

47. With the approval of the Minister, to establish and operate institutions for the training of persons in the production and marketing of tobacco and in the running of tobacco farms, auction floors or other activity ancillary to the production and marketing of tobacco.

(As amended by Act No. 46 of 1970)

48. To train persons, and to establish and run training courses in the production and marketing of tobacco and in any other activity the Board deems necessary to, and beneficial to, the tobacco industry generally.

(As amended by Act No. 46 of 1970)

49. To appoint and remunerate managing agents, visiting agents and technical and other consultants which the Board deems necessary for the better exercise of the functions and powers conferred upon it by or under this Act.

(As amended by Act No. 46 of 1970)

SUBSIDIARY LEGISLATION

CHAPTER 237: THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

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THE TOBACCO (MARKETING AND LICENSING) RULES Rules by the Tobacco Board of Zambia, with the approval of the Minister Statutory Instruments

142 of 1968

353 of 1969

70 of 1992Act No. 13 of 1994

PART I PRELIMINARY

1. These Rules may be cited as the Tobacco (Marketing and Licensing) Rules. Title

2. In these Rules, unless the context otherwise requires- Interpretation

"arbitrator" means a classifier, sales supervisor or a buyer nominated by a sales supervisor and acceptable to the aggrieved buyer;

"auction floor" means premises licensed by the Board for the sale of tobacco by auction, and includes such part of the premises as may be allotted for storage of tobacco;

"auctionable tobacco" means tobacco of a class prescribed as such by the Minister pursuant to section fifty-nine of the Act;

"bale" means a bale of tobacco;

"bale ticket" means the coupon attached to a bale by the holder of an auction floor licence for the purpose of recording thereon the details of sale;

"buyer" shall have the meaning ascribed to it in section two of the Act;

"catalogue" means the number of bales to be determined from time to time by the Board, contained in a written record compiled by a holder of an auction floor licence, by floor lot numbers for the purpose of conducting a sale of tobacco by mechanical auction as provided by rule 67;

"classifier" means an official of the Board authorised by the Board to classify tobacco;

"completion" means, in relation to the sale of a bale by auction, the removal of a copy of the bale ticket from the bale for recording purposes by a person authorised for this purpose by the holder of an auction floor licence, and cognate expressions shall be construed accordingly;

"crossing" means cancelling the sale of a bale sold by auction by drawing a cross on the bale ticket pursuant to rule 49, and cognate expressions shall be construed accordingly;

"delivery quota" means the quantity of auctionable tobacco determined by the Board pursuant to paragraph 20 of the Schedule to the Act which may be delivered by or on behalf of a registered grower for sale on any licensed auction floor in each delivery quota period;

"delivery quota period" means any period fixed by the Board pursuant to paragraph 20 of the Schedule to the Act during which delivery quotas may be delivered by or on behalf of registered growers to licensed auction floors;

"employee" means an employee of a licensed buyer;

"floor lot number" means the number allocated to a bale by a holder of an auction floor licence for the purpose of identification during a sale by mechanical auction;

"form" means the appropriate form prescribed in the Schedule;

"funked tobacco" means tobacco which, while appearing to be sound, has in the opinion of an arbitrator an aroma indicating that the tobacco has been or is about to become mouldy;

"grower" means a person registered as a grower or any person deemed to be a grower pursuant to section twenty-six of the Act;

"house account" means the house account of the holder of an auction floor licence;

"licensed auction floor" means any auction floor licensed by the Board pursuant to Part VIII of the Act;

"licensed buyer" means any person licensed by the Board to buy tobacco pursuant to Part VII of the Act;

"licensed grader" means any person licensed by the Board to grade tobacco pursuant to Part VI of the Act;

"loose leaf" means sound leaf tobacco which is packed without being tied into hands;

"lot number" means the identification number of a seller's bale;

"mechanical auction" means the sale by auction of tobacco by the employment of machinery whereby the buyer records his bid by mechanical means;

"nesting" means the packing of tobacco into bales in such a manner as to deceive a buyer about the nature or quality of the contents as a whole, and cognate expressions shall be construed accordingly;

"non-auctionable tobacco" means any class of tobacco prescribed as such by the Minister pursuant to section fifty-nine of the Act;

"no-sale bale" means a bale for which no bid has been made at a sale by auction;

"primary or rural level" means the sale of tobacco by an individual producer or group of producers to a licensed buyer where it is intended that the said tobacco shall later be offered for sale to the trade by the buyer, whether as auctionable or non-auctionable tobacco, as the case may be;

"registered number" means a number allotted by the Registrar of a sales supervisor, as the case may be, pursuant to the provisions of section twenty-eight of the Act, and shall include a number allotted for the purpose of resale of auctionable tobacco;

"sales floor" means that portion of an auction floor allotted for the sale of tobacco by auction and excludes any area or areas allotted for storage of tobacco;

"sales supervisor" means a person appointed by the Board, under the provisions of section seventy-one of the Act, to supervise the sale of tobacco by auction on a licensed auction floor;

"seller" means a person or his agent who sells or offers for sale tobacco;

"selling season" means the period in any year fixed by the Board when tobacco may be sold;

"split bale" means a bale containing two but not more than two grades of tobacco;

"starter" means a person authorised by the holder of an auction floor licence to place an approximate value on tobacco offered for sale by auction;

"ticket marker" means a person authorised by the holder of an auction floor licence to record on a bale ticket the details of sale of a bale of tobacco sold by auction;

"tobacco" means unmanufactured tobacco of a class prescribed by the Minister pursuant to section fifty-nine of the Act.

PART II RETURNS BY REGISTERED GROWERS

3. (1) Every grower, other than a person deemed to be a grower solely by virtue of the provisions of subsection (6) or (7) of section twenty-six of the Act, shall- Crop forecast returns

(a) before the 31st March in any selling season furnish to the Board a preliminary return in writing in Form 1 stating-

(i) the total number of acres of tobacco planted by him;

(ii) the quantity of tobacco which he estimates will be sold by him or on his behalf in that selling season; Form 1

(b) on or after the 15th May and before the 1st June in each selling season, furnish to the Board a further return in writing in Form 2 stating-

(i) the total number of acres of tobacco planted by him;

(ii) the quantity of tobacco which he expects will be sold by him or on his behalf in that selling season. Form 2

(2) If at any time before the end of a selling season a grower finds that the quantity of tobacco which he then estimates will be sold by him or on his behalf in that selling season will exceed or fall short of the estimated quantity contained in a return made by him in terms of sub-rule (1), he shall immediately inform the Board in writing of his revised estimate.

(3) The requirements of paragraph (a) of sub-rule (1) as regards the estimate of the quantity of tobacco which will be sold by or on behalf of any grower during any selling season shall be deemed to be substantially complied with, unless the last estimate thereof furnished by the said grower-

(a) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than fifteen per centum of such estimate; or

(b) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty-five per centum of such estimate.

(4) The requirements of paragraph (b) of sub-rule (1) as regards the estimate of the quantity of tobacco which will be sold by or on behalf of any grower during any selling season shall be deemed to be substantially complied with, unless the last estimate thereof furnished by the said grower-

(a) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than ten per centum of such estimate; or

(b) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty per centum of such estimate.

(5) The requirements of sub-rule (2) as regards the estimate of the quantity of tobacco which will be sold by or on behalf of any grower during any selling season shall be deemed to be substantially complied with, unless the last estimate thereof furnished by the said grower-

(a) if furnished before the 15th May-

(i) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than fifteen per centum of such estimate; or

(ii) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty-five per centum of such estimate;

(b) if furnished on or after the 15th May-

(i) exceeds the quantity of such tobacco sold by him or on his behalf in that selling season by more than ten per centum of such estimate; or

(ii) falls short of the quantity of such tobacco sold by him or on his behalf in that selling season by more than twenty per centum of such estimate.

PART III LICENSING OF GRADERS

4. (1) Application for the issue of a grader's licence shall be made to the Board in Form 3 and shall- Form and manner of application.

(a) state the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, or, in the case of a partnership, the name of every partner; Form 3

(b) state the name of the person who will supervise the grading;

(c) in the case of an applicant who has not previously been licensed as a grader, be accompanied by-

(i) a plan showing the site;

(ii) a plan and elevations;

(iii) a plan and description of the humidification system of the buildings in which it is proposed to carry on the grading or to store tobacco;

(d) in the case of an applicant who has previously been licensed as a grader, be accompanied by-

(i) where the structure of the building or buildings in which it is proposed to carry on the grading or to store tobacco has not been altered since the last licence was issued to such applicant authorising him to grade or store tobacco in such building or buildings, a statement that the structure thereof has not been altered; or

(ii) where the structure of the building or buildings in which it is proposed to carry on the grading or to store tobacco has been altered since the last licence was issued to such applicant authorising him to grade or store tobacco in such building or buildings, a plan showing the nature of such alterations;

(e) be accompanied by a fee of two hundred fee units payable to the Board, which fee however shall be returned to the applicant in the event of his application being unsuccessful.

(2) Every person who makes application for a grader's licence shall, if the Board so requires, submit evidence-

(a) as to his financial standing;

(b) as to the efficient management, supervision and organisation of the proposed business of grading.

(As amended by S.I. No. 70 of 1992 and Act No. 13 of 1994)

5. No person shall carry on the business of a grader in premises unless-

(a) they are of such design and construction as may be approved by an architect appointed for this purpose by the Board;

(b) they are provided with storage space sufficient to permit the stacking of tobacco received for grading or awaiting despatch for sale without exceeding a height of eight feet above the level on which the bottom bale rests;

(c) the floor surface of the grading shed, storage sheds and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, are composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco.

Minimum standards of premises

6. (1) Immediately following receipt of tobacco consigned to him by a grower, a grader shall send to such grower a receipt in Form 4. Receipting of tobacco

Form 4

(2) If for any reason a grader is unable to weigh bales of tobacco received by him immediately after delivery to his premises, he shall complete that part of the receipt in Form 4 as indicates the number of bales received and within three working days thereof issue a further receipt giving the weights.

7. (1) Within seven days of receiving tobacco consigned to him by a grower, a grader shall examine not less than ten per centum of the bales in that consignment and send to the grower a report on the condition thereof. Reports on condition

(2) In the event that a grader fails to send to a grower the report referred to in sub-rule (1), the Board will assume that the tobacco in question was received by him in good condition.

8. Within ten days of completion of grading tobacco consigned to him by a grower for grading at any one time, a grader shall furnish the grower with a return in accordance with Form 5.

(No. 353 of 1969) Grading returns

Form 5

9. Copies of all receipts, reports and returns issued by a grader in terms of this Part shall at the same time be furnished to the Board.

(As amended by No. 353 of 1969) Copies of returns to Board

10. In addition to any other duty imposed on him by or under these Rules or any other law, a grader shall-

(a) effect at his own expense adequate insurance to cover any loss which might otherwise be sustained by a grower while such grower's tobacco is stored in the grader's premises or is being carried in transport by direction of such grader;

(b) use all reasonable care in handling, storing grading and packing tobacco so as to prevent damage or loss due to breakage, contamination or other causes. Duties of licensed graders

PART IV LICENSING OF BUYERS

11. (1) An application for the issue of a licence to buy tobacco shall be made to the Board in Form 6 and shall state- Form and manner of application for licence.

(a) the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, and, in the case of a partnership, the name of every partner; Form 6

(b) the names of all persons authorised to buy tobacco on behalf of the applicant;

(c) the class or classes of tobacco which the applicant intends to buy;

(d) the manner in which the applicant proposes to buy tobacco;

(e) whether or not the applicant is a buyer solely by virtue of the ownership of land in respect of which he has agreed to permit a third person to produce tobacco on not

more than ten acres of the said land in consideration of a share in the said tobacco when produced, or of a share of the proceeds of its sale, and if so the situation of such land;

(f) whether or not the application is for the issue of an exclusive licence pursuant to subsection (4) of section forty-four of the Act, and if so the area in which the applicant wishes to buy tobacco.

(2) Where an applicant has not previously been licensed as a buyer and indicates, pursuant to paragraph (c) of sub-rule (1), that he intends to buy tobacco by auction, he shall attach to his application statements in writing from the holders of all auction floor licences indicating their willingness to do business with the applicant if he is licensed as a buyer.

(3) An application for a buyer's licence made pursuant to this rule shall be accompanied by a fee of five hundred United States Dollars payable to the Board, which fee shall however be returned by the Board to the applicant in the event of the application being unsuccessful.

(As amended by S.I. No. 70 of 1992)

12. The Board may refuse an application for the grant of a buyer's licence on any or all of the following grounds:

(a) that it is not satisfied with the financial standing of the applicant; (b) that in its opinion- Grounds for refusal

(i) the grant of the licence would not be in the best interests of the industry or would detract from the orderly marketing or export of tobacco;

(ii) the applicant is not a fit and proper person to hold such licence;

(c) that the Board has in respect of any particular class of tobacco granted an exclusive licence, or intends, with the approval of the Minister, to issue such exclusive licence to another applicant pursuant to subsection (4) of section forty-four of the Act.

13. Every buyer to whom a licence has been issued under this Part shall before the fifteenth day of every month submit to the Board a return in Form 7 of all tobacco purchased by him in the previous month. Returns by buyers

Form 7

PART V LICENSING OF AUCTION FLOORS

14. An application for the issue of an auction floor licence shall be made in Form 8 and shall-

(a) state the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, and, in the case of a partnership, the name of every partner;

(b) be accompanied by- Form and manner of application for licence. Form 8

(i) in the case of an application relating to premises not previously licensed as an auction floor where the applicant has not obtained a conditional authority for the premises pursuant to rule 15, a plan showing the site of the premises in relation to road and rail facilities, and a plan and elevations of the premises;

(ii) in the case of an application relating to premises previously licensed as an auction floor, a statement giving details of any alteration in the use of the premises as an auction floor since the issue of the last licence for such auction floor;

(iii) a fee of eight hundred fee units payable to the Board, which fee however shall be returned by the Board to the applicant if the application is unsuccessful.

(As amended by S.I. No. 70 of 1992 and Act No. 13 of 1994)

15. (1) An application for a conditional authority to erect, alter or extend premises including a licensed auction floor for use as an auction floor, shall be made to the Board in Form 9 and shall- Application for conditional authority.

Form 9

(a) state the name and address of the applicant and, in the case of a company registered in terms of any law, the name of each director, and, in the case of a partnership, the name of every partner;

(b) be accompanied-

(i) in the case of an application relating to existing premises not previously licensed as an auction floor, or to premises which it is proposed to erect, a plan showing the site of the premises or proposed premises in relation to road and rail facilities and a plan and elevations of such premises or proposed premises;

(ii) in the case of an application to alter or extend premises licensed or previously licensed as an auction floor, a plan and elevations showing details of the extension or alterations to the structure thereof.

(2) Upon completion of the building works in respect of which a conditional authority has been granted, the applicant shall, notwithstanding the issue of such conditional authority, comply with the provisions of rule 14, provided however that where the conditional authority is for the alteration or extension of licensed premises, no further fee shall be payable during the period of validity of the licence in question.

16. Except where the Board may, with the approval of the Minister, have exempted any premises from the provisions of Part VIII of the Act, no auction floor licence shall be issued in respect of premises-

(a) which do not comply with the following minimum requirements: Minimum standards of premises

(i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales floor;

(ii) the total area of platforms and verandahs capable of being used for the loading or off-loading of tobacco shall not be less than forty per centum of the area of the sales floor;

(iii) the natural roof lighting of the sales floor shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen per centum of the area of the sales floor;

(iv) the floor surface of the sales floor, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;

(v) there shall be in a position adjacent to or as part of the auction floor an area set aside for the re- handling of tobacco, which area shall be not less than seven per centum of the area of the sales floor, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board;

(b) unless the design and construction thereof are such as may be approved by an architect appointed for this purpose by the Board.

17. (1) Every holder of an auction floor licence shall submit to the Board in writing- Returns to be submitted

(a) not later than noon on the next working day following any sale of tobacco on his floor, a return in Form 10 in respect of each class of tobacco sold on the previous day; Form 10

(b) not later than Monday of each week, a return in Form 11 in respect of each class of tobacco sold on his auction floor during the week ended midnight on the previous Wednesday; Form 11

(c) not more than thirty days after the date of the last sale of tobacco on his auction floor in any selling season, a return in Form 12 in respect of each class of tobacco sold thereon in such season.

Form 12

(2) Whenever a holder of an auction floor licence becomes aware that information submitted by him in any return to the Board in terms of sub-rule (1) contains a material error, he shall forthwith notify the Board accordingly in writing, and as soon as possible thereafter submit an amended return.

18. In addition to any other duty imposed on him by or under these Rules or any other law, the holder of an auction floor licence shall-

(a) use all reasonable care in handling, storing and despatching tobacco so as to prevent damage or loss due to breakage, contamination or other causes;

(b) effect at his own expense insurance to cover loss of or damage to any seller's tobacco from time of receipt to completion of sale. Duties of holders of auction floor licences

PART VI MARKING OF BALES FOR SALE

19. The provisions of this Part shall not apply to tobacco offered for sale at a primary or rural level.

Part VI not to apply to sales at primary or rural level

20. (1) Subject to the provisions of this rule- Registered numbers

(a) every seller of Virginia flue-cured tobacco shall mark his bales clearly on the outside of the wrapping material with his registered number in arabic numerals not less than eight centimetres in height and on not less than two sides and one end of each bale, and shall in addition mark above his registered number the letters "VZ" in the same dimensions;

(b) every seller of Burley tobacco shall mark his bales clearly on the outside of the wrapping material with his registered number in arabic numerals not less than eight centimetres in height and on not less than two sides and one end of each bale, and shall in addition mark above his registered number the letters "BUZ" in the same dimensions;

(c) every seller of Oriental tobacco shall mark his bales clearly on the outside of the wrapping material with his registered number in arabic numerals not less than three centimetres and not more than eight centimetres in height and on not less than two sides, and shall in addition mark above his registered number the letters "TZ" in the same dimensions.

(2) In any selling season when the Board shall, in exercise of its powers under paragraph 16 of the Schedule to the Act, have declared its intention to buy tobacco and to do so by classification, it may direct that bales offered for sale shall be marked in such a manner that when the bale wrappings are opened the registered number shall not be visible to a classifier.

(3) For his own identification purposes, a seller, in addition to the registered number referred to in sub- rule (1), may mark his bales after and in the same place as his registered number with an alphabetical letter.

(4) The provisions of this rule shall not apply to any sale by the Board of any tobacco purchased by the Board, nor to any resale of tobacco by the holder of an auction floor licence pursuant to paragraph (b) of sub-rule (3) of rule 59.

21. (1) A seller shall securely attach to a bale offered for sale a bale label on which shall be clearly marked in arabic numerals the lot number of the bale, which lot number shall be exclusive to that bale and shall not be allocated to any other bale during the season. Bale labels

(2) A seller may if he so wishes mark on the bale label a group number to indicate the order in which bales are to be offered for sale, in which case-

- (a) bales shall be numbered from one upwards for each consignment;
- (b) a numeral or numerals indicating the group number shall be positioned on the bale label above the lot number;
- (c) there shall be no limit to the number of groups in any one consignment;
- (d) no seller may mark his bale labels with group numbers in more than one colour.

(3) The provisions of sub-rule (1) shall not apply to the sale by the Board of any tobacco purchased by the Board.

22. (1) A grader shall securely attach to each bale delivered by him for sale a label bearing his name in printed letters which shall not be less than one centimetre in height. Labelling of bales by graders

(2) A seller or a grader may not deliver for sale a bale labelled so as to indicate that the tobacco has been graded by a grader unless the tobacco has been graded by the grader whose name is printed on the label.

23. Except with the permission of the Board in writing, and subject to the provisions of Part VIII, no seller or other person shall cause to be displayed on a bale offered for sale any marking, identification or other information nor in a manner other than is permitted under this Part: Prohibition of any other markings

Provided however that should he so wish a seller of a bale of Oriental tobacco may, in addition to his registered number, mark on the outside of the wrapping material the lot number of the bale.

PART VII PACKING OF TOBACCO FOR SALE

24. The provisions of this Part shall not apply to tobacco offered for sale at a primary or rural level.

Part VII not to apply to sales at primary or rural level

25. (1) Subject to the provisions of this rule, every seller of tobacco shall ensure that his tobacco is packed in bales-Wrapping and sewing materials

- (a) having in good condition an outer covering of hessian or such other material as may from time to time be approved by the Board;
- (b) having an inner covering of new or undamaged waterproof paper or such other material as may from time to time be approved by the Board;
- (c) properly sewn with twine in good condition not being made from sisal or jute, so that no single stitch shall exceed eight centimetres in length and no gap between stitches shall exceed eight centimetres in length and all stitches shall be locked on the ends of the bales near the corners.

(2) The provisions of paragraph (c) of sub-rule (1) shall not apply to the sellers of Oriental tobacco which tobacco shall however be offered for sale in bales laced with twine in such manner as the Board may from time to time direct.

26. (1) Subject to the provisions of this rule, a seller shall- Weights and dimensions of bales
- (a) pack his Virginia flue-cured tobacco in bales-
 - (i) weighing not less than twenty-three kilogrammes net nor more than one hundred and nine kilogrammes net;
 - (ii) having dimensions of eighty-six centimetres long, sixty-one centimetres high and not more than sixty-six centimetres wide;
 - (b) pack his Burley tobacco in bales-
 - (i) weighing not less than nine kilogrammes net nor more than fifty-nine kilogrammes net;
 - (ii) having dimensions of eighty-six centimetres long, sixty-one centimetres high and not more than sixty-six centimetres wide;
 - (c) pack his Oriental tobacco in bales-
 - (i) not exceeding twenty-three kilogrammes net in weight;
 - (ii) having dimensions of sixty-nine centimetres long, thirty-eight centimetres high and not more than fifty-one centimetres wide.
- (2) Notwithstanding the provisions of sub-rule (1), no seller may offer for sale-
- (a) a split bale of Virginia flue-cured tobacco weighing less than forty-five kilogrammes net;
 - (b) a split bale of Burley tobacco weighing less than fourteen kilogrammes net.

PART VIII SALE OF TOBACCO BY AUCTION

27. The provisions of this Part shall apply-

- (a) to the sale by auction of auctionable tobacco other than a sale of such tobacco at a primary or rural level;
- (b) to the sale by the Board by auction of any non-auctionable tobacco purchased by the Board.

Application of Part VIII

28. (1) A sales supervisor shall- Duties and powers of sales supervisors

- (a) ensure that the provisions of the Act and the regulations made thereunder and the rules made and the instructions given by the Board are being complied with;
- (b) report breaches of such Act, regulations, rules and instructions to the Board;
- (c) ensure that bales are properly placed in rows on auction floors and suitably opened and sampled;
- (d) check weighing-in scales;

(e) from time to time re-weigh bales of tobacco for the purpose of ensuring that they have been correctly weighed;

(f) report incorrect weighing to the holder of the auction floor licence concerned and cause the necessary adjustments to be made.

(2) A sales supervisor may remove or cause to be removed from an auction floor any bale which does not conform to the standards laid down in these Rules.

(3) A sales supervisor shall have access to all books, receipts and documents kept by the holder of an auction floor licence relating to the arrival, receipting, booking and sale of tobacco.

(4) Should circumstances arise which are not covered by any instructions given to him by the Board pursuant to section seventy-two of the Act, a sales supervisor, after consultation with the Secretary to the Board, or, in his absence, an official of the Board acting on his behalf, may, whenever in his opinion it is necessary so to do in order to facilitate the orderly selling of tobacco or to protect the interests of the sellers of tobacco or buyers of tobacco, or both -

(a) suspend a sale of tobacco for a period not exceeding twenty-four hours;

(b) give such directions to sellers, buyers or the holders of auction floor licences as may be necessary on any matter not specifically prescribed under this Part.

29. Any official or agent of the Board duly authorised thereunto by the Board in writing may, at any time, examine books and vouchers of the holder of an auction floor licence to ascertain whether the charges authorised by the Board pursuant to section sixty-nine of the Act have been, or are being, adhered to. Power to inspect records

30. (1) Tobacco may be offered for sale in the form of- Tobacco which may be offered for sale

(a) tied leaf;

(b) straight laid loose leaf;

(c) clean graded strips;

(d) clean stemmed scrap;

(e) clean unstemmed scrap.

(2) In the case of tied leaf, a seller shall ensure that the size of hands of graded tobacco is not less than three centimetres and not more than three centimetres across the butt ends and that the depth of the tie is not less than four centimetres and not more than five centimetres.

(3) A seller shall not offer as loose leaf sound tobacco leaf twenty centimetres or more in length.

(4) No bale offered for sale shall contain ungraded tobacco.

(5) No seller may offer for sale a bale containing more than one class of tobacco.

31. (1) Subject to the provisions of this rule, no person shall knowingly offer for sale a bale which contains- Declared mixed bales

- (a) leaf of different types, qualities, or colours, mixed in the hand;
- (b) hands of tobacco of different types, qualities, or colours;
- (c) short and long leaf mixed in the hands, or hands of short and long leaf;
- (d) sound leaf mixed with barn rot leaf.

(2) A seller may offer for sale a mixed bale containing tobacco as enumerated in paragraphs (a), (b), (c) and (d) of sub-rule (1), provided that-

- (i) he has affixed to the bale a label additional to the bale label referred to in rule 21 on which is marked the word "mixed" in letters not less than five centimetres in height;
- (ii) the word "mixed" is printed clearly on a notice displayed prominently on the bale by the holder of the auction floor licence;
- (iii) the bale is declared to buyers by the starter to be mixed before being offered for sale.

(3) A bale containing mixed tobacco sold in accordance with the provisions of sub-rule (2) shall not thereafter be repudiated on the grounds that it is mixed unless, in the opinion of an arbitrator, it contains an undue proportion of tobacco of other than bordering types, qualities or colours.

32. (1) Subject to the provisions of this rule, a seller may offer for sale a split bale, that is to say, a bale containing not more than two grades of tobacco, provided that-

- (i) the two grades are separated by a sheet of water-proof paper;
- (ii) he attaches to the bale a label additional to the bale label referred to in rule 21 on which is marked the word "split" in letters not less than five centimetres in height;
- (iii) the word "split" is printed clearly on a notice displayed prominently on the bale by the holder of an auction floor licence;
- (iv) the bale is declared by the starter to buyers to be split before being offered for sale. Split bales

(2) A split bale offered for sale may not weigh less than forty-five kilogrammes net in the case of Virginia flue-cured tobacco, nor less than fourteen kilogrammes net in the case of Burley tobacco.

33. A seller shall consign his tobacco to an auction floor packed so as to facilitate its sale, storage and handling. Consignment of tobacco to auction floor

34. (1) In addition to any other duties imposed upon him by the provisions of these Rules, every holder of an auction floor licence shall- Duties of holders of auction floor licences

(a) furnish the sales supervisor before each sale with a statement giving the following particulars about the bales laid on the auction floor for that sale in the order in which they are laid:

(i) the registered numbers of the sellers;

(ii) the names of the sellers;

(iii) the number of bales in each consignment;

(iv) whether the bales are up for sale for the first time or whether they are re-handled bales, buyers' resales, house resales or bales which have had their tickets crossed at a previous sale or, if they fall into any other category, what that category is;

(v) if the bales have been graded by a grader, the name of the grader; (vi) the row number in which each bale is placed;

(b) space the bales of tobacco offered for sale as may be required by the Board;

(c) ensure that the bale ticket clearly shows the following particulars: (i) the registered number of the seller;

(ii) the lot number;

(iii) the net weight;

(iv) the buyer's code letter;

(v) the buyer's grade classification if available;

(vi) the price per kilogramme;

(d) ensure that there are sufficient clearly legible copies of the bale ticket available to meet the sale requirements;

(e) after sale, attach the bale ticket securely to the outside of the bale to which it relates;

(f) as the sale proceeds, properly repack and securely resew all bales;

(g) present his accounts to a buyer or his agent not later than 09.00 hours on the day following the day of sale;

(h) be responsible for any loss occasioned by his errors in weighing or otherwise and make good any loss so occasioned;

(i) furnish the sales supervisor daily with such information as he may require with regard to- (i) the amount of tobacco in stock;

(ii) the future programme of sales.

(2) The holder of an auction floor licence shall not sell tobacco-

(a) except with the permission of a sales supervisor, unless it has been weighed during the seventy- two hours immediately preceding the sale of such tobacco;

- (b) for less than any minimum price which may have been fixed by the Minister pursuant to section seventy-four of the Act;
- (c) in which the starter, auctioneer or any other employee of such holder of an auction floor licence has any interest, without disclosing such interest at the time of the sale;
- (d) which is not packed in conformity with the provisions of these Rules.

35. (1) The holder of an auction floor licence shall- Receipting of tobacco

- (a) keep a receipt book in a form approved by the Board;
- (b) issue from such receipt book a receipt in triplicate for every bale received upon his auction floor except for a bale which-
 - (i) is being re-offered for the house account; or
 - (ii) has had its ticket crossed at a previous sale and which has not been returned to the grower; or
 - (iii) is returned for sale by the auction floor's re-handling department; or
 - (iv) is being re-offered and declared as mixed, mouldy or funky.

(2) Each receipt shall be numbered consecutively and shall show-

- (a) the registered number and name of the seller;
- (b) the number of bales received;
- (c) whether the bales come direct from a grower or from a storage firm, a grader or an auction floor;
- (d) the date and time of delivery.

(3) The holder of an auction floor licence shall-

- (a) deliver the second copy of the receipt to the sales supervisor before the midday following each twenty-four-hour period:

Provided that-

- (i) when such midday following a twenty-four-hour period falls on a Sunday or a public holiday, he shall deliver the second copy of the receipt to the sales supervisor before midday on the next business day;
- (ii) for the purposes of this sub-rule, "twenty-four-hour period" means the period of twenty-four hours commencing at 07.00 hours on one day and ending at 07.00 hours on the next day;
- (b) keep the third copy of the receipt, which shall be available for inspection by an official of the Board, until the end of the selling season.

(4) The holder of an auction floor licence shall issue receipts for tobacco in order of its arrival at his premises-

(a) by train, beginning with the consignments contained in the first truck entering the private siding of the premises;

(b) by lorry, in rotation and immediately following the receipt of the tobacco contained in the last train to be shunted into the siding;

(c) from storage, as though it had been received by lorry.

(5) When rail consignments from a grower are received with the bales loaded in more than one truck in the same train, the total consignment shall be deemed to have been received in the first truck which is unloaded and which contains tobacco from that grower.

(6) Tobacco stored by a holder of an auction floor licence, other than tobacco referred to in sub- paragraphs (i) to (iv) of paragraph (b) of sub-rule (1), or tobacco for which a receipt has been issued pursuant to sub-rule (1), on the day fixed for the commencement of delivery quotas shall be-

(a) deemed to have been delivered on that day;

(b) receipted pursuant to sub-rule (1);

(c) booked in for sale as though it had been delivered on that day;

(d) deemed to be part of the delivery quota of the grower who delivered it.

(7) If a seller wishes to deliver to an auction floor several bales of tobacco for sale as one consignment, he may accumulate such bales on the auction floor premises for a period not exceeding twenty-four hours, without such bales being entered into the receipt book, if he informs the holder of the auction floor licence of his intention before or at the same time as his consignment arrives at the auction floor.

(8) The holder of an auction floor licence shall issue a receipt for tobacco accumulated pursuant to sub- rule (7)-

(a) twenty-four hours after the delivery of the first bale; or

(b) when the whole consignment has been accumulated;

whichever is the earlier.

(9) A holder of an auction floor licence shall not sell tobacco, other than tobacco referred to in sub- paragraphs (i) to (iv) of paragraph (b) of sub-rule (1), unless-

(a) a receipt has been issued for that tobacco; and

(b) a duplicate of that receipt has been delivered to the sales supervisor pursuant to paragraph (a) of sub-rule (3).

(10) For the purposes of sub-rules (7) and (8), when calculating the period of twenty-four hours, no public holiday or Sunday shall be included.

36. (1) If a seller notifies the holder of an auction floor licence in writing that he wishes to be present at the sale of his tobacco, and if stocks of tobacco for sale at the auction floor are such that his tobacco will be sold within twenty-four hours of its arrival, such tobacco

may, on arrival, be booked in by the sales supervisor so that there will be a period of not less than twenty-four hours between the time of arrival and the time of sale. Booking of tobacco

(2) The holder of an auction floor licence may book in, for sale at any time convenient to him and the seller, a bale of tobacco which-

- (a) is being re-offered for the house account; or
- (b) has had its ticket crossed at a previous sale and which has not been returned to the grower; or
- (c) is returned for sale by the auction floor's re-handling department; or
- (d) is being re-offered and declared as mixed, mouldy or funky.

(3) The holder of an auction floor licence shall treat tobacco which has-

- (a) been graded by him; and
- (b) not previously been offered for sale;

as though it had been placed in storage on the auction floor when the grading and packing were completed.

37. Subject to the provisions of sub-rule (1) of rule 36 and of rule 38, the holder of an auction floor licence shall not sell tobacco in an order other than the order in the receipt book: Order of selling

Provided that-

- (i) on the request of the seller made not later than the time at which a consignment of his tobacco is received upon the auction floor, the holder of an auction floor licence may divide up that consignment-
 - (a) if it consists of thirty bales or more, into groups of not less than fifteen bales; (b) if it consists of less than thirty bales, into not more than two groups;
- (ii) in the case of tobacco which is being re-offered, the consignment may, on the request of the seller made at the time the tobacco was last offered for sale, be divided up into groups of not less than five bales.

38. A sales supervisor may vary the order of sale as shown in the receipt book if he considers such variation necessary in order to-

- (a) avoid splitting a consignment of tobacco; or
- (b) facilitate the conduct of a sale. Sales supervisor may alter order of selling

39. The holder of an auction floor licence shall not-

- (a) withdraw tobacco from the sale for which it has been booked in; or
- (b) permit tobacco receipted by him to be diverted to any other auction floor;

except with the permission of a sales supervisor. Holders of auction floor licences not to withdraw tobacco

40. (1) Before the tobacco is booked in, the holder of an auction floor licence shall not give a person any information relating to the date or time of sale or the position of tobacco on the auction floor, other than the probable number of days after delivery that the tobacco may have to be stored before sale.

Date and time of sale

(2) After the tobacco has been booked in, the holder of an auction floor licence shall, if so requested by the seller and at the seller's cost, notify the seller by telephone or telegram of the probable date on which his tobacco will be sold.

(3) The holder of an auction floor licence shall not-

(a) be responsible for any change of the date of sale due to circumstances beyond his control; or

(b) agree to sell tobacco on a specified row or at a specified time.

41. The holder of an auction floor licence shall not-

(a) stack tobacco more than two hundred and forty-four centimetres above the level on which the bottom bale rests without the permission of a sales supervisor;

(b) during any period for which delivery quotas are in force, store, without the written authority of the Board, tobacco for which the receipt provided for by rule 35 has not been issued. Storage of tobacco

42. (1) The provisions of this rule shall apply whenever the Board shall, in exercise of its powers under paragraph 20 of the Schedule to the Act, have fixed a date, hereinafter called the "fixed date", from which it deems it necessary to control the rate of delivery of auctionable tobacco to licensed auction floors and have fixed delivery quota periods from and after the fixed date and determined delivery quotas applicable to each or any of such delivery quota periods. Delivery quotas

(2) The Board shall give notice of such fixed date, delivery quota periods and delivery quotas in such manner as it may determine and may cause a copy of any notice issued for this purpose to be displayed prominently at every licensed auction floor.

(3) Subject to the provisions of this rule, no grower or his agent shall cause to be delivered to an auction floor any tobacco in excess of his delivery quota.

(4) Where, during any first or second delivery quota period, as the case may be, any grower delivers in respect thereof a quantity of tobacco less than his delivery quota, he may, thereafter, during any delivery quota period, not later than the third delivery quota period, deliver tobacco in excess of his delivery quota for the period in which delivery is actually made, up to the undelivered portion or portions of the earlier delivery quota or quotas, if-

(a) he gives the Board full particulars in writing of the reasons why he did not deliver his full delivery quota in such period or periods; and

(b) he receives the written permission of the Board to exceed his delivery quota in the second or third delivery quota period or in the second and third delivery quota periods, as the case may be; and

(c) he does not exceed in the first three delivery quota periods his total delivery quota for such delivery quota periods; and

(d) where he did not deliver his full delivery quota because of the inability of a grader to deliver his tobacco, he has sent all the tobacco to be delivered in the second or third delivery quota period or in the second and third delivery quota periods, as the case may be, to the grader before the fixed date.

(5) Subject to the provisions of sub-rule (4), where a grower or his agent delivers to an auction floor any tobacco in excess of his delivery quota, the Board may, in writing, direct the holder of the auction floor licence to whom such tobacco was delivered to return to the grower at a place and by a date specified by the Board and at the grower's risk and expense, a number of bales equal to the number of bales delivered by the grower in excess of his delivery quota.

(6) A grower whose delivery quota as fixed by the Board for any particular quota period is less than twenty-five bales may deliver or cause to be delivered on his behalf to an auction floor-

(a) in any one of four subsequent consecutive quota periods, hereinafter called a "combined quota period", a quantity of tobacco not exceeding four times his delivery quota for the first quota period of the combined quota period or one hundred bales;

(b) in any quota period forming part of the combined quota period subsequent to the first such quota period, a quantity of tobacco equivalent to the difference between his delivery quota for such first quota period and such subsequent quota period, provided that such difference is in the form of an increase in delivery quota and not a reduction thereof:

Provided that-

(i) not less than fifty per centum of the quantity of tobacco so delivered shall have been graded by a grader; and

(ii) such grower shall not deliver to an auction floor in a combined quota period more than- A. four times his delivery quota for the first quota period of the combined quota period; or B. the total of the four quotas for the combined quota period; or C. one hundred bales;

whichever is the greatest.

(7) A grower who removes mixed, mouldy, damaged or funky tobacco from the auction floor for re- handling may again deliver it to an auction floor and it shall not count against his delivery quota:

Provided that-

- (i) he shall not return more than the number of bales that he removed from the floor; and
- (ii) he notifies the Board in writing of the number of bales removed and the date on which they were removed; and
- (iii) he obtains from the Board a written acknowledgment of the receipt of such notice.

(8) Where two or more growers are using the same grading facilities, other than the grading facilities of a licensed grader, they may combine their delivery quotas:

Provided that permission in writing is first obtained from the Board.

(9) Growers who have been permitted by the Board, pursuant to sub-rule (8), to combine their delivery quotas shall not deliver to the auction floors any tobacco in excess of the total thereof.

(10) The Board may furnish to a licensed grader, if requested to do so by him, information regarding the delivery quota fixed by the Board for any grower whose tobacco has been or is to be graded by such grader.

(11) (a) Notwithstanding the provisions of this rule, the Board may, at any time when it has deemed it necessary to control the rate of delivery of auctionable tobacco to licensed auction floors, further adjust the rate of delivery of such tobacco by means of an increase or decrease, as the case may be, in a grower's delivery quota, which increase or decrease shall be expressed as a percentage thereof and shall give notice of such adjustment, in the manner described in sub-rule (2).

(b) Where such percentage increase or decrease does not produce a whole number, the amount of tobacco which may be delivered shall be calculated to the next higher whole number.

(c) Where in terms of this sub-rule the amount of auctionable tobacco which a grower may deliver or cause to have delivered for sale to an auction floor has been either increased or decreased, the quantity of tobacco thereby determined shall be considered for the purposes of this rule as such grower's delivery quota.

43. (1) At any auction sale the starter, auctioneer and ticket marker shall take their positions together in line and shall not be separated by any other person. Auction floor officials' and buyers' positions

(2) The auctioneer shall stand facing the main line of buyers and beside the bale which he is in the process of selling and shall not move from that position until the name of the buyer of the bale has been declared by him.

(3) Buyers shall arrange their own positions in the main line of buyers on the auction floor.

(4) If any buyer is unwilling to accept the position in the main line of buyers allotted to him pursuant to sub-rule (3), or wishes to take up a position elsewhere than in the main line, the matter shall be submitted to the Board whose decision shall be final.

44. No person shall bid for tobacco in which he has any interest other than as- (a) a buyer; or

(b) a person nominated by a buyer pursuant to section forty-three of the Act; or

(c) a person authorised by the holder of an auction floor licence to buy tobacco for the house account;

without disclosing such interest at the time of the sale. Interested parties

45. (1) The rate of selling shall be fixed by the Board or by the sales supervisor with the authority of the Board, but shall not exceed six hundred bales in any period of an hour. Rate of selling

(2) If the rate of selling at any sale is lower than the rate fixed by the Board or by the sales supervisor, the sales supervisor may fix a time within which such sale shall be concluded.

(3) If the rate of selling at any sale is higher than the rate fixed by the Board or by the sales supervisor, the sales supervisor may suspend the sale for such period as he considers necessary.

46. A buyer may accept the starter's valuation and thereafter bidding shall proceed by bids of not less than one-half of one hundred kwacha per half kilogramme until the bale is knocked down to the highest bidder. Size of bids

47. (1) A no-sale bale shall be re-offered for sale at least once on a day other than the day upon which it was first offered for sale. No-sale bales

(2) If, on the second occasion on which it is offered for sale, no bid is made, the holder of the auction floor licence may dispose of the tobacco contained in such no-sale bale in accordance with the instructions given to him in writing by the owner.

(3) Where no instructions have been given to the holder of an auction floor licence pursuant to sub-rule (2), and where any registered grower has at the end of any selling season in his possession or under his control any surplus or unsold tobacco belonging to such registered grower, the Board may dispose of, destroy, or cause to be destroyed, such tobacco as provided by subsection (1) of section thirty-three of the Act.

48. (1) Subject to the provisions of sub-rule (2), no person shall alter any of the particulars recorded on a bale ticket. Alteration of bale tickets

(2) An alteration may, before the completion of the sale of the bale to which the ticket relates, and where appropriate subject to the provisions of sub-rule (1) of rule 59, be made by-

(a) a sales supervisor or other person authorised for the purpose in writing by the Board;

(b) the buyer of a bale to record his own grade classifications; or

(c) a buyer taking over a bale from either the house account or another buyer to record necessary alterations to the bale ticket.

(3) A person making an alteration pursuant to sub-rule (2) shall-

(a) initial the alteration; and

(b) in the case of an alteration made pursuant to paragraph (c) of sub-rule (2), obtain the initials of the previous buyer of the bale.

49. (1) Before the sale of a bale has been completed- Crossing of bale tickets

(a) the seller may, by drawing a red cross on the bale ticket, refuse to accept the price for such bale;

(b) if a seller refuses to accept the price for any bale or bales of his tobacco, the original buyer may, by drawing a blue cross on the bale ticket, cancel the sale of an equal number of bales purchased by him from such seller.

(2) A seller shall not cross the bale ticket on any bale of his tobacco-

(a) if he himself has offered a bid for that bale; or

(b) while a buyer's contention that the bale is unfit for sale is being considered by an arbitrator pursuant to rule 50; or

(c) if the buyer's contention is upheld pursuant to rule 50.

(3) A seller whose bale ticket has been crossed shall, within ten days of the crossing of the ticket, either re-book the tobacco for sale or remove it from the auction floor.

(4) A sales supervisor may book for sale at the end of the period of ten days any tobacco not re-booked for sale or withdrawn from the auction floor by the seller pursuant to sub-rule (3).

50. (1) Subject to the provisions of sub-rule (8) and of sub-rule (2) of rule 31, if a buyer contends before the sale of the last bale of a seller's consignment has been completed, that a bale purchased by him containing tobacco sold by that seller is badly handled or mixed, mouldy, funky, damaged or nested or is in some other respect unfit for sale, he may forthwith notify an arbitrator of his desire to repudiate the sale. Repudiation of bales at sale

(2) The arbitrator shall investigate the matter and, if he upholds the buyer's contention, the sale may be repudiated.

(3) If the arbitrator does not uphold the buyer's contention, he shall forthwith obtain the opinion of another arbitrator.

(4) If, in the opinion of both arbitrators, the buyer's contention is upheld, the buyer may repudiate the sale.

(5) If, in the opinion of both arbitrators, the buyer's contention is not upheld, the sale shall stand and the decision of the arbitrators shall be final.

(6) If the opinion of the arbitrators is divided-

(a) in a case where the buyer has contended that the bale is mixed, the buyer may repudiate the sale;

(b) in any other case, the arbitrators shall forthwith obtain the opinion of a third arbitrator whose decision shall be final.

(7) Where the buyer's contention has-

(a) been upheld, an arbitrator shall indicate on the front of the bale ticket the reason for the repudiation;

(b) not been upheld, an arbitrator shall indicate on the back of the bale ticket that the buyer's contention has been rejected;

(c) been upheld by one arbitrator and the sale has been repudiated pursuant to paragraph (a) of sub-rule (6), an arbitrator shall mark the bale ticket with the words "mixed dispute, re-offer" and the bale may be re-offered without being re-handled.

(8) The purchase of a bale which has been bought by a buyer at a price of one hundred kwacha per half kilogramme or less shall not be repudiated in terms of this rule on the ground that such bale was mixed unless such bale is made up of tobacco containing stem rot and sound stem.

51. (1) Subject to the provisions of sub-rule (2) and of paragraph (c) of sub-rule (7) of rule 50, no person shall re-offer a bale which has been- Badly handled, mixed, damaged or nested bales

(a) repudiated at a sale by a buyer because it contains tobacco which is badly handled, mixed or nested; or

(b) condemned for any of these reasons before the sale by an arbitrator;

until it has been re-handled.

(2) No person shall re-offer a bale containing mixed tobacco unless he complies with the provisions of sub-rule (2) of rule 31.

(3) Within ten days following the repudiation or condemnation of a bale referred to in sub-rule (1), the owner of the bale shall-

(a) remove it from the auction floor; or

(b) have it re-handled by the holder of the auction floor licence.

(4) If the owner of the bale does not remove it, the holder of the auction floor licence may-

(a) return it to the owner or his agent at the risk and expense of the owner; or

(b) re-handle and re-offer it.

52. A bale which has been-

(a) repudiated at a sale by a buyer because it contains funky tobacco; or

(b) condemned for this reason before the sale by an arbitrator;

shall, at the option of the owner of the bale, be- Funked tobacco

- (i) returned to him or his agent; or
- (ii) labelled as "funked" and re-offered.

53. (1) Subject to the provisions of sub-rule (2), a bale which- Mouldy or damaged tobacco

(a) has been repudiated at the sale by a buyer because it contains tobacco which is mouldy or damaged; or

(b) has been condemned for either of the reasons specified in paragraph (a) before the sale by an arbitrator; or

(c) is considered by the owner thereof to contain tobacco which is mouldy or damaged;

may, at the option of the owner of the bale, be- (i) returned to him or his agent; or

(ii) labelled "mouldy" or "damaged", as the case may be, and re-offered, subject to it being declared as such to the buyers by the starter before being re-offered for sale.

(2) If a bale has been repudiated at a sale by a buyer because it contains tobacco which is mouldy or damaged and, in the opinion of an arbitrator, the tobacco is so mouldy or damaged as to be irreparable by re-handling but, in the opinion of the arbitrator, may nevertheless have some value, the bale may be re-offered by the holder of the auction floor licence as soon as possible without the tobacco being re- handled if the word "mouldy" or "damaged", as the case may be, is printed clearly on a notice displayed prominently on the bale, and the bale is declared as such to the buyers by the starter before being re- offered for sale.

(3) No person shall re-offer a bale referred to in sub-rule (1) until it has been re-handled unless it is labelled "mouldy" or "damaged", as the case may be, pursuant to these Rules.

54. (1) A buyer may, within forty-eight hours of the end of a day's sale, apply to cancel the sale of a bale bought by him on that day on the ground that it contains mouldy tobacco by returning such bale, intact and in its original bale wrappings, to the auction floor for inspection by an arbitrator. Cancellation of sale of mouldy tobacco

(2) Subject to the provisions of sub-rule (4), if the arbitrator agrees with the buyer that the bale contains mouldy tobacco, the sale shall be cancelled.

(3) Where a mouldy bale has been bought on a day which is followed by a Saturday, Sunday or a public holiday, such bale shall be delivered for inspection not later than 13.00 hours on the next day of sale.

(4) Where, in the opinion of a sale supervisor, the buyer has neglected to examine his purchases adequately on the auction floor before the sale was completed, he may refuse to allow a buyer to cancel the sale, notwithstanding the agreement of the arbitrator pursuant to sub-rule (2).

55. (1) A buyer may, before a bale has left the auction floor, apply to an arbitrator to cancel the sale of the bale on the ground that it is damaged by grease, paraffin or oil. Cancellation of sale of bales damaged by grease, paraffin or oil

(2) If the arbitrator agrees with the buyer that the bale is damaged by grease, paraffin or oil, the sale shall be cancelled.

56. (1) No seller shall offer for sale any tobacco which is nested. Nesting

(2) If a buyer discovers and reports to an arbitrator within forty-eight hours of a sale that a bale purchased by him was nested, the arbitrator shall immediately inspect the tobacco and report the result of his inspection to the Board.

(3) If the Board decides that the bale has been nested, the bale shall be confiscated by the Board.

(4) The Board's decision pursuant to sub-rule (3) shall be final.

(5) The bale shall be re-offered by the Board and the Board shall, with the proceeds of the sale, make a refund to the buyer towards the purchase price of such bale, and the cost of transport.

(6) If, at any time after the period of forty-eight hours referred to in sub-rule (2), the buyer discovers that a bale purchased by him has been nested, the matter shall immediately be reported by the buyer to the Board for investigation and the Board may take such action as it thinks fit.

(7) If tobacco which is offered for sale by a seller is found to be nested on a second or subsequent occasion, his registered number shall be posted in a conspicuous place on the auction floor for the remainder of the selling season.

(8) A report made by a buyer pursuant to sub-rule (2) shall not be of a frivolous or vexatious nature.

57. According to the circumstances, the sales supervisor shall ensure that the sale of a bale is completed before not less than one hundred bales and not more than two hundred bales have been passed since the buyer purchased the bale to which the bale ticket relates.

Completion of sales

58. (1) If two or more buyers claim to be purchasers of the same tobacco it shall, unless the buyers otherwise agree, be re-offered. Buyers' disputes

(2) If a buyer contends before the sale of a bale is completed that-

(a) the price recorded on the bale ticket was not the price at which the bale was knocked down to him; or

(b) he was not the buyer of the bale;

the matter shall be investigated by a sales supervisor.

(3) The sales supervisor may, if he is satisfied that an error has occurred-

(a) cancel the sale and order that the bale be re-offered; or

(b) with the agreement of the buyer and the seller or his agent, correct the bale ticket.

59. (1) A person shall not buy tobacco bought for the house account before it is re-offered unless- Tobacco purchased for house account

(a) the price he pays for the tobacco is not less than one-half of one hundred kwacha per half kilogramme more than the price at which the tobacco was knocked down to the house account; and

(b) the purchase is made before the sale of the tobacco is completed; and

(c) the agreement of the holder of the auction floor licence is first obtained.

(2) No person employed by the holder of an auction floor licence shall buy tobacco except for the house account.

(3) If tobacco purchased for the house account is not bought pursuant to sub-rule (1), it-

(a) shall be resold by auction during the same selling season;

(b) need not be rebaled in which case it shall be resold under the grower's registered number.

(4) When tobacco purchased for the house account is resold under the grower's registered number pursuant to paragraph (b) of sub-rule (3), the holder of the auction floor licence shall stamp the bale ticket with the word "resale", immediately after the sale of such tobacco and before its removal from the auction floor.

(5) A holder of an auction floor licence shall send to the Secretary to the Board a daily return showing the number of bales bought for the house account that day.

(6) Tobacco purchased for the house account may be offered for resale by a holder of an auction floor licence on any sale.

(7) A holder of an auction floor licence shall place tobacco purchased for the house account which is being re-offered on the floors in lots of not less than five bales.

60. (1) A buyer shall, if so requested by a sales supervisor, remove his purchases from the place of sale on the auction floor to a place indicated by the sales supervisor within half an hour of the closing of the bales after sale. Removal of bales

(2) A buyer shall remove his tobacco from the auction floor within five hours of the close of the sale at which the tobacco was purchased unless an extension of time is authorised by the sales supervisor.

(3) If the buyer fails to remove his tobacco in terms of sub-rule (2), the holder of the auction floor licence shall not be liable for any loss or damage which may be occasioned to such tobacco.

(4) A holder of an auction floor licence shall allot-

(a) an exit point; and

(b) a clipping point; and

(c) a loading area;

to each buyer for his purchases.

(5) A buyer shall clip the bale tickets of his purchases with a distinctive mark at the clipping point allotted to him.

61. Immediately before the sales close on the day of the last sale of the selling season, any unsold tobacco which is badly handled, or mixed, mouldy, funky or damaged which was, earlier on that day-

(a) offered for sale and for which no bid was made; or

(b) sold and the sale of which was repudiated;

may, notwithstanding anything contained in these Rules, be re-offered for sale: Bales re-offered on final day of selling season

Provided that, in the case of tobacco referred to in paragraph (b)-

(i) the tobacco shall be clearly marked so as to indicate the reason why the earlier sale was repudiated; and

(ii) the reason shall be declared to buyers before sale.

62. A bale re-offered by any buyer, other than the Board but including the holder of an auction floor licence, shall, subject to the provisions of paragraph (b) of sub-rule (3) of rule 59, be re-offered for sale marked with the registered number allotted to him by a sales supervisor pursuant to subsection (2) of section twenty-eight of the Act. Resale numbers

63. The holder of an auction floor licence shall, not later than half an hour before the close of banking hours on the day following the day of sale, pay to a seller or his agent thereunto authorised in writing, the proceeds of the sale of his tobacco, less such weighing, selling, commission and re-handling charges as may have been approved by the Board in terms of section sixty-nine of the Act, or such other charges as he may be authorised to deduct by or under the Act or any other written law. Sellers' accounts

64. (1) Except in the case of a dispute reported in writing to the holder of the auction floor licence and only to the extent of such dispute, a buyer or his agent shall settle his account not later than half an hour before the close of banking hours on the day following the day of sale. Payment of accounts by buyers

(2) If a buyer or his agent fails to do so, the holder of the auction floor licence may report the matter to the sales supervisor.

(3) A holder of an auction floor licence may, and shall if so instructed by the sales supervisor, refuse to accept a subsequent bid from such buyer until the account in question has been paid in full.

65. (1) A seller shall notify the holder of the auction floor licence of the manner in which the bale wrappings in which his tobacco is packed shall be disposed of. Disposal of bale wrappings

(2) The holder of the auction floor licence shall immediately return all bale wrappings received from the buyers to the owners of such wrappings or otherwise deal with the wrappings on the instructions of the owners.

66. (1) The buyer shall promptly return to the auction floor on which he purchased tobacco contained in any bale, the wrappings of such bale, as directed by the Board. Return of bale wrappings

(2) A buyer shall take all reasonable steps to ensure that the bale wrappings are not cut or otherwise damaged when the tobacco is unpacked.

67. Notwithstanding any rule to the contrary in this Part, whenever the Board, by direction given to a holder of an auction floor licence, has instructed that the sale of tobacco be conducted by mechanical auction, the following provisions shall apply:

(a) the holder of the auction floor licence in question shall include in the statement required by paragraph (a) of sub-rule (1) of rule 34 the floor lot number on which the bale is placed;

(b) the holder of the auction floor licence shall ensure that the bale ticket clearly shows the floor lot number in addition to the particulars enumerated in paragraph (a) of sub-rule (1) of rule 34;

(c) the sales supervisor shall ensure that according to circumstances the sale of a bale is completed not later than the commencement of the sale of the catalogue immediately following the one in which the bale is recorded or ten minutes after the sale of the last bale of the catalogue in which it is recorded, whichever shall first occur;

(d) the provisions of rule 43 shall not apply.

Special provisions relating to the sale of tobacco by mechanical auction

SCHEDULE

(Rule 2)

PRESCRIBED FORMS

FORM 1

(Rule 3)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

PRELIMINARY CROP FORECAST RETURN

I certify-

i) that the total acreage of Virginia flue-cured/Burley/Oriental tobacco * planted by me this

19 /19 growing season is acres;

(ii) that I estimate that the total quantity of Virginia flue-cured/Burley/Oriental tobacco* which will be offered for sale by me or on my behalf this 19 selling season, will be kg.

.....

Date Signature

*Delete whichever are inapplicable.

Registered number of grower

Registered name of grower (block capitals) Postal address

Name of farm or farms and I.C.A NOTES:

(1) This form duly completed must reach the Secretary, Tobacco Board of Zambia, P.O. Box 31963, Lusaka, on or before 31st March, in a selling season.

(2) Severe penalties are provided for inaccurate estimates of false returns.

(3) You are required to state the total net area of land, excluding unplanted outcrops, roads, contour ridges, etc., planted on all your farms irrespective of whether the stand is good or bad.

FORM 2 (Rule 3)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

FURTHER CROP FORECAST RETURN

I certify-

(i) that the total acreage of Virginia flue-cured/Burley/Oriental tobacco* planted by me this 19 /19 growing season is acres;

(ii) that I estimate that the total quantity of Virginia flue-cured/Burley/Oriental tobacco* which will be offered for sale by me or on my behalf this 19 selling season, will be kg.

.....

Date Signature

*Delete whichever are inapplicable.

Registered number of grower

Registered name of grower (block capitals) Postal address

Name of farm or farms and I.C.A. NOTES:

(1) This form duly completed must reach the Secretary, Tobacco Board of Zambia, P.O. Box, Lusaka, after 15th May but before 1st June in a selling season.

(2) Severe penalties are provided for inaccurate estimates or false returns.

(3) You are required to state the total net area of land, excluding unplanted outcrops, roads, contour

ridges, etc., planted on all your farms irrespective of whether the stand is good or bad.

FORM 3

(Rule 4)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

To: The Secretary,
Tobacco Board of Zambia, P.O. Box 31963,
Lusaka.

APPLICATION FOR GRADER'S LICENCE

I, (name)
of (address)

hereby apply for the issue of a licence to grade tobacco pursuant to Part VI of the Tobacco Act, and in support of my application submit the following particulars:

- 1. In the case of a company, state the names of all directors
- 2. In the case of a partnership, state the name of every partner
- 3. Description of the premises in which it is proposed to carry on the business of a grader
- 4. Name of the person who will supervise the grading
- 5. Have you previously held a grader's licence? (YES/NO) If YES state-
 - (a) date of issue of last licence
 - (b) the premises in respect of which such licence was issued
 - (c) if the premises have been altered since the last licence was issued (YES/NO)
 - 6. If you have not previously held a licence, have you enclosed the plans required by rule 4 (1) (c) (see reverse of this form)? (YES/NO)
 - 7. If you have previously held a licence, but the premises have been altered since the last licence was issued, have you enclosed a plan showing the nature of such alterations? (YES/NO)
- 8. Have you enclosed the licence fee of one hundred and fifty-five fee units? (YES/NO)

.....

Date Signature

[P.T.O

[Reverse side of Form 3]

NOTE 1.-Rule 4 (1) (c) of the Tobacco (Marketing and Licensing) Rules requires the submission of the following:

- (i) a plan showing the site;
- (ii) a plan and elevations;
- (iii) a plan and description of the humidification system of the buildings in which it is proposed to carry on the grading or to store tobacco.

NOTE 2.-The minimum standards of premises which may be licensed by the Board for grading tobacco are specified in rule 5 as follows:

- (a) they are of such design and construction as may be approved by an architect appointed for this purpose by the Board;
- (b) they are provided with storage space sufficient to permit the stacking of tobacco received for grading or awaiting despatch for sale without exceeding a height of two hundred and forty-four centimetres above the level on which the bottom bale rests;
- (c) the floor surface of the grading shed, storage, sheds and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, are composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco.

FORM 4

(Rules 6 and 7)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES GRADER'S RECEIPT FOR TOBACCO

(Name of Grader) (Date)

Received from (name of grower)

registered number by lorry/rail* bales

of Virginia flue-cured/Burley tobacco* for grading, weighing kg. net, on (date received)

Number of bales examined

Report on condition of bales examined .

Signature

* Delete whichever is inapplicable.

NOTE 1.-If for any reason a grader is unable to weigh bales immediately following receipt, this form shall be completed for the number of bales received and a further receipt showing the weights shall be sent to the grower within three working days.

NOTE 2.-Unless a report on condition is made in this receipt, such report shall be sent to the grower within seven days of receipt of the tobacco, failing which the Board will assume that the condition thereof is satisfactory.

FORM 5 (Rule 8)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

RETURN BY A GRADER

(Name of Grader)

Grading Return No Date

Class of Tobacco (Burley or Flue-Cured) .

Grower's Name Grower's Registered No

(a) UNGRADED LEAF RECEIVED TO DATE:

(per receipts issued): Bales

..... kg (b)

GRADED

This return To Date

Bales Net kg. Bales Net kg.

Issued for grading Add: "Tails" ex last

grading

Mixed ex Auction Floor

.....

Total issued ..

(c) RESULTS OF GRADING:

Packed for sale

"Tails"

.....

.....

.....

.....

Total "Saleable" ..

Unsaleable-(1) Mouldy

(2) Funked

(3) Stem Rot

(4) Perished, green, etc.

(5) Stems

(6) Sand

(7) Fine Scrap

..

Total "Unsaleable"

Grand Total: ..

Total Grading loss to date: %: Grading loss less (1)-(4) %

Number of hessian wrappers received pieces

Number of hessian wrappers used pieces

Old hessian left over .. . pieces

New paper issued .. . yards

New hessia issued .. . pieces

(d) DELIVERIES TO AUCTION FLOORS: This return To Date

Bales Net kg. Bales Net kg.

Date

Date

.....

Date

.....

Remarks

Supervisor. Signature

FORM 6 (Rule 11)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

To: The Secretary,
Tobacco Board of Zambia, P.O. Box 31963,
Lusaka.

APPLICATION FOR BUYER'S LICENCE

I, (name)
of (address)

hereby apply for the issue of a licence to buy tobacco pursuant to Part VII of the Tobacco Act and in support of my application submit the following particulars:

1. In the case of a company, the names of all directors
2. In the case of a partnership, the name of every partner
3. Where appropriate, the names of all persons entitled to buy tobacco on your behalf:
4. The class of tobacco which you intend to buy (e.g. Burley, Virginia flue-cured, Oriental)
5. The manner in which you propose to buy tobacco (e.g. by auction at a licensed auction floor, by private treaty or at a primary or rural level)
6. Whether or not you are a buyer solely by virtue of the ownership of land in respect of which you have agreed to permit a third person to produce tobacco on not more than ten acres of the said land in consideration of a share in the said tobacco when produced, or of a share of the proceeds of its sale, and if so the situation of such land
7. Whether or not the application is for the issue of an exclusive licence pursuant to section 44 (4) of the Act, and if so the area in which the applicant wishes to buy tobacco
8. If you wish to buy tobacco by auction, and have not previously been licensed as a buyer, have you attached to this application statements in writing from the holders of all auction floor licences that they are willing to do business with you? (YES/NO)
9. Have you enclosed the licence fee of three hundred fee units? (YES/NO)

.....
Date Signature

FORM 7 (Rule 13)
THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

RETURN OF PURCHASES BY A BUYER

Class of tobacco

Area of origin

Month ending (see note 3)

Market How purchased

(see notes 1 and 2 below)

Total Less Resales Net Total Internal External Total

NOTE 1.-Here indicate whether purchased by auction on a licensed auction floor, by private treaty or at a primary or rural level.

NOTE 2.-Except where tobacco covered by this return has been purchased by auction at licensed auction floor, the buyer shall attach to this return a statement showing in detail the weight purchased from each grower by name and registered number during the month and the gross value thereof.

NOTE 3.-This return is to be submitted to the Secretary, Tobacco Board of Zambia, P.O. Box 31963, Lusaka, not later than the fifteenth of the month following that to which it refers.

FORM 8 (Rule 14)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES
APPLICATION FOR AN AUCTION FLOOR LICENCE

To: The Secretary, Tobacco Board of Zambia, P.O. Box 31963,
Lusaka.

I, (name)
of (address)

hereby apply for the issue of an auction floor licence pursuant to Part VIII of the Tobacco Act, and in support of my application submit the following particulars:

1. In the case of a company, the names of all directors
2. In the case of a partnership, the name of every partner
3. Description of the premises
4. Have the premises previously been licensed as an auction floor? (YES/NO)
 - A. If YES-
 - (a) state the date on which the last licence was issued.
 - (b) give details of any alteration in the use of the premises as an auction floor since the issue of the last licence
 - B. If NO have you-
 - (a) obtained a conditional authority from the Board? (rule 15) (YES/NO); or
 - (b) enclosed a plan showing the site of the premises in relation to road and rail facilities and a plan and elevation of the premises? (YES/NO)
5. Have you enclosed the licence fee of one thousand five hundred fee units? (YES/NO)

Date Signature

See Reverse of this Form for Minimum Standards of Auction Floor

[Reverse side of Form 8]

MINIMUM STANDARDS OF PREMISES

Rule 16 reads:

"Except where the Board may, with the approval of the Minister, have exempted any premises from the provisions of Part VIII of the Act, no auction floor licence shall be issued in respect of premises-

(a) which do not comply with the following minimum requirements:

(i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales floor;

(ii) the total area of platforms and verandahs capable of being used for the loading or off-loading of tobacco shall not be less than forty per centum of the area of the sales floor;

(iii) the natural roof lighting of the sales floor shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen per centum of the area of the sales floor;

(iv) the floor surface of the sales floor, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;

(v) there shall be in a position adjacent to or as part of the auction floor an area set aside for the re-handling of tobacco, which area shall be not less than seven per centum of the area of the sales floor, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board;

(b) unless the design and construction thereof are such as may be approved by an architect appointed for this purpose by the Board."

FORM 9 (Rule 15)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

APPLICATION FOR CONDITIONAL AUTHORITY

(Auction Floor)

To: The Secretary, Tobacco Board of Zambia, P.O. Box 31963,
Lusaka.

I, (name)
of (address)

hereby apply for the grant of a conditional authority to erect, extend or alter premises for use as an auction floor pursuant to Part VIII of the Tobacco Act, and in support of my application submit the following particulars:

- 1. In the case of a company, the names of all directors
- 2. In the case of a partnership, the name of every partner
- 3. Have the premises for which the conditional authority is sought been previously licensed? (YES/NO)

If YES- (a) describe briefly the proposed alterations or extensions
 (b) have you supplied a plan and elevations of the proposed alterations or extensions? (YES/NO)

- 4. If the premises for which conditional authority is sought-
 - (a) do not exist;
 - (b) exist but have not previously been licensed as an auction floor*;

have you enclosed a plan showing the site of the premises or proposed premises in relation to road and rail facilities and a plan and elevations of such premises or proposed premises? (YES/NO).....

*Delete (a) or (b) whichever is inapplicable.

.....

Date Signature

For Minimum Standards of Auction Floors see overleaf.

[Reverse side of Form 9]

MINIMUM STANDARDS OF PREMISES

Rule 16 reads:

"Except where the Board may, with the approval of the Minister, have exempted any premises from the provisions of Part VIII of the Act, no auction floor licence shall be issued in respect of premises-

(a) which do not comply with the following minimum requirements:

(i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales floor;

(ii) the total area of platforms and varendahs capable of being used for the loading or off- loading of tobacco shall not be less than forty per centum of the area of the sales floor;

(iii) the natural roof lighting of the sales floor shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen per centum of the area of the sales floor;

(iv) the floor surface of the sales floor, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;

(v) there shall be in a position adjacent to or as part of the auction floor an area set aside for the re-handling of tobacco, which area shall be not less than seven per centum of the area of the sales floor, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board;

(b) unless the design and construction thereof are such as may be approved by an architect appointed for this purpose by the Board."

FORM 10 (Rule 17)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

AUCTION FLOOR DAILY TOBACCO SALES RETURN

Name of Auction Floor

Class of tobacco

Selling day No Date of sale

Weight sold, in kgs

Gross value of tobacco sold K Average price per kg, in kwacha

.....

Date Signature

FORM 11 (Rule 17)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES

AUCTION FLOOR WEEKLY TOBACCO SALES RETURN

Name of Auction Floor

Class of tobacco

Selling week No Week ending 19

For Week Season to Date

1. Summary of Net Sales (Excluding Resales)

Number of bales offered

Number of bales sold

Percentage sold of bales offered

Weight sold, in kgs

Gross value of tobacco sold K K

Average price per kg, in kwacha

Average weight of bales, in kg

2. Summary of Resales

Weight resold, in kgs

Value of tobacco resold K K

.....

Date Signature

NOTE 1.-All weights to be expressed as wet weight.

NOTE 2.-This return is to be made up for each week during a selling season to midnight on Wednesday, and submitted to the Board by not later than the following Monday.

FORM 12

(Rule 17)

THE TOBACCO ACT

THE TOBACCO (MARKETING AND LICENSING) RULES AUCTION FLOOR SEASONAL TOBACCO SALES RETURN

Name of Auction FloorK

Class of tobacco

Selling season 19

Name of Grower* Grower's

Registered

Number Total weight

Sold

Gross value of tobacco sold

Totals

Kn.....

Date Signature

*For the purposes of this return "grower" shall exclude any person deemed to be a grower solely by virtue of section 26 (6) of the Act (i.e. resales).

**SECTIONS 24, 25, 26, 27 AND 100-THE TOBACCO
(REGISTRATION OF GROWERS) REGULATIONS Statutory Instrument**

139 of 1968