



THE FOOD CROPS INDUSTRY BILL, 2020

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THE FOOD CROPS INDUSTRY BILL, 2020

A Bill for

AN ACT of parliament to provide for the regulation, development and promotion of the food crops industry, to provide for the establishment, powers and functions of the Food Crops Regulatory Authority and for connected purposes.

ENACTED by the Parliament of Kenya, as follows-

PART I PRELIMINARY	
1. This Act may be cited as the Food Crops Industry Act, 2020.	Short title
2. In this Act, unless the context otherwise requires- “Authority” means the Food Crops Regulatory Authority established under Section 5; “Blender” means any person who mixes food crops produce or products to affect the characteristics of the product for the purposes of packing and sale; “Board” means the Board of Directors of the Authority established under Section 8; “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to Agriculture; “County Government” shall have the meaning assigned to it under Article 176 of the Constitution; “County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to Agriculture in a County Government; "dealer" means a person who is engaged in a commercial activity and includes an exporter and an importer;	Interpretation

<p>“dealing in crop” includes collecting, transporting, storing, processing, packaging, blending, buying or selling crops or crop products and excludes any non-commercial activity;</p> <p>“Food Crops” means the crops listed under the First Schedule and includes such other crop as the Cabinet Secretary, on advice of the Authority may declare to be a Food crop under Section 4;</p> <p>“Large scale Grower” means a grower who cultivates food crops in a parcel of land exceeding 12.5 acres;</p> <p>“Packer” means any person who packs, and or brands food produce or products into packets or containers intended for sale locally or for export but does not undertake processing;</p> <p>“Processing” means the transformation of crop produce into products that are used for intermediate or final consumption including products for non-food use.</p>	
<p>3. This Act shall apply to all food crops, their produce and products as specified in the first schedule as well as to growers, grower associations, cooperatives, and dealers in food crops</p>	Application
<p>4. (1) The crops specified in the first schedule are food crops for purposes of this Act;</p> <p>(2) The cabinet secretary may by notice in the gazette, declare any other crop to be a food crop for purposes of this act;</p> <p>(3) The notice under sub section (2) shall prescribe development and regulation measures with respect to each food crop.</p>	Declaration of food crops
<p>PART II ESTABLISHMENT, POWERS AND FUNCTIONS OF THE FOOD CROPS REGULATORY AUTHORITY</p> <p>5. (1) There is established an Authority to be known as the Food Crops Regulatory Authority. The Authority shall be a body corporate with</p>	Establishment and incorporation of the Authority

<p>perpetual succession and a common seal and shall, in its corporate name, be capable of—</p> <ul style="list-style-type: none"> (a) suing and being sued; (b) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; (c) borrowing or lending money; (d) entering into contracts; and (e) Doing or performing all other acts for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate. <p>6. (1) The Authority shall –</p> <ul style="list-style-type: none"> (a) Administer this Act (b) promote best practices in, and regulate, the production, processing, marketing, grading, storage, collection, transportation and warehousing of food crops produce and products as may be provided for under this Act (c) collect and collate data, maintain a database on food crops, document and monitor the food crops industry through registration of players as provided for in this Act; (d) determine emerging research priorities in the food crops sector and advise generally on research thereof; (e) advise the national government and the county governments on levies on food crops for purposes of planning, enhancing harmony and equity in the sector; (f) coordinate the activities of individual and organizations within the Food Crops industry; (g) carry out such other functions as may be assigned to it by this Act, and any other written law while respecting the roles of the two levels of governments. <p>(2) without prejudice to the generality of sub section (1), the Authority shall-</p> <ul style="list-style-type: none"> (a) Make recommendations to the Cabinet Secretary for the formulation of polices, plans and strategies for the regulation and development of the food crops sector; (b) collect and analyze statistics related to, and maintain a data base for the food crops sector; 	<p>Functions of the Authority</p>
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<p>(c) facilitate the resolution of disputes through Alternative Dispute Resolution mechanisms among growers and dealers;</p> <p>(d) facilitate an equitable mechanism for the pricing of food crops;</p> <p>(e) in consultation with County Governments Monitor the domestic production and consumption of food crops and food produce in the Country with a view to identify surplus or deficit and advise the Cabinet Secretary on corrective measures to take;</p> <p>(f) promote the efficiency and the development of the industry through establishment of appropriate institutional linkages;</p> <p>(g) Register and license dealers in food crops;</p> <p>(h) in consultation with County Governments register food crops growers and growers associations;</p> <p>(i) Carry out such other functions as may be assigned to it by this act and any other written law while respecting the roles of the two levels of government.</p> <p>7. The Authority shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Authority shall have power to—</p> <p>(a) enter into contracts;</p> <p>(b) manage, control and administer its assets in such manner and for such purposes as best promote the purpose for which the Authority is established;</p> <p>(c) determine the provisions to be made for its capital and recurrent expenditure and for the reserves of the Authority;</p> <p>(d) Receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;</p> <p>(e) Enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Authority is established;</p> <p>(f) Open such bank accounts for its funds as may be necessary in consultation with the Cabinet Secretary and the National Treasury;</p>	<p>Powers of the Authority</p>
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<p>(g) Invest any funds of the Authority not immediately required for its Purposes in a manner provided in section 51;</p> <p>(h) Establish a pension, gratuity, superannuation, provident or other funds for the Authorities employees and their dependent's with the approval of the Cabinet Secretary in consultation with the National Treasury and the State Corporations Advisory Committee;</p> <p>(i) Undertake any other activity necessary for the fulfillment of any of its functions.</p> <p>8. (1) There shall be a Board of directors for the Authority which shall subject to this Act be responsible for the policy, control and management of the Authority and shall consists of -</p> <ul style="list-style-type: none"> (a) a non-executive chairman appointed by the President by a notice in the gazette; (b) The Principal Secretary in the Ministry responsible for crop development or a designated representative; (c) The Cabinet Secretary Treasury or a designated representative; (d) One person nominated by the Council of Governors; (e) Four person two of either gender drawn from growers and dealers; (f) The chief executive officer appointed under section 15 who shall be an ex- official member and the secretary to the Board. <p>(2) A person appointed as a chairman of the board under subsection (1)(a) shall-</p> <ul style="list-style-type: none"> (a) be a person who - <ul style="list-style-type: none"> (i) Holds a degree from a university recognized in Kenya; and (ii) Has knowledge and experience in crop and food, management, finance or such other expertise as the appointing authority may consider relevant; <p>(3) A member of the board appointed under sub section (1)(d) and(e) shall-</p> <ul style="list-style-type: none"> (a) Hold a degree from a university recognized in Kenya; and (b) knowledge and experience in the area for which he or she is representing <p>(4) The cabinet secretary shall appoint the members under sub section (1) (d) and (e) by a notice in the <i>Gazette</i></p>	<p>Board of the Authority</p>
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<p>(5) The members under subsection(1)(a), (d) and (e) shall be appointed within three (3) months of commencement of this Act.</p>	
<p>9. The persons appointed under section 8(1) (a), (d) and (e) shall serve for a term of three (3) years and shall be eligible for re-appointment once for a further term of three (3) years</p>	Term of Appointment
<p>10. A person shall cease to be a member of the Board of directors if such a person-</p> <ul style="list-style-type: none"> (a) Is absent from three consecutive meetings of the Board without the permission of the chair (b) Becomes an officer, agent or member of staff of the board (c) Resigns in writing, addressed in the case of the chairperson to the president and in the case of any other member to the cabinet secretary (d) Is convicted for a criminal offence. (e) Is declared bankrupt. (f) Is unable to perform the functions of his/her office by reason of mental and physical infirmity. (g) Conducts himself in a manner deemed to be in contravention to the provisions of chapter six of the constitution, 2010. (h) Or dies 	Vacation of office
<p>11. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Second Schedule.</p> <p>(2) Except as provided in the Second Schedule, the Board may regulate its own procedure and the procedure of any of its committees.</p>	Conduct of business and affairs of the Board
<p>12. The Board may, either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.</p>	Delegation by the Board
<p>13. (1) The Board may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.</p>	Committees of the Board

<p>(2) The Board may co-opt to sit in the committees established under sub section (1) such other persons whose Knowledge and skills are necessary for the performance of the functions of the Board.</p>	
<p>14. The remuneration payable to members of the Board shall be determined by the Salaries and Remuneration Commission.</p>	Remuneration of the Board
<p>15. (1) There shall be a Chief Executive Officer of the Authority to be recruited by the Board of the Authority through a competitive process on such terms and conditions of service as the Board shall determine.</p> <p>(2) The Chief Executive Officer shall in consultation with the Board, be responsible for the direction of the affairs and transactions of the Authority, the exercise, discharge and performance of its objectives, functions and duties, and the general administration of the Authority;</p> <p>(3) The Chief Executive officer shall hold office for a period of not more than five years, and shall be eligible for re-appointment for one further term.</p> <p>(4) The Chief Executive Officer shall be an ex officio member of the Board but shall have no right to vote at any meeting of the Board.</p> <p>(5) A person appointed as a Chief Executive Officer of the board under subsection (1) shall be a person who -</p> <ul style="list-style-type: none"> (a) Holds an advanced degree in agriculture or related field from a university recognized in Kenya; and (b) Has not less than five (5) years' experience in senior management position in the fields of crop and food, finance or such other expertise as the appointing authority may consider relevant. 	Chief Executive Officer
<p>16. The Chief Executive Officer shall cease to hold office if the person-</p> <ul style="list-style-type: none"> (a) Resigns in writing, addressed to the chairperson of the Board. (b) Conducts himself or herself in breach of public service code of conduct and provisions of chapter six of the constitution. (c) Is convicted of a criminal offence. (d) Is declared bankrupt (e) Is unable to perform the functions of his or her office by reason of mental and physical infirmity; or (f) Dies 	Vacation of office of chief executive officer
<p>17. The Authority may appoint such officers, agents and other staff as are necessary for the proper and efficient discharge of the functions of the</p>	Staff

Authority under this Act, upon such terms and conditions of service as the Board may determine.	
<p>18. The common seal of the Authority shall be kept in the custody of the Chief Executive Officer or of such other person as the Board may direct, and shall not be used except upon the order of the Board;</p> <p>(a) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.</p> <p>(b) The common seal of the Authority shall be authenticated by the signature of the chairperson of the Board and the Chief Executive Officer.</p> <p>(c) The Board shall, in the absence of either the chairperson or the Chief Executive Officer, in any particular matter, nominate one member of the Board to authenticate the seal of the Authority on behalf of either the chairperson or the chief executive officer.</p>	The common seal of the Authority
<p>19. (1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Authority shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.</p> <p>(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Authority, shall, if the court holds that such act was done bona fide, be paid out of the funds of the Authority, unless such expenses are recovered by him or her in such suit or prosecution.</p>	Protection from personal liability
20. The provisions of section 13 shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.	Liability for damages

PART III- ROLE OF COUNTY GOVERNMENTS	
21. (1) Pursuant to the Fourth schedule of the Constitution the County Governments will implement the national government policies to the extent that the policies relate to the county and in particular shall be responsible for- <ul style="list-style-type: none"> (a) development of food crops grown within the county; (b) development and regulation of produce marketing within the county; (c) offering and coordination of extension services on food crops production. (d) inspection of nurseries, farms, produce transport vessels, and collection centers within their respective counties; (e) enforcement of county and national legislation on food crops, industry codes of practice and other industry standards; (f) in collaboration with law enforcement agencies, enforcement of regulations and enhancement of security of food crops produce in the county; (g) soil and water conservation; (h) Promote transfer and adoption of new technologies by farmers developed by research institutions for food crops; (i) enforcement of policies and guidelines on corporate governance in food crops growers' institutions; and (j) monitoring and reporting of incidences of pests and disease outbreaks and taking appropriate action in collaboration with the Authority and other relevant government agencies. (2) In accordance with Article 6 (2) of the Constitution, the county governments and the Authority shall consult and cooperate in the development, promotion and regulation of the crops industry. (3) In execution of the roles provided for in sub-section (1), the county governments may establish a food crops committee to provide technical guidance.	Role of County Government
PART IV – DEVELOPMENT AND REGULATION OF FOOD CROPS	
22. (1) In addition to the functions stipulated under this Act or any other written law, the Authority shall—	Promotion of food crops

<ul style="list-style-type: none"> (a) Implement general and specific policies for the development of food crops specified in the First Schedule; (b) Advice the Cabinet Secretary on formulation of general and specific policies for the development of food crops specified in the First Schedule; (c) facilitate marketing and distribution of scheduled crops through monitoring and dissemination of market information, including identification of the local supply-demand situation, domestic market matching and overseas market intelligence and promotion activities on food crops; (d) in consultation with the Cabinet Secretary advise the Ministry responsible for transportation and communications to effect an efficient, regular and economical means of transporting food crops, for purposes of reducing marketing costs and ensuring safe and stable consumer supply; (e) Develop standards for the establishment and management of markets for food crops in identified centres of the country; (f) develop standards and advice the County Government on establishment of agricultural produce collection centres in viable areas to serve as buying stations of farm products, packaging houses, pick-up points and meeting places of farmers' and growers' cooperatives; (g) In consultation with various government and private research institutions, conduct studies designed to promote the production, marketing, processing and safety of food crops and products. (h) Conduct stakeholders' capacity building programs on production technologies, food safety, standards and market potentials and prospects for the food crops. (i) Support county governments to establish model farms for transfer of new technologies developed by research institutions for scheduled crops; (j) devise and maintain a system for regularly obtaining information on current and future production, prices and 	
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<p>movement in trade, to determine and effect a balanced distribution of food crops by means of inter-trading or intra-trading among the established wholesale markets;</p> <p>(k) establish and enforce standards in grading, sampling and inspection, tests and analysis, specifications, units of measurement, processing, packaging, preservation, storage, conservation and transportation of food crops and produce to ensure health and proper trading;</p> <p>(l) Promote the development and ensure compliance to industry codes of practice for food crops.</p> <p>(m) promote and advise on strategies for value addition for domestic and export food crops produce;</p> <p>(n) recommend general industry agreements between farmers and dealers of food crops;</p> <p>(o) prescribe the maximum period within which farmers are to be paid for food crops delivered and penalties for delayed payments; and</p> <p>(p) perform any other relevant function as may be prescribed by the Board from time to time.</p>	
<p>23. (1) The Authority shall regulate all aspects of food crops and the safety of their produce with a view to -</p> <p>(a) promoting productivity;</p> <p>(b) promoting trade and access to markets;</p> <p>(c) facilitating provision of infrastructure;</p> <p>(d) facilitating the provision post-harvest services and technology;</p> <p>(e) facilitating the collection of farm products and storage;</p> <p>(f) Promote value addition.</p> <p>(g) Register, growers, grower associations and dealers of food crops.</p> <p>(h) Develop and enforce Industry standards</p> <p>(i) Conduct conformity assessment for produce</p> <p>(j) Licensing of dealers</p> <p>(k) Conduct Inspections and compliance audits</p> <p>(l) Issue Import/ export Permits</p>	Regulation of food crops

<p>(m) Capacity build industry players within the provisions of this Act</p> <p>(n) Issue guidelines on quality, safe and responsible use of farm inputs</p> <p>(o) Implement Food safety controls within the provisions of this Act.</p> <p>(3) The Authority shall maintain the necessary statistical information with respect to the food crops to enable proper planning.</p>	
<p>24. A smallholder grower, for purposes of accessing economies of scale, shall have the freedom to register with an association.</p>	Freedom to register
<p>25. A large scale grower shall register with the Authority, by supplying such particulars as the Authority may prescribe.</p>	Registration of large scale growers
<p>26. Where a grower has entered into an agreement with an organization representing the interest of such grower, the Authority and every dealer shall respect and enable the carrying out of the terms of such agreement, including the remission to the grower organization of any contributions that may, pursuant to such agreement, be deductible from the grower.</p>	Respect for Agreements
<p>27. (1) The Authority shall maintain a register of all entities registering smallholder growers, in such form as it may determine, and shall enter in the register—</p> <p>(a) the full names of the registering entity;</p> <p>(b) the particulars of registered growers, area planted with scheduled crop or variations of these particulars; and</p> <p>(c) any other particulars the Authority may deem necessary</p>	Registration of growers' associations
<p>28. (1) Every dealer in a food crop shall register with the Authority.</p> <p>(2) A person shall not deal in a food crop unless the person is registered in accordance with this Act.</p>	Registration of dealers
<p>29. (1) For purposes of section (25), (27) and (28) The Cabinet Secretary shall, in consultation with the Authority and the relevant county executive committee member responsible for agriculture, prescribe regulations providing for the procedure for registration of large scale growers, growers associations and dealers and the regulations shall also set out the appeal process in case of refusal or denial of registration.</p>	Procedure for registration

(2) A person who contravenes section (25),(27) and (28) of this Act commits an offence and shall on conviction be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or both.	
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PART- V TAXATION AND LICENSING

30. (1) Pursuant to Article 209 of the Constitution, only the national government may impose, in relation to food crops— (a) income tax; (b) value-added tax; (c) customs duties and other duties on import of agricultural products; and (d) Excise duty. (2) A County Government may, pursuant to the Fourth Schedule of the Constitution, impose fees for— (a) development of agricultural crops within the county; (b) development and regulation of food crops markets within the county; (c) issuance of trade licenses to any person trading in food crops within the county; and (d) issuance of licenses for cooperative societies dealing with food crops within the county. (3) The fees imposed by a county government under subsection (2) shall not in any way prejudice national economic policies, economic activities across county boundaries or national mobility of goods, services, capital or labor. (4) The Cabinet Secretary shall, using the structures established under the Intergovernmental Relations Act, 2012 (No. 2 of 2012), put in place mechanism to avoid double taxation of agricultural products by the two levels of governments.	Taxation of food crops
31. (1) A person shall not process a food crop for sale except under and in accordance with a license issued under this Act. (2) An application for a license under this section shall be in writing and in the prescribed form and shall be accompanied by the prescribed fee. (3) The Authority may after receiving an application,— (a) issue a processing license, in accordance with this Act;	Processing license

<p>(b) refuse to issue the license on any ground which may appear to the Authority to be sufficient and inform the applicant in writing of the reasons thereof;</p> <p>(c) cancel, vary or suspend any license if in the findings of the Authority, the licensee is found to have contravened the regulations made under this Act for the operation of processing entities.</p> <p>(4) A processing license issued under this section shall, in addition to authorizing the holder to carry on the business set out in subsection (1), also authorize the holder to carry out the business of packing and blending a crop product.</p>	
<p>32. (1) A person shall not pack or blend a food crop product for sale except under and in accordance with a license issued under this Act.</p> <p>2) An application for a license under this section shall be in writing and in the prescribed form and shall be accompanied by the prescribed fee.</p> <p>(3) The Authority may after receiving an application-</p> <p>(a) issue a packing and or blending licence, in accordance with this Act;</p> <p>(b) refuse to issue the licence on any ground which may appear to the Authority to be sufficient and inform the applicant in writing of the reasons thereof;</p> <p>(c) cancel, vary or suspend any licence if in the findings of the Authority, the licensee is found to have contravened the regulations made under this Act for the operation of packing or blending entities.</p>	Packers and blenders licence
<p>33. (1) A person who—</p> <p>(a) processes, packs or blends a food crop product for sale in contravention of this Act;</p> <p>(b) buys, sells, offers for sale, transports or has possession of a food crop which to the person's knowledge or belief—</p> <p>(i) has been grown, processed, packed, blended or otherwise than in accordance with this Act;</p> <p>(ii) is from a non-registered grower, grower association or dealer of such crop;</p>	Illegal processing, packing , blending and possession

<p>commits an offence and shall be liable, on conviction, to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding five years, or both.</p> <p>(2) If a person is in possession or has control of food crops for which the person is unable to account to the satisfaction of a person authorized under this Act, such food crop shall be deemed to have been grown, processed or dried otherwise than in accordance with this Act until the contrary is proved.</p> <p>(3) If a person is convicted of an offence under this section, the court shall order that any food crop and any vehicle, vessel or other conveyance in relation to which an offence has been committed shall be forfeited to the Government unless, in the case of a vehicle, vessel or other conveyance, the court sees good reason, to be recorded by it in writing, not to do so</p>	
<p>34. (1) The Authority shall issue licenses to applicant's subject to such lawful conditions in accordance with this Act.</p> <p>(2) Every license shall specify the premises upon which the business specified in the license may be carried on.</p> <p>(3) Licenses issued under this Act shall remain in force for a period of one calendar year from the date of issue, unless earlier cancelled.</p> <p>(4) There shall be payable for the issue of licenses under this Act such fees as the Authority, after consultation with the Cabinet Secretary prescribe.</p> <p>(5) The total fees charged under subsection (4) shall depend on the licensed capacity of the dealer and shall not overburden small scale dealers and the cumulative total of all levies and fees payable shall in any event not exceed ten per cent of the gate value of the food crop product.</p> <p>(6) The Authority may, at least thirty days before granting a license under this Act, give notice of the proposed grant in the Gazette and in such other manner as the licensing authority may determine.</p> <p>(7) The notice referred to in subsection (6) shall—</p> <ul style="list-style-type: none"> (a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted; (b) state the purpose for the proposed licence and indicate the date such licence is proposed to be issued to the successful applicant; and 	<p>Issuance of licenses</p>

<p>(c) invite objections to the proposed grant of licence and direct that such objections be lodged with the Authority within fourteen days next following the date of the notice.</p> <p>(8) The Authority may after considering the objections, if any, made under this section, grant the license applied for, subject to such terms and conditions as may be specified therein.</p> <p>(9) The issuance of a license to an applicant under this Act shall not be withheld without reasonable cause.</p> <p>(10) A license issued under this Act shall not be transferable.</p>	
<p>35. An application for the renewal of a licence under this Act shall be made to the Authority not later than the first day of the month preceding the date the current licence is due to expire but, notwithstanding the foregoing, a late application may be made upon payment of a late application fee as may be prescribed by the Authority.</p>	Application for renewal of a licence
<p>36. (1) A licence issued under this Act shall be subject to such conditions as the Authority may determine and as are specified in the licence and to any conditions which may be prescribed.</p> <p>(2) The Authority may require that any class of licenses issued to a dealer will be subject to the condition that the dealer engages in actual growing of any given crop.</p> <p>(3) The Authority may at any time during the validity of a licence—</p> <p>(a) vary the conditions of the licence; or</p> <p>(b) impose conditions or further conditions on the licence</p>	Conditions of a licence
<p>37. The Authority may revoke, alter or suspend a licence issued under this Act if in its opinion—</p> <p>(a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder; or</p> <p>(b) a condition of the licence has been contravened or not complied with.</p>	Revocation or alteration of a licence
<p>38. (1) The holder of a licence which is revoked shall immediately surrender it to the Authority.</p> <p>(2) A licence holder may at any time surrender the licence to the Authority and the licence shall cease to have effect forthwith.</p>	Surrender of licence
<p>39. (1) An applicant for or holder of a licence who is aggrieved by a decision of the Authority on or in respect of—</p>	Appeals

<p>(a) the grant, refusal, renewal, variation or revocation; or</p> <p>(b) the conditions imposed on the grant, renewal or variation, of a licence, may appeal to the Cabinet Secretary.</p> <p>(2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision.</p>	
PART VI – APPOINTMENT OF COUNTY OFFICERS AND CROP INSPECTORS	
<p>40. (1) The Authority shall, in respect of each county, appoint an officer to be stationed in the county for purposes of this Act.</p> <p>(2) The Authority shall delegate such exercise of its powers and such performance of its functions to the officer appointed under subsection (1) as shall be necessary in the discharge of its mandate in that county.</p> <p>(3) An officer appointed under subsection (1) shall be deemed to be an inspector for purposes of this Act, and shall exercise such powers and perform such functions as an inspector may exercise or perform under this Act.</p> <p>(4) A county officer appointed under subsection (1) shall liaise with the county executive committee member of agriculture in the discharge of its functions</p>	Appointment of county officers
<p>41. (1) The Authority shall appoint qualified persons, to be inspectors for food crops for the purposes of this Act.</p> <p>(2) A county Government may appoint qualified persons as inspector for purposes of this Act.</p> <p>(2) For purposes of subsection (1) and (2) the Authority may, by regulations, prescribe the qualifications for different categories of inspectors.</p> <p>(3) The Authority shall undertake a mandatory training for all inspectors appointed under Subsection (1) and (2) before gazettlement.</p> <p>(4) The cabinet secretary shall publish names of the inspectors trained in Subsection (3) in the <i>gazette</i>.</p>	Appointment of crop inspectors
<p>42. (1) A person duly authorized in writing in that behalf by the Authority may, at all reasonable times and upon production of such authority to any person so requesting—</p>	Entry and inspection

<p>(a) enter any land or buildings occupied by the holder of a licence issued under this Act, or a person registered under this Act;</p> <p>(b) make such inspection and enquiries as the person may deem necessary for ascertaining whether the provisions of this Act or the terms and conditions of the respective licence or registration are being complied with; and</p> <p>(c) may require any person found thereon to give such information as the inspector may require.</p> <p>(2) A person who hinders or obstructs any person duly exercising or attempting to exercise any of the powers conferred by subsection (1), or who fails to give any information reasonably required commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or both.</p>	
<p>43. (1) For the purposes of this Act, an inspector who has reasonable grounds may at any reasonable time, enter upon any land, premises or vessel and may take such persons and things as the inspector considers necessary and may—</p> <p>(a) perform the functions or exercise the powers conferred by this Act or any other written law;</p> <p>(b) make enquiries or carry out a search to ascertain if this Act is being complied with;</p> <p>(c) demand the production by a licence holder of the licence for examination;</p> <p>(d) seize and remove any article or thing in respect of which the inspector has reasonable grounds for believing that an offence under this Act is being or has been committed; or</p> <p>(e) do any other thing authorized under this Act.</p> <p>(2) The owner or occupier of or any person on land or in premises or a vehicle which is entered under subsection (1) shall render such reasonable assistance as may be required by the inspector.</p> <p>(3) A person who refuses, unreasonably delays or fails to comply with a requirement under subsection (2) commits an offence.</p>	Powers of entry

<p>44. (1) A person shall not prevent, hinder or obstruct an inspector in performance of the functions, and duties or exercise of powers conferred by this Act.</p> <p>(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding three years, or both.</p>	<p>Obstruction of inspectors</p>
PART VII—FINANCIAL PROVISIONS	
<p>45. (1) The funds and assets of the Authority shall comprise —</p> <ul style="list-style-type: none"> (a) such monies as may be appropriated by the National Assembly for the purposes of the Authority; (b) all monies received in respect of levies (c) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act; and (d) all monies from any other source provided for or donated or lent to the Authority 	<p>Funds of the Authority</p>
<p>46. (1) (a) The Cabinet Secretary may, in consultation with the Authority, by order in the Gazette, impose a levy on export and import of crops produce and products to be known as the crops Development Levy.</p> <p>(b) An order under this section may contain provisions as to the time at which any amount payable by way of the levy shall become due.</p> <p>(c) All moneys received in respect of the levy shall be paid to the Authority and if not paid on or before the date prescribed by the order, the amount due and any sum payable under subsection (a) shall be a civil debt recoverable summarily by the Authority</p> <p>(d) If a person fails to pay any amount payable by him by way of the levy on or before the date prescribed by the order, the person shall be liable to pay the levy imposed under this Act and in addition;</p> <ul style="list-style-type: none"> (i) pay an interest of twenty-five percent of the outstanding amount of the levy, for the first month or part of the month in which the levy remains unpaid; and (ii) a compound interest of twelve percent of the outstanding amount of the levy that remains unpaid for each subsequent month or part of the month in which the levy remains unpaid. 	<p>Crops Development Levy</p>

<p>(e). The Cabinet Secretary may, upon the advice of the Authority, at any time by notice, alter the rate of the levy imposed under subsection (a) and such altered rate shall come into force on such date, not later than six months from the date of the notice, as may be specified in the notice.</p> <p>(f) Different rates of levy may be imposed for different types or grades of crop products.</p> <p>(g) Any levy imposed under this section shall be levied and collected in the manner prescribed.</p> <p>(h) For the avoidance of doubt—</p> <p>(i) The levies payable in the case of crops produce and products immediately before the commencement of this Act shall continue to be the payable rates until the Cabinet Secretary specifically imposes different rates;</p> <p>(ii) The rate of the levy shall be specified in the notice under subsection (2)(a) and shall not exceed six per cent of the value of the crop on which the levy is payable.</p> <p>(iii) The Cabinet Secretary shall make Regulations for the Better carrying out of the provisions of this Section.</p>	
<p>47. (1) There is established a Fund to be known as the crops Development Fund which shall be administered by the Authority</p> <p>(2) The Fund shall consist of —</p> <p>(a) any moneys provided by the National Assembly for the purposes of the Fund</p> <p>(b) the Crops Development levy;</p> <p>(c) any funds provided by bilateral or multilateral donors for the purposes of the Fund;</p> <p>(d) any interest from loans and advances</p> <p>(e) Any other monies as approved by the Board.</p>	Crop development fund
<p>48. The Crop Development Fund shall be used for –</p> <p>(a) the operations of the Authority</p> <p>(b) development of crop sub sector</p> <p>(c) such other purposes as may be approved by the Board</p>	Use of Crops Development Fund
<p>49. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in every year.</p>	Financial year

<p>50. (1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of revenue and expenditure of the Authority for that financial year.</p> <p>(2) The annual estimates shall make provision for all the estimated expenditure of the Authority for the financial year concerned and in particular, shall provide for —</p> <ul style="list-style-type: none"> (a) the payment of salaries, allowances and other charges in respect of the staff of the Authority; (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Authority; (c) payment of allowances and other charges in respect of members of the Board; (d) the proper maintenance of the buildings and grounds of the Authority; (e) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Authority; (f) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings equipment, or in respect of such other matters as the Board may deem appropriate <p>(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval and shall not be varied without the prior consultation of the Board.</p>	Annual estimates
<p>51. The Board may invest any of the funds of the Authority in securities, which the National Treasury may, from time to time, approve for that purpose.</p>	Investment of funds
<p>52. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Authority in the form prescribed by the National Treasury.</p> <p>(2) Within a period of three months from the end of the financial year, the Authority shall submit to the Auditor General or to an auditor appointed under subsection (3), the accounts of the Authority together with—</p> <ul style="list-style-type: none"> (a) a statement of the income and expenditure of the Authority during that year; and 	Accounts and Audit

<p>(b) a statement of the assets and liabilities of the Authority on the last day of that year.</p> <p>(3) The accounts of the Authority shall be audited and reported annually by the Auditor General or by an auditor appointed by the Auditor General in accordance with the provisions of the Public Audit Act 2003.</p> <p>(4) The Auditor General may give general or specific directions to an auditor appointed under subsection (3) and the auditor shall comply with such directions.</p> <p>(5) An auditor appointed under subsection (3) shall report directly to the Auditor General on any matter relating to the directions given under subsection (4).</p>	
<p>53. The Authority shall, within three months after the end of each financial year, or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Authority during such year, the annual balance sheet and such other statements of accounts as the Cabinet Secretary shall require, together with the Auditor-General's report.</p>	Annual report and publications
PART VIII—MISCELLANEOUS PROVISIONS	
<p>54. (1) A person shall not—</p> <ul style="list-style-type: none"> (a) breach or fail to comply with the provisions of this Act; (b) breach or fail to comply with any of, the terms or conditions of a licence or a certificate issued to him or her under this Act; (c) fail to comply with a lawful requirement or demand made or given by the Authority or an inspector; (d) obstruct a person in the execution of the powers or duties under this Act; (e) knowingly or recklessly make a statement or representation which is false; (f) knowingly or recklessly furnish a document or information required under this Act which is false; or (g) knowingly or recklessly use or furnish a fake or forged or invalid certificate or a certificate that has been altered without authorization. <p>(2) A person who contravenes any of the provisions of subsection (1) commits an offence.</p>	General prohibition and offence

<p>55. If an offence under this Act is committed by a body corporate or any other association of individuals, a director, partner or any other person involved in, or acting or purporting to act in the management of its affairs commits an offence unless that person proves that—</p> <ul style="list-style-type: none"> (a) the act or omission constituting the offence took place without the person's knowledge; or (b) the person took reasonable steps to prevent the commission of the offence. 	Offences relating to body corporate
<p>56. A person who contravenes any provision of this Act, or commits an offence for which no penalty is prescribed, shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a period not exceeding one year, or to both</p>	General penalty
<p>57. (1) Any person aggrieved by the refusal of the Authority, or of any person authorized by the Authority in that behalf, to issue any licence or registration certificate, or by any decision of the Authority may within thirty days after being notified of such refusal, cancellation, suspension or decision, appeal to the Cabinet Secretary.</p> <p>(2) There is established a County Appeals Committee chaired by the County Secretary;</p> <p>(3) Any person aggrieved by the refusal of the county government, or of any person authorized by the county government in that behalf, to issue any licence or registration certificate, or by any decision of the county government relating to food crops may within thirty days after being notified of such refusal, cancellation, suspension or decision, appeal to the County Appeals Committee.</p> <p>(4) The Cabinet Secretary in Consultation with the Authority and the County Government shall make regulations for the membership and rules of procedure for the County Appeals Committee.</p>	Appeals
<p>58. (1) There is established a committee to be known as the Crops Dispute Resolution Committee for the purpose of facilitating resolution of disputes arising between farmers and other crops dealers which shall be administered by the Authority.</p> <p>(2) There is established a County Dispute Resolution Committee chaired by the County Executive Committee Member;</p> <p>(3) The Cabinet Secretary may prescribe in Regulations under this Act, the membership and rules of procedure for the Committee.</p>	Dispute resolution

<p>59. Any person who has reason to believe that the provisions of this Act have been, are being, or are about to be violated, may petition the High Court for—</p> <ul style="list-style-type: none"> (a) a declaration that the provisions of this Act are being, have been, are about to be contravened; (b) an injunction restraining any specified person from carrying out the contravention; (c) a writ of mandamus against an officer or a person who has failed to perform a duty imposed by or under this Act; or (d) any other lawful remedy 	<p>Restraint of breaches of this Act</p>
<p>60. (1) The Cabinet Secretary may, in consultation with the Authority and the county governments, make regulations for the better carrying into effect of the provisions of this Act, or for prescribing anything which is to be prescribed under this Act.</p> <p>(2) Without prejudice to the generality of the foregoing, regulations made under this section may provide for—</p> <ul style="list-style-type: none"> (a) declaration and regulation of food crops including production, distribution and marketing; (b) the areas outside which a food crop may not be cultivated, and regulating and controlling the variety, the cultural conditions, the method of production and grading of a specified food crop; (c) the control of crop pests and diseases; (d) safe and effective use of farm inputs; (e) regulation and controlling the method of blending, packaging and labelling of food crops for purposes of traceability; (f) the procedure for which licences and registration certificates shall be issued; (g) the fees to be paid and the forms under this Act; (h) ensuring food safety including production, handling, transportation, storage, processing and market standards of crops produce and products; (i) coordination, prevention and management of crop and food contaminants and hazards. (j) Development of a food safety risk communication, assessment and management plan; 	<p>Regulations</p>

<p>(k) rules and regulations of any organization dealing with food crops and food crop products, made by any such organization to be in conformity with the provisions of this Act;</p> <p>(l) the submission of returns and reports by the holders of certificates, licences and permits under this Act;</p> <p>(m) standards, and the manner of grading and classification of various food crop produce under this Act;</p> <p>(n) developing guidelines for public education on safe use of agrochemicals;</p> <p>(o) the relationship between growers and other dealers in food crops;</p> <p>(p) the formula for the pricing of food crops; and</p> <p>(q) standard industry agreements.</p>	
<p>61. If any conflict arises between the provisions of this Act and any other Act with respect to the development, management, marketing or regulation of food crops, the provisions of this Act shall prevail.</p>	Supersession
PART IX – CONSEQUENTIAL AMENDMENTS	
<p>62. The Agriculture and Food Authority Act, 2013 is amended by deleting Section 11 (1).</p>	Amendment of No. 13 of 2013
<p>63. The Crops Act, 2013 is amended in Part I of the First Schedule by deleting the words-</p> <p>“Potatoes.....Solanum tuberosum L.”</p> <p>“Soya beansGlycine max (L.) Merr.”</p> <p>“Beans.....Phaseolus vulgaris L.”</p> <p>“Barley.....Hordeum vulgare L.”</p> <p>“Rye.....secale cereal L.”</p> <p>“TriticaleTricosecale Wittm”</p> <p>“Grain amaranthAmaranthus spp.”</p> <p>“Finger millet.....Eleusine coracana (L.) Gaertn.”</p> <p>“Maize.....Zea mays L.”</p> <p>“Pearl millet.....Pennisetum (L.) R.Br.”</p> <p>“Rice.....Oryza sativa L. (1)”</p> <p>“Sorghum.....Sorghum bicolor (L.) Moench.”</p> <p>“Wheat.....Triticum aestivum.”</p> <p>“Wheat (pasta).....Triticum monococcum L.”</p> <p>“Cassava.....Manihot esculenta”</p>	Amendment of the First Schedule to No. 16 of 2013

“Sweet potato.....Ipomeea batatas”	
“Pigeon pea.....Cajanus cajan.”	
“Dolichos beanDolichos lablab L.”	
“Cowpea.....Vigna unguiculata (L.) Walp.”	
“Chick peas.....Cicer arietinum L.”	
“Oats.....Avena sativa L.”	
“Rye.....Secale cereale L.”	
“Triticale.....Tricosecale Wittm.”	
“Broad beans.....Vicia faba L.”	
“Cluster beanCyamopsis tetragonoloba.”	
“Pea.....Pisum sativum L.”	

PART X- SAVING AND TRANSITIONAL PROVISIONS

<p>64. (1) In this Act;</p> <p>“appointed day” means the day the Act comes into operation;</p> <p>(2) Notwithstanding any other provisions, all rights, obligations, liabilities and contracts relating to scheduled crops and food which immediately before the commencement of this Act were vested in or imposed on Agriculture and food Authority with respect to food crops, shall from the commencement of this Act be deemed to be the rights, obligations, liabilities and contracts of the Authority.</p>	<p>Rights and Obligations</p>
<p>65. (1) The staff deployed, employed or transferred to the food crops directorate prior to the commencement of this Act shall be the staff of the Authority on the same or improved terms and conditions of service as may be prescribed by the Board. This shall apply to the staff working for the Food Crops Directorate for a period of two or more years after the commencement of the Agriculture and Food Authority. Any other employee from the Agriculture and Food Authority who may wish to be an employee of the Authority shall undergo vetting by the board.</p> <p>(2) “Notwithstanding the provision of subsection (1) if a person does not intend to become an officer or member of staff of the Authority they shall within a period of thirty days from the appointed day; give notice in writing</p>	<p>Transfer of Staff</p>

<p>to the Authority and such person shall be deemed not to have become such an officer or member of staff under subsection (1)</p> <p>(3) The staff pension or provident fund where applicable of all employees shall be transferred to a pension scheme under the Authority as provided for by any other existing law.</p>	
<p>66. On or after the appointed day, all actions, suits or legal proceedings pending by or against the Agriculture and Food Authority in relation to the food Crops shall be carried on or prosecuted by or against the Authority, and no action, suit or legal proceedings shall in any manner abate or be prejudicially affected by enactment of this Act.</p>	Legal Proceedings
<p>67. Any reference to the Agriculture and Food Authority in any written law or in any contract, document or instrument of whatever nature, in relation to a food crop shall, on the commencement of this Act, be read and construed as a reference to the Authority.</p>	Reference to written laws
<p>68. All directions, orders and authorizations given, or licenses, or Certificates, or permits issued, or registrations made by the Agriculture and Food Authority in relation to a food crop, and subsisting or valid immediately before the appointed day, shall be deemed to have been given, issued or made by the Authority as the case may be under this Act.</p>	Previous authorizations
<p>69. Subject to this Act, the Cabinet Secretary shall, in consultation with the Authority and the county governments, formulate and implement administrative measures to ensure smooth and orderly transition to the legal regime established by this Act.</p>	Administrative measures by the Cabinet Secretary

FIRST SCHEDULE

[Section 3,]

FOOD CROPS

Part 1 — Crops with breeding program under compulsory certification

Potatoes.....Solanum tuberosum L.

Soya beansGlycine max (L.) Merr.

Beans.....*Phaseolus vulgaris* L.

Barley.....*Hordeum vulgare* L.

Rye.....*secale cereal* L.

Triticale*Tricosecale* Wittm

Grain amaranth*Amaranthus* spp.

Finger millet.....*Elezisine coracana* (L.) Gaertn.

Maize.....*Zea mays* L.

Pearl millet.....*Pennisetum* (L.) R.Br.

Teff*Eragrotis tef*

Rice.....*Oryza sativa* L. (1)

Sorghum.....*Sorghum bicolor* (L.) Moench.

Wheat.....*Triticum aestivum*.

Wheat (pasta).....*Triticum monococcum* L.

Part 2 — Crops with breeding program under voluntary certification

Cassava.....*Manihot esculenta*

Sweet potato.....*Ipomeea batatas*

Pigeon pea.....*Cajanus cajan*.

Dolichos bean*Dolichos lablab* L.

Cowpea.....*Vigna unguiculata* (L.) Walp.

Chick peas.....*Cicer arietinum* L.

Mung Beans.....*Vigna radiata*

Soya beans

Part 3 — Crops with no breeding program

Oats.....*Avena sativa* L.

Cocoyams*Colacasia esculenta*

Yams.....*Dioscorea* spp

Rye.....Secale cereale L.
Triticale.....Tricosecale Wittm.
Broad beans.....Vicia faba L.
Cluster beanCyamopsis tetragonoloba.
Pea.....Pisum sativum L.

[Section 11]

SECOND SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS

AND AFFAIRS OF THE BOARD OF THE AUTHORITY

1. Meetings

- (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting
- (2) at the first meeting, the board elects a vice chairperson among their number who must be a person of opposite gender.
- (3) The chairperson shall chair all board meetings and in event of his/her absence the vice chairperson shall preside and shall, with respect to that meeting and the business transacted thereat have all the powers of the chairperson in the event of absence of both the chairperson and the vice chairperson or inability to chair for whatever reason, the members present shall appoint one of their members to preside over the meeting.
- (4) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.
- (5) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.
- (6) The quorum for the conduct of the business of the Board shall be five members.

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

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

(8) Subject to subparagraph (6), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

2. Disclosure of interest by Board members

(1) If a member is directly or indirectly interested otherwise than as a member of the board in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

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

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

3. Execution of instruments

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

4. Minutes

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