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SUGAR ACT

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NO. 10 OF 2001

SUGAR ACT

[Date of assent: 31st December, 2001.]

[Date of commencement: 1st April, 2002.]

An Act of Parliament to provide for the development, regulation and promotion of the sugar industry, to provide for the establishment, powers and functions of the Kenya Sugar Board, and for connected purposes

[L.N. 47/2002.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Sugar Act, 2001.

2. Interpretation

In this Act, unless the context otherwise requires—

“**agreements**” means the agreements specifying the standard provisions governing the rights and obligations of growers, millers and out-grower institutions in the sugar industry;

“**Board**” means the Kenya Sugar Board established by section 3;

“**by-product**” means any substance (other than sugar) produced incidentally during the process of manufacturing sugar;

“**Fund**” means the Sugar Development Fund established by section 19;

“**guidelines**” means the guidelines for agreements between parties in the sugar industry set out in the Second Schedule;

“**grower**” means a person who produces sugar-cane or any scheduled crop in Kenya for the manufacture of sugar but does not include an out-grower institution;

“**industry**” means the sugar industry in Kenya and includes the growing of sugar-cane and any other sugar producing crop, the manufacturing, refining, marketing and disposal of sugar and its by-products;

“**interested parties**” means the Government, millers, growers or out-grower institutions;

“**licence**” means a licence issued by the Board to a miller;

“**member**” means a member of the Board appointed under section 5;

“**mill**” means a person licensed to operate a sugar mill or a jaggery mill in Kenya for the production of sugar including refined sugar and other by-products;

“**Minister**” means the Minister for the time being responsible for matters relating to agriculture;

“**out-grower**” means a person who has a sugar-cane farm in a zone and who has in force a cane supply contract in respect of the sugar-cane grown on such farm;

“**out-grower institution**” means an out-grower institution registered under the Companies Act (Cap. 486), the Co-operative Societies Act (Cap.490), Trade Unions Act (Cap. 233) or any other organization registered under any other law that the annual general meeting may approve;

“**refined sugar**” means sugar, which complies with the specifications set by the body for the time responsible for setting standards;

“**scheduled crop**” has the meaning assigned to it in section 2 of the Agriculture Act (Cap. 318);

“**sugar**” means crystalline or liquid sucrose in any of its recognized commercial forms, intended for human consumption or other uses;

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

“**Tribunal**” means the Sugar Arbitration Tribunal established under section 31;

“**zone**” means the area within a radius of up to a maximum of forty Kilometres of a sugar mill.

PART II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE KENYA SUGAR BOARD

3. Establishment and incorporation of the Board

(1) There is established a board to be known as the Kenya Sugar Board.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing or lending money; and
- (d) doing or performing all such other acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) The Board shall be the successor to the Kenya Sugar Authority established by the Kenya Sugar Authority Order (Cap. 318, sub-leg). (now revoked) and subject to this Act, all rights, duties, obligations, assets and liabilities of the Kenya Sugar Authority existing at the commencement of this Act shall be automatically and fully transferred to the Board and any reference to the Kenya Sugar Authority in any contract or document shall, for all purposes, be deemed to be a reference to the Board established under subsection (1).

4. Objects and functions of the Board

- (1) The object and purpose for which the Board is established is to—
- (a) regulate, develop and promote the sugar industry;
 - (b) co-ordinate the activities of individuals and organizations within the industry;
 - (c) facilitate equitable access to the benefits and resources of the industry by all interested parties.
- (2) Without prejudice to the generality of subsection (1), the Board shall—
- (a) participate in the formulation and implementation of overall policies, plans and programs of work for the development of the industry;
 - (b) act as an intermediary between the industry and the Government;
 - (c) facilitate the flow of research findings to interested parties through the provision of effective extension services;
 - (d) monitor the domestic market with a view to identifying and advising the Government and interested parties on any distortions in the sugar market;
 - (e) facilitate the arbitration of disputes among interested parties;
 - (f) facilitate the export of local sugar;
 - (g) promote and encourage the use of environmentally friendly technologies in the industry;
 - (h) provide advisory services to growers, out-grower institutions and millers;
 - (i) facilitate an equitable mechanism for the pricing of sugar-cane and appropriation of proceeds from the disposal of the by-products of sugar production between millers and growers as stipulated in the guidelines;
 - (j) represent the industry in such organizations as are relevant for the promotion of the industry;
 - (k) oversee the formulation of standard provisions governing the mutual rights and obligations of growers, millers and other interested parties;
 - (l) collect, collate and analyze industry statistics and maintain a data base for the industry;
 - (m) licence sugar mills;
 - (n) promote the efficiency and development of the industry through the establishment of appropriate institutional linkages; and
 - (o) perform such other functions as may, from time to time, be assigned by the interested parties.

5. Composition of the Board

- (1) The Board shall consist of—
- (a) a non-executive Chairman elected by the Board from among the representatives of growers representatives on the Board and appointed by the Minister;

- (b) seven representatives elected by growers and appointed by the Minister;
- (c) three representatives elected by millers and appointed by the Minister;
- (d) the Permanent Secretary in the Ministry for the time being responsible for matters relating to agriculture;
- (e) the Permanent Secretary to the Treasury;
- (f) the Director of Agriculture; and
- (g) the Chief Executive of the Board appointed under section 10 who shall be an *ex-officio* member and the secretary to the Board.

(2) The Board shall elect a vice-chairman from amongst its members.

(3) A member of the Board other than an *ex-officio* member shall hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment or re-election, as the case may be.

6. Powers of the Board

The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) impose a levy or levies upon growers and millers for the purposes of giving effect to the provisions of this Act;
- (b) control, supervise and administer the assets of the Board in such manner and for such purpose as best promotes the purpose for which the Board was established;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (e) lay down policy guidelines for the operations and management of all the funds collected by the Board;
- (f) access all such relevant information as may be necessary for the efficient administration of the industry;
- (g) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Board is established;
- (h) open a banking account or banking accounts for the funds of the Board; and
- (i) invest any funds of the Board not immediately required for its purposes in the manner provided in section 22.

7. Conduct of business and affairs of the Board

(1) The conduct and regulation of the business and affairs of the Board shall be as provided in the First Schedule.

(2) Except as provided in the First Schedule, the Board shall regulate its own procedure and the procedure of any committees thereof.

8. Delegation of powers of the Board

Subject to this Act, the Board may, either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act.

9. Remuneration of Board members

The Board shall pay to its members, such remuneration, fees or allowances for expenses as it may determine after consultation with the Minister.

10. The Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Board who shall be appointed by the Board and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) No person shall be appointed under this section unless he holds a degree from a university recognized in Kenya in agriculture, economics or business administration and has at least five years experience in a managerial capacity.

(3) The Chief Executive Officer shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Chief Executive Officer shall, subject to the directions of the Board, be responsible for the day to day management of the affairs of the Board.

11. Staff of the Board

The Board may appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the Board may determine.

12. Protection from personal liability

No matter or thing done by a member of the Board, or by any officer, employee or agent thereof shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Board, render the member, officer, employee or agent personally liable to any action, claim or demand whatsoever.

13. Liability of the Board for damages

The provisions of section 12 shall not relieve the Board of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially, of any works.

PART III – LICENSING AND REGISTRATION

14. Requirement of licence to operate mill

(1) No person shall operate a sugar mill or a jaggery mill unless he is a holder of a current licence issued by the Board for that purpose.

(2) Any person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of any licence granted thereunder commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings but not exceeding one million shillings, or to imprisonment for a term not exceeding five years, or to both.

15. Issue of licence and licence fees

(1) The Board shall not issue a licence under this Act unless—

- (a) it is of the opinion that the applicant is a fit and proper person to hold such a licence; and
- (b) it is satisfied that the applicant has sufficient knowledge, experience and capacity to enable him conduct business or that he has, amongst his staff, a person with such knowledge and experience:

Provided that the issuance of a licence to an applicant under this section shall not be withheld without reasonable cause.

(2) Every licence shall specify the premises upon which the milling of sugar may be carried on.

(3) Every licence shall, unless earlier revoked, expire on the 30th June next following the date of issue.

(4) There shall be payable for the issue of a licence, such fees as the Board, after consultation with the Minister, may prescribe.

(5) An application for the renewal of a licence shall be made to the Board not later than the 1st June in the year in which the current licence is due to expire.

16. Registration of millers

(1) No person shall conduct the business of a miller unless he is registered as such by the Board and no such business shall be conducted at any premises other than the premises specified in the register.

(2) A person who contravenes any of the provisions of subsection (1) commits an offence.

(3) The Board shall issue to every miller registered under this section, a certificate of registration specifying the premises at which milling may be carried on by the miller.

(4) No fee shall be charged in respect of any registration or certification of registration made or issued under this section.

(5) A miller may offer extension or other services to growers.

(6) Every miller registered under this section shall conduct business in accordance with this Act and any regulations made thereunder.

PART IV – FINANCIAL PROVISIONS

17. Funds of the Board

The funds of the Board shall comprise—

- (a) such monies as may be appropriated by Parliament for the purposes of the Board;

- (b) such monies as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act; and
- (c) all monies from any other source provided for or donated or lent to the Board.

18. The Sugar Development Levy

(1) The Minister may, in consultation with the Board, by order in the *Gazette*, impose a levy on domestic and imported sugar to be known as the Sugar Development Levy.

(2) A levy imposed under this section shall be payable at such rate as may be specified in the order.

(3) An order under this section may contain provisions as to the time at which any amount payable by way of the levy shall become due.

(4) All moneys received in respect of the levy shall be paid to the Board and if not paid on or before the date prescribed by the order, the amount due and any sum payable under subsection (5) shall be a civil debt recoverable summarily by the Board.

(5) If a person fails to pay any amount payable by him by way of the levy on or before the date prescribed by the order, a sum equal to five per centum of the amount shall be added to the amount due for each month or part thereof during which the amount due remains unpaid.

(6) The Board shall apply the money received under this section for the furtherance of the objects of the Board.

19. Sugar Development Fund

(1) There is established a Fund to be known as the Sugar Development Fund which shall be administered by the Board.

(2) The Fund shall consist of—

- (a) the Sugar Development levy;
- (b) any funds provided by bilateral or multilateral donors for the purposes of the Fund;
- (c) any moneys provided by Parliament for the purposes of the Fund;
- (d) moneys from any other source approved by the Board.

20. Financial year

The financial year of the Board shall be the period of twelve months ending on the thirtieth June in every year.

21. Annual estimates

(1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of revenue and expenditure of the Board for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Board for the financial year concerned and in particular, shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Board;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Board;
- (c) the proper maintenance of the buildings and grounds of the Board;
- (d) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Board;
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate:

Provided that once approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.

22. Investment of Funds

The Board may invest any of the funds of the Board in securities in which, for the time being, trustees may by law invest trust funds or in any other securities which the Treasury may, from time to time, approve for that purpose.

23. Accounts and audit

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Board.

(2) Within a period of three months from the end of the financial year, the Board shall submit to the Auditor-General (Corporations) or to an auditor appointed under subsection (3), the accounts of the Board together with—

- (a) a statement of the income and expenditure of the Board during that year; and
- (b) a statement of the assets and liabilities of the Board on the last day of that year.

(3) The accounts of the Board shall be audited by the Auditor-General (Corporations) or by an auditor appointed by the Board with the written approval of the Auditor-General (Corporations).

(4) The appointment of an auditor under subsection (3) shall not be terminated by the Board without the prior written consent of the Auditor-General (Corporations).

(5) The Auditor-General (Corporations) may give general or specific directions to an auditor appointed under subsection (3) and the auditor shall comply with such directions.

(6) An auditor appointed under subsection (3) shall report directly to the Auditor-General (Corporations) on any matter relating to the directions given under subsection (5).

(7) Within a period of six months after the end of each financial year, the Auditor-General (Corporations) shall report on the examination and audit of the accounts of the Board to the Minister and where an auditor has been appointed under subsection (3), such auditor shall transmit a copy of the report to the Auditor-General (Corporations).

(8) The fee payable to an auditor, appointed under subsection (3) shall be determined and paid by the Board.

(9) Nothing in this Act shall be construed to prohibit the Auditor-General (Corporations) from carrying out an inspection of the records and accounts of the Board whenever it appears to him desirable.

(10) Notwithstanding anything in this Act, the Auditor-General (Corporations) may transmit to the Minister a special report on any matters incidental to his power under this Act and section 19(3) and (4) of the Exchequer and Audit Act (Cap. 412) shall, *mutatis mutandis*, apply to any report made under this section.

24. Annual Report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Minister a report of the operations of the Board for the immediate preceding year.

(2) The Minister shall lay the report submitted to him under subsection (1) before the National Assembly within three months of the day the Assembly next sits after the receipt of the report.

PART V – MISCELLANEOUS PROVISIONS

25. Annual general meeting

(1) The Board shall, at least once in every year, convene an annual general meeting of representatives of millers and growers for the purposes of considering the annual report and accounts of the Board and for the purposes of transacting such other business of which notice shall be given.

(2) The Board may convene special meetings in addition to the meetings mentioned in subsection (1) for such purposes and at such times as it may deem fit.

(3) Subject to this Act and any regulations made thereunder, the Board may make rules for the regulation of the conduct of business and procedure at the general meetings convened pursuant to this section.

26. Quality, safety and health control measures

All sugar produced locally or imported into the country shall comply with the prevailing—

- (a) quality standards as set by the body for the time being responsible for setting standards;

- (b) safety and health standards as set by the body for the time being responsible for public health;
- (c) environmental issues as set by the body for the time being responsible for environmental matters.

27. Safeguard measures

(1) Subject to such regional and international trade agreements to which Kenya is a party, all sugar imports into the country shall be subject to the prevailing import duties, taxes and other tariffs and such imports shall be controlled by the Board.

(2) The Government shall introduce other safeguard measures as may be necessary to protect the industry from unfair trade practices.

28. Offences and penalties

(1) The Board may direct any organization or person in the industry to produce any document or information, or submit any returns which it reasonably considers necessary for the proper performance of its functions under this Act.

(2) Any person who—

- (a) fails to comply with any direction given by the Board under this Act; or
- (b) furnishes to the Board any information or produces any document which is false or misleading in any material particular; or
- (c) obstructs an officer of the Board in the performance of his functions under this Act; or
- (d) diverts or abets the diversion of transit sugar into the domestic market,

commits an offence.

(3) A person convicted of an offence under paragraph (d) of subsection (2) shall be liable to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or two million shillings, whichever is the higher, or to imprisonment for a term not exceeding ten years, or to both.

(4) A person who contravenes any of the provisions of this Act commits an offence.

(5) A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

29. Sugar industry agreements

(1) There shall be, for the purposes of this Act, agreements to be known as the sugar industry agreements negotiated between growers and millers, growers and out-grower institutions, and millers and out-grower institutions.

(2) The agreements referred to in subsection (1) shall conform to the guidelines set out in the Second Schedule.

(3) Without prejudice to the generality of subsection (2), the matters to be provided for in the agreements shall include—

- (a) the designation of any agricultural crop from which it is possible to manufacture sugar which is subject to the agreement;
- (b) a sugar-cane farming contract providing for the terms and conditions of the production of sugarcane and sugar and prescribing the rights and obligations of growers and millers;
- (c) a formula for determining the price to be paid by millers to growers for sugarcane or any other designated agricultural produce, which may include any factor related to the sale or other disposal of sugar industry products;
- (d) the functions to be executed by the Board in the execution of the agreement;
- (e) the granting of powers to the Board to impose penalties prescribed in the agreement for the contravention of, or failure to comply with any term of the agreement; and
- (f) the imposition of levies upon growers and millers for the purpose of enabling the Board to fulfil any obligation incurred by it in accordance with its constitution.

30. Rights of growers

Notwithstanding any other provision in this Act or any other written law to the contrary, growers shall be entitled to at least—

- (a) 51% shareholding of all privatized sugar factories;
- (b) 51% representation on the Boards of Directors of milling companies.

31. Establishment and constitution of Tribunal

(1) There is established a tribunal to be known as the Sugar Arbitration Tribunal for the purpose of arbitrating disputes arising between any parties under this Act.

(2) The Tribunal shall consist of—

- (a) a chairman who shall be a person qualified for appointment as a judge of the High Court of Kenya; and
- (b) two other members, being persons with expert knowledge of the matters likely to come before the Tribunal and who are not persons with a direct material interest in the sugar industry, all of who shall be appointed by the Minister in consultation with the Attorney-General.

(3) The members of the Tribunal appointed under subsection (2) shall hold office for such period, not exceeding three years, on such terms and conditions as shall be specified in the instrument of appointment but shall be eligible for re-appointment for one further term of a period not exceeding five years.

(4) The provisions set out in the Third Schedule shall have effect with respect to the meetings and procedure of the Tribunal.

(5) Except as provided in the Third Schedule, the Tribunal shall regulate its own procedure.

32. Amendment of Second Schedule

The Minister may, on the recommendation of the Board, by order in the *Gazette*, amend the Second Schedule.

33. Regulations

The Minister may, in consultation with the Board, make regulations generally for the better carrying out of the provisions of this Act and without prejudice to the generality of the foregoing, such regulations shall provide for—

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

FIRST SCHEDULE

[Section 7.]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. Vacation of office

A member of the Board, other than the chairman or an *ex-officio* member, may—

- (a) at anytime resign from office by notice in writing to the Minister;
- (b) be removed from office by the Minister if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the Board;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (iii) is incapacitated by prolonged physical or mental illness;
 - (iv) is adjudged bankrupt; or
 - (v) is otherwise unable or unfit to discharge his functions.

2. Meetings

(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairman may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be seven members.

(5) The chairman shall preside at every meeting of the Board at which he is present but in his absence, the vice-chairman shall preside and shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairman.

(6) In the event of the absence of both the chairman and the vice-chairman, the members present shall elect one of their number to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairman.

(7) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairman or the vice-chairman or the person presiding shall have a casting vote.

(8) Subject to paragraph (4), no proceeding of the Board shall be invalid by reason only of a vacancy among the members thereof.

(9) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

3. Disclosure of interest

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

4. The common seal

The affixing of the common seal of the Board shall be authenticated by the signature of the chairman and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the chairman and the Chief Executive Officer:

Provided that the Board shall, in the absence of either the chairman or the Chief Executive Officer in any particular matter, nominate one member to authenticate the seal of the Board on behalf of either the chairman or the Chief Executive Officer.

5. Contracts and Instruments

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorised by the Board for that purpose.

SECOND SCHEDULE

[Section 29.]

GUIDELINES FOR AGREEMENTS BETWEEN PARTIES IN THE SUGAR INDUSTRY

PART 1 – INTRODUCTION AND SCOPE OF AGREEMENTS

1. Scope of Agreement

The agreements define the linkages among the different institutions in the industry and govern the operations of interested parties in the industry and any disputes arising in relation thereto shall be referred to the Tribunal.

2. Interpretation

In these agreements, unless the context otherwise requires—

“**cane supply contract**” means a contract for the supply of sugar-cane to a miller;

“**cane farming contract**” means a contract between a grower and an out-grower institution or miller;

“**force majeure**” means events that cannot be reasonably anticipated or controlled and includes acts of war or enemies, riots, strikes, embargoes, acts of God, acts of the Government or of any authority or agency thereof;

“**grower member**” means a member of an out-grower institution;

“**Kenya Sugar Research Foundation**” means the Kenya Research Foundation incorporated under the Companies Act (Cap. 486) with the principal object of promoting research and investigating all problems relating to sugar in Kenya.

“**Kenya Sugar-Cane Growers Association**” the Kenya Sugarcane Growers Association registered under the Societies Act (Cap. 108);

“**Kenya Sugar Manufacturers Association**” means the Kenya Sugar Manufacturers Association registered under the Societies Act.

PART 2 – ROLES OF INSTITUTIONS IN THE INDUSTRY

3. The role of the Kenya Sugar Board

The role of the Kenya Sugar Board is to—

- (a) co-ordinate the activities of the various organizations concerned with the industry, both in the private and the public sector;

- (b) support the general development of out-grower institutions and enable them become effective intermediaries for providing financial assistance and extension services to growers;
- (c) review, on a regular basis, the economic and financial performance as well as the problems and prospects of the industry;
- (d) promote a more extensive use of sugar and its by-products;
- (e) promote the manpower development of farmers and employees in the industry through establishment and co-ordination of a central training institute;
- (f) facilitate dispute arbitration between interested parties;
- (g) license mills;
- (h) facilitate negotiations on cane pricing between growers, out-grower institutions and millers;
- (i) facilitate studies and investigations in respect of any specific or general issue affecting the industry;
- (j) facilitate long-term master plans for the rehabilitation, rationalization of factories and marketing of sugar, with due regard to the interest of all parties concerned;
- (k) collect information and evaluate any fixed investment to be made in the sugar sector by any individual.
- (l) examine and advise on the operating costs of any organization concerned with the industry;
- (m) monitor the production, importation and consumption of sugar and its by-products with a view to ensuring a viable industry;
- (n) ensure that millers and outgrower institutions look into the welfare of its members and infrastructural development of the regions where they are situated.

4. The role of the Sugar Research Foundation

The role of the Kenya Sugar Research Foundation includes—

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

- (h) promoting the transfer of sugar technology based on applied research through relevant extension mechanisms;
 - (i) fostering research on sustainable productivity, environmental issues, human safety at field and factory levels; and
 - (j) collaborating with the Government, the industry, universities and other national and international organizations for the purpose of furthering the Foundation's mission.
- (2) In addition to research, the Foundation shall undertake to—
- (i) raise funds to support research;
 - (ii) analyse soil and plant samples for advisory purposes; and
 - (iii) offer modular courses on various aspects of cane management and practices

5. The role of out-grower institutions

The functions and role of out-grower institutions include—

- (a) promoting and representing the interests of growers;
- (b) negotiating or arranging, on behalf of such grower members, the terms of supply of sugar-cane to the factory and the co-ordination of the production, harvesting and transport thereof;
- (c) providing financial credit or otherwise arranging finance for such grower members in connection with the production of their sugar-cane, including land clearance and preparation, planting, cultivation and tending, harvesting, transport and the supply of goods and services relating thereto;
- (d) providing or procuring services, advice and assistance for such grower members as may be required, to carry out or procure the carrying out of such operations for such members;
- (e) providing or procuring accounting services and books or records for members in respect of their individual operations;
- (f) purchasing, selling or otherwise dealing in, securing or providing such goods, materials, supplies and services as may be required by members;
- (g) negotiating cane prices with millers through the Kenya Sugar-cane Growers Association;
- (h) effectively participating in lobbying for favorable Government policies in the industry through the Kenya Sugar-cane Growers Association.

6. The role of the miller

The role of the miller is to—

- (a) harvest, weigh at the farm gate, transport and mill the sugar-cane supplied from the growers' fields and nucleus estates efficiently and make payments to the sugar-cane growers as specified in the agreement;

- (b) maintain and develop adequate milling capacity for sugar-cane planted on the basis of agreed planting plans with the growers and the out-grower institution;
- (c) mill the sugar-cane efficiently so as to realize maximum returns for the millers and the growers;
- (d) pay the sugar-cane farmer within 30 days of accepting delivery or otherwise pay interest on the sum due at market rates, plus a penalty of 3 per cent per month on late payment;
- (e) participate in lobbying for favorable Government policies in the industry through the Kenya Sugar Manufacturers Association;
- (f) maintain accurate weighbridges to ensure correct weight of sugar-cane;
- (g) install and maintain appropriate systems and technologies for sampling sucrose content in sugar-cane delivered; and
- (h) negotiate the sugar-cane price with the growers through the Kenya Sugar Manufacturers Association and formulate policies related to sugar marketing, distribution and pricing.

PART 3 – SUGARCANE FIRES AND CANE PRICING

7. Sugarcane fires

(1) The out-grower institutions shall follow the harvesting programs strictly and be subject only to factory capacity;

(2) A miller may decline to accept burnt sugar-cane but where such sugar-cane is accepted, the following guidelines shall be adhered to—

- (a) the grower shall sign an authority to harvest his burnt sugar-cane prior to commencement of cutting which authority shall be different from any sugar-cane farming contract and shall set out conditions under which the miller may accept the burnt sugar-cane;
- (b) sugar-cane shall be delivered to the mill weighbridge within a period of up to seven days, inclusive of the day of burning, according to specific factory zones;
- (c) only sugar-cane of an acceptable quality shall be harvested;
- (d) a payment for burnt sugar-cane shall be made one month from the date of the scheduled harvest of the sugar-cane.

8. Cane pricing policy

(1) There shall be a Sugar Cane Pricing Committee (hereinafter referred to as “the Committee”) comprising representatives from the Kenya Sugar Board, Kenya Sugar Manufacturers Association and the Kenya Sugarcane Growers Association.

(2) The main objectives of the Committee shall be to review sugar-cane prices which shall be determined on the basis of sucrose content.

(3) The following formula shall be adopted in payment of sugarcane based on sucrose content—

$$\text{Price of sugarcane} = \frac{\text{PoI \% cane} \times \text{KR} \times \text{Farmers' share} \times \text{monthly average net price of sugar}}{1 + \text{E \%}}$$

plus % of value of by-products, where KR=Expected Mill Extraction x Expected Boiling House Recovery and E% = Extraneous matter % cane.

(4) The formula set out in subparagraph (3) shall be subject to change as agreed upon by the Committee.

(5) The exercise of determining the sucrose content of sugarcane for the purpose of sugarcane pricing shall be carried out by a sugar-cane testing unit to be set up by the Committee.

PART 4 – RELATIONSHIP BETWEEN THE OUT GROWER INSTITUTION AND THE MILLER

9. Out-grower and miller Agreement

(1) Except as otherwise agreed, a miller shall—

- (a) subject to the provisions of a supply contract, buy all sugar-cane of requisite quality harvested from the area specified in the supply contract in accordance with the program provided for herein;
- (b) notify the out-grower institution in advance of any planned closure of the mill for any reason;
- (c) advise the grower of any change in planned activities as soon as the need for such change becomes apparent;
- (d) reject any sugar-cane found not to be of the requisite quality based on parameters established by the Kenya Sugar Board;
- (e) pay the out-grower institution within thirty days of sugar-cane delivery: Provided that the sugar-cane will be harvested not later than twenty-four months for plant crops and not later than twenty-two months for subsequent ratoons.

(2) If a miller fails to pay the out-grower institution as specified, the miller shall be liable to pay interest charges on the outstanding grower loan accounts of the affected growers up to the time it completes payment so as to safeguard the grower's ability to repay the funds borrowed to finance cane production.

(3) The out-grower institution shall—

- (a) before the start of each financial year prepare a cultivation and planting program covering all growers and showing acreage, approximate timings and production quantities anticipated for each grower;
- (b) at the appropriate time, prepare a harvesting program showing the approximate expected time of harvesting the crop of each grower;

- (c) furnish the miller with copies of such programs as soon as they are completed, and consult with the growers regarding any significant changes therein that the miller may subsequently consider necessary to make;
- (d) furnish the miller with a list of all growers showing the acreage of each grower's sugar-cane area as specified in his sugar-cane supply contract:

Provided that the programs referred to in subparagraph (a), (b) and (c) shall be tentative and their implementation shall be to the exigencies of subsequent operations and circumstances.

(4) Neither the out-grower institution nor the miller shall be obliged to perform their respective obligations under an agreement if and to the extent that they or either one of them may be hindered or prevented from so doing directly or indirectly by an event of *force majeure*.

(5) Any event of *force majeure* shall be reported by the affected party to the other party within seven days from the date of its occurrence and the said event shall be certified by the competent authorities of both parties.

(6) The obligations of the parties under the specified agreement shall remain suspended for the period during which the said event of *force majeure* persists.

(7) The provisions of this Part shall apply *mutatis mutandis* to the relationship between the grower and the miller.

PART 5 – RELATIONSHIP BETWEEN THE OUT-GROWER INSTITUTION AND THE GROWER

11. Out-grower institution and grower agreement

(1) A grower may appoint an out-grower institution as his representative in all matters of sugar-cane development and the financing of sugar-cane supply, including negotiations for the price of sugarcane, costs of farm inputs and related services.

(2) The out-grower institution and the grower may agree on a specific period of maturity for purposes of harvesting, delivery and payment which shall be eighteen to twenty months for plant crop, and sixteen to twenty-two months for first and second ratoon crops:

Provided that by mutual consent the said term may be extended to include the harvesting of one or more ratoon crops or by such period as may be agreed upon, with or without modifications of the terms and conditions herein contained, by a memorandum of extension endorsed hereon not less than three months before the date of the anticipated commencement of harvesting of what would otherwise have been the last ratoon crop under the contract or six years which ever shall be the earlier.

(3) Where a grower decides to discontinue the production of sugar-cane or terminate the relationship with an out-grower institution he shall give a three months' notice of his intention to do so and shall pay all his dues before the expected time of harvest and the out-grower institution will then harvest cane in the normal harvesting manner:

Provided that such notice shall only be effective if the grower shall, within the period of notice, repay in full all loans received by him from the out-grower institution.

(4) Any such termination of the contract shall be without prejudice to all rights accrued and obligations incurred to or by either party prior to the date of termination and shall not prejudice any claim for damages for such breach of contract.

(5) Any question or dispute as to the responsibility to fulfill the terms of the specified agreement due to the reasons stated above shall be referred to the Sugar Arbitration Tribunal.

12. Obligations of the grower

The grower shall—

- (a) plant or cultivate the most suitable variety of cane recommended by the Kenya Sugar Research Foundation;
- (b) allow the cultivation of seed cane nurseries, if the out-grower institution desires, for the multiplication of seed sugar-cane material to be supplied to other growers:

Provided that such sugar-cane may be used for milling when it is no longer required for seed cane.

- (c) allow the cutting of commercial sugar-cane of both plant and first ratoon only to supply seed to other growers in the absence of suitable nurseries:

Provided that the age of the seed cane shall be not less than ten but not more than fourteen months;

- (d) at all times allow the out-grower institution to enter upon his land together with any vehicles, machinery or livestock which the out-grower institution may require to—
 - (i) inspect the land and the cane growing thereon;
 - (ii) sample the sugar-cane;
 - (iii) gain access to other grower's land, including such construction of access tracks as may be required for the transport of sugar-cane produced by the grower or other growers; and
 - (iv) do anything required to be done by either party in terms hereof:

Provided that, if the grower fails to facilitate the harvesting of his sugar-cane at the appointed time, the out-grower institution shall refer the matter to the Sugar Arbitration Tribunal;

- (e) maintain his sugar-cane cultivation in a manner which will enhance a satisfactory yield by—
 - (i) maintaining the sugar-cane crop weed-free;
 - (ii) applying at the recommended time and in the recommended amounts all fertilizers and other material recommended by the out-grower institution and the Kenya Sugar Research Foundation;
 - (iii) undertaking the planting and gapping of sugar-cane area at the times recommended by the out-grower institution in order to ensure a high plant population; and

Sugar

- (iv) applying all services and goods, which he may have obtained from the out-grower institution for the benefit for the sugarcane crop solely for that purpose;
- (v) undertaking stubble shaving, inter-row cultivation and trashlining within one month after harvesting;
- (vi) inspecting sugar-cane crops for pests and diseases periodically and removing diseased or infested sugar-cane and disposing them off in a manner prescribed by extension agents;
- (vii) planting the sugar-cane inter-row, one row only of common beans, soyabeans, potatoes, tomatoes, onions, cabbages or carrots;

Provided that—

- (aa) if the out-grower institution so requires, in the case of a default, the grower shall allow all or any such work to be carried out at his cost by the out-grower institution and its agents or employees working in conjunction with the grower;
 - (bb) within seven days of receipt of a written notification from the out-grower institution that such operations are necessary to achieve a satisfactory yield of sugar-cane, allow unimpeded access to the out-grower institution and his equipment for the purpose of carrying out any or all operations which the grower has failed to carry out and that notification shall have either been served to the grower or his representative and acknowledged, or shall have been posted to the grower by registered mail.
- (f) offer for harvest and transport by the out-grower institution all such cane as is derived from his contracted sugar-cane plot and no other for use either as seed cane or mill sugar-cane;
 - (g) not sell his sugar-cane through a middleman nor dispose of it or any interest therein to any other parties without the written permission of the out-grower institution specifying the tonnage of sugar-cane which may be sold, the date on which the sale may take place and destination of the sugar-cane;
 - (h) either attend himself or send an authorised representative to the buying point to witness the condition of the sugar-cane at the time of delivery and to obtain a ticket showing the value of sugar-cane delivered in the absence of an official representative appointed for the purpose;
 - (i) bear all direct and indirect costs of the works, goods and services supplied by the out-grower institution as specified in the agreement and unless the same are paid earlier allow such costs to be deducted from payment for sugar-cane supplied by the grower;
 - (j) be responsible for maintaining suitable permanent boundary marks and cleared firebreaks for his sugarcane crop;
 - (k) be liable to pay the cost of any damage suffered by other growers as a result of failure to comply with the terms hereof;

- (l) take precautions against fire according to the advice of the out-grower institution;
- (m) not assign his land or any interest therein or any of his rights or obligations under the agreement without the written consent of the out-grower institutions; and
- (n) attend meetings and field days convened by the out-grower institution for the purpose of learning the proper sugar-cane husbandry, operation and application of goods and services obtained from the out-grower institution for the satisfactory yield of sugar-cane.

13. Obligation of out-grower Institutions

The out-grower institution shall—

- (a) during each harvest period, deliver to the miller from the grower, sugarcane in the quantities and on the dates agreed upon between the miller and the out-grower institution;
- (b) within the limits imposed by the condition of the roads, provide and operate an efficient system of transport from the field to the mill;
- (c) cause the grower's sugar-cane to be weighed and tested on arrival at the buying point, allow the grower or his representative access to the weighbridge to check the weight, maintain in duplicate a written or printed record of the value of each load of sugar-cane delivered and give to the grower or his representative on the day of delivery one copy of such record.
- (d) establish seed cane 'B' Nurseries on growers plots for bulking of seed cane to be supplied to other farmers, and for this purpose to purchase, harvest and transport such seed cane after certification by the out-grower institution's agronomist as to its suitability for planting; seed cane which fails to be used for seed will be used for milling:

Provided that the grower whose sugar-cane is cut for seed will be paid at the price not less than that of mill cane and will not be charged the cost of transport.

- (e) have absolute charge and control of all equipment, machinery, staff and labour concerned with operations on the growers land:

Provided that the out-grower institution shall exercise due care to ensure that the operational costs to be charged to the grower shall be kept at a reasonable level;

- (f) be entitled, in the event that the grower does not prepare, plant and maintain his land and sugar-cane in accordance with the agreement, to carry out all and any such operations on the grower's land which the out-grower institution shall consider necessary to ensure that the grower's quota of sugar-cane of satisfactory quality will be delivered on the due date, in which case the out-grower institution shall be further entitled to deduct the cost, including a penalty for these operations, from the payment to be made for the grower's sugar-cane.

- (g) charge interest on any credit that may be granted by the out-grower institution to the grower, such credit being only granted in exceptional circumstances at such rate as may, from time to time, be notified by the out-grower institution and be entitled to deduct such interest from the payment due to the grower in respect of the first cane harvest from the grower's land subsequent to the grant of the credit.
- (h) be entitled to charge the grower for all works, goods and services supplied to the grower by the out-grower institution in accordance with the out-grower institution's schedule of charges from time to time in force at the date the agreement signed:

Provided that:

- (i) the said charges shall at all times be as agreed with the grower;
- (ii) the out-grower institution shall consult with the grower regarding any proposed changes in the said charges before such charges are proposed to take effect and shall maintain such records as are necessary to show the growers that the charges from time to time are as agreed in (i) above;
- (iii) the out-grower institution shall notify all changes to the grower at least thirty days before the charges are due to take effect; and
- (iv) where a grower ends up with a debit balance, the out-grower institution shall immediately write to the grower for arrangements of recovery of the said debt.

14. Force Majeure

(1) Neither the out-grower institution nor the miller shall be obliged to perform their respective obligations under an agreement if and to the extent that they or either one of them may be hindered or prevented from so doing directly or indirectly by an event of *force majeure*;

(2) Any event of *force majeure* must be reported by the affected party to the other party within seven days from the date of its occurrence and the said event be certified by the competent authorities of both parties.

(3) The obligations of the parties under an agreement shall remain suspended for the period during which the said event of *force majeure* persists.

PART 6 – SUGAR INDUSTRY CONTROL MEASURES

15. Industry Control

(1) The sugar industry agreement shall recognize the measures already undertaken to deal with constraints to development which include the setting of a committee comprising the Kenya Sugar Authority, Kenya Ports Authority and the Kenya Bureau of Standards to co-ordinate the inspection and certification of imported sugar.

(2) In dealing with the illegal diversion of unaccustomed transit sugar, there will be control measures put in place from time to time.

(3) In addition to existing taxes on imported sugar the antidumping duty and countervailing duty have been imposed.

(4) The Minister for finance shall, by notice in the *Gazette*, establish a five person advisory committee to investigate cases of dumping or subsidization of goods exported to Kenya and to report its findings to the Minister.

16. Sugar specification

- (a) The following are the specifications for mill white and refined sugar as per the Kenya Bureau of Standards specifications (KS:05-38):

Parameters	Raw Sugar	Mill White	Refined Sugar
Colour (ICUMSA)	1200 (max)	400 (max)	60 (max)
Moisture %	0.25 (max)	0.10 (max)	0.70 (max)
Polarimeter(s)	97.5 (min)	99.5 (min)	99.8 (max)

THIRD SCHEDULE

[Section 29.]

PROVISIONS AS TO THE MEETINGS AND PROCEDURE OF THE TRIBUNAL

1. Resignation

Any member of the Tribunal may, at any time, by notice in writing to the Minister, resign his office.

2. Vacation of office of member

(1) If a member of the Tribunal becomes a member of the Board or, in any case where a member other than the chairman is appointed to the service of the Government or the Commission his office shall become vacant.

(2) The chairman or a member of the Tribunal may be removed from office by the Minister if he is—

- (a) unable to discharge the functions of his office by reason of mental or physical infirmity; or
- (b) an undischarged bankrupt; or
- (c) convicted of an offence involving fraud or dishonesty; or
- (d) convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings.

(3) In the event of the inability of any member of the Tribunal to attend for the purpose of any particular proceedings, the Minister may appoint another person to be a member of the Tribunal for the remainder of the term of the member whose vacancy caused the appointment.

3. Disclosure of interests

If any member of the Tribunal has any interest in any particular proceedings before the Tribunal he shall so inform the Minister and the Minister may, after considering that interest, appoint another member in his place for the purpose of the particular proceedings.

4. Vacancy

Where the office of any member becomes vacant, whether by death or otherwise, the Minister may appoint another person to be a member of the Tribunal for the remainder of the term of the member whose vacancy cause the appointment.

5. Temporary members

In the event of the inability of any member of the Tribunal to attend for the purpose of any particular proceedings, the Minister may appoint a temporary member for the purposes of those proceedings.

6. Majority decisions

The decision of the Tribunal shall be that of the majority and shall be signed by the members thereof agreeing thereto.

7. Proceedings to be valid

No proceedings of the Tribunal shall be invalid by reason only of a vacancy among the members thereof.

8. Powers

The Tribunal shall have the powers of the High Court—

- (a) to administer oaths to the parties and witnesses to the proceedings;
- (b) to summon witnesses and to require the production of documents;
- (c) to order the payment of costs; and the provisions of the law relating to Commissions of Inquiry in Kenya with respect to—
 - (i) the protection of the members of the Tribunal from suit;
 - (ii) the form of summonses to witnesses;
 - (iii) to giving or fabricating of false evidence;
 - (iv) the duty and indemnity of witnesses, and the penalty for contumacy, insult or interruption of proceedings; and
 - (v) the appearance of advocates; shall with any necessary adaptations or modifications, apply to the members of, the witnesses before, and the proceedings before, the Tribunal in like manner as they apply to Commissions of Inquiry.

9. Venue

The Tribunal shall sit at such place as it may consider most convenient having regard to all the circumstances of the particular proceedings.

10. Rules

Subject to the provisions of this Schedule, the Tribunal shall have power to make rules governing its procedure.

11. Proof of document

A document purporting to be a copy of any order of the Tribunal, and certified by the chairman to be a true copy thereof, shall in any legal proceedings be *prima facie* evidence of the order.

NO. 10 OF 2001

SUGAR ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

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SUGAR (ELECTIONS) REGULATIONS, 2002

ARRANGEMENT OF REGULATIONS

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SCHEDULES

- FIRST SCHEDULE – ELECTORAL AREAS FOR ELECTION TO THE BOARD
- SECOND SCHEDULE – NOMINATION FORM FOR ELECTION TO THE KENYA SUGAR BOARD AS A GROWER REPRESENTATIVE
-

SUGAR (ELECTIONS) REGULATIONS, 2002

[L.N. 48/2002, L.N. 59/2002, Corr. 45/2002, L.N. 33/2005.]

1. Citation

These Regulations may be cited as the Sugar (Elections) Regulations, 2002 and, shall come into operation on the 1st April, 2002.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Board**” has the meaning assigned to it by section 2 of the Act;

“**election**” means the process of selecting the representatives of growers or millers to the Board;

“**electoral area**” means a sugar-cane growing and processing or milling zone area as specified in the First Schedule;

“**presiding officer**” means a person appointed by the returning officer to be in-charge of the electoral process in a defined electoral area;

“**returning officer**” means a person appointed by the Minister to be in-charge of the electoral process;

“**Tribunal**” has the meaning assigned to it by section 2 of the Act.

[L.N. 59/2002, L.N. 33/2005, s. 2.]

3. Election of grower representatives to the Board

(1) There shall be elected from the electoral areas specified in the first column of Part 1 of the First Schedule such number of person(s) as specified in the second column of Part 1 of the First Schedule, to represent the interests of growers on the Board.

[L.N. 59/2002, s. 3.]

(2) A person elected under paragraph (1) shall be a grower in the area which he aspires to represent provided that no person shall be elected to represent more than one electoral area.

4. Election of miller representatives to the Board

(1) There shall be elected from the electoral areas specified in the first column of Part II of the First Schedule, such number of persons as specified in the second column of Part II of the First Schedule, to represent the interests of millers on the Board.

(2) A person elected under paragraph (1) shall be a representative of a miller registered in the area in which he aspires to represent provided that no person shall be elected to represent more than one miller.

[L.N. 59/2002, L.N. 33/2005, s. 3.]

5. Convening of electoral area meetings

(1) The Minister, after giving thirty (30) days notice in the *Gazette* and in at least two local dailies of national circulation, shall convene meetings in the electoral areas specified in the Schedule for the purpose of holding elections of members of the Board.

(2) The meetings referred to in paragraph (1) shall be meetings of the—

- (a) growers referred to in regulation 3;
- (b) representatives of millers referred to in regulation 4.

[Subsidiary]

(2A) There shall be a single meeting to elect the representatives of the millers.

(3) Members of the Board shall be elected in accordance with the First Schedule at the meetings referred to in this regulation.

[L.N. 59/2002.]

6. Elections under a programme

The Minister, in consultation with the Board, may cause and facilitate elections at any level to be carried out under a specified programme provided that the growers and millers meet their costs to the electoral meetings.

[L.N. 59/2002.]

7. Returning officers to be from Ministry

Each returning officer shall be a public officer in the ministry for the time being responsible for matters relating to agriculture.

[L.N. 59/2002.]

8. Procedure to elect miller representatives

(1) This Regulation applies to the conduct of the election of representatives of millers.

(2) At the meeting to elect the representatives of the millers, each miller shall be represented by one delegate.

(3) The election of representatives of millers shall be conducted in accordance with such procedures as the delegates at the meeting determine.

[L.N. 59/2002.]

9. Procedure to elect grower representatives

(1) This Regulation applies to the conduct of the election of representatives of growers.

(2) To be entitled to vote at a meeting to elect a representative for an electoral area, a person must present his national identity card and satisfy the presiding officer that the person is a registered grower in the electoral area.

(3) Without limiting how a person may satisfy a presiding officer under paragraph (2) it shall be sufficient to do so if the person presents one of the following—

- (a) a membership card cane delivery note or registration document issued to the person by a miller or out-grower institution that operates in the electoral area;
- (b) a contract with a miller or out-grower institution that operates in the electoral area for the supply of sugar-cane or a scheduled crop for the manufacture of sugar.

(4) A person must be present at a meeting to vote.

(5) To be a candidate for election as a representative for an electoral area, a person must be a grower in the electoral area and the person must be nominated in accordance with paragraph (6).

(6) A candidate shall be nominated, in Form 1 of the Second Schedule, by ten growers who are entitled to vote to elect a representative for the electoral area, with five of those growers proposing the candidate and five of those growers seconding the candidate, and the nomination form must be delivered to the returning officer at least seven days before the day of the election.

(7) At least three days before the day of the election the Board shall publish, in at least two daily newspapers of national circulation, a list of the nominated candidates.

[Subsidiary]

(8) If the number of candidates nominated for an electoral area is less than or equal to the number of representatives to be elected for that area, the candidate or candidates shall be deemed to have been elected.

(9) If the number of candidates nominated for an electoral area is more than the number of representatives to be elected for that area, an election shall be held and the voters at each meeting shall decide, by a show of hands, whether the election at that meeting shall be by secret ballot or a show of hands.

(10) If the election is by a show of hands the presiding officer shall call out the name of each candidate and the voters shall vote by a show of hands.

(11) If the election is by secret ballot, the presiding officer shall cause a plain piece of paper to be delivered to each voter and each voter shall—

- (a) record his vote by writing the name of the candidate he wishes to vote for on the piece of paper;
- (b) fold the paper to conceal his vote; and
- (c) deliver the paper, or cause it to be delivered, to the presiding officer in such manner as the presiding officer directs.

(12) No mark, writing or signature shall be made on the paper other than the name of the candidate voted for.

(13) The presiding officer shall count the votes and announce the results at the meeting.

[L.N. 59/2000, L.N. 33/2005.]

10. Results of Elections

(1) Each presiding officer shall forward the results of the election at the meeting he presides over to the returning officer in Form 2 of the Second Schedule.

(2) The returning officer shall determine who is elected and shall provide the Minister with a certificate, in Form 3 of the Second Schedule, setting out the name of each elected representative for appointment to the Board by the Minister.

[L.N. 59/2002, L.N. 33/2005, s. 5.]

11. First meeting of the Board

(1) The Minister shall convene the first meeting of the Board, at which the chairman and the vice-chairman of the Board shall be elected.

(2) The Board shall forward the name of the chairman and vice-chairman to the Minister for appointment by notice in the *Gazette*.

[L.N. 59/2002.]

12. Obstruction of voting

Any person who interferes with or obstructs another person from voting or being elected commits an offence.

13. Appeals

(1) A person aggrieved by the decision of the returning officer to reject his candidature or right to vote may appeal to the Tribunal within fourteen days of the date of rejection and such appeal shall not operate as a stay of the election unless the Tribunal so orders.

Sugar

[Subsidiary]

(2) Notwithstanding the provisions of paragraph (1), all disputes arising out of an election under these Regulations shall be lodged with the Tribunal for determination.

[L.N. 33/2005, s. 6.]

14. General penalty

A person who contravenes any of these Regulations commits an offence and shall be liable upon conviction, to a fine of not more than six thousand shillings or to imprisonment for a term not exceeding two months, or to both.

FIRST SCHEDULE

[L.N. 59/2002, s. 9, L.N. 33/2005, s. 7.]

ELECTORAL AREAS FOR ELECTION TO THE BOARD

PART I

1. Electoral areas for growers.

Electoral Area	Number of Board Members
Busia and Mumias	2
West Kenya	1
Nzoia	1
Chemelil, Miwaniand Nandi	1
Muhoroni and Soin	1
South Nyanza, Gucha and Transmara	1
TOTAL	7

PART II

1. Electoral areas for millers.

Electoral Area	Number of Board Members
Mumias Sugar Company	3
Nzoia Sugar Company	
Sony Sugar Company	
Chemelil Sugar Company	
Muhoroni Sugar Company	
Miwani Sugar Company	
West Kenya Sugar Company	
TOTAL	3

Sugar

[Subsidiary]

SECOND SCHEDULE

Form I

[L.N. 56/2002, s.9, Corr. No. 45/2002.]

(r. 9)

NOMINATION FORM FOR ELECTION TO THE KENYA SUGAR BOARD AS A GROWER REPRESENTATIVE

[Corr. No. 45/2002.]

- (a) Electoral area
- (b) Candidate's name
- (c) Proposers:

	Name	ID. Number	Signature
1.			
2.			
3.			
4.			
5.			

(d) Seconders:

	Name	ID. Number	Signature
1.			
2.			
3.			
4.			
5.			

(e) Verification of grower status by candidate:

I verify that I am a grower in the electoral area. I attach the following documents to establish that I am such a grower:

.....

.....

.....

(A document listed in regulation 9(3) is sufficient).

Signature of candidate

Date

Witness: Name:

ID. Number

Signature

Date

Sugar

[Subsidiary]

SECOND SCHEDULE—continued

Form 2

[Corr. No. 45/2002.]

(r. 10)

FORM FOR REPORTING ELECTION RESULTS TO RETURNING OFFICER

- (a) Electoral area
- (b) Details of meeting:
 - Location of meeting
 - Date of meeting
- (c) Results:

	Candidate's name	Number of votes
1.		
2.		
3.		
4.		
5.		

Total votes cast:

Spoilt/invalid votes

- (d) Verification by candidate or candidate's agent of results:

Candidate number	Name of candidate or agent	ID. Number	Signature
1.			
2.			
3.			
4.			
5.			

- (e) Verification by presiding officer.

I verify the above results.

Presiding officer:

Name

Signature

Date

Form 3

(r. 10)

CERTIFICATE OF ELECTION OF REPRESENTATIVE

THIS IS TO CERTIFY that has been elected as a representative to the Kenya Sugar Board.

Sugar

[Subsidiary]

SECOND SCHEDULE—*continued*

Returning officer:

Name

Signature

Date

SUGAR (IMPOSITION OF LEVY) ORDER, 2007

[L.N. 90/2007, L.N. 392/2007, L.N. 98/2009.]

1. This Order may be cited as the Sugar (Imposition of Levy) Order, 2007.
 2. There is imposed a levy at the rate of four per centum of the ex-factory price for locally produced sugar and of the landed-entry point price for imported sugar (other than industrial sugar imported by gazetted manufacturers under the duty remission scheme).
 3. The levy on the locally produced sugar shall be remitted to the Board by the sugar mills as its agents whereas the levy for imported sugar shall be collected directly by the Board or by its authorized agents, who shall be notified in the *Gazette*.
 4. The amount of the levy collected by any authorized agent referred to in paragraph 3 shall be remitted to the Board not later than the tenth day of the month during which the levy was collected.
-

SUGAR (IMPORTS, EXPORTS AND BY-PRODUCTS) REGULATIONS, 2008

[L. N. 114/2008, L.N. 122/2009, L.N. 23/2010.]

1. These Regulations may be cited as the Sugar (Imports, Exports and By-products) Regulations, 2008.

2. In these Regulations unless the context otherwise requires—

“**export permit**” means a permit issued by the Board in accordance with regulation 4;

“**import permit**” means a permit issued by the Board in accordance with regulation 4;

“**registered exporter**” means a person who holds an export permit issued by the Board to take or cause to be taken out of Kenya sugar and its by-products.

“**registered importer**” means a person who holds an import permit issued by the Board to bring or cause to be brought into Kenya sugar and its by-products.

3. (1) Every person who imports or exports sugar or its by-products shall apply for an import or export permit from the Board.

(2) An application for an import permit shall be in Form A as set out in the Schedule.

(3) An application for an export permit shall be in Form C as set out in the Schedule.

4. (1) Where the Board approves an application for an import or export permit under these Regulations, it shall on payment of a registration fee of one hundred thousand shillings, register the applicant by entering the name and such other particulars as it may determine in the register maintained under regulation 5.

(2) The Board shall, upon registering an applicant under paragraph (1) issue an import or export permit in Form B or D as the case requires, in the Schedule to these Regulations.

(3) A permit issued under these Regulations shall be subject to such conditions as the Board may impose.

(4) The permit shall be issued only for the specific consignment being imported or exported.

(5) *Deleted by L.N. 122/2009, r. 2.*

[L.N. 122/2009, r. 2.]

5. (1) The Board shall maintain a register of all importers and exporters registered in accordance with these Regulations.

(2) Permits granted to manufacturers entitled to import white refined sugar shall not be transferable and third party trading shall be prohibited.

(3) A manufacturer who wishes to procure refined sugar locally from another manufacturer must obtain approval from the Board.

6. (1) The Board shall determine annually the amount of refined sugar required by manufacturers and other sugar intended for local consumption taking into account the shortfall in the domestic production.

(2) Pursuant to paragraph (1), the Board shall issue permits for auction such quantities to be imported by registered importers under the COMESA mutual tariff concession as provided in the schedule to these Regulations.

(3) *Deleted by L.N. 23/2010, s. 1.*

[L.N. 23/2010, s.1]

*Sugar***[Subsidiary]**

7. On successful processing of customs documentation, the consignment of import or export shall be physically verified jointly by authorized Kenya Revenue Authority and Kenya Sugar Board officials.

8. Goods shall only be released to the consignee on issuance of a release order issued by the Kenya Sugar Board in the manner prescribed in form F.

9. Every importer or exporter granted a release order, shall make returns to the Board in the manner prescribed in Form E in the Schedule.

10. (1) The Board may cancel an import or export permit of a person who contravenes these Regulations.

(2) A person whose permit has been cancelled may appeal against the decision to the Sugar Arbitration Tribunal.

[L.N. 39/2003, L.N. 122/2009.]

11. The Sugar (Imports, Exports and By-Products) Regulations, 2003, are revoked.

SCHEDULE

[Rule 6(2).]

[L.N. 122/2009, s. 4.]

SUGAR ACT

[Act No. 10 of 2001.]

- (a) The auction of rights to import the sugar is open to all pre-qualified importers for expression of interest.
- (b) The rights shall be sold in lots of 500 metric tones each.
- (c) The bid price of the right shall be determined by the difference between average ex-factory price of domestic sugar and the CIF landed Mombasa prices plus IDF fees of imported sugar.
- (d) The highest bidder shall be the person offering the largest margin.
- (e) Only the importers who qualify at the auction will be authorized to import as per the auction.
- (f) The qualified importers shall make returns in prescribed format to Kenya Sugar Board for monitoring purposes to ensure that only the allowed quantity of sugar enters the country duty free.
- (g) Participation at the auction shall be by catalogue only.
- (h) To be issued a catalogue, a Banker's Cheque deposit of Ksh.200,000 (Shillings two hundred thousand) clearly marked "Kenya Sugar Board" must be paid at the KSB Cash office and receipt given for the amount before the date of the auction.
- (i) A successful bidder shall be required to pay full amount for the bid balance within 30 days failure to which the deposit shall be forfeited.
- (j) The right to import shall be issued only after full bids amount have been paid.
- (k) The right to import is not transferable.

SCHEDULE—continued

Form A

(r. 3(2))

APPLICATION FOR IMPORT PERMIT

- 1. Name of applicant:
- 2. Address:
- 3. Telephone Number:
- 4. Physical Location:
- 5. L.R. No/Nos:
- 6. Names of Directors and addresses

Name/address: Signature:

Name/address: Signature:

Name/address: Signature:

Name/address: Signature:

- 7. Warehouse Capacity: Metric Tonnes

Physical Address:

L.R. No:

- 8. Previous Experience

Quantity of sugar imported in the last 12 months (tones)

Type of sugar (specify)

Country of origin

CIF Value

Dates of importation

Last registration number by the Board or its predecessor

- 9. Source of Sugar/Country of origin in respect of this application

- 10. Intended use of sugar/by-products:

Human Consumption Industrial Manufacturing

..... Further processing

..... Transit

- 11. Application is made for permission to import sugar in accordance with the particulars given above, which are hereby certified to be correct. The memorandum and articles of association and a copy of the most recent audited accounts of our company are attached.

- 12. I certify that the information given in this application is true and correct to the best of my belief.

Name of signatory:

Signature: Date:

(Applicant)

Decision of the Kenya Sugar Board: Approved/Not Approved/Deferred at a meeting of the Board held on (date)

Name:

Signature: Date:

Chief Executive
Kenya Sugar Board

Sugar

[Subsidiary]

SCHEDULE—continued

Form B

(r. 4(2))

IMPORT PERMIT

THIS IS TO CERTIFY THAT:

- Consignee:
- PIN No:
- Postal Address:
- Physical Location:
- Telephone No:
- Business Permit No:
- Bill of Lading:
- I.D.F. No:
- Type of Sugar:
- Quantity (MT):
- Source of the Sugar:
- Destination of the Sugar:
- C.I.F. Value:
- Vessel Name:
- Shipping Agent:
- Expected Date of Arrival:
- Issue Date:

Chief Executive Officer
Kenya Sugar Board

KSB Official
For and on Behalf of Kenya Sugar Board

Signature/Seal Stamp

N. B. This Permit is subject to conditions set out overleaf

GENERAL TERMS AND CONDITIONS

1. This permit shall remain the property of the Kenya Sugar Board and may be withdrawn at any time at the discretion of the Board.
2. The Kenya Sugar Board may cancel, vary or suspend this Permit issued to any person if such person fails to abide with the terms and conditions of this registration.
3. The importer shall undertake to abide by the terms and conditions of this permit.
4. The importer shall submit their returns to the Board on a quarterly basis as prescribed in Form E.
5. This Permit is issued only for purposes of customs documentation and processing in respect of this consignment, and does not guarantee release of cargo.
6. This permit is not transferable.

SCHEDULE—continued

Form C

(r. 3(3))

APPLICATION FOR EXPORT PERMIT

- 1. Name of applicant:
- 2. Address:
- 3. Telephone Number:
- 4. Physical Location:
- 5. L.R. No/Nos:
- 6. Names of Directors and addresses

Name/address: Signature:

Name/address: Signature:

Name/address: Signature:

Name/address: Signature:

7. Warehouse Capacity: Metric Tonnes

Physical Address:

L.R. No:

8. Previous Experience

Quantity of sugar imported in the last 12 months (tonnes)

Type of sugar (specify)

Country of destination

CIF Value

Dates of importation

Last registration number by the Board or its predecessor

9. Country of destination in respect of this application

10. Application is made for permission to export sugar in accordance with the particulars given above, which are hereby certified to be correct. The memorandum and articles of association and a copy of the most recent audited accounts of our company are attached.

11. I/We hereby apply for registration as a sugar exporter in accordance with the terms of the regulations made under the Sugar Act, 2001.

I certify that the information given in this application is true and correct to the best of my belief.

Name of signatory:

Signature: Date:

Chief Executive
Kenya Sugar Board

Date: Signed:

(Applicant or his duly authorized Agent)

Sugar

[Subsidiary]

SCHEDULE—continued

Form D

(r. 4(2))

EXPORT PERMIT

PERMIT NO:

THIS IS TO CERTIFY THAT:

Exporter:

PIN No:

Postal Address:

Physical Location:

Telephone No:

Business Permit No:

Bill of Lading:

Export Entry No:

Type of Sugar:

Quantity (MT):

Source of the Sugar:

Destination of the Sugar:

F.O.B. Value:

Mode of Transport/Vessel Name/Transport reference:

Shipping Agent:

Expected Date of Departure:

Issue Date:

Chief Executive Officer
Kenya Sugar Board

.....
KSB Official
For and on Behalf of Kenya Sugar Board

.....
Signature/Seal Stamp

N. B. This Permit is subject to conditions set out overleaf

GENERAL TERMS AND CONDITIONS

1. This permit shall remain the property of the Kenya Sugar Board and may be withdrawn at any time at the discretion of the Board.
2. The Kenya Sugar Board may cancel, vary or suspend this Permit issued to any person, if such person, fails to abide with the terms and conditions of this registration.
3. The exporter shall undertake to abide by the terms and conditions of this permit.
4. The export shall submit their returns to the Board on a quarterly basis as prescribed in Form E.
5. This permit is issued only purposes of customs documentation and processing in respect of this specific consignment, and does not guarantee release of cargo for export.
6. This Permit is not transferable.

SCHEDULE—continued

Form E

(r. 9)

SUGAR IMPORTS RETURNS

CONFIDENTIAL

1. Name of Importer:
2. Address:
3. Details of sugar or by-products imports:
 - (a) Port and Country of origin
 - (b) Manifest Numbers at *Gazetted* entry points
 - (c) Category of import
 - (d) C.I.F Value Quantity
4. Utilization of imports. Please give detailed breakdown of utilization under following categories: (If space is inadequate provide attachment)
 - (a) Direct human consumption (give a full list of purchasers, addresses, physical location and quantities purchased)
 - (b) Industrial manufacturing (specify type of products in which sugar was used and production returns for the period)
 - (c) Raw sugar for processing (specify quality of raw sugar processed into mill white, refined sugar, brown sugar or other by-products. Also give a full list, addresses and physical locations of all the end users of the processed goods.)
 - (d) Transit sugar (provide full details of the quantities imported and exported including the dates of actual export at entry and exit points: Also attach copies of re-export certificates duly signed)
5. Full name and address of buyer and consignee
6. Name and address of warehouse where sugar can be inspected
7. Sugar short shipment if (any):

Manifest numbers	Invoice No.	Type	No. of Bags	Net Weight (Kilograms)

(If space provided is not adequate provide an attachment)

NB: Applicant to attach certified copies of the following documents for verification.

- (a) Sale contract
- (b) Letter of credit/Telegraphic Transfer Documents
- (c) Commercial invoice
- (d) Brokers invoice;
- (e) Sheet (where applicable)
- (f) Sugar Development Levy payment slip.

Full Names: Signature:

Date:

For official use:

Sugar

[Subsidiary]

SCHEDULE—continued

AUTHENTICATION BY
THE KENYA SUGAR BOARD

..... Date
SIGNATURE AND STAMP

Form F

(r. 8)

CARGO RELEASE ORDER

Release Order No:
Consignee:
Postal Address:
Import Processing Permit No:
Issue Date:
Customs Entry No. and Date:
Quantity of Sugar (MT)
Physical Location of Consignment:

.....
Release Authority Stamp

SIGNATURE OF RELEASE OFFICER
For and on behalf of Kenya Sugar Board

SUGAR (ARBITRATION TRIBUNAL) RULES, 2008

ARRANGEMENT OF RULES

PART I – PRELIMINARY

Rule

1. Citation.
2. Definitions.
3. Forms.
4. Directions.
5. Fees.

PART II – DISPUTES AND PROCEEDINGS

6. Initiation of proceedings.
7. Register.
8. Registration of disputes.
9. Presentation of claims.
10. Service, filing of reply, opposition, objections, etc.
11. Defence and Reply to defence.
12. Close of pleadings.
13. Fixing of hearing date.
15. Supporting data.
16. Information to be provided by a complainant.
17. Hearing notices.
18. Tribunal orders.
19. Witness Summons.
20. Representation.
21. Costs.
22. Proceedings to be open to public.
23. Majority decision.

PART III – GENERAL RULES APPLICABLE TO ALL PROCEEDINGS

24. Frivolous or vexatious proceedings.
25. Petitions.
26. Hearings before the Tribunal.
27. Place of hearing.
28. Service of Notices.
29. Determination of dispute.
30. Further information and evidence.
31. Experts.
32. Consequence of non-appearance.
33. Interim orders.
34. Inspection of records.
35. Supply of certified copies of documents.
36. Place of hearing.
37. Records to be maintained.

[Subsidiary]

PART IV – MISCELLANEOUS PROVISIONS

Rule

- 38. Amendments.
- 39. Withdrawal of suit.
- 40. Documents to be in English.
- 41. Extension of time.
- 42. Application to be by motion.
- 43. Saving of discretionary powers of Tribunal.
- 44. Stay.

SCHEDULES

- FIRST SCHEDULE – FORMS
 - SECOND SCHEDULE – FEES
-

SUGAR (ARBITRATION TRIBUNAL) RULES, 2008

[L.N. 121/2008.]

PART I – PRELIMINARY

1. Citation

These Rules may be cited as the Sugar (Arbitration Tribunal) Rules, 2008.

2. Definitions

In these Rules, unless the context otherwise requires—

“**Chairman**” means the Chairman of the Tribunal;

“**clerk**” means the clerk to the Tribunal;

“**day**” means a calendar day;

“**interested parties**” means the Government, millers, growers or out-grower institutions or as otherwise defined in the Sugar Act, 2001;

“**member**” means a member of the Tribunal;

“**Secretary**” means the Secretary to the Tribunal;

“**Tribunal**” means the Sugar Arbitration Tribunal established under section 31 of the Sugar Act, 2001.

3. Forms

(1) The Tribunal may from time to time prescribe or give directions on such forms as it may deem necessary for the purposes of filing any claims, replies or applications.

(2) Forms already prescribed as referred to in paragraph (1) are set out in the First Schedule and may be used with appropriate modifications.

4. Directions

(1) The Tribunal may give all such directions as may be required whether on its own motion or under a formal or informal application in court as the case may be with respect to any necessary procedure to be followed in any proceedings or any relevant issue or step in the proceedings, including directions with respect to the form to be used where no form is otherwise provided for under these Rules.

(2) The formats prescribed under these rules for the making of any documents may be accepted in modified form at the discretion of the Tribunal.

(3) The Tribunal shall subject to paragraph (1) have power to admit any pleadings, documents, references, petitions or applications instituted or presented other than by way of the form prescribed under these rules:

Provided that, no compliant shall be refused for defects in the pleadings or to the presentation, without giving an opportunity to the party filing to rectify the defects within the time which may be given for the purpose.

5. Fees

(1) Filing fees, as may be prescribed by the Tribunal, shall be payable on presentation of the compliant.

(2) The fees set out in the Second Schedule to these rules shall be payable in proceedings before the Tribunal.

[Subsidiary]

(3) The fees shall be payable by way of cash, bankers cheque or postal order issued in favour of the Tribunal or may otherwise be payable to the Tribunal through the Ministry of Agriculture as may be directed by the Tribunal through its officers handling fees matters on behalf of the Tribunal.

(4) The fee received shall be entered into the register prescribed for the purpose and a receipt issued accordingly.

(5) The Tribunal is entitled to demand additional court fees where an award is clear or quantified at the conclusion of the case and whereby the fee charged at the time of filing does not take into account or correlate with the award as the case may be and the Tribunal may at any time require that a defined amount of fees be paid before further proceedings are entertained in the matter.

PART II – DISPUTES AND PROCEEDINGS**6. Initiation of proceedings**

(1) Where any dispute exists, the party desirous of referring such dispute to the Tribunal shall file suit or lodge complaint, reference or petition to the Tribunal in the appropriate form or nature, and the Tribunal shall thereupon take cognizance of the dispute and register the dispute in the register.

(2) All complaints to be filed before the Tribunal shall be typewritten, photocopied, printed or written neatly and legibly on one side of A4 paper and every page shall be consecutively numbered.

(3) The contents of a compliant shall be divided appropriately into separate paragraphs, which shall be numbered serially.

7. Register

(1) The Tribunal shall cause to be prepared a register containing, with regard to any reference before the Tribunal, the following particulars—

- (a) date of filing the complaint, reference or petition;
- (b) the serial number;
- (c) the name of the applicant and other parties involved;
- (d) the relief sought by the applicant and identifying details of the stakeholders or other interested parties affected if any; and
- (e) provision for the final determination or order and the date thereof.

8. Registration of disputes

(1) The clerk shall, after charging the appropriate fee, open a case file and shall record the particulars in the register.

(2) The complaint may be in the form of plaint, reference or dispute with such modifications as the case may be.

(3) The general heading in all matters before the Tribunal and in all publications and notices shall be as prescribed in the First Schedule, with appropriate modifications.

(4) Where the document is to be signed, each copy required shall be signed.

(5) Upon receipt of a case or complaint the Tribunal shall acknowledge receipt by stamping and endorsing the date on which the complaint is presented.

(6) The date of presentation and receipt of the complaint shall be duly entered in the register maintained for that purpose.

10. Service, filing of reply, opposition, objections etc.

(1) Once a matter is filed with the Tribunal, the party filing the matter shall serve a copy of the complaint/or matter on the respondent as soon as possible from the date of the presentation of the complaint.

(2) The provision for service may be dispensed with if the respondent involved has acknowledged service pursuant to the Tribunal writing to the parties upon receipt of the complaint in exceptional circumstances in the discretion of the Tribunal.

11. Defence and Reply to defence

(1) The respondent shall file a defence or reply to the complaint in original and sufficient copies within fourteen (14) days from the date of service of the complaint.

(2) The defence may specifically admit, deny or explain each of the facts stated in the complaint and may also state such additional facts as the respondent may consider necessary for just determination of the complaint or case.

(3) The defence shall be signed dated and, once filed, be duly served.

(4) The respondent may include a counter-claim against the complainant as the case may be.

(5) The claimant may file a reply to defence within seven days of being served subject to Rule 13 below.

(6) In the event of the defendant filing a counter-claim the plaintiff shall file a defence thereto within fifteen (15) days of service of the defence and counter claim.

12. Close of pleadings

Pleadings shall be deemed to have closed upon expiry of fifteen days from the date of filing of reply or defence to the suit or to the counter claim as the case may be.

13. Fixing of a hearing date

The Tribunal may on its own motion or at the instance of any of the parties to the dispute set down the dispute for hearing any time subject to giving any necessary directions by the Tribunal and in setting the hearing date the Tribunal shall have regard to any material circumstances including convenience as to the Tribunal's own diary and schedules of business.

14. Supporting data

The Tribunal may direct that copies of such data, statements, Reports or contracts, agreements, receipts, invoices or other documentary evidence or reference material to be relied on in the hearing or proceedings be lodged in advance with the Tribunal and copies served accordingly as the Tribunal may specify.

15. Information to be provided by a complainant

In his complaint, the complainant shall provide the following information—

- (a) complainant's name and address;
- (b) nature of complaint or claim; and
- (c) the relief sought.

16. Hearing notices

A hearing notice may be issued by the Tribunal directly or by any party as appropriate and shall subject to such modifications as necessary be in the Form prescribed in the First Schedule.

[Subsidiary]

17. Tribunal orders

An order issued by the Tribunal shall be under the Tribunal seal and executed or certified by at least two members of the Tribunal one of whom must be the Chairman.

18. Witness summons

When a witness is required to appear before the Tribunal the clerk shall prepare witness summons as prescribed in the First Schedule upon written or formal application to the Tribunal by any party and thereafter the party requesting for the witness summons shall effect service on the witness accordingly.

19. Representation by counsel

A person may be represented before the Tribunal by an agent in respect of a matter if—

- (a) an appointment of the agent in respect of the matter has been filed with the Tribunal vide Form I (1); and
- (b) the agent is an advocate with a current practicing certificate.

20. Costs

The Tribunal may—

- (a) in its sole discretion award costs in favour of parties generally;
- (b) require a party to pay all or part of the costs of another party and specify how the costs are to be determined and how they are to be paid; or
- (c) be entitled to decide in each dispute the party or parties who shall bear the costs of the hearing.

21. Proceedings to be open to public

Proceedings of the Tribunal shall be open to the public but where the Tribunal deems fit it may conduct proceedings in camera.

22. Majority decision

The decision of the Tribunal shall be the decision of the majority of the members present and shall be signed by all the members sitting.

PART III – GENERAL RULES APPLICABLE TO ALL PROCEEDINGS**23. Frivolous or vexatious proceedings**

(1) If a dispute, application or case discloses no reasonable grounds and it appears to the Tribunal that it is frivolous or vexatious; the Tribunal may dismiss the application or request without a hearing:

Provided that appropriate advance notification shall be given to the parties who will be at liberty to make submissions on the issue for the Tribunal's consideration.

(2) The Tribunal shall advise the parties in writing explaining why the Tribunal cannot maintain the complaint, in that eventuality.

24. Petitions

(1) Such petitions or cases by law or contract of respective parties requiring reference to the Tribunal for arbitration or determination shall be instituted or presented to the Tribunal subject to the terms specified in the rules or provisions applicable with respect to the matters in dispute.

(2) Petitions, cases or references under paragraph (1) may be entertained in tandem with the sources of references and without strict regard to forms prescribed under these rules in the Tribunal's discretion.

25. Hearings before the Tribunal

(1) The Tribunal may from time to time hold hearings or proceedings as it may consider appropriate in the discharge of its functions under the Act with respect to matters before it.

(2) The Tribunal may, if it considers appropriate, invite comments from any person on the issues involved in any hearing in such form as the Tribunal may direct.

26. Place of hearing

The Tribunal shall determine the place, the date and the time of the hearing of a dispute.

27. Service of notices

(1) Notice of the time and place of hearing shall be served at least fifteen (15) days prior to the hearing upon all affected persons subject to the Tribunal being at liberty to vary this requirement as it may deem fit.

(2) Notices issued under this Rule may be served by—

- (a) by hand delivery;
- (b) by registered post; or
- (c) in any other manner as considered appropriate by the Tribunal.

(3) The Tribunal may require that a return of service giving details of document served, the date and manner of service be filed as proof of such service.

(4) Every notice or process required to be served on or delivered to any person may be sent to the person or his agent empowered to accept service at the address furnished by him for service or at the place where the person or his agent ordinarily resides or carries out business or personally works for gain.

(5) In the event any matter is pending before the Tribunal and the person to be served has authorized an agent or representative to appear for or represent him or her in the matter, such agent or representative shall be deemed to be duly empowered to take service of the notices and processes on behalf of the party concerned in all matters and the service on such agent or representative shall be taken as due service of the person to be served.

(6) No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person provided that the Tribunal is satisfied that such service is in other respects sufficient, and no hearing shall be invalidated by reason of any defect or irregularity unless the Tribunal, on an objection taken, is of the opinion that substantial injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so.

28. Determination of dispute

(1) The Tribunal may determine the dispute in any manner as it may consider appropriate, including being at liberty to decide the dispute on the strength of pleadings and submissions of the parties only in line with directions as may be so taken or otherwise on the basis of trial and submission of oral evidence in the dispute.

(2) The Tribunal may in consultation with or upon application by the parties order consolidation of two or more matters for purposes of expediency in proceedings and finalization where it is deemed appropriate and parties are in agreement to consolidation.

[Subsidiary]

(3) Where evidence of a party is by way of oral submission, the Tribunal may, if considered necessary or expedient, grant an opportunity to the opposing party to cross-examine the persons giving evidence.

(4) The Tribunal may, if considered necessary or expedient, record the evidence of the parties by any means it may deem fit.

(5) The Tribunal may direct the parties to file written notes of arguments or submissions in the dispute on such terms as the Tribunal may order.

(6) The Tribunal shall be at liberty to pose or address any questions to the parties during hearing or other proceedings of the dispute.

(7) The Tribunal shall give its decision in writing, giving reasons thereof after conclusion of the hearing and delivery of decision shall be on such date as may be directed by the Tribunal.

29. Further information and evidence

(1) The Tribunal may, at any time before passing orders on any dispute, require the parties or any one or more of them or any other person whom the Tribunal considers appropriate, to give such documentary or other evidence as the Tribunal may consider necessary for the purpose of enabling it to pass orders and subject to such directions as the Tribunal may consider appropriate.

(2) The Tribunal may require to be disclosed or given such further information details or particulars from any of the parties at any time before commencement or during hearing where deemed necessary at the Tribunal's discretion on its own motion or at the instance of any party on such terms or orders as the Tribunal may find fit.

30. Experts

(1) At any stage of the hearing, the Tribunal may refer on its own motion or on application such issues or issues in the dispute as it considers appropriate to persons including, but not limited to, professionals and consultants whom the Tribunal considers as qualified to give expert advice or opinion and to consider and rely on or otherwise deal with such expert evidence as necessary and subject to any party being at liberty to cross-examine the witness and to call alternative expert evidence opinion as the case may be.

(2) The Tribunal may nominate from time to time any person including, but not limited to, the officers of the Tribunal as well as any professionals or consultants to visit any place or places for inspection and report on the existence or status of the place or any facilities and circumstances therein as may be necessary.

(3) The Tribunal, if it thinks fit, may direct the parties to appear before the persons designated in paragraph (1) and (2) to present their views on the issues or matters referred to.

(4) The report or the opinion received from such person shall form part of the record of the dispute and the parties shall be given the copies of the report or opinion and shall be entitled to file their version either in support or in opposition to the report or the opinion.

(5) The Tribunal may take into account the report or opinion given and the reply filed by the parties while deciding the dispute and if considered necessary the examination before the Tribunal of the person giving the report or the opinion.

(6) The Tribunal may make such order as it will deem necessary with respect to costs and expenses of an expert.

31. Consequences of non-appearance

(1) Where, on the date fixed for hearing or any other date to which such hearing may be adjourned, any party or their authorized agent or representative does not appear when

the dispute is called for hearing, the Tribunal may, in its discretion, either dismiss the complaint for non-attendance when the complainant (or the person who moves the Tribunal for hearing) is in default or proceed *ex parte*.

(2) Where a complaint is dismissed in default or decided *ex parte*, the person aggrieved may file an application within thirty days from the date of such dismissal or *ex parte* proceedings, as the case may be, for review of the order, and the Tribunal may within reasonable time review the order on such terms as it thinks fit, if the Tribunal is satisfied that there was sufficient cause for non-attendance.

32. Interim orders

(1) Applications seeking relief of an interim, interlocutory, procedural or other relevant nature may be filed at the Tribunal under and subject to existence of a substantive case filed and pending before the Tribunal.

(2) All applications filed in the Tribunal shall be by way of Notice of Motion as set out in the Schedule hereto and shall have grounds in support of the application as well as an Affidavit in support.

(3) Any party wishing to oppose an application filed shall be at liberty to file Grounds of Opposition and a Replying Affidavit thereto.

(4) The Tribunal may upon its discretion make or pass such interim orders as the Tribunal may consider appropriate at any stage of the proceedings.

(5) The reasons given by the Tribunal in support of an order shall form a part of the order and shall be available in accordance with these Regulations.

(6) Any order and decision issued or communicated by the Tribunal shall be under the official seal of the Tribunal and appropriately executed.

(7) Any order of the Tribunal shall be communicated to the parties to the dispute.

33. Inspection of records

(1) Records of every hearing, except those parts which for reasons specified by the Tribunal are confidential or privileged or otherwise not to be disclosed to any person, may, on application, be open to inspection either during the hearing or after the order has been passed, subject to such person complying with such terms as the Tribunal may direct from time to time.

(2) The application for inspection of documents shall be in writing and shall be accompanied by the prescribed fees.

(3) The inspection of records shall be allowed on any working day during working hours in the presence of an officer authorized for that purpose.

(4) The person inspecting the records shall not in any manner cause displacement, mutilation, tampering or damage to records in the course of inspection.

(5) The officer supervising the inspection may at any time prohibit further inspection if, in his opinion, any of the records are likely to be damaged in the process of inspection and shall immediately make a report about the matter to the Chairman and seek further orders on the matter.

(6) A register for inspection of records may be maintained by the Tribunal.

34. Supply of certified copies of documents

An interested party may, on written application and on payment of the prescribed fee, be entitled to obtain a certified copy of the order as well as the pleadings, papers and any

[Subsidiary]

other part of the records of the Tribunal to which he is entitled to inspect, subject to complying with any other condition as the Tribunal may direct:

Provided that, unless ordered otherwise by the Tribunal, a copy of the final order may not be sent to any party who has not entered appearance.

35. Hearing notice

(1) The Tribunal may allow not less than fourteen days notice to be given prior to hearing.

(2) A hearing may be adjourned by the Tribunal on such terms as the Tribunal may deem fit.

36. Records to be maintained

(1) In every reference or case or dispute filed at the Tribunal, the following records and particulars shall be maintained within the case file and or otherwise as may be directed by the Tribunal—

- (a) the date of the reference;
- (b) dispute and case file number;
- (c) names of applicant and respondent;
- (d) a record of the evidence/proceedings generally;
- (e) the composition of the Tribunal;
- (f) any documentary exhibits shall be attached to the record; and
- (g) any other relevant details or documents.

(2) At the conclusion of every reference the Tribunal shall make a determination or order as circumstances of each case will require and such determination or order shall be conclusive proof of the decision of the Tribunal.

(3) The decision of the Tribunal once hearing is concluded will be made within a reasonable time but in case of delay written explanation will be given to parties concerned.

PART IV – MISCELLANEOUS PROVISIONS**37. Amendments**

The Tribunal may—

- (a) on such terms as it may specify, allow a document to be amended or a procedural irregularity to be rectified;
- (b) on such terms as it may specify dispense with or modify any requirement to do anything, including a requirement to provide a document; and
- (c) enlarge any of the time limits provided in these Rules on such terms as the Tribunal may find appropriate.

38. Withdrawal of suit

(1) The person making a complaint, application or request may, at any time, withdraw the complaint, application or request by giving written notice to the Tribunal duly signed and filed and served.

(2) A party may request the Tribunal to order costs to be paid by the party withdrawing the complaint, application or request.

39. Documents to be in English

(1) Documents provided to the Tribunal shall be in English.

[Subsidiary]

(2) Notwithstanding paragraph (1), a document that is not in English may be included as an exhibit subject to—

- (a) an English translation of the document being included; and
- (b) the translation being certified to be an accurate translation under such means as the Tribunal may direct.

40. Extension time

(1) The Tribunal may extend, on such conditions as it may specify a time limit under these Rules.

(2) An application to the Tribunal for an extension of a time limit shall state the grounds on which the application is based and shall be supported by a statutory declaration or affidavit.

(3) An application for an extension of a time limit may be made even though the time limit has expired.

41. Application to be by motion

(1) An application for any orders before the Tribunal shall be by motion in the general format stipulated under the schedule to these rules, with appropriate modification.

(2) All applications shall set out the orders being sought together with the grounds in support thereof and shall be accompanied by a statutory declaration or affidavit setting out the facts being relied upon.

42. Saving of discretionary powers of the Tribunal

The Tribunal may make such orders as may be necessary or expedient in the circumstances of each case.

43. Stay Orders

Upon the decision, judgement or determination of the Tribunal being read, the Tribunal may make stay orders or provide for the time of taking effect of the decision.

FIRST SCHEDULE

[Rule 3.]

Form A

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20

COMPLAINANT

VERSUS

RESPONDENT

PLAINT/DISPUTE/COMPLAINT/PETITION (With modifications as necessary)

- 1. Description and address of Plaintiff/Disputant/Complainant etc as necessary.
- 2. Description and address of Defendant/Respondent/etc as necessary.
- 3. The Plaintiff/Disputant/Complainant's claim against the Respondent is as follows:

.....

(State further particulars where appropriate)

Sugar

[Subsidiary]

FIRST SCHEDULE—continued

4. There have not been previous proceedings and neither are any proceedings pending in any court of law in respect of the same subject matter and cause of action between the parties herein.

5. THIS Tribunal has jurisdiction to hear and determine this dispute.

REASONS WHEREFORE: The Complainant claims against the Respondent for:

DATED at this day of 20

COMPLAINANT/ADVOCATES FOR THE COMPLAINANT

Drawn & Filed by:

.....

P. O. Box

To be served upon:

.....

P. O. Box

Form B

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20

COMPLAINANT

VERSUS

RESPONDENT

AFFIDAVIT

I of P. O. Box

in the Republic of Kenya do hereby make oath and state as follows:

- 1. THAT I am the herein hence competent to make and swear this affidavit.
2. THAT I am well conversant with the particular of this suit as set out in the
3. THAT the averments contained in the are true and correct to the best of my own knowledge, information and belief.
4. THAT I make this Affidavit in solemn verification of the particulars contained in the
5. THAT what is stated above is true and correct to the best of my knowledge, information and belief.

SWORN at this day of 20

by the said

)

.....)

)

BEFORE ME

)

.....)

COMMISSIONER FOR OATHS

FIRST SCHEDULE—continued

Drawn & Filed by:

.....
.....

P. O. Box

.....
.....

Form C

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20

COMPLAINANT

VERSUS

RESPONDENT

DEFENCE/REPLY/RESPONSE (ETC)

- 1. Description and address of defendant etc.
- 2. Statements in Reply/Response/Defence with specific reference to the statement of claim with any additional averments or counter-claim as the case may be.

DATED at this day of 20

RESPONDENT/ADVOCATES FOR THE RESPONDENT

Drawn & Filed by:

.....
.....

P. O. Box

To be served upon:

.....
.....

P. O. Box

Form D1

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20

COMPLAINANT

VERSUS

RESPONDENT

NOTICE OF MOTION

TAKE NOTICE that this Honourable Tribunal shall be moved on the day of 20 at 9.00 O'clock in the

Sugar

[Subsidiary]

FIRST SCHEDULE—continued

forenoon or so soon thereafter as the Complainant/Counsel for the Complainant/Respondent can be heard for ORDERS THAT:

WHICH APPLICATION is based on the following grounds:

WHICH APPLICATION is further supported by the annexed affidavit of (where applicable)

DATED at this day of 20

(ADVOCATES FOR) THE COMPLAINANT/RESPONDENT

Drawn & Filed by:

P. O. Box

To Be Served Upon:

P. O. Box

If any party served does not appear at the time and place above mentioned such orders will be made and proceedings taken as the Tribunal may think just and expedient.

Form D2

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20 COMPLAINANT

VERSUS

RESPONDENT

AFFIDAVIT

I, of P. O. Box do hereby make oath and state as follows:

- 1. THAT:
2. THAT I make this affidavit in support of the application herein now before this Tribunal.
3. THAT all stated above is true and correct to the best of my own knowledge, information and belief.

SWORN at this day of 20 by the said

BEFORE ME

COMMISSIONER FOR OATHS

FIRST SCHEDULE—continued

Drawn & Filed by:

.....
P. O. Box
.....

Form E

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20
COMPLAINANT
VERSUS
RESPONDENT

AFFIDAVIT OF SERVICE

I, of P. O. Box
do hereby make solemn oath and state as follows:

- 1. THAT I am the Complainant/Respondent herein hence competent to make and swear this affidavit.
- 2. THAT on (*state date*) I served a hearing notice/notice of motion application dated scheduled for hearing on for service upon the Complainant/Respondent (*state name*) of P. O. Box
- 3. THAT on I caused the same to be served upon by way of Registered Post; see annexed certificate of posting marked and our file copy of the forwarding letter marked
- 4. THAT the said letter has not been returned to me/us unclaimed hence deemed as duly served.
(If by personal service, state:)
- 5. THAT the Complainant/Respondent acknowledged service by signing on the reverse side of the principal copy herein returned duly served.
- 6. THAT all stated herein above is true and correct to the best of my own knowledge, information and belief.

SWORN by the said)
at this)
day of 20)
BEFORE ME)

COMMISSIONER FOR OATHS

Drawn & Filed by:

.....
P. O. Box
.....

Sugar

[Subsidiary]

FIRST SCHEDULE—continued

Form F

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20
COMPLAINANT

VERSUS

RESPONDENT

HEARING NOTICE

To:

P. O. Box

TAKE NOTICE that the above mentioned Dispute has been fixed for hearing on
at (time) at (venue)

TAKE FURTHER NOTICE that unless you attend either by yourselves or someone by law duly
authorized to act on your behalf the same shall proceed and decided your absence notwithstanding.

GIVEN under my hand and the seal of the Tribunal at NAIROBI this
day of 20

Chairman
The Sugar Arbitration Tribunal

Form G

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20
COMPLAINANT

VERSUS

RESPONDENT

SUMMONS TO WITNESS

To:

WHEREAS your attendance is required to on behalf of the
in the above Dispute, you are required (personally) to appear before this Tribunal on the
day of 20 at o'clock in the forenoon
and to bring with you the following:

GIVEN under my hand and the seal of this Tribunal this
day of 20

Chairman
The Sugar Arbitration Tribunal

FIRST SCHEDULE—continued

Form H

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20
COMPLAINANT

VERSUS

RESPONDENT

DECREE

Claim for:

- (a)
- (b)
- (c)

THIS DISPUTE coming up for hearing on, and for judgement on AND UPON HEARING the Complainant/Counsel for Complainant and Respondent/Counsel for the Respondent.

IT IS HEREBY ORDERED THAT:

- (a)
- (b)
- (c)

GIVEN under the seal of the Sugar Arbitration Tribunal this day of, 20

AND ISSUED at this day of 20

Chairman

Member

Member

Form I (1)

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20
COMPLAINANT

VERSUS

RESPONDENT

NOTICE OF APPOINTMENT

TAKE NOTICE that Messrs Co. Advocates of P.O. Box have been appointed to act for the Complainant/Respondent herein

Sugar

[Subsidiary]

FIRST SCHEDULE—continued

Henceforth all correspondence appertaining this matter shall be received by the said advocates on behalf of the Complainant/Respondent.

Dated at this day of 20

ADVOCATES FOR THE COMPLAINANT/RESPONDENT

Drawn & Filed by:

P. O. Box

To Be Served upon:

P. O. Box

Form I (2)

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20

COMPLAINANT

VERSUS

RESPONDENT

NOTICE OF CHANGE OF ADVOCATES

TAKE NOTICE that Messrs. & Co. Advocates have been appointed herein to act for and on behalf of the Complainant/Respondent herein in place of Messrs. & Co. Advocates of P.O. Box

HENCEFORTH any correspondence to the Complainant/Respondent should be served upon Messrs. & Co. Advocates of P.O. Box

Dated at this day of 20

ADVOCATES FOR THE COMPLAINANT/RESPONDENT

Drawn and Filed by:

Messrs & Co. Advocates,

P. O. Box

To be served upon:

Messrs & Co. Advocates,

P. O. Box

P. O. Box

FIRST SCHEDULE—continued

Form I (3)

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20
COMPLAINANT

VERSUS

RESPONDENT

NOTICE OF INTENTION TO ACT IN PERSON

I,, a Complainant/Respondent
in this suit do hereby wish to act in person from the date of this Notice and my address of service
shall be care of P.O. Box

Dated at this day of 20

COMPLAINANT/RESPONDENT

Drawn and Filed by:

P. O. Box

To be served upon:

1. Messrs & Co. Advocates,
P. O. Box

2.
P. O. Box

Form I (4)

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20
COMPLAINANT

VERSUS

RESPONDENT

NOTICE OF CESSATION

TAKE NOTICE that Messrs & Company Advocates of P.O. Box
..... have now ceased acting for the Complainant/Respondent in the above case.
HENCEFORTH all correspondence should be addressed to Complainant directly.

Dated at this day of 20

..... & COMPANY ADVOCATES

Sugar

[Subsidiary]

FIRST SCHEDULE—continued
FOR THE COMPLAINANT/RESPONDENT

Drawn and Filed by:

Messrs & Co. Advocates,
P. O. Box

To be served upon:

- 1.
P. O. Box
2.
P. O. Box

Form J

REPUBLIC OF KENYA
BEFORE THE SUGAR ARBITRATION TRIBUNAL

DISPUTE NO OF 20
COMPLAINANT

VERSUS

RESPONDENT

ORDER

THIS MATTER coming up for hearing of the Complainant's/Respondent's notice of motion application dated on the before the Honourable Tribunal and UPON reading the said application and perusing the annexures thereto and upon hearing both parties/counsel inter-parties.

IT IS HEREBY ORDERED THAT:

- (a)
(b)
(c)

GIVEN under the seal of the Sugar Arbitration Tribunal this day of 20

AND ISSUED at this day of 20

Chairman

Member

Member

Sugar

[Subsidiary]

SECOND SCHEDULE

[Rule 5.]

REPUBLIC OF KENYA

BEFORE THE SUGAR ARBITRATION TRIBUNAL

PRESCRIBED FEES

Item Description	Fee Prescribed <i>Ksh.</i>
Fees on statement of claim	2,500
Filing of any documents, notices, objections etc where no other special fee is prescribed	200
Notice of motion	200
Order	200
Consent	200
Decree	200
Certificate of costs	200
Filing of appearances	200
Defences	200
Certification or attestation of documents	200
Fee for filing claim or counter-claim-liquidated sum	5% of the total sum claimed subject to max of 40,000
Fee for filing plaint unliquidated sum (per item of prayer)	2500
Tribunal collection fees on money paid into the Tribunal in an action	1,000
Application for extension of time	1,000
For annexure (standard rate)	200
Injunctions (non-pecuniary matters)	1000
Filing of return of service	200
Application for substituted service	500
Issue summons	200
Exhibits (standard rate)	500
For listing of a matter for mention	200
Adjournment fees on hearing	1,000
Adjournment fees on application	1,000
Typed copies of proceedings (per page)	100
Perusing file	200
Bills of costs	300
Fees for petitions, cases, appeals and other matters of reference	2,500
Service fees	1,000

