



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

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**THE KENYA MEAT COMMISSION ACT**

CHAPTER 363

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**CHAPTER 363**

**KENYA MEAT COMMISSION ACT**

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**SCHEDULES**

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**CHAPTER 363****KENYA MEAT COMMISSION ACT***[Date of assent: 27th March, 1950.]**[Date of commencement: 1st June, 1950.]*

**An Act of Parliament to establish a commission to purchase cattle and smallstock, and to acquire, establish and operate abattoirs, meat works, cold storage concerns and refrigerating works for the purpose of slaughtering cattle and smallstock, processing by-products, preparing hides and chilling, freezing, canning and storing beef, mutton, poultry and other meat foods for export or for consumption within Kenya, and to confer certain exclusive rights upon the Commission, and for connected purposes**

*[Act No. 13 of 1950, Gazette Notice 587 of 1950, Act No. 8 of 1955, Act No. 28 of 1962, Act No. 32 of 1963, Act No. 45 of 1963, Legal Notice 2 of 1964, Legal Notice 365 of 1964, Act No. 3 of 1967, Act No. 8 of 1968, Act No. 13 of 1980, Act No. 10 of 1981, Act No. 13 of 1988, Legal Notice 53 of 2007, Act No. 17 of 2006.]*

**1. Short title**

This Act may be cited as the Kenya Meat Commission Act.

**2. Interpretation**

(1) In this Act, unless the context otherwise requires—

"Central Agricultural Board" has the meaning assigned to that expression in the Agriculture Act (Repealed);

"livestock" includes cattle, sheep, goats, camels and the young thereof;

"poultry" means fowls, chickens, geese, ducks and turkeys;

"reserved areas" means—

(a) Trust land;

(b) the North-Eastern Province, the Isiolo District, the Marsabit District, the Turkana District and the Samburu District;

"scheduled undertaking" *deleted by Act No. 17 of 2006, s. 103*;

"slaughter stock" means all livestock bred, purchased or otherwise acquired with the intention that it shall be slaughtered or fattened for slaughter and livestock shall be deemed to be slaughter stock if it is slaughtered within two months of the purchase or acquisition thereof unless and until the contrary be proved;

"smallstock" means sheep, goats, hares, rabbits and poultry;

"stores" means livestock which is bred, purchased or otherwise acquired for the purpose of fattening for slaughter;

"the Commission" means the Kenya Meat Commission established by section 3;

"trek oxen" means cattle used, or kept for use, for working or hauling purposes.

(2) In this section, except where the context otherwise requires, "member" includes the Chairperson.

*[Act No. 28 of 1962, s. 2, Act No. 32 of 1963, s. 2, Act No. 3 of 1967, s. 2, Act No. 17 of 2006, s. 103.]*

**3. Establishment of Commission**

(1) There is hereby established a commission, to be known as the Kenya Meat Commission, which shall consist of—

- (a) a Chairperson appointed by the President;
- (b) six members appointed by the Cabinet Secretary to represent stock producers;
- (c) six members appointed by the Cabinet Secretary, being persons who, in the opinion of the Cabinet Secretary, possess qualities that will benefit the work of the Commission;
- (d) the Permanent Secretary to the National Treasury or a person deputed by him in writing for the purposes of this Act;
- (e) the Permanent Secretary to the Ministry of Livestock Development or a person deputed by him in writing for the purposes of this Act;
- (f) the Deputy Director of Livestock Development (Veterinary Services) or a person deputed by him either generally for the purposes of this Act or specifically for the purpose of attending any particular meeting or any other purposes; and
- (g) the managing commissioner appointed under section 6.

(2) For the purposes of this section, except where the context otherwise requires, the expression "member" shall include the Chairperson.

(3) The Chairperson shall have a casting vote, but shall not have an original vote.

(4) Three members of the Commission, other than *ex officio* members, shall retire annually in rotation, but shall be eligible for reappointment; the members to retire as aforesaid shall be those who have been continuously longest in office, and, as between members who have been continuously in office for an equal period, the order of retirement shall, in default of agreement between them, be determined by lot.

(5) Any member of the Commission, other than an *ex officio* member, may at any time resign his office by notice in writing addressed to the Chairperson, who shall forthwith cause it to be forwarded to the Cabinet Secretary, and from the date of receipt of such notice by the Chairperson such member shall cease to be a member of the Commission.

(6) The office of a member of the Commission shall be vacated—

- (a) if he dies or becomes bankrupt, or if his estate is sequestered or assigned;
- (b) if he is absent from Kenya without leave for more than three months, or is absent without leave from three consecutive meetings of the Commission;
- (c) if he resigns;
- (d) if he becomes physically or mentally incapable of performing his duties as a member;
- (e) if he is concerned in, or participates in, the profits of any contract with or work done for the Commission otherwise than as a member of the Commission:

Provided that the provisions of this paragraph shall not apply to any contract with or work done by the Commission which is entered into or done in the ordinary

course of the business of the Commission and in which the member receives no preferential treatment over or more advantageous terms than other members of the public.

(7) The Cabinet Secretary may appoint any person to act temporarily in the place of the Chairperson or any other member of the Commission in case of the temporary absence or inability to act of the Chairperson or other member.

(8) Subject to section 6, members of the Commission other than *ex officio* members may be paid out of the funds of the Commission such remuneration for their services as may from time to time be authorized by the Cabinet Secretary, and all members of the Commission may be paid out of such funds their reasonable expenses for travelling and subsistence while engaged upon the business of the Commission.

(9) The appointment and resignation of any member of the Commission shall be notified in the *Gazette*.

[Act No. 28 of 1962, s. 3, Act No. 32 of 1963, s. 3 and  
Sch., Act No. 13 of 1980, Sch., Act No. 10 of 1981, Sch.]

#### **4. Incorporation of Commission**

(1) The Commission shall be a body corporate having perpetual succession and a common seal, and shall have all the powers conferred by this Act.

(2) The seal of the Commission shall be authenticated by the signature of the Chairperson, or one member of the Commission authorized to act in that behalf, and the secretary of the Commission, and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Commission may be signified under the hand of the Chairperson, any member of the Commission authorized in that behalf or the secretary of the Commission.

(4) The Commission may sue and be sued in its corporate name, and may for all purposes be described by such name.

#### **5. Procedure and meetings of Commission**

(1) The Commission shall meet at such times as may be necessary or expedient for the transaction of the business of the Commission, and such meetings shall be held at such place and time and on such days as the Commission may determine.

(2) The Chairperson may at any time call a special meeting of the Commission, and shall call a special meeting within fourteen days of a requisition for that purpose addressed to him by any member of the Commission.

(3) The Chairperson shall preside at all meetings of the Commission at which he is present, and in case of his temporary absence the members present and constituting a quorum shall elect a Chairperson from among their number.

(4) The quorum of the Commission shall be five, of whom one shall be a member appointed under paragraph (b) of subsection (1) of section 3, one a member appointed under paragraph (c) of that subsection and one member appointed under paragraph (e):

Provided that, if in relation to any meeting called to be held in accordance with the provisions of this section, there is no quorum by reason of the fact that three members appointed under those paragraphs are not present, the meeting shall be adjourned to some other date appointed by the Chairperson of which due

notice shall be given to all the members, and at such adjourned meeting of the Commission any five members shall form a quorum.

(5) The decisions of the Commission shall be by a majority of votes.

(6) Minutes in proper form of each meeting of the Commission shall be kept by the secretary, and shall be confirmed by the Chairperson at the next succeeding meeting.

(7) The powers of the Commission shall not be affected by any vacancy in the membership thereof, nor by the fact that it is afterwards discovered that there was some defect in the appointment or qualifications of a person purporting to be a member of the Commission.

(8) Subject to this section, the Commission shall have power to regulate its own proceedings, and may delegate to any committee of the Commission the power and authority to carry out on behalf of the Commission such duties as may be determined.

(9) The Chairperson of the Commission may at any time and place convene a meeting of any committee to which any duties of the Commission have been delegated under subsection (8).

(10) The procedure at meetings of any committee of the Commission shall be as nearly as may be the same as the procedure at meetings of the Commission, and a quorum at any meetings of any committee shall be two-thirds of the members thereof.

[Act No. 28 of 1962, s. 4, Act No. 32 of 1963, Sch.]

## **6. Managing commissioner**

(1) The Commission shall, with the approval of the Cabinet Secretary, appoint a Managing Commissioner of the undertakings of the Commission subject to such terms and conditions, including remuneration of his services, as it may think fit.

(2) It shall be the duty of the Managing Commissioner to undertake executive responsibility for the functions of the Commission under this Act and any regulations made thereunder, subject to the instructions of the Commission.

[Act No. 28 of 1962, s. 5.]

## **7. Power to appoint staff**

(1) The Commission may employ such officers and servants as it may deem requisite, and may dismiss any officer or servant so employed.

(2) The Commission may pay to any person in its employ such salary, wages or other remuneration as it may think fit, and may pay bonuses and the like to any such person, and may grant to any such person such leave as it may think fit, and may establish and make contributions to a pension or superannuation fund and a medical aid fund for its employees.

[Act No. 28 of 1962, s. 6.]

## **8.**

[Repealed by Act No. 17 of 2006, s. 104.]

## **9. Powers of Commission**

(1) In addition to any other powers conferred by this Act, the Commission shall have power—

- (a) to acquire, erect, construct, establish and maintain abattoirs, meat works, ice and refrigerating works and cold storage concerns, and



to operate the same for the purpose of slaughtering cattle and small stock, preparing hides and processing by-products and chilling, freezing, canning and storing beef, mutton, poultry and other meat foods and products and eggs, whether for export or for consumption within Kenya;

- (b) to carry on the business on a wholesale basis of butchers, dealers and merchants in livestock and the carcasses, fresh products, hides, skins and offals thereof and in poultry, ice and any other chilled, frozen or fresh foods, and of manufacturers and general dealers, and to enter into any contracts for the purchase, sale and supply of, and to purchase, sell and supply, any such things as aforesaid by wholesale:

Provided that the Commission in carrying on the business of butchers on a wholesale basis, may not sell meat except to—

- (i) a retailer for the purpose of resale; or
  - (ii) a hospital, hotel, boarding-house, restaurant, school or club; or
  - (iii) a person buying in quantities of not less than two thousand pounds in weight in any one week or in quantities of not less than twenty-five thousand pounds in weight in any one year;
- (c) to carry on the business of importers and exporters of live cattle, sheep, goats and poultry, and to import and export carcasses of cattle, sheep, goats and poultry whether in a frozen state or otherwise;
- (d) to make contracts and give and enter into suretyships or guarantees in connection with any part or portion of the business or objects of the Commission, and to modify or rescind the same;
- (e) to enter into, renew, cancel or abandon any arrangements with any government or authority, local or otherwise, that may seem conducive to the Commission's objects, and to obtain from any such government or authority any rights, privileges and concessions which the Commission may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (f) to purchase, take on lease or in exchange, hire or otherwise acquire any property, movable or immovable, and any rights or privileges which the Commission may think necessary or convenient with reference to any of its objects, or the acquisition of which may seem calculated to facilitate the realization of any securities held by the Commission, or to prevent or diminish any apprehended loss or liability;
- (g) subject to the approval of the Cabinet Secretary, to invest and deal with any moneys of the Commission not immediately required by the Commission in and upon such investments and securities as are allowed by law for the investment of trust funds and in such manner as the Commission may think fit, and from time to time to vary or realise such investments;
- (h) with the prior approval of the Cabinet Secretary, to raise moneys by way of loan in such amounts, by such methods and for such purposes as the Cabinet Secretary may approve, and to redeem the same;

- (i) to draw, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments or securities;
- (j) to construct, maintain, alter and improve any building, work, machinery and plant necessary or convenient for the purpose of its business;
- (k) to carry on the business of warehousemen, and to acquire or construct bonded or other warehouse or stores, and to control, work, manage, let or dispose of the same or any part thereof;
- (l) to work or otherwise beneficially use, and with the sanction of the Cabinet Secretary to exchange, let, sell or hypothecate, any of the property, rights, privileges, machinery or plant of the Commission acquired or constructed for use in connection with the powers hereby conferred;
- (m) with the consent of the Cabinet Secretary, to purchase, lease, maintain and develop land required by the Commission for holding cattle and smallstock;
- (n) subject to the approval of the Cabinet Secretary and to such terms and conditions as the Cabinet Secretary may impose, to sell, transfer or make over the property and undertaking of the Commission to any public company limited by shares formed under the Companies Act (Cap. 486) or to any other company or corporation or society formed under the Co-operative Societies Act (Cap. 490) or any other Act for the purpose of taking over the property and undertaking of the Commission;
- (o) with the consent of the Cabinet Secretary and subject to such conditions as the Cabinet Secretary may impose, to borrow money by the issue of shares, stock, debentures or debenture stock, in the manner hereinafter provided, for all or any of the following purposes—
  - (i) the repayment of loans raised under the powers conferred by paragraph (h) of this subsection or of the National Treasury advances obtained under section 12 of this Act, or of both such loans and advances;
  - (ii) the provision of working capital or additional working capital;
  - (iii) the redemption of any shares, stock, debentures or debenture stock which the Commission is required or enabled to redeem;
  - (iv) any other expenditure properly chargeable to capital account;
- (p) with the consent of the Cabinet Secretary, to create and issue shares, stock, debentures or debenture stock (whether non-interest bearing or otherwise) for the purpose of enabling the Commission to raise any money which it is empowered under this Act to borrow by the issue of shares, stock, debentures or debenture stock, and to charge such shares, stock, debentures or debenture stock and the interest thereon on the undertaking and revenues and the whole or any specified part of the property of the Commission;
- (q) in the discretion of the Commission and subject to the consent of the Cabinet Secretary, to pay *ex gratia* compensation to any person damaged by the exercise by the Commission of powers conferred by this Act; and

- (r) to do all lawful things incidental or conducive to the exercise or enjoyment of the rights, interests and powers conferred upon it by this Act.

(2) Every decision or action made or taken by the Commission in the exercise of the powers conferred upon it by this Act which relates to either of the following matters shall only be made or taken subject to the approval of the Cabinet Secretary

- (a) the construction or acquisition of any major buildings, works, machinery or plant;
- (b) the extension of its business into any new area or any new undertaking.

(3) The prices to be paid by the Commission for slaughter stock, other than slaughter stock purchased by the Commission on a liveweight basis, shall be such as may from time to time be fixed or agreed under section 8 of the Agriculture Act (Repealed) and the method of disposal of carcass meat on a wholesale basis to butchers shall be either—

- (a) by direct sale at such prices as may from time to time be fixed by the Cabinet Secretary on the advice of the Commission; or
- (b) by auction on such terms and conditions as the Cabinet Secretary may from time to time specify.

(4) The Commission may from time to time delegate to its managing commissioner, either generally or specially, such powers as to it may seem necessary or convenient.

(5) The dividends or interest payable on any shares, stock, debentures or debenture stock issued pursuant to paragraph (p) of subsection (1) shall be at such rate as the Cabinet Secretary may specify.

[Act No. 8 of 1955, Sch., Act No. 28 of 1962, s. 5, Act No. 32 of 1963, Sch., Act No. 3 of 1967, s. 4, Act No. 8 of 1968, Sch.]

## **10. Exclusive privileges of Commission**

(1) Subject to this section, the Commission shall have the sole and exclusive right to purchase slaughter stock and to retain, sell or otherwise deal with any slaughter stock purchased, and to sell or otherwise deal with any products derived from any such slaughter stock including the hides, skins and offals in any manner which the Commission thinks fit, and, in the exercise of any such right, the Commission may sell such slaughter stock either alive or dead, and may sell the products thereof either whole or in portions, and may sell certain portions and retain other portions, and either as fresh, frozen, chilled or processed products, and may sell or retain or otherwise dispose of the hides and offals either together with or separately from any other products or portions thereof.

(2) Notwithstanding subsection (1), the Commission and any person specially authorized in that behalf by the Commission or by the Cabinet Secretary may, by a permit in writing, authorize any person to exercise any of the powers conferred on the Commission by subsection (1) subject to such terms and conditions as may be specified in such permit.

(3) Except as provided in subsection (2), no person, other than the Commission, shall purchase any slaughter stock and no person shall sell slaughter stock to any person other than the Commission:

Provided that nothing in this section shall prohibit the sale by an African to an African in the same district within the reserved areas of any slaughter stock.

(4) Nothing in this section shall apply to poultry.

(5) No person shall be entitled to compensation or damages by reason of any prohibition contained in, or other matter or thing arising under, this section.

(6) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

[Act No. 3 of 1967, s. 6.]

#### **11. Restriction on purchase of fresh products of slaughter stock**

(1) No person residing outside the reserved areas, other than the Commission, shall purchase the fresh products of slaughter stock except from—

- (a) a butcher who carries on business outside the reserved areas; or
- (b) a person in possession of a permit in writing from the Commission authorizing the sale of such fresh products.

(2) No person, other than the Commission, shall, except with permission in writing from the Commission, remove for the purpose of resale the fresh products of any slaughter stock from any district to any place outside such district.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

(4) No person shall be entitled to compensation or damages by reason of any prohibition contained in, or other matter or thing arising under, this section.

(5) In this section, "fresh products of slaughter stock" does not include the hides or skins thereof.

[Act No. 3 of 1967, s. 7.]

#### **12. The National Treasury advances**

(1) In addition to the power to raise moneys by way of loan, the Commission may obtain by way of advance from the National Treasury, and the National Treasury may out of moneys voted by Parliament for the purpose advance to the Commission, moneys sufficient to enable the Commission to carry out any of its powers, duties and functions.

(2) The moneys so advanced and the interest thereon shall be a liability of the Commission, and shall be a first charge on the property, assets, revenues and sinking, reserve and stabilization funds of the Commission, or of such part thereof as is hypothecated to secure such advance (but not upon the property and assets of any pension, superannuation or medical aid fund created under section 6, and shall be repayable according to the terms of such advance:

Provided that the Cabinet Secretary for the time being responsible for finance may by writing under his hand direct that any part of the property, assets, revenues and sinking, reserve and stabilization funds of the Commission shall be released from any first charge imposed under this section to such an extent and in such a manner as he deems fit.

[L.N. 365/1964, Act No. 3 of 1967, s. 7.]

#### **13. Banking accounts and reserve and stabilization funds**

(1) The Commission shall open a banking account or banking accounts, into which all moneys received by the Commission shall be paid in the first instance and out of which all payments made by the Commission shall be made.

(2) The Commission may, with the approval or at the request of the Cabinet Secretary, establish a sinking fund, a reserve fund or a stabilisation fund or any or

all such funds, and shall set aside annually towards such sinking fund, reserve fund and stabilisation fund such sums as the Cabinet Secretary may annually approve.

(3) The sinking fund shall be utilized for repayment of moneys borrowed by the Commission.

(4) The reserve fund shall be utilized when required for the renewal of machinery and the replacement of obsolete machinery or plant, for the improvement of the plant owned by the Commission or with the sanction of the Cabinet Secretary for emergency, but shall not be utilized for ordinary maintenance or operating expenses.

(5) The stabilization fund shall be utilized by the Commission for either or both of the following purposes—

- (a) to meet any losses due to decreased operations or temporary stoppage of work; or
- (b) to stabilize the price of meat and other products dealt with by the Commission.

#### **14. Surplus profits**

(1) If in any year the operations of the Commission result in a surplus after all expenses and charges have been met and provision for payment to the sinking, reserve and stabilization funds (if any) has been made, the Commission may, with the approval of the Cabinet Secretary, pay such part of the surplus as it thinks fit to the suppliers of slaughter stock supplied by them to the Commission, or may, with the approval of the Cabinet Secretary, apply a portion of such surplus to the general betterment of the livestock industry.

(2) Any surplus not disposed of under subsection (1) and not otherwise appropriated shall be carried forward in the revenue and expenditure account for appropriation in succeeding years.

#### **15. Accounts**

The Commission shall cause to be kept proper books of account and other books in relation thereto and to all its undertakings, works and property, and shall prepare yearly balance sheets made up to the thirty-first day of December in each year, showing in detail the assets and liabilities, revenue and expenditure of the Commission.

#### **16. Audit**

(1) The Cabinet Secretary shall appoint one or more persons who publicly practise the profession of accountants (hereinafter referred to as the auditors) to examine the accounts of the Commission.

(2) The Commission shall produce and lay before the auditors all books and accounts of the Commission, 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 and employees of the Commission such information and explanation as may be necessary for the performance of their duties as auditors.

(3) The expenses of and incidental to the audit shall be borne and paid by the Commission.

(4) In addition to the ordinary duties of auditors, it shall be the duty of the auditors to report not less than once in every year whether or not—

- (a) all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit were obtained;
- (b) all their requirements and recommendations as auditors have been complied with and carried out;
- (c) in their opinion, proper books of account have been kept by the Commission, so far as appears from their examination of those books, and proper returns adequate for the purpose of their audit have been received from branches or agencies not visited by them;
- (d) the Commission's balance sheet and (unless it is framed as a consolidated profit and loss account) the profit and loss account dealt with by the report are in agreement with the books of account and returns;
- (e) in their opinion, to the best of their information and according to the explanations given them, the accounts give all necessary information and give a true and fair view—
  - (i) in the case of the balance sheet, of the state of the Commission's affairs as at the end of its financial year;
  - (ii) in the case of the profit and loss account of the profit or loss for its financial year.

(5) A copy of every report made by the auditors shall be sent by the auditors to the Auditor-General; and the auditors shall furnish to the Auditor-General such further reports and such further information as he may request.

[Act No. 13 of 1988, Sch.]

#### **17. Powers of the Auditor-General**

(1) The Auditor-General may at any time examine the accounts of the Commission.

(2) The Commission shall produce and lay before the Controller and Auditor-General all books and accounts thereof and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from all members and employees of the Commission such information and explanation as he may consider necessary.

#### **18. Annual report to Cabinet Secretary**

(1) The Commission shall, on or before the thirty-first day of March in each year, furnish to the Cabinet Secretary a report upon its work during the year ended the thirty-first day of December last preceding, and such report shall include a balance sheet and a complete statement of revenue and expenditure duly audited, and the report of the auditors under section 16(4).

(2) Every report furnished under subsection (1) shall be laid by the Cabinet Secretary before the National Assembly as soon as possible after it has been furnished to him.

[Act No. 32 of 1963, Sch.]

**19. Commission to comply with Cabinet Secretary's directions**

In the exercise of its powers and in the performance of its functions under this Act, the Commission shall act in accordance with any general or special directions that may be given to it by the Cabinet Secretary.

[Act No. 45 of 1963, s. 12.]

**20. Acquisition of scheduled undertaking**

(1) Within one month from the inclusion, pursuant to subsection (5), of any undertaking in the Schedule, or within such extended time as the Cabinet Secretary may in any particular case by writing under his hand allow, a notice may be served on the Commission by or on behalf of the owner or on behalf of any local authority operating a scheduled undertaking requiring the Commission to acquire such scheduled undertaking and to pay compensation therefor, and thereupon the Commission shall acquire the scheduled undertaking and pay compensation therefor as hereinafter provided.

(2) The amount of any compensation to be paid under subsection (1) shall, in default of agreement between the parties, be referred to the arbitration of three persons, one be nominated by each party to the reference and the third to be appointed by writing under the hand of the Cabinet Secretary before the reference is proceeded with, and the decision of any two of the arbitrators shall be binding and the provisions of the Arbitration Act (Cap. 49) shall, where applicable, apply.

(3) The compensation for any scheduled undertaking so acquired shall be the market value (ascertained as hereinafter provided of the undertaking at the date when the undertaking was added to the Schedule to this Act, together with compensation for loss of profits assessed on the basis of three times the average annual net profit of the scheduled undertaking.

(4) The average annual net profit of a scheduled undertaking shall be determined—

- (a) if the undertaking has been operating for five years or more, by ascertaining the sum of the actual annual net profits of the scheduled undertaking over the five years immediately preceding the inclusion of the undertaking in the Schedule and dividing such sum by five; or
- (b) if the undertaking has been operating for less than five years, by ascertaining the sum of the actual net profits for such number of years as the undertaking has been operating and dividing such sum by that number.

(5) Any person, not being the owner or operator of an undertaking which is already included in the Schedule, who, at the commencement of this Act, is operating any abattoir, meat works, cold storage concern or refrigerating works to which section 8 applies, and who—

- (a) is not granted a licence under paragraph (a) of subsection (1) of that section; or
- (b) is dissatisfied with any condition attached to such licence,

may apply to the Cabinet Secretary to have his undertaking added to the Schedule, and the Cabinet Secretary may grant or refuse such application and, if such application is granted, the Cabinet Secretary may thereupon, by notification in the *Gazette*, add such undertaking to the Schedule, and such undertaking shall

become a scheduled undertaking and subsections (1), (2), (3) and (4) of this section shall apply.

[Act No. 32 of 1963, Sch.]

## **21. Matters to be taken into account in determining compensation**

(1) In determining the amount of compensation to be awarded for any scheduled undertaking acquired under section 19, the arbitrators shall take into consideration the following matters and no others, namely—

- (a) the market value, at the date when the undertaking was added to the Schedule, of the land, buildings, plant, machinery, apparatus and equipment of the undertaking; and
- (b) loss of profits, ascertained and assessed in accordance with section 18.

(2) In assessing the market value of the land and buildings, regard shall be had to the nature of the tenure and the title to the land occupied by the undertaking, and to any conditions, restrictions or stipulations affecting the user or the availability or continued availability of the land.

(3) In assessing the market value of the buildings, plant, machinery, apparatus and equipment, regard shall be had to the age, state of repair and condition thereof; and no claim by the scheduled undertaking based upon present day cost of replacement shall be entertained.

## **22. Matters to be neglected in determining compensation**

In determining the compensation to be paid for any scheduled undertaking, the arbitrators shall not take into consideration—

- (a) the degree of urgency that has led to the acquisition, or the fact, if such is the case, that the owners or operators of the undertaking have been forced to ask for the undertaking to be acquired by reason of any of the provisions of this Act or of any matter arising thereunder;
- (b) the disinclination of the owner or operator to part with the undertaking;
- (c) any damage sustained by the owner or operator or any person interested which, if caused by a private person, would not be a good cause of action;
- (d) any damage to, or increase in the value of, the land likely to be caused by the use to which the land is to be put;
- (e) any outlay on, or improvements to, the land, buildings, plant, machinery, apparatus or equipment incurred or effected subsequently to the commencement of this Act, except outlay on necessary urgent repairs;
- (f) damage by reason of injurious affection of other property of the undertaker;
- (g) any enhancement in value arising from any unlawful user of the premises; or
- (h) any debts owing to or by, or the benefit or burden of any contract entered into by, or on behalf of, the undertaker.

## **23. Vesting**

Upon such date as the Cabinet Secretary may, by notification in the *Gazette*, appoint, any scheduled undertaking named in such notification acquired under



this Act, and the lands, buildings, plant, machinery, apparatus, equipment and appurtenances of such undertaking shall vest in the Commission without any further transfer or assurance:

Provided that nothing in this section shall operate to vest in the Commission any debt owing to or by the undertaking, or the benefit or burden of any contract entered into by or on behalf of the undertaking.

#### **24. Compensation to officers of scheduled undertakings**

Upon any scheduled undertakings vesting in the Commission, there shall be paid by the Commission, in such cases and to such extent as may be agreed between the Commission and owner or operator of the undertaking and the officer or employee concerned or as, failing such agreement, may be prescribed, compensation to officers and employees of any such undertaking who suffer loss of employment or diminution of emoluments, pension rights or gratuity rights or whose position is worsened in consequence of the vesting.

#### **25. Rules**

The Commission may make rules for the good government and conduct of the business of the Commission, the appointment, pay, superannuation and conditions of service of its employees and any other matters necessary or convenient to be provided for carrying on its business.

#### **26. Regulations**

(1) The Cabinet Secretary may, after consultation with the Commission, make regulations generally for better carrying out the provisions of this Act, and such regulations may, without prejudice to the generality of the foregoing power—

- (a) regulate the raising by the Commission of capital by way of the issue of shares, stock, debentures or debenture stock and the terms of issue and redemption thereof;
- (b) prescribe anything which is required by this Act to be prescribed.

(2) The Cabinet Secretary shall, after consultation with the Commission, make regulations to provide for the grading of slaughter stock.

#### **27. Cess**

(1) The Cabinet Secretary may from time to time, on the recommendation of the Commission, by notice in the *Gazette*, impose a cess on the sale or slaughter of stock, or on any class or classes of slaughter stock.

(2) A cess imposed by notice under subsection (1) shall be at such rate, and shall be payable to the Commission by such persons and at such times (being not earlier than one month after publication of the notice) and in such manner as is specified in the notice, and shall be recoverable by the Commission as a civil debt due to it from the person by whom it is payable.

(3) Moneys received by the Commission derived from any cess imposed under subsection (1) shall be applied by the Commission to such capital purposes in the interests of the livestock industry as may be approved by the Cabinet Secretary.

[Act No. 3 of 1967, s. 8.]

#### **28. Penalty**

(1) Any person guilty of an offence under this Act or any regulations made thereunder shall be liable to a fine not exceeding five thousand shillings or to

imprisonment for a term not exceeding six months or to both and on a second or subsequent conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

(2) *Deleted by Act No. 17 of 2006, s. 105.*

(3) Where any offence under this Act or any regulations made thereunder is committed by a company, firm or other association of individuals, every person who at the time of the offence was a director, manager, secretary or other similar officer of such company, firm or association, or who was at the time concerned in or purported to act in the management of its affairs, shall be severally liable to prosecution and punishment in like manner as if he had himself committed the offence, unless he proves that he took all responsible steps to prevent its commission

(4) All offences under this Act and regulations made thereunder shall be cognizable to the police.

[Act No. 3 of 1967, s. 8, Act No. 17 of 2006, s. 105.]

## **29. Supply of animals for sacrificial purposes**

The Commission shall, on the recommendation of the official head of any recognized religious community, supply such live animals as may be required for sacrificial purposes, and shall, in every abattoir operated by it, provide facilities for the ritual slaughter of animals.

## **30. Saving of pig industry**

Nothing in this Act shall apply to the pig industry or authorize or enable the Commission to trade or otherwise deal in pigs or pig products.

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### **SCHEDULE**

[s. 2]

### **ABATTOIRS**

Nairobi Municipal Abattoir.

Mombasa Municipal Abattoir.

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