

ACTS SUPPLEMENT

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Act 13

*Sugar Act*

2020

THE SUGAR ACT, 2020.

ARRANGEMENT OF SECTIONS

*Section*

PART I—PRELIMINARY

1. Commencement
2. Interpretation

PART II—UGANDA SUGAR BOARD

3. Establishment of the Uganda Sugar Board
4. Composition of the Board
5. Tenure of office of members of the Board
6. Remuneration of members of the Board

*Functions of the Board*

7. Functions of the Board
8. Cooperation with other agencies
9. Powers of the Board
10. Powers of Minister
11. Meetings of the Board and related matters
12. Committees of the Board
13. Delegation of functions of the Board

PART III—STAFF OF THE BOARD

14. Executive director.
15. Functions of the executive director
16. Staff of the Board

*Section*

**PART IV—FINANCES**

- 17. Funds of the Board
- 18. Duty to operate in accordance with the Public Finance Management Act and sound financial principles

**PART V—LICENSING OF MILLS**

- 19. Licensing of mills
- 20. Application for a licence to operate mill
- 21. Processing, grant or refusal of licence
- 22. Modification of mill or plant

**PART VI—SUGAR INDUSTRY AGREEMENTS**

- 23. Sugar industry agreements

**PART VII—SUGAR CANE PRICING**

- 24. Sugar cane pricing

**PART VIII—NATIONAL SUGAR RESEARCH INSTITUTE**

- 25. Establishment of a national sugar research institute

**PART IX—GENERAL**

- 26. Quality, safety and health standards of sugar
- 27. Safeguard measures
- 28. Amendment of Schedules
- 29. Regulations
- 30. Repeal of certain enactments
- 31. Transitional provisions

**SCHEDULES**

**SCHEDULE 1 - Currency point**

**SCHEDULE 2 - Meetings of the Board.**

**SCHEDULE 3 - Formula to determine the price of sugar cane**

**THE SUGAR ACT, 2020.**

**An Act to provide for the development, regulation and promotion of the sugar industry; to provide for the establishment of the Uganda Sugar Board; and for related matters.**

DATE OF ASSENT: 23RD APRIL, 2020

*Date of Commencement:* 28th August, 2020

BE IT ENACTED by Parliament as follows:

**PART I—PRELIMINARY**

**1. Commencement**

The Act shall come into force upon the date of its publication in the Gazette.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“Board” means the Uganda Sugar Board established under section 3;

- “by-product of sugar” means any substance, other than sugar, produced during the process of manufacturing sugar;
- “currency point” has the value assigned to it in Schedule 1;
- “grower” means a person who has a sugarcane farm and has no contract with any miller to supply sugarcane;
- “industry” means the sugar industry in Uganda and includes the growing of sugarcane and any other sugar producing crop, the manufacturing, refining, marketing and disposal of sugar and the by-products of sugar;
- “jaggery mill” means rudimentary or bare minimum technology equipment used to crush sugarcane to produce sugarcane juice which is processed through boiling to produce jaggery;
- “mill” means a sugar mill or jaggery mill;
- “miller” means a person licensed to operate a sugar mill or a jaggery mill;
- “Minister” means the Minister responsible for trade;
- “outgrower” means a person who has a sugar cane farm and has a contract to supply the sugar cane grown on the farm;
- “outgrower association” means an association registered under any written law as an outgrower association;
- “plant” means plant to process the by-products of sugarcane;
- “relevant organisation” means an association or a cooperative society of millers or out growers recognized under the law;
- “sugar” means crystalline or liquid sucrose in any of its recognised commercial forms, intended for human consumption or other uses;

“sugar cane” means any plant or part of a plant of the genus *Saccharum* or a hybrid of sugar-cane;

PART II—UGANDA SUGAR BOARD

**3. Establishment of the Uganda Sugar Board**

(1) There is established the Uganda Sugar Board.

(2) The Board shall be a body corporate with perpetual succession and an official seal and may, for the discharge of its functions under this Act—

- (a) acquire, hold and dispose of moveable and immovable property;
- (b) sue and be sued in its corporate name; and
- (c) do all acts and things as a body corporate may lawfully do.

**4. Composition of the Board**

(1) The Board shall comprise of—

- (a) a chairperson;
- (b) the permanent secretary of the ministry responsible for trade or his or her representative;
- (c) the permanent secretary of the ministry responsible for agriculture or his or her representative;
- (d) the permanent secretary of the ministry responsible for finance or his or her representative;
- (e) three representatives of millers; and
- (f) four representatives of outgrowers.

(2) The members of the Board shall be appointed by the Minister.

(3) The chairperson shall be appointed from the private sector and shall be a person with knowledge and experience of the sugar industry.

(4) The persons referred to in subsection 1(e) and (f) shall be appointed by the Minister in consultation with the relevant organisations representing millers and outgrowers.

(5) For the avoidance of doubt, a person shall only qualify to be appointed under subsection 1(e) or (f) if that person is a member of the relevant organisation, and where there is more than one relevant organisation, the person shall belong to at least one relevant organisation.

(6) For the purposes of subsection (4), the relevant organisation shall nominate a person for the consideration of the Minister for appointment as a member of the Board and where there is more than one relevant organization, the relevant organisations shall agree on the person to be nominated for consideration.

(7) Where the relevant organisations fail to agree to a person under subsection (6), the Minister shall appoint a qualified person from any of the relevant organisations.

(8) The Minister shall, in appointing the members of the Board, ensure that there is a balance of skills, gender and in the case of persons referred to subsection 1(a), (e), and (f) ensure that the persons have knowledge and proven experience in the sugar industry.

## **5. Tenure of office of members of the Board**

(1) A member of the Board not being a Permanent Secretary shall hold office for three years and is eligible for reappointment for one further term.

(2) The chairperson and members of the Board shall hold office on terms and conditions specified in their instruments of appointment.

(3) A member of the Board may, at any time, resign his or her office by letter addressed to the Minister, giving notice of not less than one month.

(4) The Minister may, at any time, remove a member of the Board—

- (a) for inability to perform the functions of his or her office arising from infirmity of body or mind;
- (b) for misbehaviour or misconduct;
- (c) for incompetence;
- (d) for absence without prior permission of the chairperson or without reasonable cause to the satisfaction of the Minister for more than four consecutive meetings of the Board;
- (e) for bankruptcy or insolvency;
- (f) for conviction of a criminal offence, in Uganda or elsewhere, in respect of which the maximum penalty exceeds six months imprisonment without the option of a fine;
- (g) where the member ceases to belong to the organisation which he or she is appointed to represent;
- (h) where information relating to the conduct of a member, which could have precluded his or her appointment if it had been made available to the Minister, is brought to the attention of the Minister.

(5) Where it appears to the Minister that there is cause to remove a member of the Board under subsection (4), the Minister shall notify the member concerned in writing and shall give the member an opportunity to submit his or her explanation to the Minister.

(6) Where a member is removed from office, the Minister may appoint another qualified person from the relevant organization to replace the member and to hold office for the remainder of the term of the previous member.

#### **6. Remuneration of members of the Board**

The chairperson and the members of the Board shall be paid such remuneration as may be specified in their instruments of appointment.

#### *Functions of the Board*

#### **7. Functions of the Board**

(1) The functions of the Board are—

- (a) to regulate, develop and promote the sugar industry;
- (b) to co-ordinate the activities of individuals and organisations in the sugar industry;
- (c) to facilitate equitable access to the benefits and resources of the sugar industry by all interested parties;
- (d) to facilitate the export of sugar produced in Uganda;
- (e) to arbitrate and mediate disputes between parties in the sugar industry;
- (f) to regulate the disposal of the by-products of sugar production;
- (g) to provide advisory services to parties in the sugar industry;
- (h) to promote and encourage the use of environmentally friendly technologies in the sugar industry;
- (i) to collect, collate and analyse sugar industry statistics and maintain a database of such statistics for the industry;



- (j) to licence sugar mills, jaggery mills and plants to process the by-products of sugarcane;
- (k) to promote the efficiency and development of the sugar industry through the establishment of appropriate institutional linkages;
- (l) to act as an intermediary between the sugar industry and the Government;
- (m) to monitor the domestic sugar market with a view to identifying and advising the Government and interested parties on any distortions in the market;
- (n) to support the development of outgrower cooperative societies;
- (o) to review, on a regular basis, the problems and prospects of the sugar industry;
- (p) to promote innovations and diversifications in the sugar industry;
- (q) to monitor the production, importation and consumption of sugar and its by-products with a view to ensuring a viable industry;
- (r) to perform such other functions which, in the opinion of the Board, are necessary or expedient for the discharge of its functions under this Act; and
- (s) to lobby for incentives for the benefit of the sugar industry.

(2) In this section “parties in the sugar industry” includes the Government, millers, growers, outgrowers and outgrower organisations.

(3) In the performance of its functions, the Board may represent the sugar industry in such organisations as are relevant for the promotion of the sugar industry in Uganda.

**8. Cooperation with other agencies**

(1) The Board shall cooperate with other government ministries, departments and agencies in the implementation of this Act.

(2) For the purpose subsection (1), ministries, departments and agencies of government shall accord to the Board such assistance as may be necessary to ensure the proper discharge of the functions of the Board.

**9. Powers of the Board**

In carrying out the functions specified under this Act, the Board may—

- (a) establish a mechanism for collaboration and promotion of partnerships between various categories of players in the sugar industry;
- (b) charge fees for services provided by the Board.

**10. Powers of the Minister**

The Minister may give directions in writing to the Board with respect to the policy to be observed and implemented by the Board and the Board shall comply with those directions.

**11. Meetings of the Board and related matters**

Schedule 2 has effect in relation to meetings of the Board and other matters provided for in that Schedule.

**12. Committees of the Board**

(1) The Board may appoint committees of the Board to inquire into and advise the Board on any matter concerning the functions of the Board or to exercise such powers or perform such functions as the Board may delegate or refer to the committee.

(2) A committee appointed under subsection (1) shall consist of a chairperson and other persons, whether members of the Board or not, as the Board may determine.

(3) The Board may require a committee appointed under this section to act jointly or in co-operation with any other committee.

(4) The members of a committee appointed under this section may be paid such allowances as the Board may, with the written approval of the Minister, determine.

(5) Subject to any direction given by the Board, a committee appointed under this section may regulate its own procedure.

### **13. Delegation of functions of the Board**

(1) The Board may delegate to the chairperson, a member of the Board, an officer of the Board or to a committee established under this Act, any of the powers, duties or functions of the Board under this Act.

(2) The terms and conditions regulating the exercise of the powers delegated under this section shall be contained in the instrument of delegation.

(3) A person aggrieved by the decision of a delegate in the exercise of powers under this section may appeal to the Board.

## **PART III—STAFF OF THE BOARD**

### **14. Executive director.**

(1) The Board shall have an executive director who shall be a full-time employee and who shall be responsible for the execution of the policies of the Board.

(2) The executive director shall be appointed by the Minister on the recommendation of the Board on such terms and conditions as the Board may determine.

(3) The executive director shall serve for a period of four years and shall be eligible for reappointment for one more term.

#### **15. Functions of the executive director**

(1) The executive director is responsible for the day to day operations and administration of the Board.

(2) Subject to this Act and to the general supervision and control of the Board, the executive director is responsible for—

- (a) the implementation of the policies and programmes of the Board and reporting on them to the Board;
- (b) the proper management of the funds and property of the Board;
- (c) the organisation and control of the staff of the Board;
- (d) the development of an operating plan to guide the Board in achieving its objectives;
- (e) co-operation with other lead agencies and organisations in matters related to the functions of the board;
- (f) the development of an economic, efficient and cost effective internal management structure;
- (g) proposing and implementing the strategic plan, business plan and annual plan of the Board;
- (h) ensuring that the policies of the Board are implemented and that the agreed objectives, targets and service standards are met;
- (i) providing advice as required on all matters within the Board's responsibility; and
- (j) performing any other duty necessary for the implementation of this Act as may be assigned to him or her by the Board.

(3) The Executive Director is answerable to the Board.

(4) The Executive Director shall be the secretary to the Board.

#### **16. Staff of the Board**

(1) The Board may appoint such other staff as may be necessary for the proper and efficient performance of the functions of the Board.

(2) The employees appointed under this section shall hold office on such terms and conditions as may be determined by the Board and specified in their instruments of appointment.

(3) The Board shall regulate the manner of appointment, terms and conditions of service and the discipline of the staff appointed under this section.

### **PART IV—FINANCES**

#### **17. Funds of the Board**

The funds of the Board shall consist of money appropriated by Parliament for the purposes of the Board;

#### **18. Duty to operate in accordance with the Public Finance Management Act and sound financial principles**

In the performance of its functions under this Act, the Board shall have due regard to the provisions of the Public Finance Management Act, 2015 and to sound financial principles.

### **PART V—LICENSING OF MILLS**

#### **19. Licensing of mills**

(1) A person shall not establish or operate a sugar mill, jaggery mill or a plant to process the by-products of sugar-cane without a valid licence granted for that purpose by the Board.

(2) A person who establishes or operates a sugar mill or a commercial jaggery mill without a valid licence granted under subsection (1) commits an offence and is liable, on conviction to a fine not exceeding five thousand currency points for a sugar mill and five hundred currency points for a commercial jaggery.

(3) Notwithstanding subsection (2), a mill or plant established or operated in contravention of this section shall be immediately closed by the Board.

(4) The prosecution of a person under this section does not prevent the Board from licensing the person in accordance with this Act.

## **20. Application for a licence to operate mill or plant**

(1) A person who wishes to establish or operate a sugar mill or a jaggery mill or plant shall apply to the Board for a licence for that purpose.

(2) The application for a licence shall be in the prescribed form and contain the prescribed particulars.

(3) An application shall be accompanied with the prescribed fee.

(4) Without limiting the general effect of subsection (2), an application shall specify the premises and location upon which the milling of sugar, milling of jaggery or processing of sugarcane by-products is proposed to be carried on.

## **21. Processing, grant or refusal of licence**

(1) The Board shall, within the period prescribed by the Minister, process an application for a licence.

(2) In processing an application for a licence, the Board shall have regard to the following—

(a) whether the applicant is a fit and proper person;

- (b) whether the applicant has sufficient knowledge, experience and capacity to enable him or her conduct business or that the applicant has amongst his or her staff, a person with such knowledge and experience; and
- (c) any other criteria prescribed by the Minister.

(3) The Minister shall, by regulations, prescribe the criteria to determine a fit and proper person for the purposes of subsection (2)(a).

(4) The Board shall not, without good cause, refuse to grant an applicant a licence.

(5) The Board shall grant a licence where it is satisfied with the information contained in the application and the conditions and requirements prescribed by this Act.

(6) Where the Board refuses to grant a licence the Board shall state in writing the reasons for the refusal.

(7) A person granted a licence under this section shall commence business within three years after the grant of the licence.

(8) Where a person granted a licence under this section does not commence business with three years after the grant of the licence, the Board shall revoke the licence.

(9) A person aggrieved by a decision of the Board may apply to the Minister to review the decision.

## **22. Modification of mill or plant**

(1) A holder of a licence in respect of a sugar mill or jaggery mill or plant shall not modify the sugar mill, jaggery mill or plant without approval by the Board.

(2) In subsection (1), “modify” means expanding or reducing the capacity of the mill.

(3) A person who wishes to modify a mill shall seek approval of the Board in the prescribed manner and form.

#### PART VI—SUGAR INDUSTRY AGREEMENTS

##### **23. Sugar industry agreements**

(1) In order to streamline the management of the sugar industry, growers, out-growers, millers, outgrower associations and other relevant parties, shall enter into agreements, in this Act referred to as “sugar industry agreements” which shall set out the respective rights, duties and obligations.

(2) The Board shall ensure that every party to a sugar industry agreement performs his or her duties set out in the agreement.

(3) A question or dispute relating to a term in a sugar industry agreement shall be referred to the Board for mediation.

#### PART VII—SUGAR CANE PRICING

##### **24. Sugar cane pricing**

(1) The price of sugar cane shall be determined in accordance with the formula set out in Schedule 3.

(2) An outgrower or grower shall be paid for his or her sugar cane in accordance with the formula set out in Schedule 3 but a sugar industry agreement between the parties may provide that an outgrower may be paid a higher price than that provided for in subsection (1).

(3) For the avoidance of doubt, an outgrower or grower shall not be paid a price lower than that calculated under subsection (1).



## PART VIII—NATIONAL SUGAR RESEARCH INSTITUTE

**25. Establishment of a national sugar research institute**

(1) On the commencement of this Act, there shall be established, in accordance with the National Agricultural Research Act, 2005, a national sugar research institute.

(2) The functions of the institute established under subsection (1), are—

- (a) the breeding of sugarcane varieties suited for various agro-ecological zones of Uganda;
- (b) conducting research on nutritional requirements of sugarcane in order to provide recommendations on the appropriate fertilizers;
- (c) appraising technologies on land preparation, drainage and water management for economical cane production;
- (d) the studying and monitoring of pests and diseases that affect sugarcane and recommending appropriate control strategies;
- (e) developing agronomic packages for sugarcane maintenance and management;
- (f) instituting socio-economic investigations to improve human resource management and enhance development of the sugar industry as an agribusiness;
- (g) the testing, designing and evaluating of farm machinery and factory equipment for efficient sugar production;
- (h) promoting the transfer of sugar technology based on applied research through relevant extension mechanisms;

- (i) fostering research on sustainable productivity environmental issues, human safety at field and factory levels;
- (j) collaborating with the Government, the industry, universities and other national and international organizations for the purpose of furthering the institute's mission;
- (k) analysing soil and plant samples for advisory purposes; and
- (l) offering modular courses on various aspects of sugar-cane management and practices.

#### PART IX—GENERAL

#### **26. Quality, safety and health standards of sugar**

The Board shall, in collaboration with the relevant bodies, ensure that all sugar produced locally or imported into Uganda complies with—

- (a) quality standards as set by the body for responsible for setting standards;
- (b) safety and health standards as set by the body for responsible for public health; and
- (c) environmental standards as set by the body responsible for environmental matters.

#### **27. Safeguard measures**

Subject to regional and international trade agreements to which Uganda is a party, the Government may introduce safeguard measures as may be necessary to protect the industry from unfair trade practices.

#### **28. Amendment of Schedules**

The Minister may, in consultation with the Board, and approval of Cabinet, by statutory instrument, amend the Schedules to the Act.

**29. Regulations**

(1) The Minister may, in consultation with the Board, by statutory instrument, make regulations to give effect to the provisions of this Act.

(2) Without prejudice to subsection (1), the Minister may make regulations—

- (a) to regulate and control the exportation and importation of sugar;
- (b) prescribing the forms of licences to be issued under this Act and the form and manner of application for licences;
- (c) the fees which may be charged for any activity relating and incidental to the development, products, marketing and distribution of sugar and its by-products.

**30. Repeal of certain enactments**

The Sugar Cess Act, Cap. 343 and the Sugar (Control) Act, Cap. 34 are repealed.

**31. Transitional provisions**

(1) Twelve months, after the commencement of this Act, the Board shall inspect all sugar mills and jaggery mills, existing immediately before the commencement of this Act, to ascertain whether such sugar mills or jaggery mills are complying with the provisions of this Act.

(2) Where, after inspection under section (2), the Board determines that a sugar mill or jaggery mill, complies with this Act, the Board shall issue that sugar mill or jaggery mill the relevant licence under this Act.

**SCHEDULES**

**SCHEDULE 1**

Currency point

One currency point is equivalent to twenty thousand shillings

**SCHEDULE 2****Meetings of the Board.****1. Meetings of the Board.**

(1) The Board shall meet at least once every three months at such places and at such times as may be decided upon by the Board.

(2) The chairperson shall preside at every meeting of the Board and in his or her absence, the members present shall elect from among their number, an acting chairperson.

(3) The meetings of the Board shall be convened by the chairperson.

**2. Quorum.**

(1) The quorum for a meeting of the Board is seven members.

(2) Where a member declares an interest in an agenda item or in a matter before the Board, the member shall not be counted for purposes of forming a quorum in relation to that item or matter in question.

**3. Decisions of the Board.**

(1) All decisions at a meeting of the Board shall be by simple majority of the votes of the members present and where there is an equality of votes, the person presiding at the meeting shall have a casting vote.

(2) A decision may be made by the Board without a meeting, by the circulation of information electronically or using hard copies, among members of the Board and by the expression of the views of the majority of the members in writing, but any member shall be entitled to require that the decision be deferred and the matter on which a decision is sought be considered at a meeting of the Board.

(3) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members or any defect in the appointment of a member.

(4) The decision reached by the Board shall be binding on all members.

**4. Disclosure of interest.**

(1) A member of the Board who has a direct or indirect personal interest in a matter being considered or which is about to be considered by the Board shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest to the Board.

(2) A disclosure of interest under subparagraph (1) shall be recorded in the minutes of the meeting of the Board and the member who makes the disclosure shall not, unless the Board otherwise determines in respect of that matter—

- (a) be present during any deliberation on the matter by the Board;
- (b) take part in the decisions of the Board.

(3) For the purpose of making a decision by the Board under subparagraph (2), in relation to a member who makes a disclosure under subparagraph (1), the member who makes the disclosure shall not—

- (a) be present during the deliberations of the Board for making the determination;
- (b) influence any other member or participate in the making by the Board of the determination.

(4) Where there is no quorum for the continuation of a meeting only because of the exclusion of a member from the deliberations on a matter in which he or she disclosed a personal interest, the other members present may—

- (a) postpone the consideration of that matter until a quorum, without that member is realised: or
- (b) proceed to consider and decide the matter at a subsequent meeting.

#### **5. Minutes of proceedings.**

(1) The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting and signed by the chairperson and secretary to the Board.

(2) The Chairperson shall submit to the Minister a copy of the minutes of each meeting of the Board as soon as the minutes are confirmed.

#### **6. Residual power of Board to regulate its proceedings.**

Subject to this Schedule, the Board shall regulate its proceedings and may make rules regarding the holding of meetings, notice to be given, the keeping of minutes or any other matter relating to its meetings.

**SCHEDULE 3**

Formula to determine the price of sugar cane

$$\text{Price sugar cane} = C \times R \times D$$

Where -

C = Weight (Tons) of sugar cane

R = Rendement (tons of sugar made per every 100 tons of sugar cane)

D = Percentage to be negotiated by concerned parties as decided by the Board and the minimum, shall be 50%.