

[Chap6504]CHAPTER 65:04

COTTON

ARRANGEMENT OF SECTIONS

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29 of 1951

39 of 1953

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4 of 1962

1 of 1963

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25 of 1968

16 of 1971

G.N. 195/1961

92/1962

22/1963

1/1965

166/1967

241/1969

An Act to consolidate the law relating to the production, processing and marketing of cotton and matters incidental thereto

[27TH AUGUST 1951]

[Ch6504s1]1. Short title

This Act may be cited as the Cotton Act.

[Ch6504s2]2. Interpretation

In this Act, unless the context otherwise requires—

“authorized officer” means any public officer appointed by the Minister in that behalf;

“Corporation” means the body corporate established by section 3 of the Agricultural Development and Marketing Corporation Act; Cap. 67:03

“cotton plant” includes the growing plants, cuttings, buds and grafts, seeds, leaves, bolls or any portion of a cotton plant in a natural state;

“Director” means the Deputy Secretary (Agriculture) and includes any Officer of the Department of Agriculture not below the rank of agricultural supervisor; G.N. 241/1969

“ginned cotton” means the fibres removed from cotton seed by mechanical processes;

“owner” includes the agent, manager, overseer or other person in charge of any land;

“public land” means an area of land, other than customary land, the legal right to occupy which is vested in the Government;

“seed cotton” means the fibre and seed of cotton as harvested from the cotton plant before they are separated by ginning, and includes unginned cotton;

“tenant” means any person who is cultivating cotton on his own behalf on land other than customary land or public land;

“uprooting” means the removal of the cotton plant from the soil—

(a) by pulling it out of the ground by its roots;

(b) by cutting its roots at least four inches below ground level in such a manner as will prevent any regrowth from any roots remaining in the ground and then by removing the aerial part of the plant.

[Ch6504s3]3. Cotton not to be grown except from approved seed

(1) No person shall grow cotton except from seed which has been approved by the Minister.

(2) Approved cotton seed for planting may be distributed at such times and places and by such persons as the Minister may appoint.

(3) Any person who—

(a) grows cotton from seed not approved by the Minister;

(b) not being appointed in that behalf by the Minister, distributes cotton seed; or

(c) distributes cotton seed at any time or place other than that appointed by the Minister,

shall be guilty of an offence.

[Ch6504s4]4. Minister may require delivery of cotton seed

(1) The Minister may require any person to deliver to him without payment any cotton seed the property of such person and suitable for planting which may have been produced by cotton grown from seed distributed to such person under section 3 (2) where such cotton seed has been distributed to such person free of charge.

(2) Any person who refuses or neglects to comply with any such requirement shall be guilty of an offence.

[Ch6504s5]5. Requisition of cotton seed by the Minister

(1) The Minister may, by notice in writing, require any cotton ginner to place at the disposal of the Director, by such date as may be specified in such notice, such quantity of cotton seed, being the property of the Corporation, as the Minister may require.

(2) All cotton seed the subject of a notice under subsection (1) shall be handed over to such person and in such manner as shall be specified in such notice.

(3) Any person who fails to comply with any requirement or specification in any notice made under subsection (1) shall be guilty of an offence.

[Ch6504s6]6. Import and export of cotton seed, seed cotton and ginned cotton prohibited without permission

(1) No person shall import into or export from Malawi any cotton seed, seed cotton or ginned cotton without the prior written permission of the Minister and in granting such permission the Minister may impose such conditions as he may think fit.

(2) Any person who contravenes subsection (1) or who, having been granted such permission, fails to comply with any such condition shall be guilty of an offence.

[Ch6504s7]7. Minister may declare closed areas

(1) The Minister may, by order published in the Gazette, for the purpose of increasing the seed supply of any species or variety of cotton, declare any area within Malawi to be a closed area.

(2) No person shall plant, sell or gin cotton in a closed area, without the written permission of the Minister and in granting such permission the Minister may impose such conditions as he may think fit.

(3) Any person who contravenes subsection (2) or who, having been granted such permission, fails to comply with any such condition, shall be guilty of an offence.

[Ch6504s8]8. Control of the storage of seed cotton or cotton seed

(1) If in respect of any area the Minister is of the opinion that such a course is necessary in order to ensure an improvement in the cotton grown in such area, he may, by notice published in the Gazette, order that no seed cotton or cotton seed shall be stored in any place other than a place specified in such

notice after the date specified in such notice. Every such notice shall remain in force until the date specified therein as the date of expiry, and, in the absence of such date, shall remain in force until the 1st April next following the date of publication of such notice.

(2) Any person who stores any seed cotton or cotton seed in contravention of a notice published under subsection (1) shall be guilty of an offence.

(3) Any authorized officer may seize any seed cotton or cotton seed stored in contravention of a notice published under subsection (1) and may, if authorized in writing to that effect by the Minister, destroy the same and no compensation shall be payable to any person in respect of such seizure or destruction.

[Ch6504s9]9. Ginning and baling of cotton to be under licence

(1) No person shall gin or bale cotton unless he is the holder of a valid licence in that behalf issued by the Minister in such form as may be prescribed.

(2) The Minister may attach to such licence such conditions as may be prescribed.

(3) Any holder of a licence issued under this section who fails to comply with any of the conditions of this licence shall be guilty of an offence.

[Ch6504s10]10. Holders of ginning licences to render returns

(1) Every holder of a licence to gin cotton issued under section 9 shall, within twenty-one days of completing ginning in every year, forward to the Minister a return in the prescribed form.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

[Ch6504s11]11. Hand-gins and hand-presses not to be used without permission

(1) No person shall use any hand-gin or hand-press for the ginning or baling of cotton except with the written permission of the Minister.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

[Ch6504s12]12. Public officers' powers of entry

(1) Any public officer authorized by the Minister in that behalf in writing, may, between the hours of sunrise and sunset, enter any land or building where cotton of any description is being purchased, stored, ginned or in any way processed, and may inspect any cotton thereon or therein and any machinery used for its ginning or other processing and any accommodation used for its storage and may take reasonable samples of any such cotton for the purpose of—

(a) ascertaining that this Act is being observed;

(b) ascertaining that the conditions of any licence or permit issued under this Act are being complied with;

(c) verifying the accuracy of any application or return required to be made under this Act.

(2) Any such authorized person may require the owner or occupier of any land or building entered under subsection (1), to produce any books or other records kept by, or in the possession of, such owner or occupier and relating to the growing, ginning or other processing, or sale of cotton.

(3) Any person who hinders or obstructs any such authorized person in the exercise of the powers conferred by subsection (1), or who fails or neglects to comply with any requirement of any such person under subsection (2), shall be guilty of an offence.

[Ch6504s13]13. Minister may order destruction of cotton plants

25 of 1968(1) The Minister may, by notice published in the Gazette, fix a date prior to which, in any year, all cotton plants in any area specified in such notice shall be uprooted and also a date prior to which such cotton plants shall be destroyed, and may also in the same notice fix a date in any year (later in point of time than either of the first-mentioned dates) before which no cotton shall be planted in such area.

(2) Upon the publication of any notice under subsection (1), every owner or occupier of land in any area specified therein shall, in each case, prior to the relevant date fixed by such notice, uproot and destroy by fire or by any other method prescribed in such notice, any cotton plants growing at the time of the publication of such notice and shall also uproot and destroy any cotton plants which may grow during the period between such date and the date which may have been fixed as the date before which no cotton shall be planted in such area.

(3) Any person who fails to comply with subsection (2) shall be guilty of an offence.

[Ch6504s14]14. Minister may fix last day for planting cotton seed

(1) The Minister may, by notice, specify a period in any year during which no cotton seed shall be planted in any area specified in such notice.

25 of 1968(2) Any person who plants any cotton seed in contravention of a notice made under subsection (1) shall be guilty of an offence.

[Ch6504s15]15. Where offence committed against section 13 or 14 court to order cotton to be uprooted and destroyed

When any person is convicted of an offence against section 13 or 14 the court shall, in addition to any other penalty, order that the cotton in respect of which the offence has been committed shall be uprooted and destroyed, within such time and in such manner as the court shall direct, by such convicted person, or, in default of his so doing, by such other person as the court shall appoint.

[Ch6504s16]16. Owner of land to carry out occupier's obligation in latter's absence

(1) Where under this Act the occupier of any land is required to do anything in respect of cotton plants grown thereon and such occupier has apparently quitted the land, an authorized officer may serve a notice upon the owner of the land or upon the person left in charge by the owner, requiring him to carry out the whole or any part of the obligation imposed upon the occupier, and, on failure to carry out the terms of the notice within the time specified therein, the authorized officer may authorize any person to enter upon the land and there do anything which the occupier was required to do and any expenses thereby incurred shall be recoverable by civil suit from the owner or person left in charge.

(2) In the case of customary land, the Chief within whose jurisdiction the land is situated shall be deemed to be the owner or the person left in charge by the owner.

(3) In the case of public land, the District Council within whose jurisdiction such land is situated shall be deemed to be the owner or the person left in charge by the owner.

[Ch6504s17]17. Penalties

Any person who is guilty of an offence against this Act, or who is guilty of an offence against any rules or orders made thereunder, for which no specific penalty is prescribed, or who commits any breach of the terms or conditions of any licence issued under this Act or any rules made thereunder, shall be liable to a fine of K200 and to imprisonment for three months, and the court may, in addition to any other penalty, order any cotton, cotton seed or other matter or thing in respect of which the offence has been committed, or which has been used in connexion with the offence, to be forfeited or destroyed; and where the court orders that such cotton, cotton seed or other matter or thing be destroyed it shall be destroyed, within such time and in such manner as the court shall direct, by the person convicted or by its owner or by the agent of such owner, or, in default, by such other person as the court shall appoint.

[Ch6504s18]18. Rules

The Minister may make rules or orders—

- (a) prescribing anything which by this Act may be or is to be prescribed;
- (b) for the inspection of cotton estates, ginned cotton, cotton seed or seed cotton;
- (c) regulating and controlling the sale, collection, growing, ginning, packing, baling, handling and storing of ginned cotton, cotton seed and seed cotton;
- (d) for the inspection and control of any buildings or places where cotton in any form is bought, ginned, processed or stored;
- (e) regulating and controlling the erection, maintenance, use and inspection of markets for the sale of cotton;

(f) prescribing the conditions to be attached to licences to gin or bale cotton under section 9, and the circumstances in which such licences may be refused, renewed, suspended or cancelled;

(g) fixing the maximum prices which may be charged for ginning and baling seed cotton, either throughout Malawi or in particular Districts or areas thereof;

(h) generally for the better carrying into effect of this Act.

[Ch6504s19]19. Saving

1 of 1949All appointments, authorities, requisitions, notices, sanctions, certificates, licences, permits, proclamations, orders and rules made, given or prescribed under the Cotton Ordinance, 1949 (now repealed) shall, to the extent that they are not inconsistent with the provisions of this Act, be deemed to have been made under this Act, and shall continue in force until replaced by authorities, requisitions, notices, sanctions, certificates, licences, permits, proclamations, orders and rules made, given or prescribed under this Act.

#### SUBSIDIARY LEGISLATION

##### COTTON (AUCTIONS) RULES

deemed to be made under s. 18

[made under s. 82 of the Cotton Ordinance, 1934, No. 16 of 1934 (now repealed)]

G.N. 77/1941

83/1942

8/1951

G.N. 22/1963

74/1963

#### 1. Citation

These Rules may be cited as the Cotton (Auctions) Rules.

#### 2. Raw cotton to be sold by auction

No raw cotton grown by Africans on customary land shall be sold otherwise than by auction, except to the holder of a permit issued by the Minister.

#### 3. Time and place of auction

The time and place at which every such auction shall be held shall be notified at least fourteen days previously in a local newspaper and in the Gazette.

4. Appointment of auctioneer

The auctioneer shall be an officer appointed by the Minister, but such officer shall not, except for the purpose of such auction, be deemed to be an auctioneer within the meaning of section 23 of the Businesses Licensing Act. Cap. 46:01

5. Grading of raw cotton

Raw cotton shall be sold (whether by auction or otherwise) in two grades only, namely—

(a) Grade I, which shall be unstained cotton free from foreign matter in excess of 5 per cent by weight;

(b) Grade II, which shall be any other merchantable cotton.

COTTON (LICENCES AND FEES) RULES

deemed to be made under s. 18

[made under s. 13 of the Cotton Ordinance, 1949, No. 11 of 1949 (now repealed)]

G.N. 146/1949

8/1951

74/1963

122/1985

34/2005

1. Citation

These Rules may be cited as the Cotton (Licences and Fees) Rules.

2. Interpretation

In these Rules, “licensing officer” means any public officer designated by the Minister to grant licences on his behalf for the purpose of these Rules.

3. Form of licences to gin and sale cotton

Licences to gin and bale cotton shall be in Form A in the Schedule.

4. Condition of licences to gin and bale cotton

It shall be a condition of every licence to gin and bale cotton that the licensee shall, within 14 days after the end of every calendar month during which any ginning or baling operations have been

carried on under the licence, complete a return in Form B in the Schedule and send the completed return to the Minister.

5. Applications for licences to buy cotton grown on private estates

Applications for licences to buy seed cotton grown by tenants on a private estate shall be made to the licensing officer and shall be in Form C in the Schedule.

6. Form of licences to buy cotton grown on a private estate

Licences to buy seed cotton grown by tenants on a private estate shall be in Form D in the Schedule.

7. Applications for licences to buy cotton grown on customary land

Applications for licences to buy seed cotton grown on customary land shall be made to the licensing officer and shall be in Form E in the Schedule.

8. Form of licences to buy cotton grown on customary land

Licences to buy seed cotton grown on customary land shall be in Form F in the Schedule.

9. Conditions of licences to buy cotton grown on a private estate or on customary land

It shall be a condition of every licence to buy seed cotton grown by tenants on a private estate or grown on customary land that—

(a) the licensee shall render a weekly return of all cotton bought by him under his licence in Form G or H in the Schedule as the case may be;

(b) the licensee shall not buy any cotton in excess of the amount specified in his licence.

10. Failure to observe conditions may entail cancellation of licence

The Minister may cancel any licence if the holder thereof has failed to comply with any condition contained in or relating to such licence.

11. Fees

(1) There shall be paid on the issue of any licence under these Rules a fee of K5,000.

(2) The said fee of K5,000 shall be sent to the licensing officer together with the application for the licence, and shall be refunded by the licensing officer if he refuses to issue the licence to the applicant.

12. Power to refuse licences

The licensing officer may in his discretion refuse to issue to any person a licence under these Rules.

13. Appeals

Any person who is aggrieved—

(a) by the cancellation of a licence under rule 10; or

(b) by the refusal of a licence under rule 12, may appeal to the Minister whose decision shall be final.

SCHEDULE

FORM A reg. 3

THE COTTON ACT

LICENCE TO GIN AND BALE COTTON

Region: ..... District: .....

Name of licensee: .....

Factory at: .....

.....

Licence is hereby given to the abovenamed to gin and bale cotton at the factory stated in this licence.

Dated this ..... day of ....., 20 .....

This licence expires on the ..... Fee K5,000.

.....

Licensing Officer

.....

GOVERNMENT OF MALAWI

THE COTTON ACT

FORM B r. 4, G.N. 122/1985

To Minister of Agriculture

P.O. Box 30134

Capital City

Lilongwe 3

(Address) .....

.....

Date .....

I hereby inform you that the particulars relating to the quantities of seed cotton received and ginned at my factory at ..... in the District of ..... during the month of ....., 19..... are as follows:

Quantity Received at Ginnery Quantity Ginned Quantity of Lint Produced Ginning Percentage During the month

kg Total to

Date

kg During the month

kg Total to

date

kg During the month

kg Total to date

kg During the month

kg Total to

date

kg First grade cotton from customary land markets Other cotton from customary land markets First grade cotton from private estates Other cotton from private estates

Signature .....

This form must be completed by the holder of a ginning licence and forwarded to the Minister within fourteen days after the end of each calendar month during which his ginnery is in operation, provided that where no cotton is ginned during the month a NIL return shall be forwarded and when ginning is finished the Minister shall be notified.

THE COTTON ACT

FORM C r. 5, G.N.122/1985

APPLICATION FOR COTTON BUYING LICENCE IN RESPECT OF COTTON GROWN ON PRIVATE ESTATES

To: The Licensing Officer,

.....

I/We beg to apply for a licence to purchase seed cotton grown on my/our ..... estate.

The place at which purchase will take place is .....

The number of African tenants on my/our estate who are cultivating cotton in the current season is .....

The hectareage of cotton under cultivation by tenants on my/our estate in the current season is ..... hectares.

The estimated production of seed cotton by tenants on my/our estate in the current season is ..... kg.

The hectareage of cotton under cultivation by paid labourers on my/ our estate in the current season is ..... hectares.

The estimated production of seed cotton by paid labourers on my/our estate in the current season is ..... kg.

I/We enclose the licence fee K2.

Signature of Applicant .....

Address .....

Date .....

THE COTTON ACT

FORM D

COTTON BUYING LICENCE IN RESPECT OF COTTON GROWN ON A PRIVATE ESTATE r. 6, G.N. 122/1985

No. ....

Licence is hereby granted to ..... of ..... to purchase seed cotton grown on the licensee's estate, subject to the Cotton Act, and to the following conditions—Delete where inapplicable.\*

(a) the amount of seed cotton to be purchased under this licence shall not exceed ..... kg. This figure is subject to revision at any time during the validity of the licence.

(b) the licence is valid only for the purchase of seed cotton at the following place .....

(c) the prices to be paid for seed cotton purchased under this licence shall be those from time to time fixed by the Minister.

(d) .....  
.....

This licence expires on the ....., 19....

Fee K2. Dated this ..... day of ....., 19....

.....

Licensing Officer

THE COTTON ACT

FORM E

COTTON BUYING LICENCE IN RESPECT OF COTTON GROWN ON CUSTOMARY LAND r. 7

To: The Licensing Officer,

.....

I/We beg to apply for a licence to purchase seed cotton grown on customary land.

The place at which purchase will take place is .....

The following are the reasons which I/we wish to advance in support of this application—

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

I/We enclose the licence fee of K2.

Signature of Applicant .....

Address .....

.....

Date .....

THE COTTON ACT

FORM F

COTTON BUYING LICENCE IN RESPECT OF COTTON GROWN ON CUSTOMARY LAND r. 8, G.N. 122/1985

No. ....

Licence is hereby granted to ..... of ..... to purchase seed cotton grown on customary land, subject to the Cotton Act and to the following conditions—Delete where inapplicable\*

(a) the amount of seed cotton to be purchased under this licence shall not exceed ..... kg;

(b) the licence is valid only for the purchase of seed cotton at the following place .....

(c) the prices to be paid for seed cotton purchased under this licence shall be those from time to time fixed by the Minister;

(d) .....

.....

This licence expires on the ....., 19....

Fee K2 Dated this ..... day of ....., 19....

.....

Licensing Officer

(..... Region)

THE COTTON ACT

FORM G

RETURN OF SEED COTTON PURCHASED FROM TENANTS ON PRIVATE ESTATES r. 9, G.N. 122/1985

To: Minister of Agriculture,

P.O. Box 30134,

Capital City, Lilongwe 3

I hereby submit details of seed cotton purchased by me from tenants on ..... estate during the week ended ....., 19.....

During the week

kgTotal to date

kgFirst                      grade                      cotton.....Other  
cotton.....Total.....

Signature .....

Address .....

.....

Date .....

COTTON ACT

( Cap. 65:04)

FORM H

RETURN OF PURCHASES OF SEED COTTON GROWN ON CUSTOMARY LAND r. 9, G.N. 122/1985

To: Minister of Agriculture,

P.O. Box 30134,

Capital City, Lilongwe 3

I hereby submit details of seed cotton grown on customary land purchased by me at the under-mentioned centres during the week ended ....., 19.....

Place of PurchaseDistrict              First Grade Cotton              Other CottonWeight

(kg)Amount paid to growers

K tWeight (kg)Amount paid to growers

K t

Signature .....

Address .....

.....

Date .....

## COTTON (GINNING AND BALING) RULES

under s. 18

G.N. 29/1954

74/1963

1. These Rules may be cited as the Cotton (Ginning and Baling) Rules.
2. Gins shall be maintained in proper working order and the condition of all working and fixed parts shall be as recommended by the manufacturers.
3. Seed cotton shall always be in a satisfactorily dry state before being fed to the gins and the rate of feed shall not exceed the maximum advised by the gin manufacturers.
- 4.—(1) All gins shall be so adjusted that whole seeds or pieces of seed do not pass into the ginned lint and that only lint passes over the rollers of roller gins or through the breast bars of saw gins.  
(2) Gins shall be maintained in such a manner that oil, grease or any form of lubricant does not come into contact with the seed cotton or the ginned lint.  
(3) Gins shall be so fitted that the seed issuing from them contains, as far as possible, no unginning cotton and no avoidable broken seed.
- 5.—(1) Lint shall be baled in such a manner that all hoops are intact and that the lint is completely covered by hessian.  
(2) All reasonable steps shall be taken to exclude dirt and any extraneous matter from lint prior to and during baling.  
(3) Prior to removal from the ginnery, bales shall be stored in such a manner as to be protected from the weather.
6. All seed cotton delivered for ginning shall be kept separate in the prescribed grades.
7. The holder of every ginning licence shall gin all cotton up to the capacity of the ginnery which may be delivered to him for ginning and shall commence ginning so as to ensure that all the seed required for planting shall be in the hands of those responsible for its distribution to growers by the dates prescribed by the Minister.
8. The Director or any person authorized in writing under section 14 of the Act may prohibit the working of any ginnery unless he is satisfied that ginning is being conducted in accordance with these Rules, and thereafter no person shall once more commence to work such ginnery until the Director or such person grants permission to do so.
9. Any person who contravenes these Rules shall be guilty of an offence.

NOTE

Notices under s. 13 of the Act are omitted.