

CHAPTER 339

THE WAREHOUSE RECEIPTS ACT

[PRINCIPAL LEGISLATION]

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SCHEDULE

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CHAPTER 339

THE WAREHOUSE RECEIPTS ACT

An Act to provide for the establishment of a regulatory framework for warehouse receipts, to provide for licensing procedures of warehouses and other related matters.

[6th June 2005]

[GN. No. 182 of 2006]

Act Nos.
10 of 2005
3 of 2015
19 of 2015

PART I PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Warehouse Receipts Act.

Application
Act No.
3 of 2015 s. 2

2. This Act shall apply to Mainland Tanzania in respect of agricultural commodities as the Minister may declare by order published in the *Gazette*.

Interpretation
Act No.
3 of 2015 s. 3
Cap. 339

3. In this Act, unless the context requires otherwise-

“Act” means the Warehouse Receipts Act;

“Board” means the Warehouse Receipts Regulatory Board established under section 4;

“collateral manager” means a person who issues warehouse receipt, verifies and gives advice on collateral transactions based on issued warehouse receipt in order to minimise credit risk of the stored commodities;

“commingle” means the binning and storage of commodities by class under circumstances other than identity preserved;

“commodity” includes agricultural and non-agricultural commodities as may be declared by the Minister;

- “conditioning” means but not limited to the drying or cleaning of commodities;
- “depositor” means a person who deposits a commodity in a warehouse for storage, handling or shipment, or who is the owner or legal holder of an outstanding warehouse receipt, or who is lawfully entitled to possession of the commodity;
- “failure” with regards to warehousing receipts, means-
- (a) inability of the warehouse operator to cover the storage obligations;
 - (b) public declaration of insolvency;
 - (c) revocation of a license and the leaving of an outstanding obligation to a depositor;
 - (d) failure to redeliver any commodity to a depositor in the ordinary course of business and where a *bona fide* dispute does not exist between the warehouse operator and the depositor;
 - (e) failure to make application for license renewal within sixty days after the annual license renewal date; or
 - (f) a denial of the application for a license renewal;
- “delivery” means voluntary transfer of possession from one person to another;
- “fungible goods” means goods of which any unit is, from its nature or by mercantile custom, treated as equivalent of any other unit;
- “goods” includes agricultural commodities;
- “holder” means a person who is in possession of a warehouse receipt whether negotiable or non-negotiable, and who has proprietary right therein;
- “identity preserved” means the handling of a commodity in a manner that guarantees the return of the actual quantity and quality of the commodity to the depositor;
- “key actors” includes depositors, warehouse operators, bank or financial institution and collateral managers or directly associated with warehouse receipts;

- “license” means a license issued under this Act and includes any renewals and amendments thereof except where the context requires otherwise;
- “licensed warehouse” means a warehouse for which the Board subject to other terms and requirements of the Act, has issued a license;
- “lien” means a right to hold and retain goods in terms of section 56(1) and (2);
- “Minister” means the Minister responsible for marketing of agricultural commodities;
- “order” means an order by endorsement on the warehouse receipt;
- “person” means an individual, corporation, two or more persons having a joint or common interest, or other legal or commercial entity;
- “prescribe” means prescribed in the regulations;
- “revocation” means the permanent removal of a warehouse operator’s license following a hearing on violation of the Act;
- “shortage” means a warehouse operator does not have a sufficient amount of commodities by kind, class, and quality to cover his outstanding obligations for that commodity;
- “shrinkage” means a degree of drawback, contracts to a smaller volume, size or extent as a result of heat, moisture, aeration, drying or deterioration of quality;
- “secondary processing” means the process of changing product form which involves physical means;
- “station” means a warehouse located not more than three kilometres from the central office of the warehouse for which a warehouse license may be issued listing two or more stations on the same license, however, a fee shall be charged and collected for each station;
- “suspension” means the temporary removal of a license actuated by any action or measure taken pursuant to the provisions of this Act;

“tertiary processing” means a process of adding value of a commodity that involves physical and chemical change of a commodity;

“warehouse” means a building, structure or other protected enclosure approved by the Board to be used or useable for the storage or conditioning of commodities or buildings used in relation thereof or including operation of the warehouse;

“warehouse operator” means a person engaged in the business of operating a warehouse for receiving, storing, shipping or handling of commodities for compensation includes the agent or employee, the scope of whose actual or apparent authority renders the person to exercise rights or become liable under this Act; and

“warehouse receipts” means a receipt in writing or electronic form issued by a warehouse operator in respect of storage, handling or shipment of the commodity.

PART II

ESTABLISHMENT OF THE WAREHOUSE RECEIPTS REGULATORY BOARD

Establishment of Board
Act No.
3 of 2015 s. 4

4.–(1) There is established a Board to be known as the Warehouse Receipts Regulatory Board.

(2) The Board shall be a body corporate, with perpetual succession and common seal, and in its corporate name-

- (a) be capable of suing and being sued;
- (b) may borrow money, acquire and dispose of property; and
- (c) do things as a body corporate may lawfully do.

(3) The composition, procedures at the meeting and tenure of office of members of the Board shall be as stipulated in the Schedule.

(4) Notwithstanding the provisions of this section, the Attorney General shall have the right to intervene in any suit or matter instituted by, or against the Board.

Cap. 5

(5) Where the Attorney General intervenes in any matter in pursuance of subsection (4), the provisions of the Government Proceedings Act shall apply in relation to the proceedings of that suit or matter as if it had been instituted by, or against the Government.

(6) For the purposes of subsections (4) and (5), the Board shall have a duty to notify the Attorney General of any impending suit or intention to institute a suit or matter by, or against the Board.

Functions of Board
Act No.
3 of 2015 s. 5

5. The functions of the Board shall be to-

- (a) license warehouse operations;
- (b) license collateral managers;
- (c) print and approve warehouse receipt books or receipts in any other forms;
- (d) enroll and keep a register of key actors;
- (e) collaborate with other national and international bodies with similar functions and objectives to those of the Board;
- (f) represent the Government in national and international *fora*;
- (g) license warehouse inspectors;
- (h) approve negotiable warehouse receipts books;
- (i) carry out or perform other functions as are conferred or imposed on it by this Act; and
- (j) perform any other function as may be assigned or directed by the Minister.

Powers of Board
Act No.
3 of 2015 s. 6

6.-(1) For the purpose of carrying out its functions, the Board shall have power to-

- (a) investigate the receiving, storing, conditioning, shipping and handling of commodities and complaints with respect thereto, including the inspection of any warehouse, commodities stored and property and records pertaining thereto;

- (b) determine whether the warehouses for which licences are applied for or have been issued, are suitable for the receiving, storage, conditioning, shipping and handling of the commodity stored or expected to be received, stored, conditioned, shipped or handled;
- (c) require the reports as it may deem necessary in the administration of this Act;
- (d) require licenced warehouse operators to terminate receiving, storage, conditioning, shipping and handling agreements upon revocation of their licence;
- (e) administer oaths and issue summons to compel attendance and testimony of witnesses or the production of records in connection with any investigation or hearing;
- (f) prescribe forms within the limitations set forth in this Act, including the forms of receipts and applications for licences;
- (g) propose to the Minister necessary rules and regulations for proper carrying out the provisions of this Act;
- (h) investigate the storage, warehousing, classification according to grades and otherwise, weighing and certification of goods;
- (i) at any time, with or without application, inspect or cause to be inspected warehouses licenced under this Act;
- (j) classify warehouses licenced or application for a licence in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and the kinds of licences issued or to be issued for them;
- (k) prescribe within the limitations of the Act, the duties of warehouse operators conducting warehouses licenced with respect to their care of and responsibility for the goods stored;
- (l) provide guidelines and standards for the suitability for the proper storage of the goods for which a licence is applied;

- (m) suspend or revoke any license issued to any warehouse operator conducting a licensed warehouse in contravention of or failure to comply with any provision of the Act or regulations and other legislative instruments made under this Act;
- (n) charge, assess and collect fees from key actors;
- (o) examine books, records, papers and accounts of warehouse operators licensed under this Act and the warehouse operators conducting the warehousing business relating to them;
- (p) retain the charged fee for the purposes of improving the services provided under this Act;
- (q) with approval of the Minister for Finance, borrow for the purposes of carrying out its functions under this Act;
- (r) approve negotiable warehouse receipt books to be used under this Act; and
- (s) carry out any other activity incidental or conducive to the carrying out of its functions under this Act.

(2) The Board may delegate to the Managing Director, officer or any other employee of the Board, performance of and function or the exercise of any of its powers except for powers with regard to approval of budget, the balance sheet, audited accounts and statement of account.

(3) For purpose of implementation of the provisions of this Act, the Board shall require region and district authorities to form supervision committees to supervise Warehouse Receipt Systems.

(4) Meeting of the regional and district supervision committees shall be chaired by Regional Administrative Secretary or District Executive Director.

(5) In consultation with the Minister responsible for local government authorities, the Minister may make regulations prescribing composition of the supervision committees and other matters that relate to the Supervisory Committee.

Managing
Director

7.–(1) There shall be a Managing Director of the Board who shall be appointed by the Minister from among three names recommended by the Board.

(2) The Managing Director shall be the Chief Executive Officer of the Board and be responsible for the day to day operations of the Board.

(3) Subject to the provisions of this Act, the Managing Director shall be responsible for the management of the funds, property and business of the Board and administration, organisation and control of the staff of the Board.

(4) The Managing Director shall be a Secretary to the Board.

(5) The Managing Director shall, in writing, keep the Board informed of the progress of the business of the Board.

(6) In addition to any other functions that may be conferred upon him by the Board, the Managing Director shall-

(a) keep the custody of the seal of the Board;

(b) take minutes of the meetings of the Board; and

(c) keep records of activities of the Board.

Other staff

8.–(1) The Board may employ number of employees and other officers as it may determine to be necessary for the efficient performance of the functions and the exercise of the powers of the Board.

(2) The Board may, on terms and conditions as it may deem fit, fix remuneration, grant pension, gratuities or other benefits on retirement or termination of services of the officers and employees of the Board.

(3) The Board may delegate any of its powers of employment under this section to the Managing Director, subject to terms and conditions as the Board may determine.

Indemnity
Act No.
3 of 2015 s. 7

9. Anything done by a member of the Board or a staff of the Board shall, if done in good faith, in the execution of the functions conferred upon the member or staff of the Board by this Act, not render the member or staff personally liable for any matter.

[s. 8A)

PART III

FINANCIAL PROVISIONS

Sources of funds
Act No.
3 of 2015 s. 8

10. The sources of funds of the Board shall consist of-

- (a) sums of money as may be appropriated by Parliament;
- (b) moneys received by the Board from key actors;
- (c) moneys borrowed by the Board; and
- (d) any other moneys received by or donated or made available to the Board for the purpose of performing its functions.

[s. 9]

Duty of Board
to operate on
prudential
principles

11. The Board shall perform its functions in accordance with prudential financial principles.

[s. 10]

Estimates

12.-(1) The Managing Director shall, not later than three months before the end of each financial year, prepare and submit to the Board for its approval, estimates of income and expenditure of the Board for the next following financial year and may, at any time before the end of each financial year, prepare and submit to the Board for approval any estimates supplementary to the estimates of the current year.

(2) An expenditure shall not be made out of the funds of the Board unless the expenditure is part of the expenditure approved by the Board under the estimates for the financial year in which that expenditure is to be made or supplementary estimates.

[s. 11]

Accounts

13.-(1) The Board shall ensure that, the management keeps proper accounts and records of its transactions and the moneys received are properly accounted for, payments of its moneys are correctly made and properly authorised and adequate control is maintained over its property and over the incurring of liabilities by the Board.

(2) The Board shall cause to be prepared in respect of each financial year, and not later than three months after the close of the financial year, a statement of accounts which shall include a report on the performance of the functions of the Board during that financial year comprising of-

- (a) a balance sheet and a statement of income and expenditure of the Board in respect of that financial year; and
- (b) any other information in respect of the financial affairs of the Board as the Minister may in writing, require.

[s. 12]

Audit

14.-(1) The accounts of the Board shall, in respect of each financial year, be audited by the Controller and Auditor - General or by an auditor appointed by the Controller and Auditor-General.

(2) Within six months after the close of each financial year, the accounts including the balance sheet of the Board in respect of that financial year shall be audited and the balance sheet be placed before the Board for approval.

(3) The Controller and Auditor-General and any auditor appointed by the Controller and Auditor-General shall access books of accounts, vouchers and other financial records of the Board and entitled to have any information and explanations required in relation thereof.

(4) The Controller and Auditor-General shall, within two months after receipt of the statement of accounts under subsection (2), audit the accounts and deliver to the Board a copy of the audited accounts together with a statement on matters which in his opinion should be brought to the attention of the Minister.

(5) The Board shall, as soon as possible upon receiving report of the Controller and Auditor-General, deliver to the Minister a copy of the audited accounts together with the auditor's report.

[s. 13]

Financial year **15.**–(1) The financial year of the Board shall be the period of twelve months beginning from the 1st day of July and ending on the 30th day of June in the year following.

(2) Without prejudice to subsection (1), the first financial year of the Board may be a shorter period commencing on the date on which the Board is established and ending with the next following 30th day of June.

[s. 14]

PART IV LICENSING PROCEDURES

Conditions
for operating
warehouse

16.–(1) The Board may, upon application, issue a warehouse licence for the conduct of warehouse business.

(2) Two or more warehouses which constitute a station may be licenced under a single licence.

(3) The warehouses licenced under a single licence shall be treated as a single warehouse for the purposes of this Act, including issuance of receipts and delivery of commodities.

[s. 15]

Licensing
procedure

17.–(1) A person who requires a licence to conduct warehousing operations or business shall apply to the Board in the manner prescribed by regulations.

(2) The Board shall, before granting a warehouse licence, either by itself or any authorised person, inspect any warehouse in respect of which a licence is applied, determine whether the warehouse is suitable for the storage of the particular goods for which the licence is applied.

(3) The Board shall, upon being satisfied that, a warehouse is suitable for the storage of the goods in question, grant a warehouse licence to the applicant.

(4) The applicant shall, upon being granted a licence pay a fee prescribed by the Board.

[s. 16]

Validity of licence **18.** The validity of the licence shall be twelve months and renewable subject to the provisions of this Act.

[s. 17]

Conditions
for granting of
licence
Act No.
3 of 2015 s. 9

19.-(1) The Board shall not grant any licence, unless the applicant has satisfied the conditions prescribed by this Act.

(2) Before the Board grants a licence to a person to operate a warehouse, it shall satisfy itself that-

- (a) the applicant is in possession of a warehouse whether as a tenant or owner;
- (b) upon inspection, the warehouse is suitable for warehousing of respective goods in accordance with the regulations made under this Act;
- (c) the applicant's Director or Manager is of good business and management records and has not been involved in any criminal proceedings involving business and dishonesty or impropriety;
- (d) the warehouse and the goods which are or may be kept therein are fully insured in respect of fire, theft and burglary or any other damage; and
- (e) the applicant is financially capable of conducting the business of warehousing.

(3) A person to whom a licence has been granted by the Board shall not, without approval of the Board, assign it to any other person.

(4) A person who contravenes subsection (3) commits an offence and on conviction, shall be liable to a fine of not less than twenty million shillings or to imprisonment for a term of not less than twelve months but not exceeding five years or to both.

[s. 18]

Applicant to
execute bond
Act No.
3 of 2015 s. 10

20.-(1) Warehouse operator applying for a licence under this Act shall execute and file with the Board, a bond sufficient to secure the faithful performance by him of the obligations as a warehouse operator under this Act, and regulations and other statutory instruments made under this Act.

(2) Where the Board determines that, a previously approved bond is, or for any cause has become insufficient, it may require an additional bond or bonds to be given by the warehouse operator concerned, conforming with the requirements of this section, and, unless the additional bond is given within the time fixed by a written demand made by the Board, the licence of the warehouse operator may be suspended or revoked by the Board.

[s. 19]

Action on bond
by person injured

21. A person injured by reason of the breach of any obligation for which a bond is given, shall be entitled to sue on the bond in his own name in any court, not lower than the Court of a Resident Magistrate to recover the damages for injury sustained because of the breach.

[s. 20]

Designation
as licenced
and bonded
warehouse

22.-(1) Upon execution of a bond, the Board may designate the warehouse in respect of which a bond was executed as both licenced and bonded.

(2) Notwithstanding anything in this Act, a warehouse shall not be designated as licenced and bonded under this Act and a name or description conveying the impression that, any of the warehouse is not licensed and bonded, shall be used -

- (a) until a licence has been issued and a bond has been filed and approved by the Board; or
- (b) unless the licence issued under this Act remains unsuspended and not revoked.

[s. 21]

Casualty
insurance and
recovery for loss

23.-(1) An applicant for a licence to operate a warehouse in accordance with this Act shall, as a condition to the granting, file or cause to be filed with the Board, a certificate of insurance evidencing effective policy of insurance issued by an insurance company authorised to do business in Tanzania in the name of the applicant insuring commodities which are or may be in the warehouse for their full market value for loss by fire, theft,

bulgraly, arson or any other risk which the Board may direct to be included under this category.

(2) In the case of outbreak of fire, bulgraly, arson or any other risk categorised under subsection (1) and destroys or damages any commodities in a licenced warehouse, the warehouse operator shall, upon demand by the depositor, and upon being presented with the receipt or other evidence of ownership and after deducting the warehouse operators charges and advances at the market value of the commodity, make the settlement.

(3) The warehouse operator shall make complete settlement to depositors having commodities stored in any warehouse, damaged or destroyed, within ten days after settlement with the insurance company.

(4) Failure by the warehouse operator to make settlement shall be the grounds for suspension or revocation of the warehouse licence.

[s. 22]

Additional
insurance

24.-(1) Where the Board determines that, a previously approved insurance is insufficient shall require additional insurance to be given by the warehouse operator conforming to the requirements of this Act.

(2) Without prejudice to subsection (1), the warehouse operator shall be required to upgrade the insurance policy with a view to maintain sufficient policy at the time arising from settlement of loss through insurance and the warehouse operator shall meet the amount that falls short of the value of the loss unable to be settled through insurance.

[s. 23]

Cancellation
of insurance or
suspension and
revocation of
licence

25.-(1) A licenced warehouse operator shall not cancel or suspend an approved insurance policy or arrange for substitution of insurance policy without prior written approval of the Board.

(2) The insurance company may cancel insurance required by this Act after the expiration of thirty days period from the date of mailing, by registered or certified mail of the notice to

the Board of the intention to cancel or suspend the insurance policy.

(3) The insurance company shall, at the time of giving notice to the Board, send a copy of the notice to the warehouse operator.

(4) Notwithstanding any provision of this Act, failure by the warehouse operator to provide new evidence of insurance within fifteen days after the Board receives the notice of cancellation shall cause the warehouse licence to be suspended or revoked.

[s. 24]

Schedule of charges

26.—(1) An applicant for a licence to operate a warehouse under this Act shall, as a condition to the granting, file or cause to be filed with the Board, the commodities from among the notified list proposed to be warehoused and a copy of the schedule of charges as a warehouse operator.

(2) A licensed warehouse operator shall not make a change in the charges unless a notice of change and the reasons thereof have been filed with and the Board approves the change.

(3) The Board shall refuse to approve any change, which it finds to be unjust, unreasonable or discriminatory.

(4) Where the Board receives a proposal for changes of charges, it shall afford opportunity to the warehouse operator to substantiate reasons for changes.

(5) A person aggrieved by the decision of the Board, may appeal to the Minister.

[s. 25]

Revocation, suspension, and denial of licences

27.—(1) The Board may revoke, suspend, or deny a licence in any case, in which it determines after providing opportunity for a hearing to the warehouse operator that, there has been violation of or failure to comply with the requirements of this Act.

(2) A person aggrieved by the suspension or revocation of a license by the Board, may appeal to the Minister.

[s. 26]

Operation after revocation, suspension or expiration of licences

28.—(1) Where a licence is revoked, suspended or has expired, the warehouse operator shall terminate in the manner prescribed by the Board, arrangements covering the receiving, storing, shipping, conditioning or handling of commodities in the warehouse stations covered by the licence, but shall be permitted, under direction or supervision of the Board to deliver commodities previously received.

(2) During suspension of a licence, the warehouse operator may, under direction or supervision of the Board operate the warehouse station but shall not receive any commodities for storage, conditioning, shipping or handling during the term of suspension.

[s. 27]

Power to appoint inspectors

29.—(1) The Board may appoint or otherwise authorise persons or a group of persons to be warehouse inspectors.

(2) The Minister shall prescribe in the regulations, qualifications of a person to be appointed as an inspector.

[s. 28]

Functions of inspectors

30. The inspectors appointed pursuant to the provisions of this Act shall have power to inspect warehouses premises and goods kept to ensure that, the warehouse operator observes the conditions in this Act, regulations and those appearing on the issued licence.

[s. 29]

Power of entry, inspection, etc.

31. A warehouse inspector or any other person duly authorised in writing in that behalf may, at any reasonable time during the day, enter a warehouse premises for the purposes of ensuring that, the provisions of this Act are observed.

[s. 30]

PART V

WAREHOUSE RECEIPTS

Issuance of
warehouse receipt

32. A warehouse receipt shall be issued by a warehouse operator duly authorised and licensed to do so under the provisions of this Act.

[s. 31]

Warehouse
receipt as
evidence of
proprietary rights
Act No.
3 of 2015 s. 11

33.—(1) Subject to the provisions of this Act, a warehouse receipt drawn and issued by a warehouse operator in accordance with the provisions of sections 5 and 32 shall be a proof of the holder having proprietary rights in the goods in respect of which the warehouse receipt was issued.

(2) In relation to warehouse receipts, a person acquires proprietary rights in the goods where the person is entitled to ownership of the goods-

- (a) in warehouse receipts as mortgage or in return for a binding commitment to extend credit or for extension of an immediately available credit, whether or not drawn;
- (b) as security for or in total or partial satisfaction of a pre-existing claim;
- (c) by accepting delivery under a pre-existing contract for purchase;
- (d) in return for any consideration sufficient to support a pre-existing contract;
- (e) as a proof of title of ownership; and
- (f) as a mortgage instrument.

(3) A warehouse operator shall insure a warehouse with a comprehensive insurance cover.

[s. 32]

Contents of
warehouse
receipt
Act No.
3 of 2015 s. 12

34.—(1) The warehouse receipt shall contain the following information, and terms-

- (a) the location of the warehouse where goods are stored;
- (b) the date of issue of the receipt;

- (c) the serial number of the receipt;
- (d) a statement whether the goods received will be delivered to the bearer, a specified person or specified person's order;
- (e) a short description of the goods or the packages containing them;
- (f) the registered signature of the authorised warehouse operator;
- (g) the nature and fact of ownership of the goods, whether solely, jointly or commonly owned with others;
- (h) a statement as to the amount of advances made and liabilities incurred;
- (i) a statement on the treatment of warehouse receipts of the commodity which undergoes secondary or tertiary processing; and
- (j) signatures of both authorised signatories.

(2) A warehouse operator shall be liable to the person injured thereby, for damages caused by the omission of any term required to be included in the warehouse receipt under this Act.

(3) A warehouse operator may insert in a receipt any other terms and conditions which are not contrary to the provisions of this Act and do not impair obligations of delivery or duty of care.

(4) A provision appearing in a warehouse receipt purporting to contain any condition which is contrary to this Act, shall not be capable of enforcement by the court.

[s. 33]

35.—(1) A warehouse receipt in which it is stated that, the goods received will be delivered to the person named in the receipt or his order shall be known as a negotiable warehouse receipt.

(2) Words shall not be inserted in a negotiable receipt with the effect of rendering that receipt non-negotiable.

Negotiable
warehouse
receipts

(3) The Minister may prescribe in the regulations the procedure and limits of negotiation of negotiable warehouse receipts.

[s. 34]

Non-negotiable
warehouse
receipts

36. A warehouse receipt on which it is stated that, the goods received will be delivered to the bearer, shall be treated as a non-negotiable receipt.

[s. 35]

Altered
warehouse
receipts
Act No.
3 of 2015 s. 13

37.—(1) An alteration to a warehouse receipt shall be regarded as-

- (a) immaterial where the alteration does not affect *ex-ante* proprietary rights of the holder;
- (b) authorised when made with an implied or direct permission or connivance of the warehouse operator and which render a warehouse operator and the perpetrator liable under the provisions of this Act; or
- (c) unauthorised but made without fraudulent intent, when made without an implied or direct permission or connivance of the warehouse operator and which render the warehouse operator liable according to the terms of the receipt, as they were before alteration.

(2) Notwithstanding subsection (1), a warehouse receipt shall be null and void where-

- (a) the warehouse receipt is not consistent with the requirements stipulated under section 34;
- (b) the contents of the warehouse receipt are not duly filled in;
- (c) it is not signed by authorised parties;
- (d) there is a duplication of serial numbers;
- (e) there is mismatch of records between the warehouse receipt and inner documents; or
- (f) there is a misrepresentation of required information.

[s. 36]

Rights of purchasers of altered receipt against warehouse operator

38.—(1) A purchaser of a warehouse receipt for value without notice of alteration shall acquire the same proprietary rights against the warehouse operator which the purchaser would have acquired where the receipt had not been altered at the time of purchase.

(2) A purchaser of a warehouse receipt shall be regarded to have had notice of alteration, where before the purchase of the warehouse receipt, he or his agent took part in or influenced the alteration of the said warehouse receipt.

(3) A purchaser of an altered warehouse receipt who has been found or who could be reasonably imputed with possession of notice of alteration commits an offence and shall be proceeded under section 77 in the same footing with the operator.

[s. 37]

Lost or missing warehouse receipts
Act No.
3 of 2015 s.14

39.—(1) The holder shall, in the case of loss, theft or destruction of a warehouse receipt, immediately report to warehouse operator.

(2) Subject to subsection (1), the warehouse operator, upon receipt of the information of loss, theft or destruction of a warehouse receipt, shall immediately report to the Board.

(3) Where a warehouse receipt has been lost, stolen or destroyed, a duplicate may be issued by the warehouse operator provided that—

- (a) the holder pays a prescribed fee; and
- (b) the request of the holder is accompanied by-
 - (i) a police report of the loss, theft, or destruction of the receipt;
 - (ii) download from the website of the Board or an approval letter from the Board; and
 - (iii) a copy of a notice of loss, theft, or destruction published in a newspaper of nationwide circulation.

(4) The Minister may, by order published in the *Gazette*, prescribe some of the requirements under subsection (3) which shall not apply to a certain class or category of warehouses.

(5) An appeal regarding the issuance or otherwise of a duplicate receipt shall be made to the Board.

(6) A person dealing in warehouse operation using the original receipt after a duplicate receipt has been issued commits an offence for issuing false information.

[s. 38]

Duplicate
warehouse
receipts

40.-(1) A warehouse receipt upon the face of which the word “duplicate” is plainly placed shall be a representation and warranty by the warehouse operator that the warehouse receipt-

- (a) is an accurate copy of the original receipt; and
- (b) has the same rights as the original receipt properly issued and outstanding at the date of issue of the duplicate.

(2) A duplicate receipt issued shall have the same standing as the original and shall not impose upon the warehouse operator any additional liability.

[s. 39]

Collateral
manager
Act No.
3 of 2015 s. 15

41.-(1) A person who wishes to perform functions of a collateral manager shall apply for a licence to the Board.

(2) The Minister may make regulations prescribing among other things:

- (a) functions, rights and obligations of a collateral manager; and
- (b) conditions to be fulfilled by a collateral manager before applying for a licence under this section.

[s. 39A]

PART VI

RIGHTS AND OBLIGATIONS OF WAREHOUSE OPERATORS

Obligation of
warehouse
operator to
deliver goods

42. Except as provided in this Act, a warehouse operator shall deliver the goods upon demand made by the holder of the warehouse receipt or depositor, where the holder or depositor-

- (a) offers to effect payments for the warehouse operator's lien on the goods; or
- (b) offers to sign relevant documents proving the delivery of the goods.

[s. 40]

Obligation to deliver in accordance to demand of holder

43.—(1) Subject to section 42, the warehouse operator shall have obligation to deliver the goods in accordance with the demand by the warehouse receipt holder or the depositor.

(2) Where the warehouse operator refuses to deliver the goods as demanded by the warehouse receipt holder or depositor, the burden shall be upon the warehouse operator to establish the existence of any lawful excuse for the refusal.

(3) Where the warehouse operator refuses to deliver the goods as demanded by the depositor or holder of warehouse receipt because of the reason that, the warehouse receipt was altered, the holder or depositor who had notice of alteration shall be estopped from demanding more or less proprietary rights in the warehouse receipt than those provided on the altered warehouse receipt.

[s. 41]

Justification for delivery of goods

44. Subject to provisions of sections 42 and 43, a warehouse operator shall deliver goods after being satisfied that-

- (a) the person receiving the goods is lawfully entitled to the possession of the goods; and
- (b) by the terms indicated in the warehouse receipt issued for the particular goods, that person is entitled to delivery, either by himself or on his written authorisation, to another person.

[s. 42]

Liability for mis-delivery

45.—(1) A warehouse operator shall not deliver the goods where, prior to delivery, he receives information or otherwise becomes aware that, a person to whom delivery is about to be made is not legally entitled to the delivery.

- (2) A warehouse operator who-
- (a) comes to know that the person who claim delivery of the goods is not in fact lawfully entitled to the possession thereof;
 - (b) ignores the request not to make delivery of the goods made under paragraph (a); or
 - (c) had information or knowledge that, the delivery about to be made to a person not lawfully entitled to the possession of the goods,
- and continues to deliver the goods, shall be liable for conversion to persons having proprietary rights in or possession of the goods.
- [s. 43]

Exception to
obligation to
deliver

- 46.** The warehouse operator shall not be liable for failure to deliver the goods to the depositor, or owner of the goods, or to a holder of a receipt given for the goods when they were deposited, even where the receipt is negotiable, in a situation where goods have been lawfully sold or disposed of-
- (a) because of their perishable or hazardous nature; or
 - (b) to satisfy the warehouse operator's lien.

[s. 44]

Liability for
failure to cancel
warehouse receipt
after delivering
goods

47.-(1) Except as provided for under this Act, where a warehouse operator delivers goods for which he had issued a negotiable receipt shall take up and cancel the receipt.

(2) A warehouse operator who delivers goods for which he had issued a negotiable receipt and fails to take up and cancel the receipt, he shall be liable for failure to deliver goods to depositor or to any person who purchases the receipt for value and in good faith.

(3) Where the receipt is not taken up or cancelled as provided for under subsection (1), the fact that, the purchaser acquired title to the receipt before or after the delivery of the goods by a warehouse operator shall not exonerate the warehouse operator from liability.

[s. 45]

Liability for failure to cancel or mark warehouse receipt when part of goods have been delivered

48.—(1) Except as provided under this Act, where a warehouse operator delivers part of the goods for which he had issued a negotiable warehouse receipt, he shall—

- (a) take up and cancel that receipt and issue a new receipt for the remaining goods; or
- (b) place conspicuously upon it a statement of what goods and packages have been delivered.

(2) A warehouse operator who fails to comply with the provisions of subsection (1) shall be liable for failure to deliver the goods specified in the receipt to any person who purchases the receipt for value and in good faith.

(3) Where the receipt is not taken up or cancelled as provided for under subsection (1), the fact that, the purchaser acquired title to the receipt before or after the delivery of any portion of the goods by a warehouse operator shall not exonerate the warehouse operator from liability.

[s. 46]

Liability after warehouse receipt has been lost, stolen or destroyed

49. Subject to the provisions of section 39, a warehouse operator shall be liable for failure to deliver goods to a person to whom the lost, stolen or destroyed warehouse receipt has been or shall be negotiated for value in good faith and without notice of the fact that, a duplicate receipt has been issued or goods have already been delivered.

[s. 47]

Delivering goods to persons with valid titles or right

50.—(1) The warehouse operator shall take necessary precautions to ensure that the delivery of goods is made to a person who has lawfully obtained a warehouse receipt.

(2) The warehouse operator's title or right to the possession of goods shall only be derived directly or indirectly from—

- (a) a transfer made by a depositor at the time of or subsequent to deposit of goods; or
- (b) lien.

(3) Unless the title or right to possession of the goods by a warehouse operator is obtained in accordance with the

provisions of subsection (2), a title or right to possession of goods shall not exonerate the warehouse operator from liability for refusing to deliver the goods according to the terms indicated on the warehouse receipt.

[s. 48]

Ascertaining valid titles to goods

51.—(1) In cases where more than one person are claiming title or possession of the goods, the warehouse operator shall, before making delivery of those goods to either of them, require known claimants to goods to interplead in accordance with the Civil Procedure Code.

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(2) The suit for which the warehouse operator shall request claimants to interplead referred to under subsection (1), may be filed as an action against the warehouse operator for non-delivery of the goods, or as an original suit.

(3) The warehouse operator shall not be liable for non-delivery where he has evidence to believe that, someone other than the depositor or person claiming under him has a claim to the title or possession of the goods, and because of that evidence, the warehouse operator is taking reasonable steps to ascertain the validity of the adverse claim or to initiate legal proceedings to compel claimants to interplead.

(4) The ascertainment of the right claimant of the goods by interpleading or any other manner shall be initiated within twenty-four hours of initial notice to the warehouse operator and the procedure shall be completed within seven days.

(5) Except as is allowed under this section, the fact that a third person has a right or title to goods, shall not be a defense to an action brought by the holder of the warehouse receipt or person claiming under him against the warehouse operator for failure to deliver the goods according to the terms indicated on the warehouse receipt.

[s. 49]

Liability for mis-described goods

52.—(1) Subject to subsection (2), the warehouse operator shall be liable to the holder of the warehouse receipt for damages

caused by non-existence of the goods or by failure of the goods being delivered to correspond with the description thereof in the receipt at the time of deposit.

(2) The warehouse operator shall not be liable for goods which are being conditioned or processed and the conditioning or processing is noted on the warehouse receipt.

(3) A mere description in the warehouse receipt by a statement of marks or label, or upon packages, or by a depositor's statement that the goods contain goods of a certain kind, or by words of like purport, though found to be true, shall not render the warehouse operator liable.

[s. 50]

Warehouse operator's duty of care

53.—(1) A warehouse operator shall exercise care in regard to the goods kept by him as reasonably and carefully as a reasonable and careful owner of similar goods would exercise.

(2) In addition to other conditions that may be imposed to the warehouse operator's licence, the warehouse operator shall be liable for breach of duty of care where he acts contrary to subsection (1) in keeping safe custody of the goods.

[s. 51]

Duty to keep goods separately

54. Except as provided in this Act, a warehouse operator shall keep goods of each depositor separate from goods of other depositors and from other goods of the same depositor for which a separate receipt has been issued as to permit the identification and re-delivery of the goods deposited.

[s. 52]

Comingling of fungible goods
Act No.
3 of 2015 s. 16

55.—(1) A warehouse operator may, with the approval of the Board, mingle fungible goods with other goods of same kind and grade.

(2) In case the warehouse operator has mingled the goods in accordance with subsection (1), various depositors of the mingled goods shall own the entire mass in common and each depositor shall be entitled to a portion thereof as the amount deposited by him bears to the whole.

(3) The warehouse operator shall be severally liable to each depositor for the care and delivery of his share of the mass to the same extent and under the same circumstances as if the goods had been kept separate.

[s. 53]

Warehouse operator's right to lien

56.—(1) A warehouse operator's lien on goods deposited or the proceeds thereof shall derive from—

- (a) lawful charges for storage and preservation of the goods;
- (b) lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperating and other charges and expenses in relation to the goods;
- (c) reasonable charges and expenses incurred for notice and advertisements of sale; and
- (d) sale of the goods where default has been made in satisfying the warehouse operator's lien.

(2) The term “warehouse operator's lien” as used in subsection (1) and subsequent provisions of this Part, means the right of a warehouse operator to recoup expenses necessarily incurred for services rendered or supplied in accordance with the provisions of subsection (1) and the term “right of lien” shall be construed accordingly.

[s. 54]

Enforcement of lien

57. A warehouse operator's lien may be enforced subject to the provisions of section 58 against—

- (a) goods, whenever deposited, belonging to the person who is liable as debtor for the claims in regard to which the lien is asserted; and
- (b) goods, belonging to others which have been deposited by the person who is liable as a debtor for the claims to which the lien is asserted, where the person has been entrusted with goods at the time of deposit just as person who takes the goods in good faith and for value.

[s. 55]

- Loss of lien **58.** A warehouse operator shall lose right of his lien upon the goods by-
- (a) surrendering possession thereof; or
 - (b) refusing to deliver the goods when a demand is made with which he is bound to comply under the provisions of this Act.
- [s. 56]
- Statement of charges under lien **59.** Where a negotiable receipt is issued for goods, the warehouse operator shall have no lien thereon, except for charges of storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed in which case there shall be a lien for the charges enumerated so far as they are within the terms of section 56, although the amount of the charges enumerated is not stated in the receipt.
- [s. 57]
- Refusal to deliver goods until lien is satisfied **60.** A warehouse operator having a lien valid against the person demanding the goods may refuse to deliver the goods to him until the lien is satisfied.
- [s. 58]
- Warehouse operator's lien does not preclude other remedies **61.** The fact that, a warehouse operator has or has no lien upon the goods, shall not affect entitlement to remedies allowed by law to a creditor against his debtor, for the collection from the depositor of charges and advances which the depositor has expressly or impliedly contracted with the warehouse operator.
- [s. 59]
- Methods of enforcing lien Act No. 3 of 2015 s. 17 **62.**-(1) A warehouse operator's lien may be satisfied by-
- (a) sale of goods;
 - (b) other remedies allowed by the law for the enforcement of a lien against personal property; or
 - (c) any other action for recovery of the warehouse operator's claim.

(2) Where a warehouse operator refuses to deliver goods for the purpose of satisfying a lien, the Board shall assess and approve the value and amount of the commodity to be sold to satisfy the lien.

[s. 60]

Perishable and hazardous goods

63.—(1) Where the goods are of a perishable nature and likely to deteriorate greatly in value, or by their odor, leakage, inflammability, or explosive nature, are likely to injure other property or endanger the life of persons legally likely to come into contact with the goods, the warehouse operator may give a notice to the owner, or to the person in whose name the goods are stored, as is reasonable and possible under the circumstances, to satisfy the lien upon the goods, and to remove them from the warehouse and in the event of failure of the person to satisfy the lien and to remove the goods within the time specified, the warehouse operator may sell the goods at public or private sale with or without advertising.

(2) Where after reasonable efforts have been made the warehouse operator is unable to sell the goods, he may dispose them in any lawful manner, and shall incur no liability by reason thereof.

(3) The proceeds of any sale made under the terms of this section shall be disposed of in the same way as the proceeds of sales made under this Act.

[s. 61]

PART VII NEGOTIATION AND TRANSFER OF WAREHOUSE RECEIPTS

Different ways of negotiating warehouse receipt

64. A negotiable warehouse receipt to the order of the name of person may be negotiated by endorsement and delivery after endorsement -

- (a) in blank or to the bearer; or
- (b) to a specific person.

[s. 62]

Negotiation by
endorsement

65.—(1) Negotiation of a negotiable warehouse receipt after it has been endorsed to a specified person shall require endorsement of the endorsee as well as delivery.

(2) An endorsement made pursuant to subsection (1) shall be made to a specified person and may be negotiated to another specified person and subsequent negotiations shall be done in the like manner.

(3) For purposes of this section, a negotiable warehouse receipt shall be regarded as “duly negotiated” where it is negotiated in the manner stated under this section to a person who purchases it in good faith, without notice of any defect or claim to it on the part of any person, and for value.

[s. 63]

Effect of
endorsement to
non-negotiable
receipt

66. Endorsement of a non-negotiable warehouse receipt shall not render it negotiable.

[s. 64]

Persons capable
of negotiating
warehouse receipt

67. A negotiable warehouse receipt may be negotiated by any person in possession of the same irrespective of the manner the warehouse receipt was acquired, where, by the terms of the receipt, the warehouse operator undertakes to deliver the goods to the order of the person or at the time of negotiation the receipt is in a form that it may be negotiated by delivery.

[s. 65]

Rights acquired
after due
negotiation of
warehouse receipt

68.—(1) Subject to the provisions of this section, a person to whom the receipt has been duly negotiated, shall acquire—

- (a) title to goods as the person negotiating the receipt to him had ability to convey to a purchaser in good faith for value and the title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of the receipt had or had ability to convey to purchase in good faith and for value;
- (b) direct obligation of the warehouse operator to hold possession of the goods for him according to the terms

of the receipt as fully as if the warehouse operator had contracted direct with him; and

- (c) rights accruing under the law of agency, estoppel, including right to good delivered to the warehouse operator after the warehouse receipt was delivered.

(2) The negotiation of a warehouse receipt in good faith and acquisition of title by a person to whom a warehouse receipt has been negotiated, shall create a direct obligation to the warehouse operator to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouse operator had contracted directly with him.

[s. 66]

Rights acquired in absence of due negotiation of warehouse receipt

69. A warehouse receipt may be transferred without negotiation where it has been transferred by-

- (a) the holder to another person under a separate arrangement or agreement; or
(b) order of the court.

[s. 67]

Rights of transferee of warehouse receipt

70.-(1) A transferee of a warehouse receipt, which is not duly negotiated shall acquire thereby against the transferor, the title of the goods.

(2) The title acquired by the transferee shall be subject to the terms of the agreement with the transferor.

(3) The court may order a warehouse receipt to be transferred where it is proved that, there was an agreement to that effect between the transferor and the transferee.

(4) Where a warehouse receipt that has been transferred becomes non-negotiable, in order to acquire title to the goods, the transferee shall notify the warehouse operator of the transfer of the warehouse receipt.

(5) Proceedings instituted for the purpose of enforcing rights of a transferee of a warehouse receipt shall be made by way of summary procedure provided for under Order XXXV of the Civil Procedure Code.

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(6) Where a warehouse receipt that has been transferred is not negotiated before the transferee notifies the warehouse operator of the transfer to him, the transferee's claim of title to the goods may be defeated by-

- (a) an attachment order or execution upon the goods by a creditor of the transferor to the extent of the order or execution; or
- (b) a subsequent purchaser in good faith from the transferor or a subsequent sale of the goods by the transferor.

[s. 68]

Rights and obligations of transferors and transferees of negotiable warehouse receipts

71.-(1) The transferee of a negotiable warehouse receipt for value and in good faith shall have the right to compel the transferor of the receipt to endorse the receipt in case where endorsement is essential for negotiation.

(2) In a case where it is essential that, the warehouse receipt should be endorsed before it is transferred, the warehouse receipt shall not be regarded as negotiated until the transferor endorses it.

(3) The endorsement of a warehouse receipt in good faith shall not make the transferee liable for any default or fraudulent acts on the receipt occasioned by the warehouse operator or previous endorsers.

[s. 69]

Warranties on negotiation of warehouse receipt

72.-(1) The negotiation or transfer by endorsement or delivery, or assignment of a warehouse receipt for value shall be an adequate proof or warranty that, the person who negotiates, transfers or assigns the warehouse receipt, does that because-

- (a) the receipt is genuine;
- (b) has a legal right to negotiate, transfer or assign it;
- (c) knows no fact which would impair the validity or worth of the receipt; and
- (d) has the right to transfer the title to the goods.

(2) Where the contract of the parties is in respect of the transfer of goods to which the warehouse receipt is involved,

the fact that goods are merchantable or fit for that particular purpose, would have been implied.

(3) Warranty shall not be implied in cases where a creditor of the transferor demands in good faith or receives payment of the debt for which the receipt is security.

[s. 70]

Trade platforms
Act Nos.
3 of 2015 s. 18
19 of 2015 s. 95
Cap. 445

73.—(1) Notwithstanding any other written law, the transfer of a warehouse receipt by a warehouse operator or collateral manager under the warehouse receipt system, shall be effected through a trading platform which is licenced or approved in accordance with the Commodity Exchange Act.

(2) A person who operates a trading platform in accordance with any other written law shall, within three months of the coming into operation of this Act, apply for a license or approval in accordance with Commodity Exchange Act.

Cap. 445

[s. 70A]

PART VIII OFFENCES AND PENALTIES

Issue of receipts
for goods not
received
Act No.
3 of 2015 s. 19

74. A warehouse operator, or any officer, agent, or servant of a warehouse operator, who issues or aids in issuing a receipt knowing that, the goods for which the receipt is issued have not been actually received by the warehouse operator, or are not under his actual control at the time of issuing the receipt, commits an offence and on conviction, shall, be liable to a fine of not less than fifty percent of the value of goods or to imprisonment for a term of not less than twelve months but not exceeding five years, or to both.

[s. 71]

Issue of receipt
containing false
statement
Act No.
3 of 2015 s. 20

75. A warehouse operator, officer, agent or servant of a warehouse operator, who fraudulently issues or aids in fraudulently issuing a receipt for goods, knowing that it contains any false statement, commits an offence and on

conviction, shall be liable to a fine of not less than fifty percent of the value of goods or to imprisonment for a term of not less than twelve months but not exceeding five years, or to both.

[s. 72]

Issue of duplicate receipts not so marked
Act No.
3 of 2015 s. 21

76.—(1) A warehouse operator, or any officer, agent or servant of a warehouse operator, who issues or aids in issuing a duplicate or additional negotiable receipt for the same goods or any part of them which is outstanding and uncanceled, without plainly placing upon the face thereof the word “Duplicate” commits an offence and on conviction shall be liable to a fine of not less than fifty percent of the value of goods or to imprisonment for a term of not less than twelve months but not exceeding five years, or to both.

(2) The provision of this section shall not apply where a duplicate of a warehouse receipt is issued in accordance with the provisions of section 39.

[s. 73]

Issue for warehouse operator's goods of receipts, which do not state that fact

77. Where there are deposited with or held by a warehouse operator goods of which he is the owner either solely, jointly or in common with others, the warehouse operator, his agents or servants who knowing this ownership, issues or aids in issuing a negotiable receipt for the goods and omits to state any fact with respect to ownership, commits an offence and on conviction, shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

[s. 74]

Delivery of goods without obtaining negotiable receipt
Act No.
3 of 2015 s. 22

78.—(1) A warehouse operator, or any officer, agent or servant of a warehouse operator who delivers goods out of the possession of the warehouse operator, knowing that, the negotiation of which would transfer the right of the possession of the receipt is outstanding and uncanceled, without obtaining possession of that warehouse receipt, at or before the time of the delivery, commits an offence and on conviction shall be liable to a fine

not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(2) Where a holder of a warehouse receipt or depositor proves that, the goods for which a receipt was obtained was not delivered to him, the court may, in addition to any penalty imposed under subsection (1), order the warehouse operator, officer, agent or servant of the warehouse to compensate the owner or holder an amount of money equal to the value of the undelivered goods.

[s. 75]

Negotiation
of receipt for
mortgaged goods

79. A person who-

- (a) deposits goods to which he has no title, or upon which there is a lien or mortgage;
- (b) takes for the goods a negotiable receipt which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of lien or mortgage,

commits an offence and on conviction, shall be liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding seven years.

[s. 76]

Obstructing
warehouse
inspector

80. A person who obstructs the warehouse inspector or any other authorised person in the exercise of the power conferred upon him by this Act or who neglects or refuses to produce to the warehouse inspector or any authorised person any books, records, information or anything which the inspector or any other authorised person may request to be produced for inspection, commits an offence and on conviction shall be liable to a fine not exceeding one million shillings or to imprisonment for the term of three months, or to both.

[s. 77]

General penalty
Act No.
3 of 2015 s. 23

81. A person who commits an offence against any of the provisions of this Act, to which a specific penalty is not provided, on conviction shall be liable to a fine not exceeding

ten million shillings or imprisonment for a term of not less than twelve months but not exceeding five years, or to both.

[s. 78]

Compounding of offences
Act No.
3 of 2015 s. 24

82.—(1) Where a person admits commission of an offence under this Act, the Board may compound the offence by accepting from the person a sum of twenty percent of the value of the goods.

(2) Subject to subsection (4), where proceedings are brought against a person for an offence under this Act, it shall be a defence where that person proves that, the offence against which he is charged was compounded.

(3) A sum of money received under this section shall be treated as a fine imposed by a court for the offence.

(4) Where an offence is compounded under this section, the court may make an order as if the person concerned had been convicted by the court for that offence.

(5) The order under subsection (4) shall not be made unless the person concerned is given an opportunity to show cause why the order should not be made.

[s. 78A]

PART IX MISCELLANEOUS PROVISIONS

Powers to make regulations
Act No.
3 of 2015 s. 25

83.—(1) The Minister may make regulations for the better carrying out of the provisions this Act, and in particular make regulations prescribing-

- (a) the procedures and limits of negotiation of a negotiable warehouse receipt;
- (b) a standard format of a warehouse receipt;
- (c) the standards or requirements for allowing a warehouse operator to sell or dispose of goods which are perishable or hazardous;
- (d) the manner of keeping depositors goods in a warehouse;
- (e) the classification of warehouses;

- (f) goods which may be commingled in the warehouse receipt;
- (g) ways of recovering the warehouse operator's lien by sale of goods;
- (h) conditions for the registration of the warehouse;
- (i) conditions that may be inscribed on the warehouse license;
- (j) warehouse registration and licence application procedure;
- (k) warehouse registration and licence application appeal procedure;
- (l) the qualifications of the employees that may be employed by a warehouse operator;
- (m) fees that may be paid for warehouse registration, licensing, supervision of warehousing, and issuance of duplicate warehouse receipts;
- (n) forms as may be prescribed under this Act;
- (o) obligations and rights of key actors;
- (p) a form of licence issued under this Act; and
- (q) anything which may be prescribed under this Act.

(2) Regulations made pursuant to subsection (1) shall be published in the *Gazette*.

[s. 79]

Standard grade
and quality
Act No.
3 of 2015 s. 26

84. Subject to the provisions of this Act, a warehouse operator shall abide by standards, grades and quality parameters set out by a competent authority.

[s. 80]

Weights and
measures
Act No.
3 of 2015 s. 26

85. Subject to the provisions of this Act, a warehouse operator shall abide by weight and measurement parameters set out by a competent authority.

[s. 81]

Recognition of
electronic licence
and warehouse
receipt
Act No.
3 of 2015 s. 26

86. Where this Act provides information or any other matter in respect of a licence or a warehouse receipt, the information or matter shall be in writing and in typewritten or printed form, and deemed to be valid where the licence or warehouse receipt-

- (a) is rendered or made available in an electronic form; and
- (b) is accessible for subsequent reference.

[s. 82]

Deposit of
commodities in
warehouse
Act No.
3 of 2015 s. 26

87. Notwithstanding any provision of this Act, a farmer shall not be compelled to deposit commodities in the warehouse.

[s. 83]

SCHEDULE

(Made under section 4(3))

COMPOSITION, TENURE AND PROCEDURE OF MEETINGS OF THE BOARD

Composition of
Board

- 1.**-(1) The Board shall comprise of-
- (a) the Chairman; and
 - (b) other seven members, of whom shall be appointed by the Minister.
- (2) The persons to be appointed as members of the Board shall comprise of the following-
- (a) one member representing the Ministry responsible for crop marketing;
 - (b) two representatives of the cooperative societies as recommended by the Umbrella Co-operative Society, at least one of whom shall be a woman;
 - (c) a representative of the organisation of Tanzania private farmers;
 - (d) a representative of the Tanzania Bankers Association recommended by the Association;
 - (e) a representative of the Tanzania Insurers Association, recommended by the Association;
 - (f) a representative of farmers; and
 - (g) one member representing warehouse operator's association or organisation.

	<p>(3) A person shall not be qualified to be a member of the Board unless he is of high moral character and proven integrity.</p>
Tenure of office	<p>2.-(1) A member of the Board shall hold office for a term of three years and be eligible for re-appointment but shall not hold office for more than two consecutive terms.</p> <p>(2) A member of the Board shall vacate office-</p> <p>(a) by resignation;</p> <p>(b) on written recommendation of the body which he represents to revoke his nomination;</p> <p>(c) upon removal by the Minister on the ground of-</p> <p>(i) misconduct, misbehavior or abuse of office;</p> <p>(ii) failure to attend three consecutive meetings without reasonable excuse as certified by the Board; or</p> <p>(iii) inability to perform the functions of that office arising from infirmity of body or mind; and</p> <p>(d) on effluxion of term of office.</p> <p>(3) The Chairman shall hold office for three years but eligible for re-appointment.</p> <p>(4) The Minister may remove the Chairman from that office on ground of incompetence or abuse of office.</p> <p>(5) Where a vacancy occurs in the office of a member of the Board, the Minister shall consult the body which recommended that member for the purpose of appointing an alternate member of the member who vacated office.</p> <p>(6) An alternate member shall assume responsibilities of the outgoing member and enjoy the privileges until the expiration of the term of office of the member who vacated the office.</p>
Remuneration of members of Board	<p>3. Members of the Board shall be paid allowances as the Board may, with approval of the Minister, determine.</p>
Convening meetings	<p>4.-(1) The Chairman shall convene the first meeting of the Board as soon as is practicable after the appointment of the Board and thereafter, the Board shall meet for the transaction of business at times and places that may be decided upon by the Board but the Board shall meet at least once in every four months.</p> <p>(2) The Chairman or, in the absence of the Chairman, a member of the Board appointed by the Board to act as Chairperson may at any time call a special meeting of the Board, or shall call a special meeting upon a written request by a majority of the members of the Board.</p> <p>(3) The Chairman shall preside at meetings of the Board and in his absence, the members present may appoint a member from among themselves to preside at that meeting.</p>
Quorum	<p>5. The quorum at a meeting of the Board shall be five members.</p>

- Making decisions **6.** Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and where there is equality of votes the person presiding shall have a casting vote in addition to his deliberative vote.
- Disclosure of interest **7.**—(1) A member of the Board who has any pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his 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 making the disclosure shall not in respect of that matter—
 (a) be present during any deliberation on the matter by the Board; and
 (b) take part in the decision-making of the Board on the matter.
- Co-option of persons to meetings of Board **8.**—(1) The Board may co-opt a person to any meeting of the Board to assist it on any matter where the Board is satisfied that the person's qualifications and experience are likely to benefit the Board in making a decision on any particular matter.
 (2) A person co-opted to assist the Board under subparagraph (1) is entitled to take part in the proceedings of the Board at the meeting concerning the matter in connection with which he is co-opted, but shall not be entitled to vote or take part in any other proceedings of the Board.
- Minutes of proceedings **9.** The Board shall cause the minutes of its meeting to be recorded and the minutes of each meeting shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting.
- Board to regulate its own proceedings **10.** Subject to the provisions of this Schedule, the Board shall regulate its proceedings.
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