



LAWS OF KENYA

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## **AGRICULTURAL DEVELOPMENT CORPORATION ACT**

CHAPTER 444

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**CHAPTER 444**

**AGRICULTURAL DEVELOPMENT CORPORATION ACT**

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**CHAPTER 444****AGRICULTURAL DEVELOPMENT CORPORATION ACT**

[Date of assent: 21st April, 1965.]

[Date of commencement: 29th October, 1965.]

**An Act of Parliament to provide for the establishment of the Agricultural Development Corporation and for connected purposes**

[Act No. 7 of 1965, L.N. 274/1965, Act No. 7 of 1981, Act No. 16 of 1986, Act No. 13 of 1988.]

**1. Short title**

This Act may be cited as the Agricultural Development Corporation Act.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“**Corporation**” means the Agricultural Development Corporation established by section 3 of this Act;

“**managing director**” means the managing director of the Corporation appointed under section 14 of this Act.

[Act No. 7 of 1981, s. 2.]

**3. Establishment of Agricultural Development Corporation**

There is hereby established a Corporation, to be known as the Agricultural Development Corporation, which shall be a body corporate having perpetual succession and a common seal, with power to sue and be sued, purchase, hold, manage and dispose of land and any other property and to enter into such contracts as it may consider necessary or expedient for the purposes of performing its functions under this Act.

**4. Directions of Minister**

In the exercise of its powers and in the performance of its functions under this Act, the Corporation shall comply with such general or special directions as the Minister may from time to time issue.

**5. Membership of Corporation**

(1) The Corporation shall consist of—

- (a) a chairman appointed by the President;
- (b) not more than ten members appointed by the Minister in consultation with the President, who, in his opinion, possess qualities likely to be of benefit to the corporation and of whom—
  - (i) at least one shall be an accountant registered under the Accountants Act (Cap. 531);
  - (ii) at least one shall be appointed by reason of his knowledge of international finance;

- (iii) at least one shall be appointed by reason of his knowledge of the processing and marketing of agricultural produce;
- (iv) at least one shall be appointed to represent the interests of lenders of funds to the corporation;
- (c) two members appointed by the Minister, in consultation with the President, from a panel of not less than five names submitted by the Central Agricultural Board established under the Agriculture Act (Cap. 318);
- (d) the Permanent Secretary to the Ministry responsible for the functions of the Corporation or a person deputed by him in writing for the purposes of this Act;
- (e) the Permanent Secretary to the Ministry for the time being responsible for Agriculture or a person deputed by him in writing for the purposes of this Act;
- (f) the Permanent Secretary to the Ministry for the time being responsible for livestock development or a person deputed by him in writing for the purposes of this Act;
- (g) the Permanent Secretary to the Ministry for the time being responsible for finance or a person deputed by him in writing for the purposes of this Act;
- (h) the managing director appointed under section 14 of this Act.

(2) The Corporation may co-opt to serve on it for such length of time as it thinks fit any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Corporation or be counted as a member for the purpose of forming a quorum.

(3) The Corporation shall elect a vice-chairman annually from among its members.

[Act No. 7 of 1981, s. 3.]

## **6. Duration of office of members of Corporation**

(1) The chairman shall hold office for three years and shall then retire but shall be eligible for reappointment.

(2) Two of the members appointed under paragraph (b) and one of the members appointed under paragraph (e) of section 5(1) shall retire annually but shall be eligible for reappointment; the members to retire shall be those who have been continuously longest in office, and, as between members who have been continuously longest in office, the order of retirement shall, in default of agreement between them, be determined by lot.

(3) A member of the Corporation shall cease to hold office—

- (a) if he delivers to the Minister a written resignation of his office; or
- (b) if the Corporation declares by resolution that he has been absent from three consecutive meetings of the Corporation without the leave of the Corporation; or

- (c) if, on the advice of the Corporation, the Minister removes him from office on the grounds that he is incapacitated by mental or physical illness or is otherwise unable or unfit to discharge the functions of a member or is unable to continue as a member; or
- (d) if he is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors; or
- (e) if he is sentenced by a court to imprisonment for a term of six months or more.

#### **7. Remuneration and expenses of members of Corporation**

(1) The members of the Corporation (other than public officers in receipt of a salary) shall be paid out of the funds of the Corporation such remuneration as the Minister, after consultation with the Corporation, may from time to time determine.

(2) The Corporation may, at its discretion, pay such travelling and other expenses as may reasonably have been incurred by its members by reason of their office.

#### **8. Meetings of Corporation**

(1) The Corporation shall be convened by the chairman at least four times every year.

(2) The chairman may at any time convene a special meeting of the Corporation and shall do so within one month of the receipt by him of a written request signed by at least two members.

(3) In the absence of the chairman from any Corporation meeting, the vice-chairman shall preside, and in the absence of both chairman and vice-chairman, the members present shall elect one of their number to preside, and such member shall, as concerns that meeting, have all the powers and attributes of the chairman under this Act.

(4) At every meeting of the Corporation the member presiding shall have a casting as well as a deliberative vote.

(5) The quorum of the Corporation shall be five.

#### **9. Declaration of interest**

Every member of the Corporation who is or is likely to be concerned in, or who participates in the profits of, any contract with or work done for the Corporation, otherwise than in his capacity as a member of the Corporation, shall on the matter coming before the Corporation, for consideration, immediately declare his interest therein, and shall, unless the Corporation otherwise agrees, retire from the meeting, and shall in any case abstain from voting on the matter:

Provided that the provisions of this section shall not apply to a member who has been appointed in accordance with the provisions of section 5(1)(b)(iv), in respect of the interest he was appointed to represent.

#### **10. Authentication of documents**

(1) The common seal of the Corporation shall be authenticated by the signature of the chairman or such other member of the Corporation as may be

authorized by the Corporation to act in that behalf, together with the signature of some other member or officer authorized by the Corporation to act in that behalf and such seal shall be officially and judicially noted.

(2) All documents made by the Corporation, other than those required by law to be under seal, shall be executed, and all decisions of the Corporation shall be signified, under the hand of the chairman or of any member, officer or servant of the Corporation authorized in that behalf.

### **11. Committees of Corporation**

The Corporation may appoint committees, whether of its own members or otherwise, to carry out such general or special functions as may be specified by the Corporation, and may delegate to any such committee such of its powers as the Corporation may deem fit.

### **12. Functions of Corporation**

(1) The functions of the Corporation shall be—

- (a) to promote the production of Kenya's essential agricultural inputs as the Corporation may decide from time to time, such as seeds and pedigree and high grade livestock including, hybrid seed maize, cereal seed, potato seed, pasture seed, vegetable seed, pedigree and high grade cattle, sheep, goats, pigs, poultry and bees;
- (b) to undertake such activities as the Corporation may decide from time to time for the purpose of developing agricultural production in specific areas or specific fields of production; and
- (c) to participate in activities in agricultural production which are related to the primary and secondary functions of the Corporation and which in the view of the Corporation are commercially viable.

(2) In the performance of its functions under this Act the Corporation shall have proper regard to the economic and commercial merits of any undertakings it plans to initiate, assist or expand.

(3) If the Minister, after consultation with the Minister for the time being responsible for finance, instructs the Corporation to initiate, assist or expand any undertaking which it considers economically or otherwise unsound, the Corporation shall not be required to proceed with the initiation, assistance or expansion until the Government has undertaken to reimburse the Corporation with any losses incurred thereby.

[Act No. 16 of 1986, s. 2.]

### **13. Powers of Corporation**

(1) The Corporation shall subject to the provisions of this Act, do all such things and enter into all such transactions as to the Corporation appear to be necessary for, or conducive or incidental to, the performance of its functions under this Act.

(2) Without prejudice to the generality of subsection (1) of this section, the Corporation shall have power—

- (a) to provide credit and finance by means of loans or the subscription of loan or share capital or otherwise for agricultural undertakings in Kenya;

- (b) to advance, deposit or lend money, securities and property to or with such persons and on such terms as may seem expedient; create, make, draw, accept, endorse, execute, issue, discount, buy, sell, negotiate and deal in bills, notes, bills of lading, warrants, coupons, debentures and other negotiable or transferable instruments;
- (c) to borrow money in support of the Corporation on such terms and for such purposes as may be approved by the Minister after consultation with the Minister for the time being responsible for Finance;
- (d) to purchase, take on lease or otherwise acquire, and sell, exchange, surrender, lease, mortgage, charge, convert, turn to account, dispose of and deal with, any movable or immovable property and rights of all kinds;
- (e) to appoint such agents as the Corporation may consider necessary for the proper discharge of the functions as the Corporation may determine;
- (f) to do all such other things, whether of an agricultural or other nature, as may be deemed to be incidental or conducive to the proper discharge of the functions of the Corporation.

#### **14. Managing director**

(1) There shall be an officer of the Corporation, to be known as the managing director, who shall be appointed by the Minister and who shall be responsible for the execution of the policy of the Corporation and for the control and management of its day-to-day business.

(2) The Corporation shall delegate to the managing director such of its functions under this Act as are necessary to enable him to transact effectively the day-to-day business of the Corporation.

(3) In the event of the managing director being absent on leave or being incapacitated by sickness or other cause, the Corporation, with the approval of the Minister, may appoint a person to act as the managing director during such period of absence or incapacitation, and the person so acting may exercise all the powers and discharge all the duties by this Act exercisable or to be performed by the managing director.

[Act No. 7 of 1981, s. 4.]

#### **15. Staff of Corporation**

(1) The Corporation may employ such officers and servants as may be necessary for the efficient conduct and operation of the Corporation.

(2) The Corporation may with the consent of the Minister provide for its managing director, officers and servants by means of insurance, pension, superannuation or provident funds or otherwise, pecuniary benefits upon leave, retirement, death or termination of service, or in the event of sickness or injury, and may require the managing director or any such officer or servant to contribute thereto.

[Act No. 7 of 1981, s. 5.]

**16. Protection of Corporation, etc., from liability**

No act or thing done by any member of the Corporation, the managing director or any officer or servant of the Corporation shall, if the act or thing done in good faith and without negligence for the purposes of this Act, render that member, the managing director, officer or employee, or any person acting by his directions, personally liable to any action, proceeding, claim, or demand whatsoever.

[Act No. 7 of 1981, s. 6.]

**17. Accounts and audit**

(1) The Corporation shall cause to be kept proper books of account and other books in relation thereto and to all its undertakings, funds, activities and property, and shall prepare such other accounts as the Minister may require and, in addition, yearly balance sheets made up to the end of its financial year, showing in detail the assets and liabilities of the Corporation.

(2) The accounts of the Corporation shall be examined, audited and reported upon annually by the Auditor-General (Corporations).

(3) The Corporation shall produce and lay before the auditors all books and accounts of the Corporation, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditors shall be entitled to require from all members, officers, agents and employees of the Corporation such information and explanation as may be necessary for the performance of their duties as auditors.

(4) The expenses of and incidental to the audit shall be paid by the Corporation.

[Act No. 7 of 1981, s. 7, Act No. 13 of 1988, Sch..]

**18. Annual report**

(1) The Corporation shall, within a period of six months after the end of its financial year or within such longer period as the Minister may approve, submit to the Minister a report of its operations during such year, and the auditors' report, together with the yearly balance sheets and such other statements of account as the Minister shall require; and the Corporation shall, if the Minister so requires, publish them in such manner as the Minister may specify.

(2) The Minister shall lay the Corporation's report and the auditor's report, together with the balance sheet and such other statements of account as he may have required, before the National Assembly as soon as practicable.

**19. Reserve Fund and surplus moneys**

(1) The Corporation may establish and maintain a Reserve Fund and shall pay into that fund such part of the surplus moneys earned by the Corporation in the course of its operations in any one year as the Board may determine.

(2) The Reserve Fund shall be applied by the Corporation in making good any loss or deficiency which may occur in the course of the business of the Corporation.

(3) Any surplus moneys after deducting therefrom such sums as are required from the purpose specified in subsection (2) of this section shall be disposed of in

such manner as the Corporation, subject to the approval of the Minister and the Minister for the time being responsible for agriculture and finance, may direct, provided that a prudent balance shall remain in the Reserve Fund.

## **20. Rules**

The Minister may, after consultation with the Corporation, make rules generally for better carrying out the purposes and provisions of this Act and, in particular and without prejudice to the foregoing generality, may make rules for—

- (a) raising such loans and making investments, on such terms as the Minister may, after consultation with the Minister for the time being responsible for finance, approve;
- (b) regulating and controlling the Corporation or any of its agencies;
- (c) prescribing the procedure to be followed in the appointment of members to the Corporation and its agencies;
- (d) controlling and regulating the purchase and sale of land for agricultural development;
- (e) regulating and prescribing the powers, duties, functions, responsibility and remunerations of officers, employees and agents of the Corporation;
- (f) prescribing, controlling and regulating schemes for agricultural development.

## **21. Exemption from stamp duty**

No duty shall be chargeable under the Stamp Duty Act (Cap. 480) in respect of any instrument executed by or on behalf of or in favour of the Agricultural Development Corporation in cases where, but for this exemption, the Corporation would be liable to pay such duty.

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