or destroyed warehouse receipt, a copy of a notice relating to the lost, stolen, or destroyed warehouse receipt published in a daily newspaper of general circulation in the Republic.

(3) A warehouse operator shall, within fourteen days of receipt of an application referred to under subsection (1), grant or reject the application.

(4) A warehouse operator shall, where the warehouse operator rejects an application referred to under subsection (1), inform the applicant, in writing, stating the reasons for the rejection.

(5) A warehouse operator shall, where the warehouse operator grants an application referred to under subsection (1), issue the applicant with a duplicate warehouse receipt.

(6) A warehouse operator shall, where the warehouse operator issues a duplicate warehouse receipt in accordance with subsection (5), immediately—

(a) lodge the duplicate warehouse receipt in the Electronic Warehouse Receipt System; and

(b) notify the Authority of the lodgment in writing.

(7) A duplicate warehouse receipt that is not lodged in the Electronic Warehouse Receipt System in accordance with subsection (6), shall be void.

(8) A warehouse operator shall mark the duplicate warehouse receipt issued in accordance with subsection (5), with the word "duplicate" in front, as a warranty by the warehouse operator that the warehouse receipt —

(a) is an accurate copy of the original warehouse receipt; and

(b) has the same rights as the original warehouse receipt properly issued and outstanding at the date of issue of the duplicate.

(9) A warehouse operator who contravenes subsection (8) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(10) A person who uses an original warehouse receipt after a duplicate warehouse receipt has been issued in accordance with this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(11) Despite subsection (9), a warehouse operator shall be liable for damages caused to any person by the failure of the warehouse operator to mark a duplicate warehouse receipt as specified in subsection (8).

PART V

RIGHTS AND OBLIGATIONS OF WAREHOUSE OPERATORS

Right of warehouse operator to sell or pledge warehouse receipt

34. A warehouse operator may sell or pledge a warehouse receipt issued in respect of an agricultural commodity which the warehouse operator owns solely, jointly or in common with others and the recital of ownership in the warehouse receipt shall constitute notice of the right to sell or pledge the warehouse receipt and of the title or specific lien of the transferee or pledgee.

Warehouse operator's right to lien

35. (1) A warehouse operator shall have a lien over an agricultural commodity which is stored in the warehouse of the warehouse operator to cover the storage charges of an agricultural commodity.

(2) A warehouse operator's lien on a deposited agricultural commodity or the proceeds of the deposited agricultural commodity shall derive from —

(a) all lawful charges for the storage and preservation of the agricultural commodity;

(b) lawful claims for money advanced, interest, insurance, transportation, labor, weighing and other charges and expenses in relation to the agricultural commodity;

(c) all reasonable charges and expenses incurred for notice and advertisements of sale; and

(d) the sale of the agricultural commodity where default is made in satisfying the warehouse operators lien.

(3) A warehouse operator may, where the warehouse operator has a valid lien against a person demanding an agricultural commodity, refuse to deliver the agricultural commodity to that person until the lien is satisfied.

Enforcement of lien

36. (1) Subject to the other provisions of this Act, a warehouse operator may enforce a lien against all agricultural commodities —

(a) belonging to a holder of a warehouse receipt who is liable, as debtor, for the claims with regard to which the lien is asserted; and

(b) belonging to others, which have been deposited by a person who is liable, as a debtor, for the claims to which the lien is asserted, if the depositor was entrusted with the agricultural commodities at the time of deposit.

(2) A warehouse operator may enforce a lien by —

(a) the sale of an agricultural commodity;

(b) any other remedies allowed by law for the enforcement of a lien against moveable property; or

(c) any other action for the recovery of the warehouse operator's claim.

Lien on perishable and hazardous agricultural commodities

37. (1) A warehouse operator may, where a lien relates to agricultural commodities that are of a perishable nature and likely to deteriorate greatly in value, by their odour, leakage, inflammability or explosive nature or are likely to injure the property or endanger the life of persons likely to come into contact with the agricultural commodities, give notice to a holder of a warehouse receipt to satisfy the lien on the agricultural commodities and remove the agricultural commodities from the warehouse within a specified period.

(2) A warehouse operator may, where a holder of a warehouse receipt fails to comply with the notice referred to under subsection (1), sell the agricultural commodities at a public or private auction, with or without advertising the agricultural commodities.

(3) A warehouse operator may, where the warehouse operator is unable to sell the agricultural commodities in accordance with subsection (2), dispose of the agricultural commodity in accordance with any relevant written law.

(4) A warehouse operator shall not incur any liability for the disposal of agricultural commodities under subsection (3).

(5) The proceeds of any sale made in accordance with this section shall be applied, in order of priority, to —

(a) satisfy the lien of the warehouse operator; and

(b) return any surplus to the holder of the warehouse receipt.

Warehouse operator's lien not to preclude other remedies

38. A warehouse operator's lien under this Part shall not affect a warehouse operator's entitlement to a remedy which is available under any other written law.

Loss of lien

39. A warehouse operator shall lose the right of a lien on the agricultural commodity under this Part, where the warehouse operator surrenders possession of an agricultural commodity to a holder of a warehouse receipt or fails to deliver an agricultural commodity in accordance with section 40(2).

Obligation of warehouse operator to deliver agricultural commodities

40. (1) The obligations of a warehouse operator under this Act shall not be affected where —

(a) a warehouse receipt does not comply with the requirements of this Act or any other relevant written law;

(b) the warehouse operator has contravened the provisions of this Act; or

(c) an agricultural commodity in respect of which a warehouse receipt was issued was owned by the warehouse operator at the time the warehouse receipt was issued.

(2) Subject to the other provisions of this Act, a warehouse operator shall, on demand made by a holder of awarehouse receipt, deliver an agricultural commodity stored in the warehouse to the holder of the warehouse receipt —

(a) if the holder of the warehouse receipt pays the lien of the warehouse operator; and

(b) the warehouse operator is satisfied that —

(i) the person receiving the agricultural commodity is lawfully entitled to the possession of the agricultural commodity; and

(ii) the holder of the warehouse receipt is entitled to delivery, either by oneself or on that person's written authorisation, to another person.

(3) A warehouse operator who contravenes subsection (2), is liable, to an administrative penalty.

(4) A warehouse operator shall, where the warehouse operator fails to deliver an agricultural commodity in accordance with subsection (2) because of an altered warehouse receipt, estop the holder of the warehouse receipt who had notice of the alteration from demanding proprietary rights other than those specified in the altered warehouse receipt.

Liability for damages caused by warehouse operator's failure to deliver

41. (1) A warehouse operator shall be liable to the holder of a warehouse receipt for any damages caused by the warehouse operator's failure to —

(a) deliver an agricultural commodity; or

(b) deliver an agricultural commodity that corresponds with the description in the warehouse receipt, at the time of deposit.

(2) Despite subsection (1) a warehouse operator shall not be liable —

(a) for an agricultural commodity which is conditioned or processed, where such conditioning or processing is noted on the warehouse receipt; or

(b) under subsection (1) *(b)*, where a warehouse receipt is marked with a statement that the agricultural commodity under the warehouse receipt does contain agricultural commodities of a certain kind.

(3) The liability of a warehouse operator referred to under subsection (1) shall, where the damages caused by a warehouse operator are as a result of a *force majeure* and notice is given to the affected holder of a warehouse receipt of the occurrence of the damages, be limited to the net sale.

Liability for delivery to person not entitled to delivery

42. (1) A warehouse operator shall not deliver an agricultural commodity in accordance with section 40, where, prior to the delivery, the warehouse operator receives information or becomes aware that a person to whom the delivery is about to be made is not legally entitled to the delivery.

(2) A warehouse operator who contravenes subsection (1) is liable, for conversion, to all persons with a proprietary right in, or possession of, the agricultural commodity.

Ascertaining valid titles to agricultural commodities

43. (1) Where more than one person isclaiming title to, or possession of, an agricultural commodity, a warehouse operator shall, before making delivery of the agricultural commodity, to any one of them, require the claimants to interplead.

(2) An action taken under subsection (1) may be filed as an action against the warehouse operator for non delivery of the agricultural commodity, or as an original suit.

(3) A warehouse operator shall not be liable for the non delivery of an agricultural commodity where the warehouse operator has evidence that a person other than the holder of the warehouse receipt or claimant has a claim to the title or possession of the agricultural commodity and that because of that evidence, the warehouse operator is taking reasonable steps to ascertain the validity of the adverse claim or to initiate legal proceedings to compel all claimants to interplead.

(4) A court shall ascertain the right claimant of an agricultural commodity by interpleading or any other manner.

(5) Subject to subsection (3), the fact that a third person has a right or title to an agricultural commodity shall not be a defence to an action brought by the holder of the warehouse receipt, or a person claiming from the holder of the warehouse receipt, against the warehouse operator for failure to deliver the agricultural commodity according to the terms indicated on the warehouse receipt.

Liability for failure to cancel or mark warehouse receipt after delivery

44. (1) Subject to the other provisions of this Act, a warehouse operator shall, where a warehouse operator —

(a) delivers an agricultural commodity under a negotiable warehouse receipt, cancel the negotiable warehouse receipt; or

(b) delivers part of an agricultural commodity under a negotiable warehouse receipt, cancel the negotiable warehouse receipt and —

(i) issue a new negotiable warehouse receipt for the remaining agricultural commodity; or

(ii) conspicuously mark the new negotiable warehouse receipt with a statement of the agricultural commodity and packages that have been delivered.

(2) A warehouse operator who fails to cancel a warehouse receipt in accordance with subsection (1) shall be liable to the holder of the warehouse receipt or to a person who purchases the negotiable warehouse receipt for value and in good faith.

(3) The liability of the warehouse operator under subsection (2) shall not be affected by the fact that a purchaser acquired title to the negotiable warehouse receipt before or after, the delivery of the agricultural commodity or a portion of the agricultural commodity by the warehouse operator.

Warehouse operators' duty of care

45. (1) A warehouse operator shall, where the warehouse operator stores an agricultural commodity, exercise such reasonable care that an owner of the agricultural commodity would exercise towards that agricultural commodity.

(2) A warehouse operator who contravenes subsection (1) shall be liable for breach of a duty of care, but unless otherwise agreed, the warehouse operator shall not be liable for damages that could not have been avoided by the exercise of such duty of care.

Duty to keep agricultural commodities separately

46. Subject to the other provisions of this Act, for purposes of identification of agricultural commodities, a warehouse operator shall, where a warehouse operator receives —

(a) agricultural commodities from different depositors, keep the agricultural commodities of each depositor separate; and

(b) different agricultural commodities for which separate warehouse receipts are issued from the same depositor, keep the agricultural commodities separate.

Commingling of fungible agricultural commodities

47. (1) A warehouse operator may, with the approval of a holder of a warehouse receipt commingle fungible agricultural commodities of the same kind and grade.

(2) Holders of warehouse receipts shall, where fungible agricultural commodities are commingled in accordance with subsection (1) —

(a) own the entire mass of commingled agricultural commodities in common; and

(b) each, be entitled to such portion of the amount deposited.

(3) A warehouse operator shall be severally liable to each holder of a warehouse receipt for the care and delivery of the share of the mass of the agricultural commodities of the holder of the warehouse receipt, to the same extent and under the same circumstances as if the agricultural commodities had been kept separate.

Termination of storage at warehouse operator's option

48. (1) A warehouse operator may, by notice to a holder of a warehouse receipt and any other person known to claim an interest in the agricultural commodity, require the holder of the warehouse receipt to pay any charges relating to the storage of the agricultural commodity and remove the agricultural commodity from a warehouse —

(a) at the termination of the period of storage of the agricultural commodity specified in a warehouse receipt; or

(b) if no period is specified in a warehouse receipt, within a specified period of not less than thirty days from the date of the notice.

(2) A warehouse operator may, where a holder of a warehouse receipt fails to comply with subsection (1), sell or dispose of the agricultural commodity in accordance with this Act.

(3) A warehouse operator may, where a warehouse operator sells or disposes of an agricultural commodity in accordance with subsection (2), satisfy the lien from the proceeds of the sell or disposition, but shall hold the balance for delivery on the demand of any person to whom the warehouse operator would have been bound to deliver the agricultural commodity.

PART VI

CONTRACTS FOR ADVANCE

Entry into Contract for advance

49. (1) A lender may, on the security of a warehouse receipt, enter into a contract for an advance with a holder of a warehouse receipt, and grant an advance to the holder of the warehouse receipt.

(2) A contract referred to under subsection (1), shall—

(a) be in writing;

(b) include the following:

(i) identify the warehouse receipt securing the advance;

(ii) specify the value of the advance issued to the holder of a warehouse receipt;

(iii) indicate the terms and conditions of the advance; and

(iv) state the rights and obligations of the holder of the warehouse receipt, lender, and warehouse operator.

Lodgment of contract for advance Cap.429

50. (1) A lender shall, within seven days of entry into a contract of advance, lodge the contract of advance in the Collateral Registry in accordance with the Movable Property (Security Interest) Act.

(2) A contract of advance that is not lodged in accordance with this section, shall not be enforceable against *bona fide* third-party purchasers of the applicable agricultural commodities.

Effects of contract of advance

51. (1) A contract of advance made in accordance with this section shall —

(a) be valid and enforceable in law;

(b) create a perfected security interest in the agricultural commodity described in the warehouse receipt; and

(c) confer priority on the lender over any other claim to the agricultural commodity, except for —

(i) charges relating to the storage of the agricultural commodity due to the warehouse operator; and

(ii) insurance premiums.

(2) A lender's priority, as specified in subsection (1)*(c)*, shall remain effective until the advance and any accrued interest or charges are fully paid.

Rights and obligations of lender

52. (1) A lender shall, where a lender provides an advance to a holder of a warehouse receipt, furnish the holder of the warehouse receipt with a disclosure schedule showing the value and cost of the advance to the holder of the warehouse receipt, the interest rate and any charges, fees or penalties that shall apply.

(2) Despite the provisions of any other written law, a lender who fails to comply with subsection (1), shall not be eligible to register an agricultural charge created by the holder of the warehouse receipt, on the basis of the contract, in the Collateral Registry.

(3) The agricultural charge referred to under subsection (2) shall not be —

(a) valid; and

(b) enforceable against any third party.

(4) A lender may, where a holder of a warehouse receipt defaults on an advance obtained under a contract made in accordance with this section, without the need for a court order, require the warehouse operator to sell the agricultural commodity by private or public auction and the proceeds of the sale shall be applied in the following order:

(a) payment of charges relating to the storage of the agricultural commodity and insurance premiums;

(b) repayment of the advance, accrued interest, and enforcement costs; and

(c) payment of any surplus to the borrower or any other person entitled to the payment.

(5) A lender who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units.

Duties of warehouse operators in relation to contract of advance

53. (1) A warehouse operator shall, where a warehouse receipt is pledged to secure an advance —

(a) retain possession of the agricultural commodity until the lender authorises the release of the agricultural commodity; and

(b) maintain the agricultural commodity in accordance with prescribed standards.

(2) A warehouse operator who, without lawful authority, delivers the agricultural commodity referred to under subsection (1) to a person other than the lender or the lender's authorised agent commits an offence.

Discharge of security

54. (1) A lender shall, where a holder of a warehouse receipt fully repays an advance issued to the holder of the warehouse receipt under a contract of advance and the applicable charges —

(a) return the warehouse receipt to the holder of the warehouse receipt; and

(b) notify the warehouse operator, in writing, that the commodity is free from any encumbrance.

(2) A lender who, without reasonable cause, fails to comply with subsection (1), commits an offence.

Lodgment of disclosure schedule

55. (1) A lender shall, within forty eight hours of furnishing a holder of a warehouse receipt with a disclosure schedule in accordance with section 52(1), submit the disclosure schedule with the Authority.

(2) A lender who fails to comply with subsection (1) shall be liable to an administrative penalty.

Application to correct material error in disclosure schedule

56. (1) A holder of a warehouse receipt or lender who intends to correct a material error in a disclosure schedule shall apply to the Authority in a prescribed manner and form.

(2) The Authority shall, within fourteen days of receipt of the application referred to under subsection (1), approve or reject the application.

(3) The Authority shall, where the Authority rejects the application, inform the applicant, in writing, stating the reasons for the rejection.

(4) The Authority shall, where the Authority approves the application, require the applicant to correct the material error in the disclosure schedule.

PART VII

AGRICULTURAL CHARGES

Types of agricultural charges

57. (1) An agricultural charge may be fixed or floating, or both.

(2) An agricultural charge referred to under subsection (1), may be in any form or in a standardised form as prescribed, and made on conditions that the parties to the agricultural charge may agree.

(3) A surety to an agricultural charge may be a party to the agricultural charge.

Agricultural charges on farming stock and assets

58. (1) A farmer may, individually or in association, create in favor of any person, an agricultural charge on any farming stock, additional asset or other agricultural asset as security for —

(a) inputs or other items required for agricultural production;

(b) sums advanced or to be advanced to the farmer; or

(c) sums paid or to be paid on the farmer's behalf under any guarantee.

(2) Despite subsection (1), a trader or related business may create in favor of any person, an agricultural charge on all or any portion of an agricultural commodity that the trader or related business purchases or intends to purchase from a farmer, as security.

(3) The security referred to under subsections (1) and (2) may cover any interest, commission or charge relating to the agricultural charge.

(4) The property that may be affected by a fixed charge include —

(a) farming stock;

(b) additional assets;

(c) any other agricultural assets belonging to the farmer, trader or related business at the date on which the agricultural charge is created; and

(d) any other property as may be specified in the agricultural charge.

(5) The principal sum secured by an agricultural charge may be —

(a) a specific amount advanced in one sum or in instalments; or

(b) a fluctuating amount advanced on a current account not exceeding at any one time such amount, if any, as may be specified in the agricultural charge, except that any agricultural charge for securing a current account or any further advances shall continue to be effective against the farmer, trader or related business and against the holder of any subsequent interest in the agricultural commodities charged, despite the fluctuation or temporary extinction of the indebtedness that the lender may have had notice of the subsequent interest.

Registration of agricultural charge Cap.429

59. (1) A farmer, trader or related business shall within fourteen days after creation of an agriculture charge in accordance with section 58 (1) and (2), register the agricultural charge in the Collateral Registry in accordance with the Movable Property (Security Interest) Act.

(2) An agricultural charge that is not registered in accordance with subsection (1), shall be void.

(3) A printed certified copy of the registration of the agricultural charge shall be *prima facie* evidence in legal proceedings of the registration of the agricultural charge.

Effect of fixed agricultural charge

60. (1) A fixed agricultural charge shall confer the following on the holder of the fixed agricultural charge:

(a) on the happening of an event specified in the agricultural charge as an event authorising the seizure of property subject to the agricultural charge, a right to take possession of the property; and

(b) where possession of any property has been taken, a right to sale the property, after twenty one days of possession of the property or a shorter period as may be specified by the agricultural charge.

(2) A fixed agricultural charge shall impose the following obligations on a farmer, trader or related business:

(a) where the farmer, trader or related business sells any property, or receives any money in respect of any asset comprised in the agricultural charge, pay to the holder of the agricultural charge, the amount of the proceeds of the sale or the money so received, except to such extent as the charge otherwise provides or the holder of the agricultural charge otherwise allows, and any sum so paid shall be applied, except so far as otherwise agreed by the holder of the agricultural charge, in or towards the discharge of moneys and liabilities secured by the charge;

(b) in the event of the farmer, trader or related business receiving any money under any policy of insurance on any property comprised in the agricultural charge, pay the amount of the sum received to the holder of the agricultural charge, except to such extent as the charge otherwise provides or the holder of the agricultural charge otherwise allows, and any sum so paid shall be applied, except so far as is otherwise agreed by the holder of the agricultural charge, in or towards the discharge of moneys and liabilities secured by the charge.

(3) Despite subsection (2)*(a),* if the holder of an agricultural charge is a related business, the farmer or trader shall not sell, except as provided under this section, the agricultural commodity for which the farmer received loans or advances of inputs or other items required for agricultural production but shall deliver to the holder of the agricultural charge the agricultural commodity in the amount agreed in the charge.

(4) An insurer may, despite anything contained in an insurance policy, where any money is due to a farmer, trader or related business under any policy of insurance on any of the property comprised in a fixed agricultural charge, pay the holder of the agricultural charge the money specified in the agricultural charge and any such payment shall be a valid discharge of the liability of the insurer to the farmer, trader or related business to the extent of the amount so paid, and the provisions of subsection (2)*(b)* apply to the amount so paid as if it had been paid to the holder of the agricultural charge by the farmer, trader or related business.

Sale of property subject to agricultural charge

61. (1) A holder of an agricultural charge shall, where the holder of the agricultural charge intends to sale a property subject to the agricultural charge in accordance with section 60(1) *(b),* notify the Authority of the intended sale.

(2) The Authority shall, on receipt of the notice referred to under subsection (1), at least twenty one days before the intended sale, publish the notice by any electronic means that the Authority may determine.

(3) The holder of the agricultural charge shall, where the holder of the agricultural charge sales the property subject to the agricultural charge in accordance with section 60(1) *(b),* apply the proceeds of the sale towards —

(a) the discharge of the monies and liabilities secured by the fixed agricultural charge and the costs of seizure and sale; and

(b) pay the surplus of the proceeds, if any, to the farmer, trader or related business.

(4) Subject to subsections (1) and (2), a fixed agricultural charge shall not prevent a farmer, trader or related business from selling a property subject to the agricultural charge.

(5) A holder of an agricultural charge shall, where the proceeds of a sale made under subsection (3)*(b)* are paid to a third party and not the farmer, trader or related business, have a right to recover the proceeds from that third party, if the holder of the agricultural charge proves the third party knew that the proceeds were paid to the third party in breach of the obligations of a farmer, trader or related business.

Effect of floating agricultural charge

62. (1) An agricultural charge creating a floating charge shall have the like effect as if the charge had been created by a registered debenture issued by a company, except that —

(a) the charge shall become a fixed charge on the property on —

(i) a receiving order in bankruptcy being made against the farmer, trader or related business;

(ii) the death of the farmer or trader;

(iii) the dissolution of the partnership in the case where the property charged is partnership property;

(iv) notice, in writing, to that effect being given by the holder of the agricultural charge on the happening of any event which, by virtue of the charge, confers upon the holder of the agricultural charge the right to give the notice; or

(v) on default in repayment under the terms of the charge; and

(b) the farmer, trader or related business, while the agricultural charge remains a floating charge, shall be subject to the like obligation as in the case of a fixed charge to pay over to the holder of the agricultural charge the amount received by the holder of the agricultural charge by way of proceeds of sale, in respect of other agricultural assets or additional assets under policies of insurance, or by way of compensation.

(2) The farmer, trader or related business shall not be required to comply with the obligations referred to under subsection (1)(b), if and so far as the amount received by the farmer, trader or related business is expended in the purchase of farming stock which, on purchase, becomes subject to the charge.

(3) The Authority shall, where a floating agricultural charge becomes a fixed agricultural charge in accordance with subsection (1)(a), notify the farmer, trader or related business of the conversion and publish the conversion by any electronic means that the Authority may determine.

Notice of agricultural charge

63. (1) A farmer, trader or related business shall, when selling or causing to be sold, any farming stock or additional asset which is subject to an agricultural charge, provide a purchaser, or a person effecting the sale of, the farming stock or additional asset, before payment of the purchase price, with an electronic notice or a physical printed notice from the Electronic Warehouse Receipt System.

(2) The purchaser or the person effecting the sale of farming stock or additional asset which is subject to an agricultural charge, shall on receipt of the notices referred to under subsection (1), acknowledge the notice, in writing.

(3) An electronic notice or a physical printed notice referred to under subsection (1) shall contain the following information:

(a) the name and address of all persons holding an agricultural charge over the farming stock or additional assets to be sold;

(b) the priority of the agricultural charges; and

(c) the amount secured by each agricultural charge.

(4) Where a farmer, trader or related business gives an electronic notice to a purchaser, or a person effecting the sale in accordance with subsection (1), the electronic notice shall constitute written notice, in respect of any subsequent sale of an agricultural commodity, which is the subject of the charge, given to that purchaser, or a person effecting the sale, within a period of twelve months from the date of the electronic notice.

(5) Despite subsection (4), the farmer, trader or related business shall, before making, or causing to be made, any subsequent sale, notify the purchaser of an agricultural charge which affects the agricultural commodity, created by the farmer, trader or related business after the date of the electronic notice.

(6) The notice referred to under subsection (5) shall contain the information referred to under subsection (3).

(7) A person who receives a physical printed notice, as provided in subsection (1), shall pay the proceeds of the sale to the holder of an agricultural charge in accordance with the physical printed notice, having regard to the priority and amounts stated in the physical printed notice and shall pay the surplus, if any, remaining after making the payments, to the farmer, trader or related business.

(8) A person who contravenes subsection (7), commits an offence and is liable, on conviction, to the full value of the agricultural charge specified in the physical printed notice.

(9) Any moneys paid out, in accordance with subsection (7), shall reduce the liability of the farmer, trader or related business, under the agricultural charge, created by the farmer, trader or related business, in order of priority, appearing in the Collateral Registry.

Restriction on publication of agricultural charges

64. (1) Subject to the provisions of this Act, a person shall not publish a list of agricultural charges or the name of any farmer, trader or related business who have created agricultural charges.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units.

(3) A prosecution for an offence under this section shall not be commenced without the consent of the Director of Public Prosecutions.

(4) Where a farmer, trader or related business mortgages interest in land, and the farmer, trader or related business creates an agricultural charge, the rights of the holder of the property subject to the agricultural charge shall have priority over the rights of the mortgagee, whether in possession or not, and irrespective of the dates of the mortgage and the agricultural charge.

Fraud

65. (1) A farmer, trader or related business commits an offence, if the farmer, trader or related business creates an agricultural charge and with intent to defraud —

(a) fails to comply with the obligations imposed on the farmer, trader or related business as to the payment to the holder of the agricultural charge any sums received by the farmer, trader or related business by way of proceeds of sale, or in respect of other agricultural assets, or under a policy of insurance or by way of compensation; or

(b) removes or permits to be removed any property subject to the agricultural charge.

(2) A farmer, trader or related business convicted of an offence under subsection (1) is liable, on conviction, to imprisonment for a term not exceeding seven years.

Supplementary provisions in respect of agricultural charges

66. (1) Despite the provisions of this Act, an agricultural charge created solely to secure the payment of insurance premiums on farming stock shall have priority over any other agricultural charge.

(2) Where an agricultural charge is created under a floating charge, the agricultural charge, purported to be created under a fixed charge on the property, shall have no effect for the period the floating charge remains in force.

(3) Farming stock which is subject to an agricultural charge shall not, for the purpose of the Bankruptcy Act, be considered as goods in the possession, order or disposition of a farmer, trader or related business in the farmer's or trader's trade or business, by the consent and permission of the true owner, under such circumstances that the owner is the reputed owner.

Cap.82

(4) A property subject to an agricultural charge shall be liable to distress for rent or rates.

PART VIII

ENFORCEMENT

Inspectors

67. (1) The Authority shall appoint suitably qualified persons as inspectors for the purposes of ensuring compliance with this Act.

(2) The Authority shall provide an inspector with an identification card, in a prescribed form, which shall be *prima facie* evidence of the appointment of the inspector.

(3) An inspector shall in performing a function under this Act —

(a) be in possession of the identification card referred to under subsection (2); and

(b) show the identification card to any person who requests to see the identification card or is the subject of an inspection under this Act.

Honorary inspector

68. (1) The Authority may, by notice in the *Gazette*, on terms and conditions that the Authority may determine, appoint a suitable person as honorary inspector for a period not exceeding three years, and may renew the appointment for a further period of three years.

(2) The Authority may, by notice in the *Gazette*, revoke or renew the appointment made under subsection (1).

(3) The appointment of honorary inspector under this section may be —

(a) general, to empower the honorary inspector to act in a specified area in the Republic; or

(b) limited, to empower the honorary inspector to act in a specified area in the Republic as may be specified in the instrument of appointment.

(4) Subject to the other provisions of this Act and to the terms and conditions specified in the instrument of appointment, an honorary inspector shall exercise the functions and perform the duties of an inspector under this Part.

Powers of inspector

69. (1) An inspector may, at any reasonable time, without a warrant, —

(a) enter on and inspect a warehouse or any land, building or premises on which the warehouse is situated, where the inspector has reasonable grounds to believe that an offence has been or is likely to be committed;

(b) search any person found in a warehouse or on any land, building or premises on which the warehouse is situated, where the inspector has reasonable grounds to believe that the person is in possession of a warehouse receipt, book, record, document or article that has a bearing on an inspection, except that a person shall only be searched by a person of the same sex;

(c) request that information is provided about a warehouse or any land, building or premises on which the warehouse is situated, warehouse receipt, book, record, document or article by —

(i) the owner of the warehouse or any land, building or premises on which the warehouse is situated;

(ii) the person in control of the warehouse or any land, building or premises on which the warehouse is situated;

(iii) the person who has control of the warehouse receipt, book, record, document or article; or

(iv) any other person who may have the information;

(d) examine any warehouse receipt, book, record, document or article found in a warehouse or any land, building or premises on which the warehouse is situated, that has a bearing on an inspection;

(e) take extracts from, or make copies of, any warehouse receipt, book, record, document or article found in the warehouse or any land, building or premises on which the warehouse is situated, that has a bearing on an investigation;

(f) use any computer or other electronic system in a warehouse or on any land, building or premises on which the warehouse is situated and require the assistance of a person in the warehouse or on any land, building or premises on which the warehouse is situated to use that computer or other electronic system to —

(i) search any data contained in, or available on, the computer or other electronic system;

(ii) reproduce any record from the data; or

(iii) seize any output from the computer or other electronic system for examination and copying; and

(g) attach and, if necessary, remove from the warehouse or any land, building or premises on which the warehouse is situated for examination and safeguarding, a warehouse receipt, book, record, document or article that has a bearing on an inspection.

(2) An inspector who removes anything from a warehouse or any land, building or premises on which the warehouse is situated shall —

(a) issue a receipt for anything removed to the owner or the person in control of the warehouse or any land, building or premises on which the warehouse is situated; and

(b) return anything removed as soon as practicable after the thing removed has served the purpose for which it was removed.

(3) A person commits an offence if that person —

(a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;

(b) refuses to give an inspector reasonable assistance that the inspector may require for the purpose of exercising the inspector's powers;

(c) gives an inspector false or misleading information in answer to an inquiry made by the inspector; or

(d) impersonates or falsely represents oneself as an inspector;

(4) A person convicted of an offence under subsection (3) is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(5) An inspector shall furnish the Authority with a prescribed report and any other information relating to an inspection, as the Authority may require.

Compliance order

70. (1) The Director may, where the Director has reasonable grounds to believe that any condition of a licence issued under this Act has been breached, serve a compliance order, in a prescribed manner and form, on the holder of a licence requiring the holder of the licence to remedy the breach within the period stipulated in the order.

(2) A compliance order issued under subsection (1) may —

(a) suspend the licence with immediate effect if the Director considers that the suspension is necessary for the purposes of this Act; or

(b) require the holder of the licence to take specified measures to achieve the purposes of this Act.

(3) The Director may, where the holder of a licence fails to comply with a compliance order —

(a) cancel the licence in accordance with this Act; or

(b) take such other action as the Director considers necessary.

Closure of warehouse

71. (1) The Authority may order the closure of a warehouse, if—

(a) the warehouse operator violates the requirements or conditions of a licence;

(b) the warehouse ceases to be suitable for storage of agricultural commodities;

(c) the warehouse is not certified in accordance with this Act;

(d) the warehouse operator is insolvent; or

(e) the warehouse operator contravenes this Act or any other written law.

(2) The Authority shall, where an inspection report referred to under section 69(5) indicates that a warehouse operator has breached the requirements of a licence, give the warehouse operator written notice of the violation.

(3) The warehouse operator shall, within fourteen days of receipt of the notice referred to under subsection (2), provide the Authority with a written plan of correction of the violation, indicating a schedule of dates by which corrective actions shall be taken.

(4) The Authority shall, within fourteen days of receipt of the plan of correction referred to under subsection (3), approve or reject the plan of correction.

(5) The Authority shall, where the Authority approves the plan of correction, inform the warehouse operator, in writing.

(6) A warehouse operator shall, where the plan of correction is approved by the Authority in accordance with subsection (5), take action to meet the schedule contained in the plan.

(7) The Authority shall, where the Authority rejects the plan of correction, cancel the licence and order the closure of the warehouse.

(8) The Authority shall, on closure of a warehouse, dispose the agricultural commodities stored in the warehouse at a public auction as prescribed, and apply the proceeds of the agricultural commodities stored in the warehouse in the following order:

(a) satisfying claims of depositors and lenders relating to the stored agricultural commodities; and

(b) any other outstanding liabilities.

PART IX

GENERAL PROVISIONS

Dispute resolution

72. (1) The Authority may mediate disputes between persons regulated under this Act.

(2) The procedures for the dispute resolution mechanism referred to under subsection (1) shall be prescribed.

Registers

73. (1) The Authority shall keep and maintain a register of —

(a) licences issued under this Act;

(b) licences transferred under this Act;

(c) licences whose terms and conditions have been varied;

(d) warehouse operators;

(e) certified warehouses;

(f) warehouse receipts issued under this Act;

(g) agricultural charges registered under this Act;

(h) contracts of advance under this Act;

(i) honorary inspectors appointed under this Act; and

(j) any other register as may be prescribed.

(3) The registers referred to under subsection (1) shall contain information as may be prescribed.

(4) The registers referred to in subsection (1), shall be kept at the office of the Authority and shall be open for inspection by members of the public during normal office hours on payment of a fee that the Authority may determine.

(5) The Director shall, on an application by a person, issue to the person a certified extract from the register or a copy of a licence issued to a holder of a licence in accordance with this Act on payment of a prescribed fee.

Publication of copies of register

74. (1) The Director shall, on the direction of the Board, cause copies of a register including alterations of, or additions to the register, to be printed and published in a manner and form that the Board may direct.

(2) Subject to this Act, a copy of the last published and printed register shall be *prima facie* evidence in legal proceedings of what is contained in that register and the absence of a licence from that copy, is *prima facie* evidence that the licence is not issued.

Disclosure protection

75. A disclosure made to the Authority by a person who, in good faith, reports any act or suspected act of fraud, corruption or non compliance with this Act, shall be a protected disclosure for the purposes of the Public Interest Disclosure (Protection of whistleblowers) Act.

Cap.102

Appeals

76. (1) A person aggrieved with a decision of the Authority may, within thirty days of receipt of the decision, appeal to the Minister.

(3) A person aggrieved with the decision of the Minister may appeal to the High Court.

Immunity from execution of judgment against Authority's assets

77. Where a judgement or court order is obtained against the Authority, execution, attachments or process of any nature shall not be issued against the Authority or against the property of the Authority, but the Authority shall cause to be paid out of the Authority's funds an amount that may, by judgement or court order, be awarded against the Authority to the person entitled to the amount.

General offences

78. (1) A person commits an offence if that person —

(a) fraudulently issues or aids the issuance of a warehouse receipt;

(b) knowingly delivers an agricultural commodity in the possession of a warehouse operator without the consent of a holder of a warehouse receipt;

(c) knowingly deposits an agricultural commodity to which that person has no title or which is subject to a lien or mortgage and receives a negotiable warehouse receipt which that person negotiates for value;

(d) alters a warehouse receipt in contravention of this Act;

(e) is found in possession of a warehouse receipt which is altered in contravention of this Act;

(f) alters or defaces a licence, warehouse receipt, certificate of compliance or any other document issued under this Act;

(g) knowingly makes, or causes to be made, to the Authority a false statement in any material particular under this Act; or

(h) aids, abets, counsels or procures a person to commit an offence under this Act.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

General penalty

79. A person who commits an offence under this Act for which no penalty has been provided is liable, on conviction, to a fine not exceeding two hundred thousand penalty units, or to imprisonment for a term not exceeding two years, or to both.

Administrative penalty

80. (1) The Authority may impose an administrative penalty on a person for a failure to comply with a provision of this Act which is not an offence.

(2) An administrative penalty shall not exceed the amount prescribed by the Minister, by statutory instrument, for each day during which the failure continues.

(3) An administrative penalty shall be paid to the Authority within the period specified by the Authority.

(4) If a person on whom an administrative penalty is imposed in accordance with this section fails to pay the administrative penalty within the time specified under subsection (3), the Authority may, by way of civil action in a competent court, recover the amount of the administrative penalty from that person as an amount due and owing to the Authority.

Offence by principal officers of body corporate or unincorporate body

81. Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner of the body corporate or unincorporate body, that director, manager, shareholder or partner commits the same offence as the body corporate or unincorporate body and is liable, on conviction, to the penalty specified for that offence under this Act.

Prohibition of publication or disclosure of information to unauthorised person

82. (1) A person shall not, without the consent, in writing, given by, or on behalf of, the Authority, publish or disclose to a person, other than in the course of duties of that person, the contents of a document, communication or information which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Guidelines

83. (1) The Authority may, in the exercise of the functions of the Authority under this Act, issue guidelines that are necessary for the better carrying out of the provisions of this Act.

(2) The Authority shall publish the guidelines issued under this Act in the *Gazette*, a daily newspaper of general circulation in the Republic and in any other electronic means that the Authority may determine.

(3) The guidelines issued by the Authority under this Act shall take effect on the date of publication and shall bind the persons regulated under this Act.

Regulations

84. (1) The Minister may, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act.

(2) Despite subsection (1), the Regulations made under this section may provide for —

(a) the manner and forms of making applications under this Act and the fees payable;

(b) minimum requirements for issuance of a licence under this Act;

(c) the form and content of contracts for advance;

(d) the manner of sale of agricultural commodities on default;

(e) dispute resolution procedures under this Act;

(f) manner of maintaining a register under this;

(g) the linking of the database of warehouse receipts, contracts of advance and agricultural charges with the Collateral Registry;

(h) the form of a notice to be given under this Act;

(i) procedures and limits of negotiation of a negotiable warehouse receipt;

(j) form of a warehouse receipt;

(k) records to be kept by a warehouse operator;

(l) standards or requirements for allowing a warehouse operator to sell or dispose of agricultural commodities, which are perishable or hazardous;

(m) manner of keeping agricultural commodities in a warehouse;

(n) rates of charges for storage of agricultural commodities;

(o) standards for warehouse infrastructure, equipment, tools, pest control and storage conditions;

(p) classification of warehouses;

(q) agricultural commodities which may be commingled in a warehouse;

(r) credit arrangements that do not require the security of a warehouse receipt;

(s) the manner and conditions for the establishment of an insurance pool by warehouse operators, to spread catastrophic risks and negotiate standardised premium rates for a warehouse; and

(t) fees payable under this Act.

(3) Regulations made in accordance with this section may prescribe offences and impose penalties being fines not exceeding three hundred thousand penalty units or imprisonment for a period not exceeding three year, or to both.

Repeal of Cap.224, and savings and transitional provisions

85. (1) The Agricultural Credits Act is repealed.

(2) Despite subsection (1), the Second Schedule applies to the savings and transitional provisions.

(3) Despite subsection (1), a person claiming an existing right, certificate or warehouse receipt granted or issued by the Zambia Agricultural Commodities Exchange under the repealed Act, may, within six months from the date of commencement of this Act, notify the Authority of the existing right, certificate or warehouse receipt.

(4) The existing right, certificate or warehouse receipt referred to under subsection (3), shall terminate if the person entitled to the existing right, certificate or warehouse receipt fails to notify the Authority in accordance with subsection (3).

(5) Subject to subsections (3) and (4), an existing right, certificate or warehouse receipt which has been brought to the attention of the Authority under this section shall continue to be valid for a period of one year from the date of commencement of this Act, unless the existing right, certificate or warehouse receipt expires in accordance with the terms of the existing right, certificate or warehouse receipt, whichever is the earlier.

FIRST SCHEDULE

(*Sections* 3(2) and 5(5))

PART 1

ADMINISTRATION OF AUTHORITY

Seal of Authority

1. (1) The seal of the Authority shall be a device that may be determined by the Board and shall be kept by the Director.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Director or any other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, is not required to be under seal, may be entered into or executed without seal on behalf of the Authority by the Director or any other person authorised in that behalf by a resolution of the Board.

(4) A document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be considered to be so executed or issued, without further proof, unless the contrary is proved.

Tenure and vacancy of office of member

2. (1) A member of the Board shall, subject to other provisions of this Act, hold office for a term of three years from the date of appointment and may be re appointed for a further and final term of three years.

(2) A member shall, on the expiration of the term for which the member is appointed, continue to hold office until another member is appointed, but in no case shall an extension of the period exceed three months.

(3) The office of member becomes vacant if the member —

(a) dies;

(b) is absent, without reasonable excuse, from three consecutive meetings of the Board of which the member has had notice, without the prior approval of the Board;

(c) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine;

(d) is legally disqualified from performing the functions of a member;

(e) is adjudged bankrupt under any written law;

(f) resigns, by giving one month's notice in writing, to the Minister; or

(g) ceases to be an employee or a member of the ministry, institution or organisation that nominated the member.

(4) The Minister shall, where the office of a member becomes vacant before the expiry of the term of office, appoint another member in place of that member, but that member shall hold office as a member only for the unexpired part of the term of the Board.

Proceedings of Board

3. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once every three months at a place and time that the Board may determine.

(3) The Chairperson shall, on giving notice of not less than fourteen days, call for a meeting of the Board, or where one third or more of the members so request, in writing, except that if the urgency of a particular matter does not permit the giving of a notice, a special meeting may be called on giving a shorter notice.

(4) Five members shall form a quorum at a meeting of the Board.

(5) There shall preside at any meeting of the Board —

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of the Chairperson and the Vice-Chairperson, a member as the members present may elect for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(7) A member may, where the member is for any reason unable to attend a meeting of the Board, nominate another person, in writing, from the same ministry, institution or organisation to attend a meeting of the Board in that member's stead and that person shall be deemed to be a member for the purpose of that meeting.

(8) The Board may invite any person whose presence is, in its opinion, desirable to attend and to participate in the deliberations of a meeting of the Board but that person shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of any committee of the Board.

Committees of Board

4. (1) The Board may, for the purpose of performing its functions under this Act, constitute a committee and delegate any of its functions to the committee as the Board considers necessary.

(2) The Board may appoint as members of a committee, persons who are or are not members of the Board, except that at least one member of the Board shall be a member of a committee.

(3) A member of a committee shall hold office for a period that the Board may determine.

(4) Subject to any specific or general directions of the Board, a committee may regulate its own procedure.

Allowances

5. A member of the Board or any committee of the Board shall be paid allowances that the Emoluments Commission may, on the recommendation of the Minister, determine.

Disclosure of interest

6. (1) A person who is present at a meeting of the Board or a committee of the Board at which any matter is the subject of consideration and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall, as soon as is practicable after the commencement of the meeting, declare that interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

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

Immunity of members

7. An action or other proceedings shall not lie or be instituted against a member of the Board or a committee of the Board or a member of staff of the Authority for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers, functions or duties conferred under this Act.

PART II

FINANCIAL PROVISIONS

Funds of Authority

8. (1) The funds of the Authority consist of monies that may—

(a) be appropriated to the Authority by Parliament;

(b) be paid to the Authority by way of fees, grants or donations; and

(c) vest in, or accrue to, the Authority.

Cap.347

(2) Subject to the Public Finance Management Act, the Authority may, with the approval of the Minister, accept monies by way of grants or donations from any source within or outside the Republic.

Act No. 15 of 2022

(3) The loans for the Authority shall be raised in accordance with the Public Debt Management Act, 2022.

(4) There shall be paid from the funds of the Authority —

(a) the salaries, allowances, loans, gratuities and pensions of the staff of the Authority and other payments for the recruitment and retention of staff;

(b) reasonable traveling expenses and other allowances for members of the Board or members of a committee of the Board when engaged in the business of the Authority at rates that the Emoluments Commission may, on the recommendation of the Minister, determine; and

(c) any other expenses incurred by the Authority in the performance of the Authority's functions under this Act.

Cap.347

(5) Subject to the Public Finance Management Act, the Board may, with the approval of the Minister, invest in a manner that the Board considers necessary any of the Authority's funds that the Authority does not immediately require for the performance of the Authority's functions.

Financial year

9. The financial year of the Authority shall be a period of twelve months ending on 31st December in each year.

Accounts and audit

10. (1) The Board shall cause to be kept proper books of accounts and other records relating to the Authority's accounts.

(2) The accounts of the Authority shall be audited annually by the Auditor General or an auditor appointed by the Auditor General.

(3) The fees for the Auditor General or an auditor appointed by the Auditor General shall be paid by the Authority.

Annual report

11. (1) The Board shall, as soon as practicable, but not later than ninety days after the end of the financial year, submit to the Minister a report concerning the activities of the Authority during the financial year.

(2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Authority and there shall be appended to the report —

(a) an audited statement of financial position;

(b) an audited statement of comprehensive income and expenditure; and

(c) any other information that the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.

SECOND SCHEDULE

(*Section* 85(2))

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule "former Authority" means the Warehouse Licensing Authority established under the repealed Act.

Member of Board of former Authority

2. A person who immediately before the commencement of this Act held office as a member of the Board of the former Authority shall continue to hold office as a member of the Board for a period of three months after which the Minister shall appoint the members of the Board in accordance with this Act.

Staff of Authority

3. (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an officer or employee of the former Authority, shall continue to be an officer or employee of the Authority, as if appointed or employed under this Act.

(2) The service of the persons referred to, in subparagraph (1) shall be treated as continuous service.

(3) Nothing in this Act affects the rights and liabilities of any person employed or appointed by the former Authority before the commencement of this Act.

Transfer of assets and liabilities

4. (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Authority by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before the commencement of this Act were the assets, rights, liabilities and obligations of the former Authority.

(2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Authority was a party immediately before the commencement of this Act whether or not of a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if —

(a) the Authority had been party to it;

(b) for reference to the former Authority there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Authority; or

(c) for any reference to any officer of the former Authority, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to that officer of the Authority, that it shall designate.

(3) Where under this Act, any assets, rights, liabilities and obligations of the former Authority are deemed to be transferred to the Authority in respect of which transfer a written law provided for registration, the Authority shall make an application in writing to the appropriate registration authority for registration of the transfer.

(4) The registration authority, referred to in subparagraph (3), shall make entries in the appropriate register that shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

Legal proceedings

5. (1) Any legal proceedings or application of the former Authority pending immediately before the commencement of this Act by or against the former Authority may be continued by or against the Authority.

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Authority, may be instituted by, or against, the Authority.