

CHAPTER 336

THE DAIRY INDUSTRY ACT

SUBSIDIARY LEGISLATION

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**DAIRY INDUSTRY (RETURNS, REPORTS
AND ESTIMATES) REGULATIONS**

[Legal Notice 534 of 1958]

1. These Regulations may be cited as the Dairy Industry (Returns, Reports and Estimates) Regulations.
 2. Every producer, distributor and retailer in relation to whom and to whose area of production, distribution or retail, as the case may be, the Act has come into operation shall, within such period as may be specified in an order made by the Board and published in the *Gazette*, render to the Board such returns, reports and estimates as may be required by the order, and shall thereafter supply such further particulars as may be required, either by specific direction or by a subsequent order, by the Board.
 3. An order issued under regulation 2 may provide for exempting any producer, or class of producer, or any producers in any specified area, from all or any of the requirements of the order, and for such period, if any, as may be specified in the order.
 4. A producer, distributor or retailer who wilfully neglects to render a return, report or estimate, or to supply any particulars required by an order or direction referred to in regulation 2 or who knowingly or recklessly renders any such return, report or estimate, or supplies any such particulars, containing matter which is materially false, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.
-

**DAYS APPOINTED FOR THE COMMENCEMENT
OF THE ACT UNDER SECTION 1(2)**

ARRANGEMENT OF SECTIONS

Municipalities
Townships

**DAYS APPOINTED FOR THE COMMENCEMENT
OF THE UNDER SECTION 1(2)**

[Legal Notice 364 of 1958]

1. In respect of the Scheduled Areas—
 - (a) for the coming into operation of Parts I to IV and Part VI—19th August, 1958;
 - (b) for the coming into operation of Part V—16th December, 1958.
2. In respect of the Non-scheduled Areas—16th December, 1958, for the coming into operation of Parts I to IV and Part VI in the following municipalities and townships—

Municipalities

1. Nairobi City
2. Mombasa
3. Nakuru
4. Eldoret
5. Kisumu
6. Kitale

Townships

1. Gilgil
2. Kericho
3. Kiambu
4. Londiani
5. Machakos
6. Molo
7. Ruiru
8. Naivasha
9. Nanyuki
10. OI Kalau
11. Nyeri
12. Thika
13. Thomson's Falls
14. Elburgon
15. Fort Ternan
16. Kijabe
17. Limuru
18. Lumbwa
19. Muhoroni
20. Nandi Hills
21. Naro Moru
22. Ngong

Dairy Industry

[Subsidiary]

- 23. Njoro
 - 24. Ravine
 - 25. Rongai
 - 26. Rumuruti
 - 27. Sotik
 - 28. Timau
 - 29. Voi
 - 30. Malindi
-

**REGIONS INTO WHICH KENYA HAS
BEEN DIVIDED UNDER SECTION 21(1)**

[Legal Notice 405 of 1959]

Kenya has been divided, for the purpose of subsection (1) of section 21 of the Act, into the regions specified in the first column hereunder, which regions consist of the Agricultural Committee areas established under section 31 of the Agriculture Act respectively specified in the second column hereunder, which areas are deemed to include such townships and municipalities as fall within them.

FIRST COLUMN	SECOND COLUMN	THIRD COLUMN
Number		
<i>Number</i>	<i>Regions</i>	<i>Agricultural Committee Areas</i>
1.	Nairobi	Nairobi, Thika, Machakos
2.	Mount Kenya	Mount Kenya.
3.	Nyahururu	Laikipia
4.	Nakuru	Nakuru.
5.	Naivasha	Naivasha.
6.	Eldoret	Uasin Gishu.
7.	Kitale	Trans Nzoia.
8.	Western	Kericho, Sotik, Lumbwa/ Songhor, Kibos/Chemelil, Nandi Hills.
9.	Coast	Voi.

THE DAIRY INDUSTRY (ELECTION OF DELEGATES) REGULATIONS

[Legal Notice 511 of 1959]

1. These Regulations may be cited as the Dairy Industry (Election of Delegates) Regulations.

2. In these Regulations, except where the context otherwise requires—

“chairman” means the chairman of the meeting;

“meeting” means a regional meeting of registered producers convened by the Board under section 21 of the Act.

3. Delegates of registered producers shall be elected at regional meetings in accordance with the provisions of these Regulations.

4. One delegate, and no more, shall be elected to represent each region.

5. A candidate for election to the office of delegate shall be a producer in the region which it is proposed he should represent.

(1) Each candidate for election shall be proposed and seconded by a registered producer entitled to vote at the meeting at which the election is held.

(2) If only one candidate is nominated for election at a meeting, the chairman shall forthwith declare that candidate to be elected.

(3) If more than one candidate is nominated for election the chairman shall put to the meeting the question whether the election shall be decided by a show of hands or by ballot, and the question shall be determined by a show of hands by a majority of registered producers present and voting.

(4) Where it is determined under subsection (3) that the election shall be decided by a show of hands, the chairman shall call out the name of each candidate for election, and the election shall be decided, by a show of hands, by a majority of the registered producers present and voting.

(5) Where it is determined under subsection (3) that the election shall be decided by ballot—

(a) the chairman shall cause a plain piece of paper to be delivered to every registered producer present and entitled to vote and the registered producer shall record his vote by writing on his paper the name of a candidate who has been proposed and seconded;

(b) no other mark, writing or signature shall be made on the paper, and the registered producer shall forthwith fold the paper so as to conceal his vote, and shall deliver it, or cause it to be delivered, to the chairman in such manner as the chairman shall direct;

(c) the chairman shall thereupon announce the number of votes cast for each candidate, and shall declare the candidate for whom the greatest number of votes has been cast to be elected.

(6) In the event of an equality of votes between two candidates at the head of a poll, election of one of those candidates shall be made by lot.

7. Only those registered producers carrying on business in the region in which the meeting is held, and being present in person, shall be entitled to vote upon any matter provided for by these Regulations, and each such registered producer shall have one vote.

8. Delegates elected under these Regulations shall hold office until the next meeting.

9. If a delegate is prevented by absence, illness or other sufficient cause from fulfilling the duties of his office he may appoint a substitute delegate.

**THE DAIRY INDUSTRY (RETURNS, REPORTS
AND ESTIMATES)DISTRIBUTORS) ORDER**

[Legal Notice 428 of 1960]

1. This Order may be cited as the Dairy Industry (Returns, Reports and Estimates) Distributors) Order.

2. Every distributor and retailer of milk and other dairy produce in relation to whom and to whose area of distribution or retail, as the case may be, the Act has come into operation shall, when required by the Board in writing, not later than the seventh day of each month, complete and submit to the Board returns in such form as the Board may from time to time require showing the names and addresses of all supplier from whom they received milk or other dairy produce during the previous month, together with the details of the quantities so supplied by each supplier and such other particulars as the Board may require from time to time.

DAIRY INDUSTRY (RETURNS, REPORTS AND ESTIMATES)(SCHEDULED AREAS) ORDER

[Gazette Notice 4542 of 1958, Legal Notice 167 of 1959, Gazette Notice 2389 of 1961]

1. This Order may be cited as the Dairy Industry (Returns, Reports and Estimates) (Scheduled Areas) Order.
2. A producer (other than a primary producer) who begins production in the Scheduled Areas shall, within one month of beginning production, complete and submit to the Board a return in the form in the First Schedule.
3. A producer who renders a return under paragraph 2 shall, within one month of any change occurring in the particulars specified therein, notify the Board in writing of the change.
4. Every producer in the Scheduled Areas shall, not later than the fourteenth of each month, complete and submit to the Board a return in the form in the Second Schedule in respect of all milk produced by him during the previous month.

SCHEDULE

FORM OF RETURN

(1) This return must be completed monthly by all producers.

(2) Primary producers should note that the cess due on milk and/or cream supplied to Kenya Co-operative Creameries Limited will be paid by that company on their behalf.

(3) This return must be completed and sent to the Kenya Dairy Board, P.O. Box 30406, Nairobi, not later than fourteen days after the end of the month of production.

MILK
PRODUCTION
FOR THE MONTH
OF

.....,
20.....

Gal.

Total production of milk

Deduct *Gal.*
(a) quantity of milk
separated and
sent to K.C.C.
Ltd.....

(b) Quantity of milk sent to K.C.C.
Ltd.....

(c) Quantity of milk consumed by
own household,
labour or
livestock

_____ Gallons _____

DECLARATION

Dairy Industry

[Subsidiary]

Signature of
producer.....
Date.....
Postal
Address.....

[If signature is on behalf of limited company, estate or partnership, this must be stated.]

DAIRY INDUSTRY (PRICES OF DAIRY PRODUCE) REGULATIONS, 1961

[Legal Notice 258 of 1961, Legal Notice 125 of 1970]

Revoked by Legal Notice 23 of 2021 on 12th March, 2021

AREAS PRESCRIBED UNDER REGULATION 1

[Legal Notice 289 of 1961, Act No. 191 of 1962, Act No. 113 of 1964, Act No. 114 of 1964]

1. City of Nairobi.
 2. Municipality of Mombasa.
 3. Municipality of Nakuru.
 4. Municipality of Eldoret.
-

THE DAIRY INDUSTRY (IMPORTS) REGULATIONS

[Legal Notice 190 of 1964, Legal Notice 155 of 1995, Legal Notice 11 of 1996]

1. These Regulations may be cited as the Dairy Industry (Imports) Regulations.

2. In these Regulations “prescribed” means prescribed in an order made by the Board and published in the *Gazette*.

3. An importer of prescribed dairy produce shall, within seven days of a written notice to that effect issued by or under the authority of the Board, deliver to the Board a statement in writing giving such information and particulars in relation to any prescribed dairy produce as may be required by the notice, and in particular, without prejudice to the generality of the foregoing, information and particulars in relation to—

(a) the quantities of prescribed dairy produce held in stock by the importer or imported during the six months previous to the notice, stating whether they are held in bond or otherwise, and the date or dates of import;

(b) the quantities of prescribed dairy produce for which import orders have been placed by the importer, the anticipated date or dates of arrival in Kenya and the respective quantities thereof and the source of supply;

(c) the intended destination of prescribed dairy produce imported by the importer and the names and addresses of the intended distributors, wholesalers or retailers thereof.

(1) The Board may, by order in writing, direct an importer of prescribed dairy produce as to the quantities thereof which the importer may release for distribution, sale or otherwise, over any stated period or periods and in relation to such area or areas of distribution or intended distribution as may be specified by the Board, and to deliver to the Board full particulars of all such releases as may be made by the importer.

(2) No person shall import any quantity of milk or prescribed dairy produce during a period of twelve months with effect from 5th January, 1996.

(3) Notwithstanding the provisions of subregulation (2), any person may import—

(a) finished products in terms of infant nutritional formulae; and

(b) white or creamy pure spray-dried instant full cream milk powder and medium to high heat treated white pure instant skimmed milk powder, subject to the following conditions—

(i) the products conform to the World Health Organisation standards;

(ii) in the case of (b) above, the products are imported by industrial users in packages of not less than twenty-five (25) kilogrammes for use in the preparation of the specialised infant nutrition formulae; and

(iii) in both cases the amounts imported correspond to the monthly requirements of the importer.

[L.N. 155/1995, L.N. 11/1996, L.N. 285/1996, Corr. No. 62/1996.]

5. A person who has, or has had in his possession or under his control prescribed dairy produce shall disclose to any inspector of the Board or any other person authorized in that behalf by the Board, the source or sources of supply thereof and the date or dates of delivery and shall make that disclosure, if so required, in writing and signed by the person making it.

6. A person who—

(a) fails to comply with a notice issued under regulation 3; or

(b) supplies any information or particulars required to be made or disclosed under these Regulations which is or are in any respect incorrect or inaccurate or misleading; or

Dairy Industry

[Subsidiary]

- (c) fails to comply with any direction issued by the Board under regulation 4, shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.
-

THE DAIRY INDUSTRY (INSPECTORS) REGULATIONS

[Legal Notice 215 of 1964]

1. These Regulations may be cited as the Dairy Industry (Inspectors) Regulations.

2. (1) The Board may by notice in the *Gazette* appoint any person to be an inspector to exercise the powers and perform the duties of an inspector under these Regulations.

(2) All police officers shall be inspectors for the purposes of these Regulations.

3. If an inspector has reasonable grounds for suspecting that evidence of an offence under the Act or any regulations or orders made thereunder is to be found on or in any land, premises, place, vehicle, bicycle, pack animal or vessel, or in the possession of any person, he may—

- (a) after notification of his authority and purpose, enter the land, premises or place; or
- (b) stop the vehicle, bicycle, pack animal or person and, after notification of his authority and purpose—
 - (i) examine the land, premises, place, vehicle, bicycle, pack animal or vessel and any plant, equipment or container thereon or therein or in the possession of that person;
 - (ii) require the production of and examine any dairy produce thereon or in the possession of that person;
 - (iii) open for the purpose of inspection any container or package which contains or is reasonably thought to contain dairy produce;
 - (iv) take samples of any such dairy produce or other article which may appear to him to comprise or contain dairy produce, and test any such plant, container or equipment;
 - (v) require the production of and examine all books, accounts, licences and documents relating to or reasonably thought to relate to the production, purchase, manufacture, conveyance, carriage, distribution or sale of dairy produce and take copies of any book, account, licence, document or part thereof;
 - (vi) seize, remove and detain any dairy produce which gives reasonable cause to suppose will afford evidence of an offence under the Act or any regulations or orders made thereunder, and for the same reason seize, remove and detain or take charge of any vehicle, bicycle, pack animal, plant, machinery, vessel, container or receptacle, and any book, account or document;
 - (vii) require any occupant of such land, premises or place or the owner of any such vehicle, bicycle, pack animal or any person in charge thereof, or an employee of such occupier or other person, to give such explanation and such information relating to dairy produce as may be reasonably required by the inspector in the performance of his duties; but no person may be required to answer a question the answer to which may tend to expose him to a criminal charge, penalty or forfeiture.

4. A person who—

- (a) obstructs or hinders an inspector in making entry or inspection of any land, premises, or place or in stopping any vehicle, bicycle, pack animal or person which he is authorised by these Regulations to enter or stop and inspect, as the case may be; or

Dairy Industry

[Subsidiary]

- (b) without reasonable cause or excuse refuses or fails to produce to an inspector upon demand any dairy produce or any container, package, book, account, licence or document; or
- (c) wilfully withholds information or gives information knowing or having reason to believe it to be false or misleading,

shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings, or to a term of imprisonment not exceeding one year or to both.

5. Before removing any dairy produce or article under regulation 3(f), the inspector removing it shall furnish the person in whose custody or possession the dairy produce or article is at the time of removal with a written receipt therefor.

6. An inspector seizing dairy produce under the provisions of these Regulations may dispose or arrange for the storage thereof in the name of the Board in such manner as the inspector may deem convenient having regard to the perishable nature of dairy produce, and in any that event the inspector or police officer concerned shall, without unnecessary delay, furnish a written statement to the Board or its agent setting out brief particulars of the circumstances of seizure, the quantity of the dairy produce and the manner of disposal or storage thereof together with a receipt, if appropriate, relative to the disposal or storage of the dairy produce.

7. Every seizure under these Regulations shall be reported without unnecessary delay to a magistrate, who shall also be furnished with a copy of any written statement provided for under regulation 6.

8. The Dairy Industry (Inspectors) Regulations are hereby revoked.

DAIRY INDUSTRY (CARRIAGE OF MILK) REGULATIONS, 1964

[Legal Notice 286 of 1964]

Revoked by Legal Notice 22 of 2021 on 12th March, 2021

THE DAIRY INDUSTRY (CARRIAGE OF MILK) ORDER

[Legal Notice 366 of 1964, Legal Notice 65 of 1965, Legal Notice 236 of 1966, Act No. 237 of 1966]

1. This Order may be cited as the Dairy Industry (Carriage of Milk) Order.

2. An application for a permit shall be in Form 1 in the Schedule to this Order and every permit shall be in Form 2 in that Schedule, with such variations as may be required to meet individual circumstances.

3. For the purposes of regulation 3(2) of the Regulations no permit shall be required for the carriage of milk—

(a) by Kenya Co-operative Creameries Ltd., in its own vehicles or in vehicles under its control; or

(b) contained in a tetrapak or other prepacked heat-sealed container; or

(c) obtained by a person for his own consumption from a dairy licensed under the Dairy Industry (Licensing of Retailers) Regulations, or from a shop licensed by a local authority to sell milk.

FIRST SCHEDULE

[para. 2]

1. The area comprised within the former boundaries of the City of Nairobi as defined in the Municipalities Act (now repealed).

2. The Municipalities of : —

Nakuru.	Eldoret.
Mombasa.	Kisumu.
Kitale.	

3. The Townships of : —

Kericho.	Thika.
Gilgil.	Nyeri.
Naivasha.	

4. The areas of the following Urban

District Council :—

Nanyuki.

SECOND SCHEDULE

Form 1

APPLICATION FOR A PERMIT

I/We hereby apply for a permit to carry milk in (prescribed area)

as follows:—

1. Milk for which a permit is sought will be obtained by me/us from (state source(s) of supply) and in the following respective daily quantities and will be transported only in the following vehicle(s) during the hours of in each day and will be held by me/us at (describe premises) for wholesale/retail sale to..... and will be delivered to

2. My/Our reasons for this application are as follows (state full particulars)

.....

.....

Dairy Industry

[Subsidiary]

Signature

If this application is made on behalf of a limited company, partnership or registered business, full particulars must accompany this application.

Form 2

PERMIT

(Name of Permit Holder)

is hereby authorized to carry milk in (prescribed area)

(a) obtained from (source(s) of supply)

.....

(b) on vehicle(s) registration number(s)

(c) along the following route(s)

between the hours of

(d) at (premises)

(e) for delivery to

between the hours of

(f) for wholesale/ retail sale

(g)

Special Conditions

This permit is liable to cancellation forthwith upon the breach of the terms hereof or of the Dairy Industry (Carriage of Milk) Regulations, 1964.

This permit is valid for the period commencing and terminating / until terminated by notice in writing. Upon termination this permit must be surrendered to the person issuing the same.

Dated Issued by

Officer

Note.—This permit must be completed in triplicate.

The TOP copy must be delivered to the holder of the permit.

The SECOND copy must be delivered to the Kenya Dairy Board.

The THIRD copy shall be retained by the person issuing the same.

THIRD SCHEDULE

Deleted by L.N. 236/1966, Third Sch.

AREAS PRESCRIBED UNDER REGULATION 2

1. The area comprised within the former boundaries of the City of Nairobi as defined in the Municipalities Act (now repealed).
2. The area comprised within the former boundaries of the Municipality of Mombasa as defined in the Municipalities Act (now repealed).
3. The areas comprised within the former boundaries of the undermentioned municipalities being areas declared to be municipalities under the Municipalities Act (now repealed)—Eldoret , Kisumu, Kitale, Nakuru.

4. The areas within the boundaries of the following townships declared to be townships under the Townships Act (Cap. 133 of 1948 now repealed)—

Gilgil , Kericho, Naivasha, Nyeri, Nanyuki, Thika, Kiambu and Machakos.

5. The areas of jurisdiction of the former Kericho Urban Council, the former Buret Area Council (Location 8 and Buret Island) and the former Lumbwa Area Council (area of Saosa, Karenga and Chagaik).

6. Nairobi Area.

7. The area within the boundaries of the former township of Nyahururu.

DAIRY PRODUCE PRESCRIBED UNDER REGULATION 2

[Legal Notice 290 of 1964, Legal Notice 371 of 1964, Legal Notice 61 of 1966, Legal Notice 301 of 1966, Legal Notice 315 of 1966]

Sweetened skimmed condensed milk.

Dried full cream milk powder.

Condensed full cream milk sweetened.

Evaporated milk.

Cheese, including processed cheese.

PRESCRIBED AREAS

[Legal Notice 290 of 1961, Legal Notice 192 of 1962, Legal Notice 455 of 1962, Legal Notice 521 of 1962, Legal Notice 565 of 1962, Legal Notice 329 of 1964, Legal Notice 382 of 1964, Legal Notice 60 of 1966, Act No. 21 of 1969]

The City of Nairobi.

Eldoret.

Gilgil.

Kericho.

Kiambu.

Kisumu.

Kitale.

Machakos.

Mombasa.

Naivasha.

Nakuru.

Nanyuki.

Nyahururu.

Nyeri.

Thika.

Thomson's Falls.

THE DAIRY INDUSTRY (MILK) REGULATIONS

[Legal Notice 127 of 1970, Legal Notice 81 of 1971]

1. These Regulations may be cited as the Dairy Industry (Milk) Regulations.
 2. These Regulations shall apply to all Scheduled Areas.
 3. No person shall sell for any purpose whatsoever milk which contains less than 3.3 per cent butter fat and 8.5 per cent solids not fat.
 4. A person who sells milk of a lower standard than that specified by these Regulations shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year, or to both.
-

**THE DAIRY INDUSTRY (PRICES OF
DAIRY PRODUCE) (KISUMU) ORDER**

[Act No. 131 of 1971, Legal Notice 81 of 1972]

Revoked by Legal Notice 23 of 2021 on 12th March, 2021

THE DAIRY INDUSTRY (PRICES OF DAIRY PRODUCE)(KISUMU) ORDER

[Legal Notice 131 of 1971]

1. This Order may be cited as the Dairy Industry (Prices of Dairy Produce) (Kisumu) Order.

2. In this Order—

“bottle” means a glass or plastic bottle capable of holding either one litre, one-half litre or two decilitres of milk;

“collected” means collected by the consumer from the premises (other than a vehicle utilized for distribution or sale of milk) of the retailer;

“delivered” means milk delivered to the premises of the retailer or to the premises of the consumer by the retailer;

“milk in bulk” means milk in containers containing fifty litres or multiples thereof or bulk in one litre packs;

“polythene pack” means a sealed polythene pack capable of holding either one litre, one-half litre or two decilitres of milk;

“purchasers of milk in bulk” means a public corporation, company, Government or municipal institution including, without prejudice to the generality of the foregoing, hospitals, schools or bodies of persons who purchase milk in bulk for consumption on their premises or for further processing in pursuance of a licence issued by the Kenya Dairy Board;

“special quality milk” means milk which contains not less than 4.25 per cent butter fat;

“tetra pak” means a sealed pack of tetra pak design capable of holding either one litre, one-half litre or two decilitres of milk.

3. The Dairy Industry (Prices of Dairy Produce) Regulations (hereinafter referred to as the Regulations) shall apply to the Municipality of Kisumu.

4. For the purpose of regulation 3 of the Regulations the respective prices to be paid by retailers and purchasers of milk in bulk for the categories of milk specified in Column 1 of Part I of the Schedule hereto shall be—

(a) in the case of retailers the respective prices specified in subcolumn (A) of Column 2 of Part I;

(b) in the case of purchasers of milk in bulk not more than the respective maximum prices specified in subcolumn (B) of Column 2 of Part I.

5. For the purpose of regulation 4 of the Regulations, the respective prices to be paid to retailers for the categories of milk specified in Column 1 of Part II of the Schedule to this Order shall be not more than the respective maximum prices specified in Column 2 of Part II of that Schedule.

6. The Board may, on application, give special written authority to purchase or sell milk at prices other than those prescribed by this Order.

SCHEDULE

PART I

<i>Column 1</i>	(A)	<i>Column 2</i>
Categories of sales of milks	Retailers (Fixed Maximum Prices)	(B) Purchases of milk in bulk

Dairy Industry

[Subsidiary]

Unhomogenized milk in bulk ..		Sh. 1/25 per litre
Homogenized milk in bulk ..		Sh. 1/35 per litre.
Unhomogenized milk in containers containing half a litre (blue tetrapak, polythene pack and bottle).	Sh. 12/60 per crate — of — 18 packs or cents 70 per pack.	
Homogenized milk in containers containing a half a litre (green tetrapak, polythene pack and bottle).	Sh.13/50 per crate — of 18 packs or Sh. 75 per pack.	
U.H.T milk in containers containing a half litre	Sh. 16/20 per crate — of 18 packs or Sh. 35 per cardboard carton of 36 packs.	
Unhomogenized milk in containers containing one litre (blue tetrapak, polythene pack and bottle).	Sh. 23/10 per crate — of 18 packs or Sh. 1/30 per pack.	
Homogenized milk in containers containing one litre (green tetrapak, polythene pack and bottle).	Sh. 25/20 per crate — of 18 packs or Sh. 1/40 per pack	
Special quality milk in containers containing one litre (tetrapak, polythene pack and bottle).	Sh. 27/90 per crate — of 18 packs or Sh. 1/55 per pack.	
Milk in containers containing 2 decilitres (tetrapak, polythene pack and bottle).	Sh. 6/12 per crate — of 18 packs or cents 34 per pack.	
Unhomogenized milk in bottles containing one pint	Sh. 15 per crate of — 20, 1 pint bottle	

PART II*Column 1*

Categories of sales of milks

Unhomogenized milk in containers containing a half litre (blue tetrapak, polythene pack and bottle).
Homogenized milk in containers containing a half litre (green tetrapak, polythene pack and bottle).
U.H.T. milk in containers containing a half litre
Unhomogenized milk in containers containing one litre (blue tetrapak, polythene pack and bottle).
U.H.T milk in containers containing a half litre
Unhomogenized milk in containers containing one litre (blue tetrapak, polythene pack and bottle).

Column 2

Maximum prices to be paid to retailers per pack

Cents 75 per pack collected or cents 80 per pack delivered to premises of consumer.
Cents 80 per pack collected or cents 85 per pack delivered to premises of consumer.
Sh. 1 per pack collected or delivered.
Sh.13/50 per crate of
18 packs or Sh. 75 per pack.—
Sh. 1 per pack collected or delivered.—
Sh. 1/40 per pack collected or Sh. 1/45 per

Dairy Industry

[Subsidiary]

	pack delivered to premises of consumer. —
Homogenized milk in containers containing one litre (green tetrapak, polythene pack and bottle).	Sh. 1/50 per pack collected or Sh. 1/55 per pack delivered to premises of consumer. —
Special quality milk in containers containing one litre (tetrapak, polythene pack and bottle).	Sh. 1/65 per pack collected or Sh. 1/70 per pack delivered to premises of consumer. —
Milk in containers containing 2 decilitres (tetrapak, polythene pack and bottle).	Cents 35 per pack collected or delivered —
Unhomogenized milk in bottles containing one pint	Cents 80 per bottled or cents 85 per bottle delivered to premises of consumer.—

THE DAIRY INDUSTRY (PRICES OF DAIRY PRODUCE) ORDER

[Legal Notice 143 of 1977]

1. This Order may be cited as the Dairy Industry (Prices of Dairy Produce) Order, 1977 and shall be deemed to have come into operation on the 1st day of March, 1977.

2. In this Order, unless the context otherwise requires —

"collected" means collected by the consumer from the premises (other than from any vehicle utilized for distdbution or sale of milk) of the retailer;

"delivered" means delivered to the premises of the retailer or to the premises of the consumer by the retailer;

"milk in bulk" means milk in containers containing fifty litres or multiples thereof or bulk of one packs;

"tetra pak" means a sealed pack of "tetra pak" design capable of holding either one litre, one half litre or two decilitres of milk;

"polythene pack" means a sealed polythene pack capable of holding either one litre, one half litre or two decilitres of milk;

"bottle" means a glass or plastic bottle capable of holding either one litre, one half litre or two decilitres of milk;

"purchasers of milk in bulk" means any public corporation, company, Government or municipal institution including hospital, schools or bodies of persons who purchase milk in bulk for consumption on their premises or for further processing in pursuance of a licence issued by the Kenya Dairy Board;

"special quality milk" means milk which contains not less than 4.25 per cent butter fat.

3. The Dairy Industry (Prices of Dairy Produce) Regulations shall apply to all Scheduled Areas in the Republic of Kenya.

4. For the purpose of regulation 3 of the Dairy Industry (Prices of Dairy Produce) Regulations the respective prices to be paid by retailers and purchasers of milk for the categories of milk specified in the first column of Part I of the Schedule hereto shall be—

(a) in the case of retailers the respective prices specified in sub-column (A) of the second column of Part I; and

(b) in the case of purchasers of milk in bulk not more than the maximum prices specified in subcolumn (B) of the second column of Part I.

5. For the purpose of regulation 4 of the Dairy Industry (Prices of Dairy Produce) Regulations, the respective prices to be paid to retailers for the categories of milk specified in the first column of Part II of the Schedule to this Order shall be not more than the respective maximum prices specified in the column of Part H of the said Schedule.

6. The Board may, on application, give special written authority to purchase or sell milk at prices other than those prescribed by this Order.

7. The Dairy Industry (Prices of Dairy Produce) Order, (L.N. 130/1971) is hereby revoked.

SCHEDULE

PART I

<i>Column 1</i>	<i>Column 2</i>	
Categories of sales of milks	(A)	(B)

Dairy Industry

[Subsidiary]

	Retailers (Fixed Maximum Prices)	Purchases of milk in bulk
Unhomogenized milk in bulk .	-	Sh. 2/25 per litre
Homogenized milk in bulk .	-	Sh. 2/35 per litre.
Unhomogenized milk in containers containing half a litre (Blue Tetra Pak, Polythene Pack and Bottle).	Sh. 21/60 per crate - of — 18 packs or Sh. 1/20 per pack.	-
Homogenized milk in containers containing a half a litre (Green Tetra Pak, Polythene Pack and Bottle).	Sh. 22/50 per crate - of 18 packs or Sh. 1/25 per pack.	-
Unhomogenized milk in containers containing one litre (Blue Tetra Pak, Polythene Pack and Bottle).	Sh. 41/40 per crate - of 18 packs or Sh. 2/30 per pack.	-
Homogenized milk in containers containing one litre (Green Tetra Pak, Polythene Pack and Bottle).	Sh. 43/20 per crate - of 18 packs or Sh. 2/40 per pack.	-
Milk in containers containing 2 decilitres (Tetra Pak, Polythene Pack and Bottle).	Sh. 10/80 per crate - of 18 packs or cents 60 per pack.	-
Unhomogenized milk in Bottles containing one pint.	Sh. 25/00 per crate - of 20. 1 pint bottles.	-

PART II*Column 1*

Categories of sales of milk

Unhomogenized milk in containers
containing
a half litre (Green Tetra Pak, Polythene
Pack
and Bottle).

Homogenized milk in containers
containing
a half litre (Green Tetra Pak, Polythene
Pack
and Bottle).

Unhomogenized milk in containers
containing
one litre (Blue Tetra Pak, Polythene
Pack
and Bottle).

Homogenized milk in containers
containing

Column 2

Maximum prices to be paid to retailers

Sh. 1/25 per pack collected or Sh. 1/30
per
pack delivered to premises of consumer.

Sh. 1/30 per pack collected or Sh. 1/35
per
pack delivered to premises of consumer.

Sh. 2/40 per pack collected or Sh. 2/50
per
pack delivered to premises of consumer.

Sh. 2/50 per pack collected or Sh. 2/60
per
pack delivered to premises of consumer.

one litre (Green Tetra Pak, Polythene Pack and Bottle).

Milk in containers containing 2 decilitres (Tetra Pak, Polythene Pack and Bottle). Cents 65 per pack collected or delivered.

Unhomogenized milk in bottles containing one pint. Sh. 1/30 per bottle collected or Sh. 1/35 per bottle delivered to premises of consumer.

DAIRY INDUSTRY (IMPORTS AND EXPORTS) REGULATIONS, 2004

[Legal Notice 103 of 2004]

Revoked by Legal Notice 21 of 2021 on 12th March, 2021

THE DAIRY INDUSTRY (SALES BY PRODUCERS) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Short title and citation
2. Producer to hold a valid licence
3. Application for licence
4. Form of a licence
5. Fees
6. Term of licence
7. Interests of producers and customers to be considered
8. Conditions of licence
9. Refusal to grant or renew licence
10. Penalty
11. Revocation

SCHEDULES

LIST OF FEES PAYABLE UNDER THESE REGULATIONS

SECOND SCHEDULE — FORMS

THE DAIRY INDUSTRY (SALES BY PRODUCERS) REGULATIONS

[Legal Notice 102 of 2004, Legal Notice 86 of 2006, Legal Notice 120 of 2007]

1. Short title and citation

These Regulations may be cited as the Dairy Industry (Sales by Producers) Regulations.

2. Producer to hold a valid licence

(1) No person shall operate as a producer unless the person holds a licence issued by the Board.

(2) Paragraph (1) does not apply to a dairy farmer unless the dairy farmer also processes, manufactures, prepares or treats dairy produce for sale.

3. Application for licence

An application for a licence shall be in Form 1 in the Second Schedule.

4. Form of a licence

(1) The following licences may be issued pursuant to an application made under regulation 3—

- (a) Primary producer's licence;
- (b) Processor's licence which shall authorize the processor to—
 - (i) process milk; and
 - (ii) operate a mini dairy and cottage industry;
- (c) Milk bar licence; and
- (d) Cooling plant licence.

(2) A licence issued by the Board under this regulation shall be as prescribed in Form 2 in the Second Schedule.

[L.N. 86/2006, r. 1, L.N. 120/2007, r. 2.]

5. Fees

The fees set out in the First Schedule are prescribed as fees to be paid to the Board.

6. Term of licence

A licence issued under these Regulations shall be valid for a period of twenty-four months from the date of issue.

[L.N. 120/2007, r. 3.]

7. Interests of producers and customers to be considered

The Board shall, in considering an application, take into account the interests of other producers and consumers in respect of which the application is made.

8. Conditions of licence

The Board can—

- (a) modify or vary the licence from time to time upon giving thirty (30) day's notice in writing to the licensee;
- (b) cancel the licence if satisfied that there has been any material error or omission in the facts stated in the application;
- (c) cancel the licence if the licensee is in default in the payment of cess or any other sum due to the Board or arising from any contractual arrangements with producers or their agents;
- (d) cancel the licence if the licensee contravenes these regulations.

[Subsidiary]

9. Refusal to grant or renew licence

The Board may refuse to issue a new licence or may suspend or cancel an existing licence if the Board is satisfied that—

- (a) the producer's standards of performance are unsatisfactory;
- (b) the issue is not, or the suspension or cancellation, is in the interest of other producers and of consumers;
- (c) the conditions of a licence have not been fulfilled;
- (d) the applicant or licensee has failed to remit, within the prescribed period, any cess due by the applicant or licensee to the Board; or
- (e) the applicant or licensee has not paid dairy farmers for milk delivered to the applicant or licensee.

10. Penalty

A person who contravenes regulation 2(1) is guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding one year, or to both.

11. Revocation

- (a) the Dairy Industry (Sales by Producers) Regulations, Sub-leg. (L.N.259/1961; L.N. 210/1965);
- (b) the Dairy Industry (Sales by Producers) Order, Sub-leg. (L.N. 285/1961).

FIRST SCHEDULE

[s. 39, r. 5]

LIST OF FEES PAYABLE UNDER THESE REGULATIONS

[L.N. 86/2006, L.N. 120/2007, r. 4.]

Item	KSh.
1. Application for licence	100
2. Primary producer licence fee	500
3. Processor licence fee	25,000
4. Deleted by L.N. 120 of 2007, r. 4(c)	
5. Deleted by L.N. 120 of 2007, r. 4(c)	
6. Milk bar licence fee	2,500
7. Deleted by L.N. 86 of 2006	
8. Deleted by L.N. 86 of 2006	

SECOND SCHEDULE
FORMS**FORM 1****(r. 3)**

[L.N. 102/2004]

KENYA DAIRY BOARD

P. O. Box 30406-00100 GPO TEL: 310559/335057 Fax: 244064

E-mail: info@kdb.co.ke

Serial No.

APPLICATION FOR LICENCE TO PRODUCE/PROCESS/DISPOSE OF DAIRY
PRODUCE

To: The Chief Executive

Kenya Dairy Board

P. O. Box 30406-00100 GPO
Nairobi

Dear Sir/Madam,

I (Name) Address

Tel. No. E-mail Fax

hereby apply for licence to produce/process/sell/dispose of the quantities of dairy produce specified in column (1) of the schedule to this application to the person(s) or class of persons specified in column (2) of the said schedule within the area specified in column (3) on the said schedule for the period specified in column (4) on the said schedule.

	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Nature of Dairy Produce</i>	<i>Quantity Per Day</i>	<i>For sale to whom (and whether Wholesale or Retail)</i>	<i>Area</i>	<i>Period</i>

Full name of business Location of Business

Address..... Tel Fax E-mail

Date Signature & Stamp

(If signature is on behalf of a Limited Company, Estate or Partnership, this must be stated)

FOR OFFICIAL USE ONLY

1. Kenya Dairy Board Inspector's Remarks

.....

Name Signature & Stamp

2. Officer in Charge's Remarks:

.....

Signature

3. Kenya Dairy Board Management Licensing Committee

Recommended/Deferred/Rejected

.....

Signature

FORM 2

(r. 4)

KENYA DAIRY BOARD

LICENCE TO PRODUCE/PROCESSING/SELL/DISPOSE OF DAIRY PRODUCE

Licence No.

Category.....

Name.....

Postal Address Physical Address

Telephone No. Email

Is hereby licensed to produce/process/sell/dispose of the quantities of dairy produce specified in column 1 of the schedule to this licence to the person(s) or class of persons specified in column 2 of the said schedule within the area specified in column 3 of the said

Dairy Industry

[Subsidiary]

schedule for the period(s) specified in column 4 of the said schedule subject to the following terms and conditions:

- 1. The Kenya Dairy Board reserves the right to modify or vary this licence from time to time upon giving to the licensee thirty (30) day's previous notice in writing.
- 2. This licence is subject to immediate cancellation if the Board is satisfied that there has been any material error or omission in the facts stated in the application.
- 3. This licence is subject to immediate cancellation if the licensee is in default in the payment of any cess or other sums due to the Board or arising from any contractual arrangements with producers or their agents.
- 4. This licence is liable to immediate cancellation if the licensee contravenes any of the conditions of the licence or otherwise acts in contravention of the Dairy Industry (Sales by Producers) Regulations, 2004.

	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Nature of Dairy Produce</i>	<i>Quantity Per Day</i>	<i>For sale to whom (and whether Wholesale or Retail)</i>	<i>Area</i>	<i>Period</i>

By Order of the Kenya Dairy Board

Expiry Date

.....
for Kenya Dairy Board

Date of Issue

**DAIRY INDUSTRY (IMPOSITION OF
CESS AND LEVY) REGULATIONS, 2004**

[Legal Notice 111 of 2004, Legal Notice 113 of 2010]

Revoked by Legal Notice 16 of 2021 on 12th March, 2021

THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

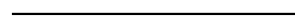
1. Citation
2. Interpretation
3. Application
4. Objects of the Regulations

PART II – APPOINTMENT, CONDUCT AND
DUTIES OF COMPLIANCE OFFICERS

5. Appointment of compliance officers
6. Qualifications of compliance officers
7. Revocation of appointment
8. Identification of a compliance officer
9. Powers of a compliance officer
10. Inspection facilities, etc
11. Collection of books, records, documents, Etc
12. Collection of samples and information
13. Seizure and destruction
14. Protection of information
15. Offences
16. Complaints against compliance officers
17. Revocation of LN No. 215/1964 Sub Leg

SCHEDULES

FORMS



THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS

[Legal Notice 18 of 2021]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the Dairy Industry (Compliance Officer) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Dairy Industry Act (Cap 336);

"Board" means the Kenya Dairy Board;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to dairy industry;

"Compliance Officer" means an officer appointed by the Board under the Dairy Industry (Compliance Officers) Regulations, 2021;

"County Executive Committee member" means the relevant County executive Committee member for the time being responsible for matters of dairy industry.

3. Application

These Regulations shall apply to all compliance officer and all aspects of inspection in the dairy industry.

4. Objects of the Regulations

The objects of these Regulation are—

- (a) to provide mechanisms for inspection of primary producers and dairy business operators;
- (b) to provide for procedures and conduct of a compliance officer.

PART II – APPOINTMENT, CONDUCT AND DUTIES OF COMPLIANCE OFFICERS

5. Appointment of compliance officers

(1) The Board shall appoint such compliance officer as may be necessary for purposes of monitoring of primary dairy products and dairy business operators. The appointment of the compliance officers shall be by notice in the *Gazette*.

(2) Where a need arises, and no conflict of interest exists, the Board may request the County Executive Committee member to nominate qualified staff of the County government for gazette by the Board as a compliance officer.

(3) The Board shall, upon receiving the nominees from the County Government vet the nominee for suitability and shall, if found suitable, *gazette* the officer.

(4) The compliance officer nominated by a County shall report on day today matters to the relevant officer of the County Executive Committee member, and where the report involves dairy produce safety matters, the compliance officer shall report to the Board and to the County Executive Committee member.

(5) In dealing with dairy produce safety matters compliance officer nominated by the county shall act under the supervision of an assigned Boards supervisor.

(6) The Board shall keep and maintain a register of all gazetted compliance officers.

6. Qualifications of compliance officers

Subject to these Regulations, a person shall be qualified for appointment as a compliance officer if the person—

[Subsidiary]

- (a) holds a diploma or other higher qualification in dairy, animal or food science, public health, veterinary science or any other related fields;
- (b) has a minimum of two years' experience in the dairy industry or any other related field as the Board may approve;
- (c) is an employee of the Board, the National Government or a County government;
- (d) meets the requirement of the chapter 6 of the constitution of Kenya.

7. Revocation of appointment

The appointment of a compliance officer may be revoked—

- (a) if the compliance officer fails to comply with these Regulations;
- (b) if a conflict of interests exists, or;
- (c) for any other sufficient cause.

(2) A revocation shall not be effected unless the officer affected has been given an opportunity to respond to accusation made against him or her.

(3) A compliance officer whose appointment has been revoked may appeal to the Board within thirty days of being notified of the revocation.

8. Identification of a compliance officer

(1) The Board shall issue to every compliance officer an identity document, authenticated by an authorized officer, which the compliance officer shall produce before performing the inspection duties of any goods or premises, or performing any other functions under these Regulations.

(2) The Board shall ensure that there is an accessible mechanism for a person to verify the identity or particulars of a compliance officer while undertaking duties in the field or otherwise.

(3) A compliance officer shall ensure that the identification document is—

- (a) at all times secured and avoid its unauthorized use;
- (b) legible and clear for proper identification and when lost, defaced or destroyed, to be reported and replaced immediately;
- (c) and shall returned to the Board upon the compliance officer ceasing to be employed as such.

9. Powers of a compliance officer

(1) A compliance officer may—

- (a) at any reasonable time, enter premises whether, plant, facility, structure, place or area in connection with which he or she has reason to believe that an offence under this regulation is being, is about to or has been committed, in order to investigate and obtain evidence;
- (b) examine or test or cause to be examined or tested, any dairy produce to which the Act or the Regulations apply and which is found in or at such premises, plant, facility, structure, place or area;
- (c) examine or test or cause to be examined or tested any equipment, material, substance or other article which is used or is suspected to be used or likely to be used at or in connection with the collection, evaluation, processing, packing or storing of any dairy produce;
- (d) inspect the operations or process in connection with any action referred to in paragraph (c), and demand from the owner or the person in whose custody the dairy produce, equipment, material, substance or things concerned are, or who supervises such operations or processes, any information or explanation regarding the operation, process, material, substance or thing;

- (e) order correction of non-compliances detected or closure of dairy or any related business in the manner specified in the inspection notice or order set out in Form B of the Schedule;
- (f) examine and make copies of or take extracts from any book or document either in hard copy or electronically in respect of which he or she reasonably suspects that it relates to such dairy produce, material or any other thing, irrespective of whether or not it is kept on or at the place, premises, facility or conveyance concerned or at any other place or area, and demand from the owner of such book or document or from the person who has it in his or her custody an explanation regarding any record or entry therein;
- (g) seize and remove from any premises, place, area or vehicle any dairy produce, or the whole or any part of material, substance, equipment or any other thing, or any book or document relating to such dairy produce, premises, place, area or vehicle, material, substance or other article or sale of the dairy produce, material, substance or thing which he has reasonable cause to believe constitutes evidence of contravention of any of the provisions of the Act or these Regulations.
- (h) examine any dairy produce, product, material, substance, equipment or any other thing and—
 - (i) if, in the compliance officer's professional determination, there is need for further analysis, take samples thereof in such quantities as is reasonable in the circumstances and give a dairy business operator the reason for his or her determination; and
 - (ii) where a compliance officer determines that there is nothing wrong with the produce, material, substance, equipment or thing, make a record covering the relevant period of inspection accordingly and give a copy of that record to the concerned dairy business operator; or
 - (iii) as soon as the results of the analysis are known, inform a dairy business operator in writing of the results, including, if any, remedial action the dairy business operator is required to take.
- (i) inspect any process or operation, manufacture, production, processing, mixing, packaging or treatment that may relate to any dairy product which is or appears to be carried out in those premises or places for purposes of determining whether or not the provisions the Act or these Regulations are being contravened; and
- (j) require from a dairy business operator or any person whom he reasonably believes to be in charge or control of any premises, place, dairy produce, material, substance or thing being inspected, to supply information or produce for inspection or for the purpose of obtaining copies thereof or extracts therefrom, any books, records, receipts, invoices, shipping bills, bills of lading, documents containing mixing instructions, operational procedures or other documents or papers which are reasonably suspected or expected to be in the operator's possession the production of which will render successful inspection.

(2) Any seizure or confiscation made under these Regulations shall be recorded in Form A as set out in the First Schedule.

10. Inspection facilities, etc

(1) A compliance officer may at any reasonable time, inspect any farm, where dairy activity is being carried on or is about to be carried on in relation thereto, for the purpose of ascertaining compliance with the Act or the Regulations.

(2) Where a compliance officer has reason to believe that the dairy product, material, substance, equipment or other thing which is the subject of inspection under these Regulations, or any record or thing connected therewith, is in a dwelling house, the

[Subsidiary]

compliance officer shall request the owner, the occupant or the person who appears to be in charge thereof for permission to enter the house to conduct an inspection.

(3) Where the occupant neglects or delays to grant permission, the compliance officer may seek the assistance of the nearest police officer to facilitate a forced entry into the business premise and the owner, the occupant or the person who appears to be in charge of the house or premises shall cooperate with the compliance officer until the inspection is concluded.

11. Collection of books, records, documents, Etc

(1) A compliance officer shall take such steps as are reasonably practicable to afford a primary producer or dairy business operator of anything or other person who appears to be engaged in dairy production of business, that is the subject of inspection under these Regulations, an opportunity to be present during the inspection and the primary producer or dairy business operator, assignee or agent shall have the right to put any relevant questions to the compliance officer and the compliance officer shall be obligated to answer unless the questions are calculated to, in any way, defeat the inspection.

(2) Where, in the process of inspection, the compliance officer takes any copy or extract of book, record, document, material or other thing, the officer shall issue to the person from whom custody any book, record, document, material or any other thing has been taken a confiscation receipt in Form B in the Schedule, and the recipient of the receipt shall sign the duplicate thereof except where the original document are required as evidence of possible prosecution for an offence under the Act or regulations.

(3) If the person to whom the receipt is issued under paragraph 2 refuses to sign the duplicate of the receipt, the compliance officer shall record the circumstances of the refusal to sign and this shall be prima facie evidence of obstruction of a compliance officer.

(4) Anything taken away from a dairy business operator under this regulation shall, at the conclusion of the purposes for which it is taken, and where practicable, be expeditiously returned in whole or in part to the operator or other person unless the thing taken is part of the evidence for possible prosecution for an offence under the Act or the Regulations.

12. Collection of samples and information

(1) A sample required pursuant to these Regulations shall be taken—

- (a) at no cost;
- (b) with such care as not to prejudice the results and in the best opinion of the compliance officer that the sample is representative of the whole; and
- (c) in accordance with the method of sampling prescribed in the relevant standard in the presence of the primary producer, the dairy business operator or their representatives and, in their absence, the compliance officer shall take the sample and record the circumstances under which the sample is taken.

(2) A primary producer or dairy business operator or their representatives shall give the compliance officer all reasonable assistance as the compliance officer may require, including the actual taking of samples, to enable carrying out of duties under these Regulations and shall provide the compliance officer with any relevant information which may be required.

(3) In the course of the performance of duties under these regulations, the compliance officer may put any relevant question to a dairy business operator assignee, agent or other person, but no person shall be compelled to give an answer that will incriminate the person.

(4) Where a primary producer or dairy business operator or their representatives being interrogated by a compliance officer requests for more time to prepare a written response, the compliance officer may allow the primary producer or dairy business operator or their representatives reasonable time not exceeding five working days, to prepare and provide the written answer.

13. Seizure and destruction

(1) In consultation with the supervisor, a compliance officer may at any time seize, any product, material, substance, article, plant and machinery, or any other thing which he has reason to believe or about which he has received credible information to the effect that it has been used or is likely to be used in contravention of any of the provisions of the Act or these Regulations.

(2) Where a compliance officer seizes any dairy produce, equipment, materials or additives, the compliance officer shall issue a seizure receipt to the primary producer or dairy business operator with the details of the dairy produce confiscated in Form A of the First Schedule.

(3) A compliance officer carrying out seizure shall file a complaint without delay at the nearest police station for possible prosecution, with or without the owner or a representative consent in writing on the destruction or forfeiture of the subject dairy produce, equipment, materials or additives to the Board.

(4) Any destruction pursuant to these Regulations shall be carried out in compliance with the relevant law and regulations.

(5) Where the owner of seized dairy produce, equipment, materials or additives institutes legal proceedings in relation to the seizure, the process shall be concluded as may be directed by the court, unless in the meantime the legal proceedings are dismissed, in which case the process shall proceed as provided under these Regulations.

14. Protection of information

The information or document obtained under these Regulations shall be handled in accordance with any relevant provision of the Data Protection Act (Cap. 411C).

15. Offences

(1) A compliance officer who—

- (a) solicits for, or receives in connection with any of his duties, a payment or other reward whatsoever, whether pecuniary or otherwise, or a promise or security for any such payment or reward whether or not he is entitled to claim;
- (b) enters into any agreement to do, abstain from doing, permit, conceal or connive at any act whereby the Board is or may be defrauded, or which is contrary to any of the provisions of these Regulations or contrary to the power conferred to the compliance officer;
- (c) discloses, except for the purposes of these regulations or when required to do so as a witness in a court of law or with the approval of the Board, information acquired by him in the performance of his duties relating to a person, premises, place, material, substance or thing being or already inspected, or
- (d) uses his or her position to enrich himself or herself or any other person,

commits an offence and is liable on conviction to fine not exceeding ten thousand shillings or to imprisonment not exceeding twelve months or both such fine and imprisonment.

(2) A person who—

- (a) in any manner or style, wilfully obstructs, impedes or hinders a compliance officer, or a police officer accompanying the compliance officer, from exercising any of his powers or performing duties under these regulations;
- (b) knowingly makes a false statement in terms of questions put to him or information required from him under these regulations;
- (c) refuses or neglects to furnish any information or to produce any document, to attend at any place when required, or instigates any person to disobey or make it difficult for the compliance officer to conduct inspection;

Dairy Industry

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- (d) assaults or threatens a compliance officer or any person lawfully accompanying the compliance officer or discharging duties under these Regulations;
- (e) refuses or unreasonably delays to obey any instructions given to him by the compliance officer for the attainment of the purposes of these regulations; or
- (f) abets or facilitates the violation of any of the provisions of this regulation,

commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or, both.

16. Complaints against compliance officers

(1) Where a primary producer or a dairy business operator is aggrieved by a decision or action of a compliance officer, the primary producer or dairy business operator may immediately, and in any case not later than fourteen days, lodge a written complaint to the Board.

(2) Upon receipt of a complaint the Board shall investigate and make a decision and communicate to the complainant within thirty days.

(3) Where the complainant is not satisfied with the decision of the Board, the complainant may appeal to the Cabinet Secretary within thirty days of the decision.

17. Revocation of LN No. 215/1964 Sub Leg

The Dairy Industry (Dairy Inspector) Regulations, 1964 are hereby revoked.

SCHEDULE

[r. 9(2), 13(2)]

FORMS

THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS 2021

THE KENYA DAIRY BOARD

SEIZURE /CONFISCATION RECEIPT

Serial No. A.....

The following dairy produce has been seized by on behalf of the Kenya Dairy Board in accordance with the powers given under the Dairy Industry (Compliance Officer) Regulations 2021.

From (Name) Vehicle

(if bicycle list frame number)

Address

Type and quantity of dairy produce seized

Containers seized

Books or records seized

Any other item seized

How disposed of

Date Signed

Witness

.....

Note: The person issuing this receipt should ensure that he/she obtains a receipt from any person to whom he/she disposes or whom he leaves in charge of any item mentioned in this receipt.

FORM B (r. 9(1)(e), 11(2))
THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS 2021
INSPECTION NOTICE/ORDER

S/No:.....
KENYA DAIRY BOARD
COMPLIANCE OFFICER AT THE DIVISION
INSPECTION NOTICE/ORDER

Branch: _____ Date: _____

INSPECTION PARTICULARS

Name of premise: _____ Located at: _____

Licence No: _____ Category: _____

Volume of milk (On site) _____ (litres) Nature of milk: _____

Following an inspection conducted at your premise(s) on (date) _____ at (time) _____ the following non-compliances were established:

- (a) _____
- (b) _____
- (c) _____
- (d) _____
- (e) _____

You are hereby notified that you are to correct the non-compliances identified at your premises [IMMEDIATELY] or [WITHIN FOURTEEN (14) DAYS] of this notice or [CLOSE THE BUSINESS OPERATIONS], failure to which necessary enforcement action will be undertaken in accordance with the Dairy Industry

Client
Acknowledgement
Name _____
Designation:
Signature:
Date:

Compliance
Officer
Name _____
Designation:
Signature:
Date:

DISTRIBUTION

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THE DAIRY INDUSTRY (DAIRY PRODUCE SAFETY) REGULATIONS

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SCHEDULE —

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THE DAIRY INDUSTRY (DAIRY PRODUCE SAFETY) REGULATIONS

[Legal Notice 22 of 2021]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the Dairy Industry (Dairy Produce Safety) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Dairy Industry Act (Cap 336);

"adulteration" means the addition or subtraction of any substance to or from dairy produce so that the natural composition and quality of dairy produce is negatively affected;

"approved" means approved by the Board;

"aseptic processing" means a process that is used to subject dairy product to a sufficient heat treatment process and packaged aseptically in a hermetically sealed container to maintain commercial sterility of the product under normal non-refrigerated conditions;

"Board" means the Kenya Dairy Board;

"bulk milk collection tanker" includes a truck and tank and its accessory equipment used to transport bulk raw or processed milk from a dairy farm, or a milk collection center, to a milk processing plant or retail milk shop;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to the dairy industry;

"carry" in relation to dairy produce includes—

- (a) convey by hand or by any other means;
- (b) drive or be in charge of any motorized or non-motorized vehicle, bicycle or animal on or in which there is dairy produce; and
- (c) stock, store or in any other manner have or hold dairy produce on any premises or in any container,

"carrier" means a vehicle used to carry dairy produce

"collection center" refers to a designated location or point at which milk is tested, aggregated or bulked for processing or further transfer;

"container" means a device for holding milk during transportation;

"cooling plant" means a facility established to bulk and cool milk;

"cottage industry" means a small scale, decentralized dairy manufacturing business whose handling capacity does not exceed 500 kilograms of milk per day;

"dairy produce" means any product in which milk is the main ingredient and has been prepared in accordance with the requirement of the relevant Standard;

"designated laboratory" means a laboratory that is recognized by the Board to conduct chemical analysis of dairy produce;

"dry milk and whey products" mean products intended for use in pasteurized or aseptically processed dairy produce and which have been manufactured in accordance with the provisions of the Act;

"milk" means the normal, clean and fresh secretions, without any addition or subtraction, extracted from the udder of a healthy dairy animal and free from colostrum;

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"milk bar" means a dairy retail outlet where dairy produce is dispensed to a consumer for own consumption;

"milk dispenser" means a vending machine approved by the Board for the purpose of dispensing dairy produce;

"milk hawking" means selling of dairy produce by unregistered dairy business operator;

"milk processing plant" means any place, premises or establishment where milk or dairy produce are collected, handled, stored, processed, packaged or prepared for distribution, and it includes the machinery for processing;

"milk sampler" means a person who is authorized by the Board or any other relevant authority to sample dairy produce for testing;

"milk transporter" means a person who transport dairy produce between a farm and a milk collection center, or between a milk processing plant, and a milk selling point;

"milk transport tank" means a vehicle, including a truck and tank, used by a bulk milk transporter to transport bulk milk from a milk collection center, a dairy farm or farms, a processing plant to a retail milk shop, another milk collection center or a processing plant;

"mini dairy" means a dairy processing business whose handling capacity exceeds 500 kilograms but does not exceed 10,000 kilograms per day;

"official milk sampler" means a person who is employed by the Board or is authorized by the Board to collect samples of dairy produce for the purposes of these Regulations;

"operator" means a person who has a permit from the Board to carry out relevant dairy activity;

"pasteurization" means the process of heating every particle of milk or dairy produce in properly designed and correctly operated equipment in accordance with the relevant standard for pasteurized milk;

"potable water" means water that is of a quality suitable for drinking and complies with the relevant standard for drinking water;

"processor" refers to a person who handles and processes dairy produce in excess of 10,000 kilograms per day;

"process" means to treat, prepare or manufacture dairy produce;

"relevant Standard" means a standard relating to milk, milk produce or any other relevant standard developed pursuant to the provisions of the Standards Act (Cap. 496);

"sanitize" means the application of any effective method or substance to properly clean surfaces for the destruction of pathogens, and other microorganisms as far as is practicable which method or substance shall not adversely affect the equipment, the milk or dairy produce, or the health of the consumers and which is approved by the Competent Authority;

3. Application

These Regulations apply in respect to dairy produce and the activities that affect the safety of dairy produce throughout the dairy value chain.

4. Objects of the Regulation

The objects of these Regulations are—

- (a) to enhance compliance to safety standards of dairy produce
- (b) to promote self-regulation in the dairy industry through adoption of global best practices.
- (c) provide the mechanisms for the Board to oversight the dairy industry

PART II – SAFETY OF DAIRY PRODUCE

5. Conditions for Sale of dairy produce

- (1) Primary producers may sell milk to his or her immediate neighbor provided that—
 - (a) the milk is obtained from a healthy animal and is, to the best of the knowledge of the seller, free from a disease, antibiotic residue, contaminant, adulterant or preservative and meets the relevant Standard for raw milk;
 - (b) the buyer collects the milk from where the milk is produced using a clean, hygienic food grade, container;
 - (c) the seller expressly communicates to the buyer that the milk is raw and the buyer commits to ensure that it is safe for domestic consumption.
 - (d) the milk shall not be resold;
- (2) No persons shall engage in hawking of dairy produce except as provided for in this regulation.
- (3) Paragraph 5(1) does not apply to sale of milk in urban centers and cities where urban centers and cities are as defined by the relevant legislation.
- (4) A person who is involved in the processing of dairy produce shall ensure that—
 - (a) the dairy produce is sold in a container that meets the requirements set forth in these Regulations;
 - (b) the treatment process meets the requirements of the relevant Standard; and
 - (c) The dairy produce offered for sale meets the relevant standards and safety requirements.

6. Safety Practices

A person shall not trade in, sell or otherwise offer for sale any dairy produce which is not compliant with the relevant standard.

7. Conditions for sale of dairy produce

- A person shall, for the purpose of destroying or deactivating microorganisms in dairy produce, only process or manipulate the produce through—
- (a) pasteurization;
 - (b) aseptic processing;
 - (c) retort-sterilization, and
 - (d) refrigeration after pasteurization.
 - (e) or any other method approved by the standards

8. Requirement to impound, destroy and cancellation of permit

- (1) Where, a compliance officer has reasonable ground for believing that a person produces or handles dairy produce in a way that is contrary to these Regulations, the compliance officer may impound and destroy or cause the dairy produce to be destroyed; and the compliance officer shall suspend the dairy regulatory permit;
- (2) Where a regulatory permit has been suspended the Board shall notify the public in an appropriate manner.

9. Adulterated or misbranded milk

- (1) A person shall not sell, attempt to sell, offer or expose for sale or have in possession with intent to provide, sell, offer or expose for sale any dairy produce which is adulterated or misbranded.
- (2) For the purposes of this regulation misbranded milk means milk or dairy produce labeled with misleading information or information that is contrary to the provisions of these Regulations.

[Subsidiary]

10. Offence for not meeting standards

Any person who fails to comply with any of the provisions of this Part shall be liable, on conviction, to a fine not exceeding ten thousand shillings or imprisonment for a period not exceeding twelve months, or both such fine and imprisonment.

PART III – LABELING OF DAIRY PRODUCE

11. Application

This Part applies to labeling and packaging of dairy produce in accordance with the relevant Standard.

12. Information on labeling to be clear

Information required to be shown on the label of dairy produce, container, truck or vehicle shall be in accordance to the standard.

13. Exception from labeling requirements

Regulation 10 shall not apply to a milk tank truck, milk can containing raw milk, a storage tank for raw or pasteurized milk, or a milk storage tank in a milk collection center.

14. Identification on containers to be by name or number

Every container for raw milk from individual dairy farms shall be identified by the name or number unique to each individual milk producer at the collection center or the processing plant.

15. Several plants operated by same company

Where a company operates more than one processing plant, only one common name shall be indicated on all its containers or packages in addition have a system capable of identifying where the produce was obtained or processed and packaged.

16. Contract processing

Where a person processes, purchases or distributes dairy produce at a different processing plant other than their own, the name and the address of the other corresponding plant shall be indicated on the label.

17. Duty of dairy business operator

A dairy business operator shall ensure that the labeling is done in accordance with the requirements of the relevant standard.

18. Offence to use misleading mark, words, etc.

(1) Any person who knowingly uses a misleading mark, word or endorsement on the label or superimposes any material to conceal the contents of the label commits an offence and shall be liable, on conviction to a fine not exceeding ten thousand shillings or imprisonment not exceeding three months, or both.

(2) The use of a trademark or a similar logo on a milk truck, van, tanker, bottle or other container or vehicle shall not constitute a misleading mark or word so long as the same is not used so as to obscure the required labeling.

PART IV – REQUIREMENTS FOR EXAMINING OF DAIRY PRODUCE

19. Examining, testing and disposal of dairy produce

The procedure for—

- (a) collecting and handling samples;
- (b) selecting and preparing apparatus and instrumental analytical equipment;
- (c) media and reagents;
- (d) analytical procedures;

- (e) incubating;
- (f) reading and recording;
- (g) reporting,

shall be in accordance with the relevant standard.

20. Dairy Business Operator to sample dairy produce

(1) A dairy business operator shall examine, test and grade dairy produce before acceptance in accordance to the requirements of the relevant standard.

(2) A sample collected for the purpose of paragraph (1) shall be analyzed by the dairy business operator as a routine monitoring of its quality and safety.

(3) The quantity of the milk and the reason for the rejection shall be submitted to the Board not later than the 10th day of the succeeding month in Form A in the Schedule.

(4) In the case of a milk processing plant during any consecutive twelve months, for every batch of raw milk for processing, a sample shall be obtained by the processor and submitted to a laboratory for quality and safety analysis;

(5) Records of the tests done under regulation 4 shall be maintained and made accessible to the compliance officer when required.

21. Sampling for official control

A compliance officer, or a person duly authorized by the Board for that purpose, shall obtain representative samples of dairy produce in the presence of the dairy business operator at any point of the value chain at least quarterly or at any time prior to delivery of the dairy produce to the shop or consumer. Samples obtained shall be at the cost of dairy business operator while the collection and testing cost shall be met by the Board.

22. Collection of Samples

A sample of dairy produce from a retail shop, supermarket, grocery shop or any other place where dairy produce is sold shall be examined at least quarterly by a compliance officer or a person duly authorized by the Board for that purpose and the results of such testing shall be used to determine compliance with the relevant standard. Samples shall be obtained at the cost of the Board.

23. Recall and withdrawal of non-compliant dairy produce

(1) Where non-compliance is detected in dairy produce, the dairy business operator or the person responsible for the same shall take necessary action in accordance to the requirements of the Dairy Industry (Traceability and Recall) Regulations (sub. leg).

(2) Whenever the results of tested samples fail to meet the relevant standard, the producer or dairy business operator shall take immediate remedial action, which may include making a withdrawal, halting production, placing distribution on hold, produce recycling or initiating concessions.

24. Tests and test methods

The tests and test methods for assessing compliance by a dairy business operator shall be as per the relevant standards.

25. Breakdown during processing

Whenever a breakdown during the processing or packaging of dairy produce occurs, a likelihood of a public health risk shall be presumed and the dairy business operator shall take prompt appropriate action to avert the risk.

26. Offence to sell or offer for sale substandard dairy produce

(1) No person shall sell or offer for sale any dairy produce that does not meet the relevant standard.

[Subsidiary]

(2) A person who contravenes any of the provisions of these regulations commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

PART V – GENERAL REQUIREMENTS

27. General Requirements for Personnel

A person who is involved in collection, transportation, processing, and distribution or in any other way handles milk before it reaches the consumer shall comply with the requirements of the code of practice.

28. Qualifications of personnel

A dairy business operator shall ensure that any person handling dairy produce is qualified with relevant competencies which can be demonstrated to the satisfaction of the Board.

29. Sanitation requirements and installations

An operator of a milk collection center or dairy processing plant, shall, in addition to general hygiene and operational standards on the part of the personnel, install adequate sanitary facilities and accommodations which shall include—

- (a) sufficient and suitable dressing rooms, toilet rooms and conveniently located;
- (b) suitable sanitary conveniences with clean running water, soap, dispensable hand paper or towels provided and situated outside the toilet rooms or urinals and their use by the dairy staff shall be monitored;
- (c) appropriate and well-designed foot baths;
- (d) proper drainage from toilet rooms or urinals, where applicable;
- (e) properly located facilities for cleansing and disinfecting utensils and other handheld equipment; and
- (f) such other requirements as may be required or approved by the Board.

30. Water supply

(1) Premises used for dairy activities shall have adequate and clean potable water to facilitate hygienic practices.

(2) A dairy business operator shall—

- (a) use clean water which is appropriate for drinking by animals, cleaning and sanitation of equipment and utensils, and for all relevant processes on the farm.
- (b) where potable water is not available, ensure clean water through chlorination, sedimentation, filtration, or boiling.
- (c) locate or construct the wells or boreholes such as to avoid the draining of surface water into the wells or boreholes.
- (d) take precaution to ensure that dairy animals do not consume or have access to contaminated water.

31. Prohibition for Transportation on Public Service Vehicles

A person shall not transport dairy produce or cause dairy produce for sale to be transported in a passenger public service vehicle or in a vehicle whose design does not meet milk carriage requirements approved by the Board except for packaged dairy produce.

32. Prescribed container

(1) A person who handles dairy produce shall carry the dairy produce in a container as prescribed under the relevant standard.

(2) The container for transporting milk shall be—

- (a) made of food grade materials or any other material that meets the relevant standard;

- (b) designed so as to enable cleaning and sanitization
- (c) designed and constructed to ensure drainage;
- (d) properly covered during transportation;
- (e) exclusively used to transport milk; and
- (f) kept clean and free of contamination.

33. Prevention of Contamination of raw milk from engine and fuel emissions

A person in charge of a vehicle transporting milk shall—

- (a) ensure that the engine is switched off while loading and offloading
- (b) ensure that all doors and lids of the part containing milk or dairy produce are securely closed before the engine is started; and
- (c) if the engine is allowed to run for unavoidable reasons, care shall be taken to control engine emissions to avoid milk contamination.

34. Requirement for loaders

(1) The person responsible for loading to, transporting or offloading milk or milk produce from, a carrier shall ensure that—

- (a) loading and un-loading, wear clean protective clothing which covers the parts of the body which may come into contact with the milk;
- (b) every person handling milk or dairy produce, washes their hands and other exposed parts of body with clean disinfectants and shall, during
- (c) any loader or transporter of milk or dairy produce undergoes a routine medical examination at such intervals of time as may be determined by the dairy business operator and any loader found medically unfit during such examination shall not be allowed to handle milk during transportation or at all until certified otherwise by a qualified medical examiner;
- (d) no person chews, smokes or eats any substance, food, or take any intoxicating drink or substance while handling milk or milk produce.

(2) In the case of milk carriers, no person is allowed to stay or travel in the compartment in which milk or dairy produce is kept or to put their personal belongings or any other things in the said compartment during milk transportation.

35. Inspection by Compliance officer

Any carrier or container may be inspected by a compliance officer at any time whenever the compliance officer considers it necessary to do so to assess compliance with these Regulations.

36. Prohibit transportation

Where a compliance officer finds that a milk carrier has not complied with the provisions of these Regulations or any other legislation, the compliance officer may in liaison with the relevant authorities, accompany the carrier to its destination, or issue such directions as he or she considers necessary or advisable to ensure compliance with the provisions of these regulations and any other written law.

37. Requirements for Dairy equipment, materials and additives

The dairy equipment, materials and additives that are used in the dairy industry shall meet the requirements of the relevant standard.

38. Offence and penalties

Any person, who violates or abates in the violation of the provisions of these regulations, commits an offence and is liable to a fine not exceeding ten thousand shillings or one-month imprisonment or to both.

[Subsidiary]

PART VI – STORAGE AND DISTRIBUTION OF DAIRY PRODUCE

39. General Requirements

A primary producer or dairy business operator shall ensure that the premises where dairy produce is produced, handled, processed, stored and distributed or in which dairy produce containers, utensils, or equipment are stored, meets the requirement of the relevant standard.

40. Requirements for floor construction

The construction of the floor of a building of a room in which dairy produce is handled, packaged, or in which dairy produce containers, utensils, or equipment are stored, shall meet relevant standard.

41. Walls and ceilings: Construction

Walls and ceiling of rooms of a building in which dairy produce is handled, packaged, or stored; shall have—

- (a) impervious walls which shall be at least one meter high from the floor;
- (b) ceilings with a smooth, washable, light-colored surface of impervious materials; and
- (c) walls, partitions and ceilings kept in good repair.

41A. Doors and windows

The doors and windows of a building used for storage of dairy produce shall have—

- (a) all outer openings being fly and rodent-proofed to the extent necessary to prevent the entry of flies and rodents; and
- (b) the sills sloping to prevent it from being used for storage of items.

42. Lighting and ventilation

(1) All rooms of a building used for storage of dairy produce in which dairy produce is handled, packaged, or stored, shall—

- (a) allow for adequate lighting that is not colored;
- (b) have sufficient ventilation;
- (c) have bulbs for artificial lighting being shatter proof or suitably protected;
- (d) have glass windows and other glass fittings being shatterproof; and
- (e) where pressurized venting, or air conditioners are used, have a filtered air intake;

(2) Where milk plants that condense or dry milk or milk products or both are involved, ventilating systems in packaging rooms used shall be separate and where possible have the ducts installed in a vertical position.

43. Requirements for buildings used for storage of dairy produce and equipment

A building that is used for storing dairy produce shall have—

- (a) distinct rooms for receiving dairy produce, packaging and storage of returned packaged dairy produce.
 - (b) have a toilet and other sanitary facilities located in a manner that does not lead to product contamination.
 - (c) have adequate running water supply that complies with relevant Standard.
 - (d) have adequate and conveniently located hand-washing facilities.
- Requirements for buildings used for storage of dairy produce and equipment

- (e) be constructed in a manner to ensure that cleaned and sanitized containers and equipment are properly stored and handled to prevent product contamination.
- (f) have provisions to handle and store dairy produce as required by the manufacturer specifications.

44. Vehicles

A vehicle used for distribution of dairy produce shall be constructed so as to ensure that the integrity and the quality of dairy produce is not compromised.

45. Offence under the regulation

Any person who contravenes any provisions of these regulations commits an offence and shall be liable, on conviction to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding three months or to both.

PART VII – DAIRY FARMS

46. Regulation of milk safety in dairy farms

A primary producer shall offer only good quality and safe milk for sale by ensuring that—

- (a) feeds for dairy animals meet the requirements of the relevant standard.
- (b) lactating animals which show evidence of production of milk with abnormalities in one or more quarters, which may include bloody, stringy, off-colored milk, or milk that is abnormal to sight or odour, shall be so handled and disposed of as to preclude the infection of other lactating animals and the contamination of milk utensils and the environment, which incident shall be immediately reported to the nearest veterinary surgeon or veterinary paraprofessional.
- (c) an animal that produces milk with abnormalities shall be milked last or in separate equipment.
- (d) an animal that produces contaminated milk or which may have been exposed to or treated with veterinary medicinal products, or chemical substances or are exposed to radioactive agents, which are capable of being secreted in the milk and which, in the judgment of the veterinary officer or veterinary paraprofessional, may be harmful to human health, shall be milked last or with separate equipment and the milk disposed of as the veterinary surgeon or veterinary paraprofessional may direct.
- (e) Milking equipment used on animals with abnormalities in their milk shall be maintained clean to reduce the possibility of re-infecting or cross infection of the dairy animals.
- (f) Equipment, utensils and containers used for the handling of milk with abnormalities are not be used for handling of milk to be offered for sale, unless they are first cleaned and effectively sanitized.

47. Milking shed design and construction

(1) A primary producer shall ensure that the milking shed is designed, sited or constructed in such a way as to minimize the risk of equipment, inputs, dairy produce and environmental contamination.

(2) Where applicable, a person operating a milking shed with milk storage rooms shall ensure that storage rooms have—

- (a) impervious easily cleanable floors.
- (b) adequate separation between milking areas and any premises where animals are housed.
- (c) suitable milk cooling rooms or refrigeration facilities when appropriate.

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- (d) a sufficient supply of potable water for use in milking and in cleaning of equipment and instruments.
- (e) be well ventilated. where possible, windows should be placed to provide cross ventilation.
- (f) have adequate natural and or artificial light.
- (g) be used for no other purpose than milk storage operations.
- (h) no direct opening into milking shed or into a room used for domestic purposes, provided that a direct opening between the milk storage room and milking shade is permitted when a tight-fitting, self-closing solid door hinged to be single or double acting is provided; and
- (i) be equipped with adequate facilities for cleaning and sanitizing milking equipment.

48. Toilet facilities

(1) A primary producer shall provide one or more toilets which shall be conveniently located; constructed, operated, and maintained in a sanitary manner.

(2) Human and animal waste shall be drained separately and shall comply with the relevant laws and regulations.

49. Dairy Waste management

A primary producer shall ensure that waste from the dairy farm does not pollute the soil surface or contaminate any water supply by ascertaining that—

- (a) manure and other organic wastes are removed from the milking shade and milk storage rooms and disposed of in a sanitary and environmentally safe manner on land or by properly controlled composting and storage.
- (b) wastewater or other effluents shall be disposed of in a drain or in such a manner as to avoid its accumulation in the milking area.
- (c) Human and animal waste shall be drained separately and shall comply with the relevant laws and regulations.

50. Milking Yard

(1) A primary producer operating a dairy farm with a milking yard shall at all times ensure that—

- (a) the yards are graded and drained and have no standing pools of water or accumulations of organic wastes.
- (b) lactating animal-housing areas, lactating animal droppings and soiled bedding are removed, or clean bedding added, at sufficiently frequent intervals to prevent the soiling of the lactating animal's udder and flanks.
- (c) waste feed shall not be allowed to accumulate.
- (d) other animal species are kept out of the cow-yards.

(2) For the purposes of this regulation, "milking yard" means a structure, premises or facility in which a dairy animal is milked and housed, whether it is lactating or not.

51. Milking Equipment and Sanitation

A primary producer with milking equipment shall ensure that the equipment operate effectively and are maintained in a sanitary condition by observing the following sanitary practices—

- (a) Milking equipment shall be installed and tested in accordance with manufacturer specifications;
- (b) Machine milking installations, when used, shall undergo periodic inspections and maintenance to ensure it is in good working order;

- (c) Equipment and instruments or their surfaces which are intended to come into contact with milk shall be easy to clean and disinfect, corrosion resistant and not capable of transferring substances to the milk in such quantities as to present a health risk to humans;
- (d) Milking equipment shall be cleaned and disinfected using specified cleaning agents after each milking.

52. Milk handling and storage equipment

A primary producer shall ensure that the milk handling and storage equipment are recommended for milk handling and storage, including tanks and cans.

53. Hygienic milking methods

A primary producer shall ensure that the milking methods permit the efficient withdrawal of milk without contaminating the milk or causing injury to the udder.

54. Offence under regulation

Any primary producer who fails to comply with any of the requirements of these Regulations commits an offence and is liable, on conviction to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one month or to both such fine and imprisonment.

PART VIII – MILK COLLECTION CENTERS

55. Design, location and construction of milk collection centers

A dairy business operator responsible for a milk collection center shall ensure that the facility is designed, located and constructed in a manner that will not contaminate the milk and the environment and shall meet the following requirements—

- (a) the premises of the collection centers shall be of sufficient area to carry out work under sanitary/hygienic conditions;
- (b) structure and design shall be able to allow for layout of equipment in such a way that does not impede milk and personnel flow;
- (c) material used in construction shall be non-toxic to human life;
- (d) the walls inside shall be smooth and cleanable;
- (e) the design of floor shall be in such a way that it allows for liquid flow towards the waste drainage;
- (f) the floor shall be made of water proof material that's resistant to chemical actions;
- (g) drainage shall be adequate and sufficient to drain away waste water/liquids;
- (h) a collection point shall have some shade to protect the milk cans from direct sunlight;
- (i) the shade shall be constructed with materials that do not contaminate milk;
- (j) the shade shall have raised platforms for holding milk cans to avoid contamination from dust, soil or mud;
- (k) there shall be adequate bright light either of natural or artificial source; or
- (l) there shall be adequate ventilation to provide sufficient air circulation.
- (m) equipment and containers coming in contact with milk shall be designed and constructed to ensure that they can be adequately cleaned, sanitized and maintained to avoid contamination;
- (n) all equipment surfaces that come into contact with milk shall be non-toxic, inert to milk, non-absorbent and not affected by cleaning chemicals; and
- (o) equipment shall be kept in appropriate state of repair and condition to facilitate cleaning and sanitation so as to prevent possible contamination of milk.

[Subsidiary]

- (p) milk storage tanks is designed and constructed as to avoid any contamination of the milk and to ensure complete drainage;
- (q) surfaces of milk storage tanks and associated equipment intended to come in contact with milk is easy to clean and disinfect, corrosion resistant and not capable of transferring substances to the milk in such quantities as to present a health risk to humans;
- (r) adequate and appropriate means of managing waste that do not pose a risk of contamination of the milk;
- (s) adequate drainage system to drain off effluent; and
- (t) toilets or pit latrines with self-closing doors away from the milking collection areas and do not communicate directly into the milking collection or milk storage areas.

56. Requirement for potable water

A dairy business operator who is responsible for a milk collection center shall maintain sanitary requirements by ensuring that—

- (a) adequate and potable water to facilitate cleaning and sanitation of equipment and utensils is available; or
- (b) where potable water is unavailable, treatment of water shall conform to Standard for drinking water.

57. Prevention of milk contamination

An operator of a milk collection center shall ensure that—

- (a) the center is designed and operated in such a manner that minimizes or prevents the contamination of milk;
- (b) basic quality tests such as organoleptic to isolate obvious poor-quality milk are carried out;
- (c) at the collection point, milk received is accurately weighed and recorded before bulking, where applicable.
- (d) milk is checked for quality before it is received as prescribed by the relevant standards;
- (e) milk with any non-conformity is not received and is disposed of in accordance with the appropriate environmental regulation;
- (f) milk is collected under hygienic conditions;
- (g) a milk storage tank is cleaned and sanitized using appropriate cleaning agents after each emptying and remain fully drained between uses;
- (h) a milk storage tank is used to store milk only;
- (i) the milk is weighed and the quantity, source and quality parameters are recorded.

58. Offence and Penalty

Any dairy business operator who contravenes any of the provisions of the requirements in this Part commits an offence and is liable on conviction to a fine not exceeding five thousand shillings or to an imprisonment not exceeding one month or both such fine and imprisonment.

PART IX – MILK BARS

59. Design, Location and construction of a milk bar

An operator of a milk bar shall ensure that the milk bar is located, designed and constructed in a manner that meets the relevant standard, including ensuring that—

- (a) floors of all rooms in which milk or dairy produce are handled, converted, packaged, or stored, or in which milk containers, utensils, and or equipment

are washed, is constructed of good quality concrete or equally impervious tile or brick laid closely with impervious joint material, or metal surfacing with impervious joints, or other material which is the equivalent of good quality concrete;

- (b) floors of storage rooms for dry ingredients and or packaging material constructed of impervious and easy to clean material; and
- (c) a floor surface which is smooth and sloped and the joints between the floor and the walls are impervious;
- (d) tiled walls or any other impervious easy to clean material to a height of not less than one meter and smooth ceilings which are washable, white-colored and made of impervious materials;
- (e) walls, partitions and ceilings kept in good repair;
- (f) doors and windows of the milk bars with all outer openings that are fly and rodent-proofed;
- (g) adequate lighting and ventilation free of odours.
- (h) the premises have separate rooms or areas for handling of dairy produce, cleaning and sanitizing of dairy produce equipment; and receiving, handling and storage of returned dairy produce.
- (i) the premises in which the milk bar is located have convenient hand-washing facilities kept in clean condition and in good repair.

60. Milk Storage tanks, containers and utensils

A milk bar operator shall ensure that the equipment, utensils, milk storage tanks and containers meet the following requirements—

- (a) milk storage tanks and containers shall be used to store dairy produce only.
- (b) are made of food grade material which is easy to clean and disinfect, corrosion resistant and not capable of transferring harmful substances to the dairy produce.

61. Milk bars to sell safe dairy produce

(1) A dairy milk bar shall—

- (a) only selling pasteurized dairy produce;
- (b) keep records of processed milk suppliers at all times including quality certificates; and
- (c) dispense dairy produce hygienically from a labelled, tamper proof, food grade and easy to clean equipment;
- (d) ensure that the equipment and utensils used in handling and storage of dairy produce in milk are made of food grade material which easy to clean and disinfect, corrosion resistant and not capable of transferring harmful substances to the dairy produce.

(2) Dairy produce in milk bars shall be protected from chemical contamination by ensuring that—

- (a) the storage, handling and use of poisonous or toxic materials is performed to preclude the contamination of dairy produce, or ingredients of such dairy produce, or the product-contact surfaces of all containers, utensils and equipment;
- (b) only insecticides and rodenticides approved by the competent authority shall be used for insect and rodent control. Such insecticides and rodenticides are used only in accordance with the manufacturer's label directions and is prevented from contaminating dairy produce, containers, utensils and equipment.
- (c) all insecticides and rodenticides are stored in a lockable poison's cabinet.

[Subsidiary]

(3) The storage of single-service bottle caps, packaging paper, containers, bags and other single-service articles for use in contact with dairy produce shall be—

- (a) stored in sanitary wrappings or cartons;
- (b) kept in a clean dry place until used, and shall be handled in a sanitary manner.

62. Sanitary facilities

A milk bar shall ensure that the premises in which the milk bar is located—

- (a) do not open directly into a room in which milk or dairy produce is handled, converted and stored;
- (b) are kept in a clean and in good repair condition, well ventilated and lit;
- (c) have easily cleanable and covered waste receptacles;
- (d) sewage and other liquid wastes are disposed of in a sanitary manner;
- (e) have adequate and suitable bins in which to collect solid wastes;
- (f) have the bins located in areas that do not pose a risk of contamination of the dairy produce;
- (g) have adequate and sufficient drainage to drain off wastewater and liquids.

63. Requirements for water

A milk bar operator shall ensure that the premises in which the milk bar is located have adequate water supply that—

- (a) is properly located, protected and operated;
- (b) is easily accessible and of a safe, sanitary quality.

64. Cleanliness and storage of utensils

A milk bar shall ensure that the premises in which the milk bar is located has—

- (a) only equipment directly related to dairy produce handling kept in dairy produce storage rooms;
- (b) floors, walls, ceilings, shelves, tables and the non-product contact surfaces of other facilities and equipment kept clean;
- (c) no trash, solid waste or waste dry product stored within the dairy produce handling rooms;
- (d) all rooms in which dairy produce is handled, converted or stored; or in which containers, utensils, and or equipment are washed or stored, are kept clean and free of insects and rodents;
- (e) cleaning and sanitizing of all multi-use containers and utensils done after each use.

65. Storage of packaging material

A milk bar operator shall ensure that—

- (a) containers shall be stored inverted, on racks or in cases constructed of after cleaning and sanitizing, all the containers and equipment shall be stored on racks made of impervious food grade materials, or in clean shelves elevated above the floor;
- (b) containers are relatively non-absorbent, impervious, food-grade, corrosion-resistant, non-toxic materials, or otherwise protected from contamination.

66. Capacity to assess milk quality and keeping of records

(1) operator milk bar operator shall have the capacity to conduct the basic quality assessments of milk and other relevant tests.

(2) A milk bar operator shall—

- (a) employ persons who are capable of conducting the basic quality assessments tests.
- (b) keep records of the quality tests.

67. Handling and storage of dairy produce

A milk bar operator shall ensure that dairy produce is handled and stored in a manner that does not compromise quality and safety and environmental standards.

68. Process milk according to Standard

A Milk bar operator shall process dairy produce in accordance with the requirements of relevant standards.

69. Offence under Regulation

Any person who violates any of the provisions of these regulations shall be guilty of an offence and is liable upon conviction to a fine not exceeding ten thousand shillings or to an imprisonment of not more than three months or both.

PART X – MILK DISPENSERS

70. Dispenser location, handling of dairy produce and storage of equipment

A milk dispenser operator shall ensure that—

- (a) all equipment and utensils used in handling and storage of dairy produce are easy to clean and disinfect, corrosion resistant and not capable of transferring harmful substances to the dairy produce,
- (b) milk storage tanks and cans are designed and constructed to avoid any contamination of the milk and to ensure complete drainage,
- (c) milk storage tanks and cans are used to store dairy produce only
- (d) milk dispensers are located in areas that do not pose any threat to milk safety and shall be protected from environmental pollution.

71. General Milk Dispensing Requirements

A milk dispenser operator shall ensure that—

- (a) they obtain processed dairy produce from a registered dairy business operator;
- (b) milk is transported from the source using a properly cleaned and sanitized tamper proof food grade container;
- (c) transportation and storage conditions should ensure product integrity is maintained;
- (d) the milk dispenser is positioned far from any potential contaminants;
- (e) the milk-dispensing measuring device complies to relevant law regarding weights and measures;
- (f) milk-dispensing equipment is operated only by persons trained to handle dairy produce;
- (g) the dispensed produce is appropriately packaged and labelled on the container into which the milk is dispensed and shall conform to the labelling requirement as prescribed by the relevant Standard;
- (h) no milk is dispensed from such device more than twenty-four hours from the time of delivery of such milk to the establishment;
- (i) the milk dispensed from such dispensing device is, at the time of dispensing to the final consumer, meet the specifications in the relevant Standard;
- (j) All parts of the dispensing device with which milk or dairy produces come into contact, including any measuring device, shall be made of food grade material;

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- (k) the product-contact surfaces of the dispenser are clean and free from external contamination and foreign matter;
- (l) the delivery orifice must always be clean and protected from insects, dust, and any form of external contamination;
- (m) all parts of the dispensing device with which milk or dairy produces come into contact, including any measuring device, is thoroughly cleaned and sanitized;
- (n) the dispensing container is filled and sealed hygienically so that it is impossible to introduce any additional product for each batch dispensed;
- (o) dairy produce is kept between 4°C to 6°C at all times and records of this maintained;
- (p) the milk or dairy produce is dispensed into clean food grade container.

72. Requirement for premise

A milk dispenser operator shall, with respect to the premises housing the dispenser, ensure that—

- (a) the floor where the dispenser is located is constructed of good quality concrete or equally impervious material, well drained and easy to clean;
- (b) the packaging material are stored in a clean and safe environment;
- (c) the walls and ceiling are made of smooth washable light-coloured impervious material and kept in good repair;
- (d) the doors and windows are rodent and insect proofed;
- (e) the doors and windows of the premises have all outer openings that are rodent-proofed;
- (f) where necessary, install air curtains to prevent entry of insects;
- (g) adequate light sources are provided
- (h) ventilation in the premise is sufficient to keep it reasonably free of odours and prevent excessive condensation.

73. Toilet and waste management Facilities

A dairy business operator responsible for the milk dispenser shall ensure that the premise have access to sanitary conveniences that—

- (a) are well ventilated, clean and in good repair;
- (b) do not open directly into any room in which dairy produce products are handled, processed or stored;
- (c) waste is disposed of in a sanitary manner;
- (d) adequate and suitable bins in which to collect wastes are provided;

74. Water supply

A dairy business operator responsible for a milk dispenser shall ensure that the premises holding dairy produce and dispensing equipment have access to potable water that—

- (a) is of adequate supply, properly located, protected and operated;
- (b) is potable and complies with relevant Standard on specification for drinking water; and
- (c) effluent discharge is handled as stipulated in the relevant laws.

75. Hand washing facilities

A dairy business operator dispensing dairy produce shall ensure that the premises holding dairy produce dispensing equipment has—

- (a) convenient hand-washing facilities with running water; and
- (b) is kept in clean condition and in good repair.

76. Premise and hygiene cleanliness

A dairy business operator dispensing dairy produce shall ensure that—

- (a) only equipment directly related to dairy produce handling, are kept in dairy produce storage areas.
- (b) floors, walls, ceilings, shelves, tables and the non-product contact surfaces of other facilities and equipment are kept clean at all times.
- (c) no trash, solid waste or waste product is stored within the dairy produce handling areas.
- (d) all areas in which dairy produce are handled and stored should be kept clean, neat and free of infestation of insects and rodents.

77. Cleaning and sanitizing of containers and equipment

A dairy business operator operating a dairy produce dispensing equipment shall ensure that—

- (a) cleaning and sanitizing of all multi-use containers and accessories is done before dispensing;
- (b) after cleaning and sanitizing, all the containers and equipment are stored on racks made of impervious food grade materials, or in clean shelves elevated above the floor;
- (c) containers are stored inverted, on racks or in cases constructed of non-absorbent, impervious, corrosion-resistant, non-carcinogenic, non-toxic materials, or otherwise protected from contamination.

78. Storage of single-service containers utensils and materials

A dairy business operator operating dispensing equipment shall ensure that desired sanitary requirements are attained for the storage of single-service bottle caps, packaging paper, containers, bags and other single-service articles for use in contact with dairy produce.

79. Protection from Chemical contamination

A dairy business operator operating a milk dispensing equipment shall ensure that dairy produce in dispensing premises is protected from chemical contamination.

80. Milk reception

A dairy business operator operating a dairy produce dispensing equipment shall ensure that—

- (a) they possess the capacity to assess the quality of dairy produce that they handle. Need to qualify
- (b) the dairy produce is transferred and handled under hygienic conditions to avoid post pasteurization contamination, and
- (c) they keep records of the quality tests results for the dairy produce that they handle.

81. Milk storage

A dairy business operator operating a dairy produce dispensing equipment shall—

- (a) only receive and load dairy produce that meets the relevant Standard;
- (b) ensure all processed dairy produce are cooled immediately prior to dispensing, and to a temperature of between 4 °c to 7°c;
- (c) maintain milk dispensing facilities in good repair;
- (d) equip milk storage containers with an indicating thermometer;
- (e) maintain regular temperature monitoring records throughout the dispensing period.

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82. Cleaning and calibration of equipment

A dairy business operator operating a dairy produce dispensing equipment shall ensure that—

- (a) the unit is cleaned in accordance with manufacturers' instructions.
- (b) all measuring devices and apparatus are calibrated and records kept.

83. Offence under Regulation

Any person who violates any of the provisions of these regulations shall be guilty of an offence and is liable upon conviction to a fine not exceeding ten thousand shillings or to an imprisonment of not more than three months or both.

PART XI – MILK PROCESSING ESTABLISHMENTS- COTTAGE INDUSTRY, MINI DAIRY AND PROCESSORS

84. Location and surrounding cleanliness

(1) Every milk processing establishment shall be located in an area that does not pose any threat to safety of the dairy produce processed therein and shall be protected from environmental pollution.

(2) The surroundings of the milk processing establishment shall be kept neat, clean and free from flies, other insects and rodents.

85. Separate rooms to be used for different activities

A milk processing establishment shall have separate designated areas or rooms sections for—

- (a) milk reception, processing and packaging;
- (b) the cleaning of milk cans and containers, bottles, cases and dry milk or dairy produce containers;
- (c) the fabrication of containers and closures for dairy produce;
- (d) cleaning and sanitizing facilities for milk tankers in a facility receiving milk;
- (e) receiving cans of dairy produce; and
- (f) receiving, handling and storage of returned dairy produce.

86. Toilet and Sanitary facilities

Without prejudice to provisions of Part V of this regulation, a milk processing establishment shall have toilet and sanitary facilities that meet requirements which shall include—

- (a) clean toilet facilities;
- (b) toilet rooms shall not open directly into any room in which milk and dairy products are handled, processed and stored;
- (c) toilet rooms and fixtures that are kept in good repair, well ventilated and lit;
- (d) toilet tissue and easily cleanable covered waste receptacles provided in toilet rooms;
- (e) no pit latrines shall be allowed in the milk processing plant;
- (f) sewage and other liquid wastes are disposed of in a sanitary manner;
- (g) adequate and suitable bins in which to collect solid wastes;
- (h) bins located in areas that do not pose a risk of contamination of the dairy produce; and
- (i) adequate drainage to drain off liquid waste and sewage in a sanitary manner.

87. Water supply

- (1) A milk processing establishment shall have water supply system that facilitates—

- (a) adequate potable water supply, properly located, protected, and of a safe sanitary quality;
- (b) water supply that complies with relevant Standard for drinking water; and
- (c) flow without cross-connection between the safe water supply and any unsafe or questionable water supply, or any source of pollution through which the safe water supply might become contaminated;

(2) Water for different purposes shall be clearly distinguished by pipe colour coding in accordance with the provisions of the relevant Standard.

88. Hand washing facilities

(1) A dairy business operator shall ensure the plant shall have convenient hand-washing facilities that—

- (a) provides clean and running water, soap and individual sanitary paper towels; and
- (b) is kept in clean condition and in good repair.

(2) Hand wash facilities in the toilets and milk handling areas shall be designed to prevent after wash contamination.

89. Dairy plant cleanliness

The dairy business operator shall ensure that—

- (a) all rooms in which dairy produce is handled, processed or stored or in which containers, utensils and or equipment are washed or stored, are kept clean, neat and free of pests, insects and rodents;
- (b) only equipment directly related to processing operations or the handling of containers, utensils and equipment are permitted in the processing, cooling, condensing, drying, packaging, and bulk milk or dairy produce storage rooms
- (c) floors, walls, ceilings, shelves, tables and the non-product-contact surfaces of other facilities and equipment are kept clean;
- (d) all sanitary piping, fittings and connections which are exposed to dairy produce shall consist of smooth, impervious, corrosion-resistant, non-toxic, easily cleanable material, which is approved for dairy produce-contact surfaces in the relevant Standard;
- (e) all piping is in good repair;
- (f) trash, solid or dry waste product are removed promptly so as not to pose a source of contamination; and
- (g) pasteurized dairy produce shall be conveyed from one piece of equipment to another in a sanitary manner.

90. Construction and repair of containers and equipment

The construction and repair of milk processing establishment containers and equipment shall be done in such a way that—

- (a) all multi-use containers and equipment that dairy produce come into contact with shall be of smooth, impervious, corrosion-resistant and non-toxic material;
- (b) such containers and equipment shall be constructed for ease of cleaning; and shall be kept in good repair;
- (c) all single-service containers, closures, gaskets and other articles that dairy produce come in contact with shall be food grade, non-toxic and shall be manufactured, packaged, transported and handled in a sanitary manner;
- (d) articles intended for single-service use shall not be reused.

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91. Cleaning and sanitizing of containers and equipment

(1) The cleaning and sanitizing of equipment, surfaces and vehicles in the milk processing establishment shall be done in a manner that prevents contamination of the dairy produce.

(2) The records generated to confirm efficiency of cleaning shall be identified, dated and retained for a shelf life period of the relevant dairy produce consider one year

92. Storage of cleaned containers and equipment

A person responsible for a milk establishment shall ensure that cleaned and sanitized containers and equipment are stored in a manner that prevents contamination.

93. Protection from contamination

A person responsible of a milk processing establishment shall protect or cause the dairy produce or ingredients to be protected from contamination.

94. Processing of dairy produce

A person responsible of a milk processing establishment shall cause the dairy produce to be processed in accordance with the respective relevant Standard.

95. Maintenance of processing equipment

All equipment in a milk processing establishment that is used for processing of dairy produce shall meet the relevant Standard and shall be maintained in a manner that prevents contamination of the dairy produce.

96. Handling, storage and transportation of dairy produce

A person responsible for handling, storage or transportation of dairy produce shall ensure that the dairy produce is not contaminated.

97. Offence under regulations

Any person who contravenes any provisions of these regulations commits an offence and shall be liable, on conviction to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding three months or to both.

PART XII – CALIBRATION OF EQUIPMENT AND APPARATUS**98. Requirement for Calibration**

(1) A person operating any dairy produce testing, monitoring or recording equipment shall obtain a valid calibration certificate.

(2) The requirement for calibration shall be done for each of the equipment specified in Form B in the schedule

(3) The operator shall ensure routine calibration is done as by the manufacturer or as by the relevant legislation; and

(4) The operator shall keep records of all the calibration results.

PART XIII – RECORDS**99. Requirement for maintenance of records**

(1) Every dairy business operator shall ensure—

(a) all operations and activities along the milk value chain on which evidence of quality assurance is required to be observed under these regulations, have such evidence recorded and the records thereof are processed and maintained in accordance with these regulations.

(b) the records kept are submitted as may be determined by the Board.

(c) the records and data contained therein are retained for such period of time as provided in the relevant laws.

(2) a dairy business operator shall not trade in dairy produce without sufficient proof of maintenance of records as required under these regulations.

100. Offence under regulation

A person who contravenes any provisions of these regulations commits an offence and is liable upon conviction to a fine not exceeding ten thousand shillings or an imprisonment to a term not exceeding three months or both.

101.

[Spent]

SCHEDULE

FORMS

**FORM A (r. 20(3))
DECLARATION OF REJECTED MILK**

- (1) This form must be completed by all dairy business operators
- (2) This form must be completed and sent to Kenya Dairy Board not later than the tenth (10th) day after the month of production.

Name..... Regulatory Permit No..... Licence No.....

Milk Statistics for the month of:

<i>Name of Supplier</i>	<i>Date</i>	<i>Volumes Rejected</i>	<i>Reasons for rejection</i>
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Total Volumes Rejected

Comments:

.....
.....
.....

DECLARATION

I/We declare that the above information is correct

NAME..... ADDRESS.....

SIGNATURE & STAMP..... DATE.....

(if the signature is on behalf of the Limited Company or Estate, this must be stated)

FOR OFFICIAL USE ONLY

Officers Name..... Signature.....

Date.....

Dated the..... 2021

**FORM B (r. 98(2))
LIST OF EQUIPMENT REQUIRING CALIBRATION**

- (a) Thermometers (including Indicating and Recording)
- (b) Volume determination equipment
- (c) Pressure Gauges
- (d) pH meters

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- (e) Electrical Conductivity measuring devices
 - (f) Time/ Frequency equipment
 - (g) Flow Diversion Device assembly and function
 - (h) Pressure switches
 - (i) Differential pressure controller
 - (j) Milk or dairy produce flow controls and temperature cut in cut out
 - (k) Continuous flow holding tube time
 - (l) Continuous flow Holding tube and alarm
 - (m) Weighing machines and equipment
 - (n) Milk testing laboratory equipment
 - (o) Any other equipment or apparatus the calibration of which may be required by the Board or any other competent authority from time to time.
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THE DAIRY INDUSTRY (IMPORTS AND EXPORTS) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
2. Interpretation
3. Application
4. Objects of the Regulations
5. Requirements for import and export
6. Import and export permit
7. Conditions for grant of permit
8. Compliance with relevant standards
9. Import levy & penalty for default
10. Disclosure on Dairy produce, materials, etc.
11. Seizure and destruction of irregular imports
12. Transit Permit
13. Offences and penalties
14. Forfeiture and destruction
15. Revocation of Legal Notice number 103 of 2004 Sub Leg

SCHEDULES

SCHEDULE —

FORMS

THE DAIRY INDUSTRY (IMPORTS AND EXPORTS) REGULATIONS

[Legal Notice 21 of 2021]

1. Citation

These Regulations may be cited as the Dairy Industry (Imports and Exports) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Dairy Industry Act (Cap 336);

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to dairy industry;

"dairy regulatory permit" means a permit issued by the Board under the relevant Regulations;

"designated port" means the port by which the importer or exporter has indicated as the port of entry or exit for import or export of dairy produce;

"export permit" means a permit issued under regulation 6;

"import permit" means a permit issued under regulation 6;

"relevant standards" mean the standards for the quality of the dairy produce, product or equipment used in the dairy industry, determined by the Kenya Bureau of Standards or a regional or international convention or protocol.

"sanitary standards" means relevant standards and practices that established to protect food meant for human consumption from contamination.

3. Application

These Regulations shall apply in respect to imports and exports of dairy produce.

4. Objects of the Regulations

The objects of these Regulation are to—

- (a) provide the procedure for importing or exporting dairy produce;
- (b) ensure that dairy produce imports and exports meet the relevant standards;
- (c) to protect the Kenyan dairy industry against unfair trade practices or competition and dumping;
- (d) support government effort to guarantee food security and self-sufficiency.

5. Requirements for import and export

A person who wishes to import or export dairy produce shall—

- (a) ensure that the import or export meets the requirements of the relevant Standard;
- (b) ensure that the dairy produce is imported or exported through a designated port;
- (c) be a registered dairy business operator; and
- (d) have a valid dairy regulatory permit.

6. Import and export permit

(1) A person shall not import or export dairy produce without a valid permit issued by the Board.

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(2) An application for an import permit for dairy produce shall be made to the Board by filling in and submitting Form A in the Schedule, and the applicant shall pay the fee set out in Form C of the Schedule.

(3) An application for an export permit for dairy produce shall be by filling in and submitting Form B in the Schedule, and the applicant shall pay the fee set out in Form C of the Schedule.

(4) The Board shall, upon receipt of an application consider it and communicate written decision to the applicant within 30 days, either granting the permit or declining to grant the permit.

(5) The import permit and export permit shall be in Form D and Form E respectively, in the Schedule

7. Conditions for grant of permit

(1) The Board shall, before issuing an import or export permit under regulation 6, consider the following factors—

- (a) The need to prevent dumping of dairy produce or product into the country;
- (b) Whether there is deficit or surplus of the dairy produce in the Kenyan market;
- (c) risk involved in the importation or exportation of the dairy product;
- (d) any other relevant factor that the Board may think necessary to consider.

(2) The Board may not issue an import permit unless the applicant obtains a certificate from the Directorate for the time being in charge of Veterinary Services that there is no objection to the proposed import.

(3) That the milk to be exported meets the sanitary standards of the importing country.

(4) Where a person has complied with all the import or export requirements set out under these Regulations, the Board shall issue an import clearance certificate in Form F, or an export clearance certificate in Form G, in the Schedule.

8. Compliance with relevant standards

An importer or exporter of dairy produce, equipment, materials or additives shall, with respect to the dairy produce, Import and export permit Conditions for grant of permit Compliance with relevant standards equipment, materials or additives, comply with the requirements of the relevant standards.

9. Import levy & penalty for default

(1) A person who imports dairy produce shall, before the release of the import to him or her, pay to the Board an import levy equivalent to ten per cent of the value of the import determined using the cost, insurance and freight basis.

(2) A person who fails to pay import levy under regulation 8 shall, in addition to the levy, be liable to pay a penalty equivalent to 25% of the assessed levy for every month that the default continues.

10. Disclosure on Dairy produce, materials, etc.

A compliance officer may at any time require a person in possession of dairy produce, materials, additives or dairy equipment, to provide details of—

- (a) the source or destination thereof;
- (b) the quantity and value; and
- (c) the package, batch numbers and the date of delivery, and
- (d) the person so required shall provide the details either orally or in writing as the officer may require.

11. Seizure and destruction of irregular imports

(1) A compliance officer may at any time seize any imported dairy produce, equipment, material or additives, which he has received credible information to the effect that it has been

used or is about to be used in contravention of these regulations or any of the provisions of the Act.

(2) A compliance officer who carries out seizure of imported dairy produce, material, additives or dairy equipment, the compliance officer shall issue seizure notice or receipt in accordance with the relevant Regulations.

(3) The compliance officer shall, upon seizure or confiscation under this regulation, lodge a complaint on behalf of the Board at the nearest police station for possible criminal prosecution under these Regulations or any other legislation.

(4) The criminal proceedings that may be instituted and the manner of dealing with the seized or confiscated dairy produce, equipment, material or additives, shall be in accordance with the provisions of this regulation or any other relevant legislation.

(5) Despite paragraph (4) any destruction pursuant to this regulation which is likely to endanger the environment or public health shall only be carried out in compliance with any other written laws and shall be carried out at the expense of the owner or where the owner cannot be ascertained, at the expense of the person from whom confiscation is effected.

(6) Where civil proceedings are commenced in respect to the seized or confiscated dairy produce, equipment, material or additives and a court issues restraining or other orders, the seized or confiscated dairy produce, equipment, material or additives shall be dealt with in Disclosure on Dairy produce, materials, etc Seizure and destruction of irregular imports accordance with the orders or directions of the court.

12. Transit Permit

(1) No person may convey by way of transit through Kenya Transit Permit any dairy produce unless the person has a valid transit permit issued by the Board.

(2) An application for a transit permit referred to in subregulation 1 shall be made in Form H of the Schedule.

(3) Any dairy produce in respect of which a transit permit referred to in paragraph (1) has been issued may only—

- (a) be introduced into the country through the port of entry specified in the permit;
- (b) transit the country within a period specified in such permit;
- (c) exit the country through the specified port of exit.

(4) A transit permit shall be in Form I set out in the Schedule.

13. Offences and penalties

Any person who—

- (a) imports, exports or attempts to import or export any dairy produce without a valid permit issued by the Board;
- (b) fails to comply with a notice issued under regulation 11;
- (c) supplies any information or particulars required to be made or disclosed under these regulations which is or are in any respect incorrect, inaccurate or misleading;
- (d) imports dairy produce, dairy equipment, materials or additives that do not meet the relevant standard,

commits an offence and is liable upon conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

14. Forfeiture and destruction

Despite the provisions of regulation 13, the court may order forfeiture to the Board or the destruction of the illegally imported dairy produce material, equipment, additives or equipment.

[Subsidiary]

15. Revocation of Legal Notice number 103 of 2004 Sub Leg

The Dairy Industry (Imports and Exports) Regulations are hereby revoked.

SCHEDULE

FORMS

FORM A (r. 6(2))
 THE DAIRY INDUSTRY (IMPORT/EXPORTS) REGULATIONS, 2021
APPLICATION TO IMPORT DAIRY PRODUCE

(The import permit is obtainable from the Managing Director, Kenya Dairy Board after this form has been approved and on production of a veterinary no objection Certificate).

Part 1: To be completed by applicant

Application No.:	Date:			
Name of the Importer	PIN. No.:			
Address:	VAT NO.:			
Tel. No.:	Business Location:			
E-mail	Street/Road	Town:		
Commodity: (valid for one consignment only)	Value (C.I.F.)	Value: (in words)		
	KShs. (in figures)	Quantity — Kg. Quantity — Kg. (In words)		
	(in figures)			
Country of Origin*:	Destination:	Date of Manufacture:	Use by Date:	Route of Import:
Point of Entry:	Landing Date:	Storage Premises:	Town:	Street/road: Warehouse No.
Date of last Import:	Quantity-Kg.	Value KShs. (C.I.F.):		

Purpose of Importation: Commercial/Donation/Domestic/Other(Specify)
 (Tick where appropriate)

Declaration:

I/We the undersigned of (Company Name) being the agent/principal of (importer) do hereby declare that the information and particulars declared herein are true and complete and I/we accept to comply fully with the conditions and requirements provided by the Dairy Industry Act or any other law relating to imports of dairy produce.

Date Signature of Applicant Designation

Note. — Part 1 to be completed by the applicant. Misleading information in Part 1 may lead to invalidation of the application and/or prosecution.

Part II - Evaluation — For Official Use Only

For KENYA DAIRY BOARD

I have examined the application I recommend/do not recommend

1.....

2.....

3.....

Name.....

Signed..... Date.....

This form is valid for three months only, for only one consignment from the date of approval. (Relevant Act: 364, 496, 336, 254, 242)

Country of Origin — Primary source of the produce.

FORM B (r. 6(3))
KENYA DAIRY BOARD
APPLICATION TO EXPORT DAIRY PRODUCE

(The export permit is obtainable from the Managing Director, Kenya Dairy Board after this form has been approved and on production of a Veterinary No. Objection Certificate).

Part 1: To be completed by applicant

Application No.:	Date:			
Name of the exporter:	PIN. No.:			
Address:	VAT NO.:			
Tel. No.:	Business Location:			
E-mail	Street/Road	Town:		
Commodity: (valid for one consignment only)	Value (C.I.F.)	Value: (in words)		
	KShs. (in figures)	Quantity — Kg. (In words)		
	Quantity — Kg. (in figures)			
Country of Origin*:	Destination:	Date of Manufacture:	Use by Date:	Route of export:
Point of Exit:	Shipment Date:	Storage Premises:	Town:	Street/road: Warehouse No.
		L.R./Plot No.:		

Date of last Export: Quantity-Kg. Value KShs. (C.I.F.):

Purpose of Importation: Commercial/Donation/Domestic/Other(Specify)
(Tick where appropriate)

Declaration:
I/We the undersigned of (Company Name) being the agent/principal of (exporter) do hereby declare that the information and particulars declared herein are true and complete and 1/we accept to comply fully with the conditions and requirements provided by the Dairy Industry Act or any other law relating to imports of dairy produce.

Date Signature of Applicant Designation

Note. — Part 1 to be completed by the applicant. Misleading information in part 1 may lead to invalidation of the application and/or prosecution.

Part II - Evaluation — For Official Use Only

For KENYA DAIRY BOARD

I have examined the application I recommend/do not recommend

1.....

2.....

3.....

Name.....

Signed..... Date.....

Dairy Industry

[Subsidiary]

This form is valid for three months only, for only one consignment from the date of approval. (Relevant Act: Caps 364,496,336,254,242)

FORM C (r. 6(2), (3))
 THE DAIRY INDUSTRY (IMPORT/EXPORTS) REGULATIONS, 2021

FEES PAYABLE ON IMPORT/EXPORTS

Category of Fees	Amount (KShs)
1. Application fee	1,000
2. Export permit fee	1,000
3. Import permit fee	5,000
4. Import permit levy per consignment	10% of CIF value
5. Regulatory Permit (Importers) fee	100,000
6. Regulatory Permit (Exporters) fee	1,000

FORM D (r. 6(5))
 THE DAIRY INDUSTRY (IMPORT/EXPORTS) REGULATIONS, 2021

IMPORT PERMIT FOR DAIRY PRODUCE

Import Permit No.....

Attached Certificate of no. objection No.....

This Permit is granted under the provisions of the Dairy Industry (Imports/Exports) Regulations to:

Name.....

Address..... Tel.....

Email.....

To import the products listed below

No.	Product	Quantity (Kg./litres)
1.		
2.		
3.		
4.		

As per application No..... Dated..... 20.....

Conditions:.....

This Permit shall expire on..... 20.....

Fee paid KShs.....

Date of Issue..... 20.....

For Kenya Dairy Board

For Kenya Dairy Board

Note-This import permit is subject to the regulations prescribed under the Dairy Industry (Imports/Exports) Regulations, 2020.

FORM E (r. 6(5))
 THE DAIRY INDUSTRY (IMPORT/EXPORTS) REGULATIONS, 2021

EXPORT PERMIT FOR DAIRY PRODUCE

Export

Permit No.....

Dairy Industry

[Subsidiary]

This Permit is granted under the provisions of the Dairy Industry (Imports/Exports) Regulations to:

Name.....
Address..... Tel.....
Email.....

To export the products listed below:

Table with 3 columns: No., Product, Quantity (Kg./litres). Rows 1-4.

As per application No..... Dated..... 20.....

Conditions:
.....

This Permit shall expire on..... 20.....

Fee paid KShs.....

Date of Issue..... 20.....

For Kenya Dairy

Note-This Export Permit is subject to the regulations prescribed under the Dairy Industry (Imports/Exports) Regulations, 2020.

FORM F (r. 7(4))

KENYA DAIRY BOARD
THE DAIRY INDUSTRY (IMPORT/EXPORTS) REGULATIONS, 2021
CLEARANCE CERTIFICATE FOR IMPORTED DAIRY PRODUCE

This is to certify that the below named importer, having satisfied the conditions provided under the Dairy Industry (Import and Export) Regulations, 2021, is hereby cleared to release the dairy produce listed below:

Name.....
Address..... Tel.....
Email.....

To import the products listed below

Table with 3 columns: No., Product, Quantity (Kg./litres). Rows 1-4.

As per application No..... Dated..... 20.....

Signature.....

Clearing Officer

Name.....

Designation.....

Official stamp.....

[Subsidiary]

FORM G

(r. 7(4))

KENYA DAIRY BOARD

THE DAIRY INDUSTRY (IMPORT/EXPORTS) REGULATIONS, 2021

CLEARANCE CERTIFICATE FOR EXPORTED DAIRY PRODUCE

This is to certify that the below named importer, having satisfied the conditions provided under the Dairy Industry (Import and Export) Regulations, 2021, is hereby cleared to release the dairy produce listed below:

Name.....

Address..... Tel.....

Email.....

To import the products listed below

No.	Product	Quantity (Kg./litres)
1.		
2.		
3.		
4.		

As per application No..... Dated..... 20.....

Signature.....

Clearing Officer:

Name..... Designation..... Official stamp.....

Dated the..... 2021

FORM H

(r. 14(2))

THE DAIRY INDUSTRY (IMPORT/EXPORTS) REGULATIONS, 2021

APPLICATION FOR TRANSIT PERMIT KENYA DAIRY BOARD

(The Transit Permit is obtainable from the Managing Director, Kenya Dairy Board after this form has been approved and on production of a Veterinary no. objection Certificate).

Part 1: To be completed by applicant

Application No.:

Date:

Name of the exporter:

PIN. No.:

Address:

VAT NO.:

Tel. No.:

Business Location:

E-mail

Street/Road

Town:

Commodity: (valid for one consignment only)

Value (C.I.F.)
KShs. (in figures)

Value: (in words)

Quantity — Kg. Quantity — Kg. (In words)
(in figures)

Country of

Destination:

Date of

Use by Date:

Route of export:

Origin*:

Manufacture:

Point of Exit:

Shipment Date:

Storage

Town:

Street/road:

Premises:

Warehouse No.

L.R./Plot No.:

Date of last

Quantity-Kg.

Value KShs.

Export:

(C.I.F.):

Purpose of Importation: Commercial/Donation/Domestic/Other(Specify)

(Tick where appropriate)

Declaration:

I/We the undersigned of (Company Name) being the agent/principal of (exporter) do hereby declare that the information and particulars declared herein are true and complete and I/we accept to comply fully with the conditions and requirements provided by the Dairy Industry Act or any other law relating to imports of dairy produce.

Date Signature of Applicant Designation

Note. — Part 1 to be completed by the applicant. Misleading information in part 1 may lead to invalidation of the application and/or prosecution.

PART II – Evaluation — For Official Use Only

For KENYA DAIRY BOARD

I have examined the application I recommend/do not recommend

- 1.....
2.....
3.....

Name.....

Signed..... Date.....

The form is valid for three months only, for only one consignment from the date of approval. (Relevant Act: Caps 364, 496, 336, 254, 242)

FORM I (r. 14(4)) THE DAIRY INDUSTRY (IMPORT/EXPORTS) REGULATIONS, 2021 TRANSIT PERMIT FOR DAIRY PRODUCE

Export permit No.....

This permit is granted under the provisions of the Dairy Industry (Imports and Exports) Regulations to:

Name..... Address..... Tel..... Email.....

To export the products listed below

Table with 3 columns: No., Product, Quantity (Kg./litres). Rows 1-4.

As per application No..... Dated..... 20.....

Conditions:

This Permit shall expire on..... 20.....

Fee paid KSh.....

Dairy Industry

[Subsidiary]

Date of

Issue..... 20.....

For Kenya Dairy

Note-This Transit Permit is subject to the regulations prescribed under the Dairy Industry (Imports and Exports) Regulations, 2021

THE DAIRY INDUSTRY (MILK SALES CONTRACT) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
 2. Interpretation
 3. Application
 4. Objects of the Regulation
 5. Milk sale contract
 6. Consent of milk sale contract
 7. Prompt payment
 8. General penalty
-

THE DAIRY INDUSTRY (MILK SALES CONTRACT) REGULATIONS

[Legal Notice 20 of 2021]

1. Citation

These Regulations may be cited as the Dairy Industry (Milk Sale Contract) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Dairy Industry Act (Cap. 336);

"buyer" means a person who buys milk from a primary producer or a registered entity for processing or resale;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to dairy industry;

"contract" means a written agreement for sale of milk between a buyer and a seller;

"county based dairy business" means a dairy business involving a buyer or a seller who operates within the same county;

"dairy business operator" means a person who handles dairy produce for business but does not include a primary producer, a retail shop, a grocery shop, a restaurant or a similar establishment;

"inter county dairy business" means a dairy business involving buyers or sellers who operate in more than one county;

"milk" refers to raw or pasteurized milk;

"primary producer" means primary producer as defined under the Act;

"producer organization" means an entity which produces or aggregates milk for sale;

"relevant standard" means the standards for the quality of the dairy produce, product or equipment used in the dairy industry, determined by the Kenya Bureau of Standards or a regional or international convention or protocol.

"sale" means the exchange of milk for agreed payment;

"seller" means a primary producer, primary producer organization or any other registered entity.

3. Application

(1) These Regulations apply to every sale of milk by an aggregator, producer organization or a registered entity to a buyer for processing or resale.

(2) These Regulations shall not apply to a registered primary producer except where a primary producer wishes to enter into a contract with a buyer.

4. Objects of the Regulation

The objects of these Regulation are to—

- (a) ensure fair trade in the sale of milk;
- (b) protect the investment interests for both buyers and sellers of milk.

5. Milk sale contract

A dairy business operator shall not buy milk for processing, distribution or resale, unless the dairy business operator has entered into a written contract with a seller in accordance with these Regulations.

[Subsidiary]

6. Consent of milk sale contract

(1) Subject to regulation 7, a contract for sale or purchase of milk shall contain, at a minimum, provisions on the following:

- (a) names of parties to the contract;
- (b) respective obligations of the parties;
- (c) milk price per kilogram;
- (d) quantity to be sold or bought;
- (e) applicable terms in case of oversupply or undersupply;
- (f) specifications on agreed quality;
- (g) testing and rejection terms;
- (h) time of actual transfer of ownership;
- (i) time of collection or delivery;
- (j) frequency of collection or delivery;
- (k) duration of the contract;
- (l) terms of payment;
- (m) the need to keep the contract confidential;
- (n) terms for waivers and amendment;
- (o) terms of termination of contract;
- (p) indemnity or insurance;
- (q) sanctions for default of either party;
- (r) manner of issuing notices and demands;
- (s) circumstances that constitute force majeure;
- (t) dispute resolution mechanism.

(2) A compliance officer may at any time inspect any contract to ascertain compliance to the requirement of this regulation.

(3) Despite paragraph (1), a contract shall—

- (a) provide for the agreed payment terms, which shall conform to the pricing formula provided under the Dairy Industry (Pricing of Milk) Regulations 2021.
- (b) be subject to the relevant standard test methods for quality determination.

7. Prompt payment

(1) A buyer shall pay a seller for milk delivered in the month as provided in the contractual arrangements after the end of the month in which the supply is made.

(2) Where a buyer defaults in paying the seller within time, the amount due shall attract simple interest on monthly basis, in accordance with the prevailing base rate published by the Central Bank of Kenya, till payment is made in full.

(3) The seller may request the Board to intervene in any instance where the buyer fail or neglects to honor the contractual obligations regarding the payments of sum/s due to the seller.

8. General penalty

A person who contravenes any of the provision of this regulation commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding ten thousand shillings or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
2. Interpretation
3. Application
4. Objects of the Regulations
5. Minimum prices
6. Records and disclosure of prices and deductions
7. Inspection records
8. Offences and penalty
9. Revocation Sub. Leg.
10. Revocation Sub. Leg.
11. Revocation Sub. Leg.

SCHEDULES

PRICING SCHEDULE

THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS

[Legal Notice 23 of 2021]

1. Citation

These Regulations may be cited as the Dairy Industry (Pricing of Dairy Produce) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"compliance officer" has the meaning assigned to it under the Dairy Industry (Compliance Officer) Regulations (sub. leg);

"farm gate price" means the minimum payment made to a primary producer by a purchaser of milk;

"payout price" means the price paid by a purchaser to an aggregator;

"primary producer" has the meaning assigned to it under section 31; and

"purchaser" means a person who buys milk for consumption, aggregation, processing or resale.

3. Application

These Regulations shall apply in respect of the pricing of dairy produce.

4. Objects of the Regulations

The objects of these Regulations are to—

- (a) ensure that a primary producer receives a guaranteed minimum monetary return for the sale of milk; and
- (b) protect the investment interests of the primary producer and purchaser of dairy produce.

5. Minimum prices

The minimum payout price and minimum farm gate price for milk produce shall be in accordance with the Schedule.

6. Records and disclosure of prices and deductions

A producer, group or any other registered entity acting on behalf of producers shall maintain a record of the milk produce purchased, and shall disclose to the primary producer, by way of a monthly statement—

- (a) the payout price; and
- (b) all deductions made,

to determine the farm gate price.

7. Inspection records

A compliance officer may inspect any records relating to a payout made by a purchaser, or the farm gate price paid to a primary producer, and may require the purchaser to provide additional information relating to the payout price or the farm gate price paid by that purchaser.

8. Offences and penalty

A person who—

- (a) pays to a primary producer a price that is less than the minimum farm gate price prescribed under these Regulations;

Dairy Industry

[Subsidiary]

- (b) fails to make a disclosure to a primary producer as required under regulation 6;
- (c) fails to maintain a record as required under regulation 6; or
- (d) obstructs or attempts to obstruct a compliance officer in the performance of his or her functions or exercise of his or her powers under these Regulations,

commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding twelve months or, to both.

9. Revocation Sub. Leg.

The Dairy Industry (Prices of Dairy Produce) Regulations, 1961 are revoked.

10. Revocation Sub. Leg.

The Dairy Industry (Prices of Dairy Produce) Order, 1970 is revoked.

11. Revocation Sub. Leg

The Dairy Industry (Prices of Dairy Produce) (Kisumu) Order, 1971 is revoked.

SCHEDULE

[r. 5]

PRICING SCHEDULE

<i>S/No.</i>	<i>Nature of dairy produce</i>	<i>Unit of measure (Kilograms)</i>	<i>Minimum payout price (Kshs.)</i>	<i>Minimum farm gate price (Kshs)</i>
1.	Unchilled raw milk	1	34	33
2.	Chilled raw milk	1	36	35
3.	Pasteurized milk	1	38	37

**THE DAIRY INDUSTRY (REGISTRATION,
LICENSING, CESS AND LEVY) REGULATIONS**

ARRANGEMENT OF REGULATIONS

Regulation

- 1. Citation
- 2. Interpretation
- 3. Application
- 4. Objects of the Regulation

PART II – REGISTRATION OF PRIMARY PRODUCERS

- 5. Registration of primary producers
- 6. Application for registration
- 7. Register of primary producers
- 8. Inspection of register

PART III – LICENSING OF DAIRY BUSINESS OPERATORS

- 9. Dairy business licence
- 10. Licensing fee
- 11. Condition of issuance of licence
- 12. Imposition of cess
- 13. Offences

PART IV – REGULATORY PERMIT AND CONSUMER SAFETY LEVY

- 14. Regulatory Permit
- 15. Prior inspection of premises
- 16. Regulatory permit to corporate bodies
- 17. Duration of permit
- 18. Types of regulatory permits
- 19. Display of regulatory permit
- 20. Responsibility of permit holder
- 21. Purporting to be a regulatory permit holder
- 22. Sales contrary to permit
- 23. Authentication of a regulatory permit
- 24. Powers of the Board
- 25. Recovery and Remittance of consumer safety levy
- 26. Penalty and interest on unpaid levy
- 27. General Penalty
- 28. Revocation of LN No. 111 of 2004 Sub Leg

SCHEDULES

APPLICATION FOR REGISTRATION AS PRIMARY PRODUCER

APPLICATION FOR DAIRY BUSINESS REGISTRATION

THIRD SCHEDULE — APPLICATION FOR A REGULATORY IMPACT

REGULATORY PERMIT

FEES

QUARTERLY REPORT BY COUNTY GOVERNMENT

THE DAIRY INDUSTRY (REGISTRATION, LICENSING, CESS AND LEVY) REGULATIONS

[Legal Notice 16 of 2021]

1. Citation

These Regulations may be cited as the Dairy Industry (Registration, Licensing, Cess and Levy) Regulations.

2. Interpretation

In these Regulations unless the context otherwise requires—

"Act" means the Dairy Industry Act (Cap. 336);

"application" means an application for the grant, renewal transfer or removal of a regulatory permit or licence;

"authorized officer" means an officer of the Board appointed or delegated to undertake the issuance, suspension, cancellation, or renewal of a regulatory permit;

"aggregator" means a person who collects milk from a primary producer for the purpose of bulking, processing or for resale.

"Board" means the Kenya Dairy Board;

"body corporate" means a registered entity under any law;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to dairy industry;

"cooling plant" means a facility established to bulk and cool milk;

"consumer safety levy" means a charge imposed on local dairy produce and payable by the dairy business operator to the Board;

"cottage industry" means a small scale, decentralized dairy manufacturing business whose handling capacity does not exceed 500 kilograms of milk per day;

"county department" means the county department of a relevant county which is responsible for matters relating to the dairy industry;

"County Executive Committee member" means the County Executive Committee member for the time being responsible for dairy matters;

"cost of processed milk" means the amount paid for milk used for processing by the dairy business operator to another dairy business operator or primary producer, or cost incurred in the production of the milk by own farm or in the case of imported dairy produce, the cost shall be the declared value at the point of entry.

"dairy business operator" means a person who handles dairy produce for business but does not include a primary producer, wholesalers and retailers of packaged dairy produce.;

"dispenser" means a vending machine that dispenses processed dairy produce to consumers;

"licence" means a business licence issued by a county department;

"local dairy produce" dairy produce sourced locally from Kenya or from countries trading in dairy produce with Kenya within a common market protocol.

"milk bar" means a dairy retail outlet where dairy produce is dispensed to a consumer for own consumption;

"mini dairy" means a dairy manufacturing business whose handling capacity is in excess of 500 kilograms but not exceeding 10,000 kilograms per day;

[Subsidiary]

"permit" means a regulatory permit issued under these Regulations;

"permit holder" means a person who is issued with a regulatory permit;

"person" includes a group of persons or organization, whether corporate or otherwise, who produce, handle or offer milk or milk products for sale;

"premise" includes any building, tent or structure together with the land on which it is situated and the adjoining land used in connection therewith, and includes any vehicle, conveyance or vessel in respect of which a regulatory permit is in force;

"primary producer" means a person who produces milk for sale but does not include a person employed by the primary producer for that purpose;

"producer group" means a group of persons or primary producers who have come together for the purpose of collective production, marketing or sale of dairy produce;

"process" means a series of actions or steps taken in order to achieve a particular end;

"processor" means a person who processes dairy produce in excess of 10,000 kilograms per day;

"register" means a register kept in pursuant to these Regulations;

"regulatory permit" means the permit issued by Board, and includes a renewed regulatory permit;

"relevant standard" means the standards for the quality of the dairy produce, product or equipment used in the dairy industry, determined by the Kenya Bureau of Standards or a regional or international convention or protocol.

3. Application

These Regulations apply to all matters relating to the registration of primary producers and the issuance of licences, regulatory permits and the imposition of cess or levy on dairy produce.

4. Objects of the Regulation

The objects of these Regulation are to—

- (a) provide for the procedure for registering a primary producer, Regulation licensing, issuance of a licence or a regulatory permit to a dairy business operator;
- (b) provide the basis for charging cess or levy with respect to dairy produce;
- (c) ensure quality and safety of marketed dairy produce; and
- (d) create an enabling environment for sustainable investment in the dairy industry.

PART II – REGISTRATION OF PRIMARY PRODUCERS

5. Registration of primary producers

(1) A person who wishes to be a primary producer shall register under this regulation.

(2) Paragraph (1) shall not apply to a primary producer who produces milk and sells to a neighbor for domestic consumption.

(3) A person who contravenes sub-regulations (1) or obtains registration through fraudulent misrepresentation of any material fact commits an offence and is liable to a fine not exceeding two thousand shillings or one-month imprisonment or to both.

6. Application for registration

(1) Registration of a primary producer shall be submitted to the respective county department and shall be in Form A of the First Schedule.

(2) Where a primary producer is a member of a cooperative society, other registered producer groups, the cooperative, producer group or aggregator and not the primary producer, shall submit the list of its members for registration with the County Government.

(3) Upon receipt of a dully filled Form A from a primary producer, the County Government shall without prejudice register the primary producer and issue the primary producer with a unique number.

(4) No fee shall be payable by a primary producer as a requirement for registration.

(5) The registration as a primary producer is a one-off process.

(6) A county department shall establish strategies to ensure that every primary producer is registered.

7. Register of primary producers

(1) A dairy cooperative society, a producer group or aggregator shall maintain an updated register of its members who are primary producers.

(2) A county government shall maintain and update, on quarterly basis, a register of all primary producers.

(3) The county government shall submit to the Board details of registered primary producers on quarterly basis, in Form F in the Sixth Schedule.

(4) The Board shall annually update the register kept pursuant to these Regulations.

(5) A primary producer who ceases to operate as a primary producer shall notify the respective county government for deregistration as a producer.

(6) A person who has been deregistered but who wishes to resume operations shall make a fresh application for registration in accordance with the provisions of regulation 6.

8. Inspection of register

(1) A register maintained pursuant to this regulation shall be open to inspection by any interested person only for official or legitimate purpose excluding commercial and advising purposes and for that reason the register shall at all times during working hours, be open to inspection in a place accessible to the person seeking to inspect and such person may, at his own cost, take notes there from or photocopy the whole or part of the contents of the register.

(2) Where a person, other than an officer of the county department in their official capacity, makes notes from or photocopies contents of a register as is permitted under sub regulation (1), the person shall pay to the account of the county government such an amount of inspection fee as the county may determine from time to time and the fee charged shall take into account any mutilation, defacement or mishandling, as the case may be, of the register by the person inspecting.

(3) The county department may make corrections of any clerical error apparent on the register, but shall not make corrections of any substantive nature.

(4) A record of all errors corrected under this regulation shall be kept in writing at all times and,

(5) Inspection of register will be conducted in pursuant to the provisions of the Access to Information Act (Cap. 7M) and Data Protection Act (Cap. 411C)

PART III – LICENSING OF DAIRY BUSINESS OPERATORS

9. Dairy business licence

(1) A person shall not carry on the business of a dairy business operator unless the person has a valid dairy business licence from the relevant county government.

(2) An application for a dairy business licence shall be in Form B of the Second Schedule.

(3) The county government shall consider and make a decision on the application and shall communicate to the applicant within 30 days.

(4) A licence shall be valid for 12 months from the date of issue.

[Subsidiary]

(5) Delays in the processing of Dairy Business Permit from the county government will not affect the operations of the dairy provided that the application for a business permit had already been submitted by the dairy business operator.

(6) A person who has submitted an application for a dairy business licence under this Part may continue his operations while awaiting the communication referred to in paragraph (3).

(7) Where the county government rejects an application for a dairy business license, the applicant shall cease their operations as a dairy business operator with effect from the date of receipt of the communication of rejection.

(8) A person who is dissatisfied with the decision of the county government may, within 30 days of the communication of the decision, appeal to the court.

10. Licensing fee

(1) The fees payable on an application for a dairy business licence shall be as set out in Form F of the Fifth Schedule.

(2) A county government may waive part of or all the fee required under this regulation.

11. Condition of issuance of licence

Despite regulation 9 no application for a dairy business licence shall be considered or a licence issued unless the applicant has in force a valid regulatory permit issued under regulation 14.

12. Imposition of cess

(1) A county government may impose cess not exceeding 0.5 per cent of the farm gate price payable by a primary producer, which may be collected by the aggregator or the Board and remitted to the county department within a period of twenty days after the last day of the month during which the dairy produce in respect of which the cess is payable was aggregated.

(2) A county government shall not impose or charge cess on dairy produce emanating from another county.

13. Offences

A person who operates in contravention to regulation 11 or fails to pay or remit cess under regulation 12(1) commits an offence is liable on conviction to fine not exceeding ten thousand shillings or a term of imprisonment of twelve months or to both such fine and imprisonment.

PART IV – REGULATORY PERMIT AND CONSUMER SAFETY LEVY

14. Regulatory Permit

(1) A person shall not operate a dairy business unless the person holds a Regulatory permit issued by the Board under these regulations.

(2) An application for a regulatory permit shall be made to the Board in Form C in the Third Schedule and shall be accompanied by the fees specified in Form E in the Fifth Schedule.

(3) A regulatory permit shall be in Form D in the Fourth Schedule.

(4) The Board shall, upon being satisfied that the applicant meets the necessary requirements, and within 30 days of receipt of the application—

- (a) grant a new Regulatory permit;
- (b) renew a Regulatory permit; or
- (c) transfer an existing Regulatory permit.

(5) A person who is dissatisfied with the decision of the Board, may, within 30 days of being notified of the decision, appeal to the office of the Cabinet Secretary. If dissatisfied, they shall pursue legal redress.

15. Prior inspection of premises

The Board shall, before issuing a regulatory permit, be satisfied that—

- (a) any person taking part in the storage, handling, distribution or sale of dairy produce on the premises in respect of which the application is made or to which an existing regulatory permit relates has a valid medical certificate;
- (b) on inspection, the premises in respect of which the application is made or to which a regulatory permit relates are—
 - (i) in good repair;
 - (ii) are not deficient in accommodation or sanitary or drainage requirements;
 - (iii) are in a clean and wholesome condition;
 - (iv) are provided with plant and equipment adequate for the purpose of the business.
- (c) the plant or equipment is satisfactorily maintained or utilized and the owner of the premises, the applicant or the regulatory permit holder is able to guarantee to the satisfaction of the Board that necessary repairs or cleansing will be carried out; and
- (d) the plant or equipment provided within a time specified by the Board, and that the premises, plant and equipment are maintained and utilized to the satisfaction of the Board.

16. Regulatory permit to corporate bodies

(1) Where the applicant for a regulatory permit is a corporate body, the license shall be issued in the name of the body corporate.

(2) Any person who for the time being is a manager of the body corporate shall be subject to the duties and liabilities imposed upon the holder of the regulatory permit.

(3) No transfer of the regulatory permit shall be necessary where a change occurs in the office of the manager, but any person for the time being holding that office shall be subject to the duties and liabilities imposed upon the holder of the regulatory permit.

17. Duration of permit

(1) A regulatory permit shall be valid for a period of twelve months from the date of issue.

(2) A renewal of the permit under paragraph (1) shall be issued subject to regulation 15.

(3) A holder of a regulatory permit shall apply for a renewal three months prior to the expiry of the regulatory permit.

18. Types of regulatory permits

The Board may issue the following regulatory permits—

- (a) Milk bar regulatory permit;
- (b) Mini dairy regulatory permit;
- (c) Dairy produce dispenser regulatory permit;
- (d) Cottage industry regulatory permit;
- (e) Cooling plant regulatory permit;
- (f) Processor regulatory permit.

19. Display of regulatory permit

(1) A regulatory permit holder shall conspicuously display or cause to be displayed the regulatory permit in force on the premises to which it relates.

(2) A regulatory permit holder who fails or neglects to so display the regulatory permit as provided under this regulation commits an offence and shall be liable on conviction to a

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fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

20. Responsibility of permit holder

(1) Regulatory permit is not transferrable except as provided by clause 19(2) of this regulation.

(2) A regulatory permit assignee or agent shall be subject and liable to the same duties, obligations and penalties under these regulations as if they were the regulatory permit holder:

(3) An act done or omitted to be done by an employee in contravention of any of the provisions of these Regulations shall be deemed also to be the act or omission of the employer and any proceedings for an offence arising out of that act or omission may be taken against both employer and employee.

21. Purporting to be a regulatory permit holder

A person who causes or permits a display on his or her premises or on premises under his or her control, any words, letters or sign falsely purporting that he is a regulatory permit holder commits an offence and is liable upon conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year as per the Dairy Industry Act, or both.

22. Sales contrary to permit

A dairy business operator who sells dairy produce, offers or exposes it for sale except under and in accordance with, and on such premises as may be specified in, a regulatory permit, commits an offence and is liable on conviction—

- (a) for a first offence, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years, or to both.

23. Authentication of a regulatory permit

(1) The Board may refuse to issue a regulatory permit, remove, suspend or cancel a regulatory permit if the Board is satisfied that the applicant, or the regulatory permit holder—

- (a) has failed to give particulars of any conviction which he is required to give under these regulations;
- (b) has conducted in an improper manner the obligations to which an existing regulatory permit relates;
- (c) has failed to comply with any condition imposed under an existing regulatory permit.
- (d) has in use dairy equipment, material or additive which does not meet the relevant standard;
- (e) has failed to provide material facts stated in the application;
- (f) is in default in the payment of any sum due to the Board or arising from any contractual arrangements with a producer or agent of a producer;
- (g) is deregistered;
- (h) has contravened a provision of these Regulations;
- (i) has not fulfilled the requirement for grant of a regulatory permit;
- (j) has not paid a primary producer for milk delivered.

(2) A suspension of a regulatory permit shall not exceed 3 months.

24. Powers of the Board

(1) A holder of a regulatory permit shall be an agent of the Board for the purpose of collecting and remitting the consumer safety levy.

(2) A dairy business operator shall remit a consumer safety levy on the dairy produce processed or imported at the rate of forty cents per kilogram of milk processed or one per centum of the cost of milk processed or imported, whichever is higher.

(3) A person who is required under these regulations to pay or remit levy to the Board, shall do so on a monthly basis and in each case within a period of ten days after the last day of the month during which the milk or dairy produce in respect of which the levy is payable was processed provided that for imported dairy produce the consumer safety levy shall be payable prior to entry of the produce into the country.

25. Recovery and Remittance of consumer safety levy

A person who fails, neglects or otherwise refuses to pay or remit the consumer safety levy on time as provided for under these Regulations shall, in addition to paying the consumer safety levy —

- (a) pay a penalty of twenty-five percent interest for the first month or part of a month in which the levy remains unpaid; and
- (b) pay penalty of twelve percent compound interest for each subsequent month or part of a month in which the levy remains unpaid.

26. Penalty and interest on unpaid levy

The interest rates set out in this regulation are monthly interest rates.

27. General Penalty

A person who contravenes any of the provisions of these Regulations for which a penalty is not provided commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one year or both.

28. Revocation of LN No. 111 of 2004 Sub Leg

The Dairy Industry (Imposition of Cess and Levies) Regulations are hereby revoked.

FIRST SCHEDULE

[r. 6(1)]

APPLICATION FOR REGISTRATION AS PRIMARY PRODUCER

FORM A

COUNTY LOGO/EMBLEM

REGISTRATION OF PRIMARY PRODUCERS

Application for Registration Form:

To be filled by all dairy farmers producing milk for sale. The duly filled form should be returned to the County Executive Committee Member responsible for dairy matters.

Name(s) of Owner/Farmer(s)..... ID No.

Name of Farm.....

Telephone..... Mobile

Postal Address.....

Postal Address (if different from Farm Address)

E-mail address.....

Physical Location:.....

County..... Sub-County..... Ward.....

Location..... Sub-Location..... Village.....

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Land Reference No.....

Type of ownership: (Tick as appropriate)
 # Corporation # Partnership # Individual # Other

Type of operation: (Tick as appropriate)
 # Commercial breeder # Milk Producer

For Official Use Only:

Entry No.....

Farm Reference.....

Approved/Not Approved..... Reason for Rejection.....

Registration Certificate No:.....

Name of issuing officer:..... *Designation*.....

Official Stamp..... *Date*.....

SECOND SCHEDULE
 [r. 9(2)]

APPLICATION FOR DAIRY BUSINESS REGISTRATION

FORM B
COUNTY LOGO/EMBLEM
APPLICATION FOR DAIRY BUSINESS REGISTRATION

To be filled by all dairy business operators engaged in dairy business. The duly filled form should be returned to the County Executive Committee Member responsible for dairy matters.

Name(s) of Business Operator..... ID No.....

Name of Business (if applicable).....

Telephone..... Mobile.....

Postal Address.....

Postal Address (if different from Business Address).....

E-mail address.....

Physical Location:.....

County..... Sub-County..... Ward.....

Township..... Street (where applicable).....

Plot No.....

Type of ownership: (Tick as appropriate)
 # Corporation # Partnership # Individual # Other

Type of operation: (Tick as appropriate)
 # Milk Bar # Milk Dispenser

Cottage Industry # Mini Dairy # Cooling Plant # Processor

For Official Use Only:

Entry No.....

Plot GPS Reference(where applicable).....
 Approved/Not Approved..... Reason for Rejection.....
 Registration Certificate No:.....
 Name of issuing officer;..... Designation.....
 Official Stamp..... Date:.....

THIRD SCHEDULE
 APPLICATION FOR A REGULATORY IMPACT



FORM C (r. 14(2))
 KENYA DAIRY BOARD
 P.O. Box 30406-00100 TEL:310559/335057 FAX:24406
 E-mail: info@kdb.co.ke

Serial No:.....
 APPLICATION FOR A REGULATORY PERMIT

To be filled by dairy business operator. The duly filled form should be returned to the Chief Executive Officer, Kenya Dairy Board.

I (Name).....
 Address..... Tel. No..... Mobile No:.....

E-mail..... Fax..... hereby apply for a Regulatory permit to produce/ process/sell/dispose of the quantities of dairy produce specified in column(1) of the schedule to this application to the person (s) or class of persons specified in column(2) of the said schedule within the area specified in column (3) on the said schedule for the period specified in column (4) on the said schedule.

	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Nature of Dairy Produce	Quantity per Day	For sale to whom (and whether wholesale or Retail)	Area	Period

Full name of business Location of Business.....
 Address..... Tel. No..... Fax:.....
 E-mail..... Date..... Signature & Stamp.....

(if signature is on behalf of a limited Company, Estate or Partnership, this must be stated)

FOR OFFICIAL USE ONLY

The Compliance Officer Remark.....
 Name..... Signature & Stamp.....

Officer in charge's Remarks:
 Signature & Stamp.....

Kenya Dairy The Management Licensing Committee Recommended/Deferred/Rejected

Dairy Industry

[Subsidiary]

Signature.....

Issue Date.....

FOURTH SCHEDULE

[r. 14(3)]

REGULATORY PERMIT

FORM D

THE KENYA DAIRY BOARD

REGULATORY PERMIT TO

PRODUCE/PROCESS/SELL/OF DISPOSE DAIRY PRODUCE

Licence NO.....
Category.....



Serial Number

Name..... Station.....

Postal Address..... Physical Address.....

Telephone No..... e-mail.....

Is hereby permitted to produce/process/sell/dispose of the quantities of dairy produce specified in Column 1 of the Schedule to this licence to the person(s) or class of persons specified in Column 2 of the said Schedule within the area specified in Column 3 of the said schedule for the period(s) specified in Column 4 of the said schedule subject to the following terms and conditions:

- 1. The Kenya Dairy Board reserves the right to modify or vary this permit from time to time upon giving to the permit holder thirty (30) day's previous notice in writing.
- 2. This permit is subject to immediate cancellation if the permit holder is in default in payment of any obligations due to the Board arising from any contractual arrangements with producers or their agents.
- 3. This permit is liable to immediate cancellation if the permit holder contravenes any of the conditions of the permit or otherwise acts in contravention of the Dairy Industry (Registration, Licensing, Cess & Levy) Regulations, 2021.

COLUMN 1		SCHEDULE			
Nature of Dairy Produce	Quantity Per Day	COLUMN 2 For Sale to whom (and whether Wholesale or Retail)	COLUMN 3 Area	COLUMN 4 Period	

BY ORDER OF THE KENYA DAIRY BOARD

Expiry Date.....

Issue Date.....

Dairy Industry

[Subsidiary]

FIFTH SCHEDULE

[r. 10(1), 16(2)]

FEES

THE KENYA DAIRY BOARD

FORM E

FEE PAYABLE UNDER THESE REGULATIONS

Category of Regulatory Permit Fees		KSh.
1.	Application Fee	Free
2.	Regulatory permit fee (Processor handling above 20,000 litres per day)	50,000
3.	Regulatory permit fee (Processor handling below 20,000 litres per day)	25,000
4.	Milk bar permit fee	Free
5.	Mini dairy permit fee	Free
6.	Dairy produce dispenser permit fee	Free
7.	Cottage industry permit fee	Free
8.	Cooling plant permit fee (below 5,000 litres capacity)	Free
9.	Cooling plant permit fee (Above 5,000 litres capacity)	Free
Category of Regulatory Permit Fees		KSh.
1.	Application (licences & registration)	Free
2.	Primary producer registration	Free
3.	Processor licence	25,000
4.	Milk bar licence	2,500
5.	Mini dairy licence	6,000
6.	Dairy produce dispenser licence	2,500
7.	Cottage industry licence	4,000
8.	Cooling plant licence	1,000

SIXTH SCHEDULE

[r. 7(3)]

QUARTERLY REPORT BY COUNTY GOVERNMENT

FORM F

County Government of

Report for the period

Number of registered primary producers at end of last quarter

Number of producers who have been deregistered in the quarter.....

Dairy Industry

[Subsidiary]

Number of registered primary producers as at today.....

For Official Use Only:

Entry No:

County Reference:

Posted into the main Register

Name of officer; *Designation*

Official Stamp *Date:*

THE DAIRY INDUSTRY (TRACEABILITY AND RECALL) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
2. Interpretation
3. Application
4. Objects of the Regulations
5. Requirements for traceability
6. Suppliers and customers to be identified
7. Mandatory information on consignments
8. Confidentiality and protection of information
9. Labeling of dairy produce
10. Recall plan
11. Requirements for recall
12. Authority to recall
13. Offences

SCHEDULES

FORM A

THE DAIRY INDUSTRY (TRACEABILITY AND RECALL) REGULATIONS

[Legal Notice 19 of 2021]

1. Citation

These Regulations may be cited as the Dairy Industry (Traceability and Recall) Regulations, 2021.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Dairy Industry Act (Cap. 336);

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to dairy industry;

"Compliance Officer" means an officer appointed by the Board under the Dairy Industry (Compliance Officers) Regulations (sub. leg);

"person" means natural or legal person;

"recall" means process of withdrawing dairy produce from the supply chain if there is evidence that it poses or is likely to pose substantial health risk to consumers or does not meet the requirements of the relevant standard;

"traceability" means the ability to trace, follow and identify uniquely a dairy produce through all stages of production, collection, processing, storage and distribution by means of verifiable documentation.

3. Application

These Regulations apply to traceability and recall of dairy produce.

4. Objects of the Regulations

The objects of these regulation are to—

- (a) to enhance consumer protection and safety of dairy produce;
- (b) to improve access to information on marketed dairy produce; and
- (c) provide mechanisms for tracing and recall of dairy produce.

5. Requirements for traceability

The traceability of dairy produce shall apply at production, collection, transportation, processing, distribution and retail of dairy produce.

6. Suppliers and customers to be identified

(1) A dairy business operator shall keep a record of their immediate suppliers and their immediate customers except for final consumers.

(2) Despite paragraph (1), a dairy business operator shall keep a record with the following details for purposes of paragraph (1)—

- (a) the name of the immediate supplier or customer;
- (b) the postal and physical address including county, sub-county, village/street/road;
- (c) the telephone number;
- (d) the email address, where applicable;
- (e) the GPS coordinates, where applicable;
- (f) the type of business; and
- (g) the type of dairy produce.

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(3) The records kept under this regulation shall be retained until it is reasonably assumed that there is no claim in relation to the consumption of the dairy produce and in any case not earlier than three months after the expiry date of the produce.

(4) A compliance officer may at any time access the records kept under paragraph (2).

7. Mandatory information on consignments

(1) Every consignment by a dairy business operator shall be accompanied by a delivery note issued by the consignor and containing the following information—

- (a) the date and time of collection of the dairy products and the destination thereof;
- (b) the description of the dairy produce;
- (c) the volume or quantity of the dairy produce;
- (d) the name, signature and physical address of the producer or their agent from whom the produce is received;
- (e) the name and the physical address of the consignor from whom the produce has been dispatched if different from the producer;
- (f) the name and physical address of the consignee, if different from the producer from whom the produce is dispatched;
- (g) the details of the lot, batch, consignment and expiry date where applicable;
- (h) the date of dispatch;
- (i) the registration number of the milk tanker or transport vehicle and the seal number, where applicable;
- (j) name of the driver; and
- (k) in the case of imported dairy produce, the batch number and country of origin.

(2) Where imported milk has been cleared to enter the country it shall, in all respects, be subject to these Regulations and any other applicable law.

(3) The record of information in paragraph (1) shall be kept by the dairy business operator and may be availed to only the consignee or the Board upon request.

8. Confidentiality and protection of information

Information obtained under these Regulations shall be handled in accordance with the provision of the Data Protection Act (Cap. 411C) or any other relevant law that may come into force from time to time.

9. Labeling of dairy produce

A person who intends to sell or place dairy produce into the market shall ensure that the dairy produce is labeled in accordance with the relevant standard.

10. Recall plan

(1) A dairy business operator shall establish a recall plan in Form A in the Schedule.

(2) Despite subparagraph (1), a recall plan shall, at the minimum include strategies—

- (a) for identifying, notifying and assessing a dairy produce safety issue;
- (b) for deciding to recall or withdraw dairy produce;
- (c) for identifying distribution of affected product;
- (d) for notifying government, business-stakeholders and consumers of a recall;
- (e) for retrieving and disposing of the affected dairy produce;
- (f) for monitoring the effectiveness of the recall process;
- (g) for closing the recall;
- (h) for post-recall reporting.

(3) Where the produce is already in the market and a recall is warranted, the dairy business operator shall inform the Board and immediately institute a recall.

(4) The dairy business operator shall notify the consumer or purchaser of the product of the identity, the nature of the risk, the place where the produce was sold and produce drop off point, and the procedure for refund, where applicable.

(5) The dairy business operator shall notify the Board of the level of recall success in Form A in the Schedule.

11. Requirements for recall

(1) Where a dairy business operator considers or has reason to believe that a dairy produce which has been produced, processed, manufactured or distributed is not in compliance with the dairy safety requirements, the dairy business operator shall immediately recall the produce in question from the market and inform the Board thereof.

(2) If the product specified in paragraph (1) has reached the consumer, the dairy business operator shall appropriately notify the consumer of the reason for its recall, and if other measures are not sufficient to achieve consumer protection, physically withdraw from consumers the products already supplied to them.

12. Authority to recall

(1) Where a dairy business operator receives a complaint from a consumer, distributor, retailer, or a compliance officer that a product is or likely to be a threat to the health and safety of a consumer or other person, or that there is likely to be tampering with the produce at any stage, the dairy business operator shall analyze the risk and if convinced of the need for recall, order a recall and report to the Board.

(2) Where a Compliance Officer is convinced that the dairy produce poses risk to the health or safety of the consumer or user, the Compliance Officer shall order the dairy business operator responsible for the produce to make a recall.

13. Offences

A person who fails—

- (a) to keep a record as required under these Regulations;
- (b) to provide or make available to the Board required information;
- (c) to label dairy produce;
- (d) to inform the consumers of the reason for withdrawal of a dairy produce, or
- (e) to comply with an order issued by a compliance officer to recall dairy produce,

commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or imprisonment not exceeding twelve months or, to both such fine and imprisonment.

SCHEDULE

[r. 10(1)(5)]

FORM A

RECALL PLAN AND NOTICE

(a) Business information (this section to be completed by the dairy business operator)
Business

Name..... Address.....

Postal address..... Main phone number.....

After hours phone number..... Email address.....

Website address.....

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(b) Regulator's contacts:**(c)** Suppliers and customers contact information.

To effectively recall dairy produce, you must have a complete list of all dairy businesses that—

- (i) supply dairy produce, ingredients or packaging materials to you (your suppliers);
- (ii) you supply dairy produce to (your customers).

The contact information for these businesses should include—

- (i) Business name
- (ii) Postal & physical address
- (iii) Name of contact person
- (iv) Contact phone (including for afterhours*) and email (if applicable).
- (d) Dairy produce recall process:
- (e) Method of disposal:

Note: If the recalled product is unfit for human consumption, it must not be provided for consumption in any form to any person.

(f) Consumer/customer reimbursement:**(g)** Procedure for termination of recall:**(h)** Reviewing the recall's effectiveness:

**THE DAIRY INDUSTRY CITATION (RETURNS,
REPORTS AND ESTIMATES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
2. Interpretation
3. Application
4. Objects of the Regulation
5. Filing returns and other requirements
6. Protection of information
7. Offences

SCHEDULES

SCHEDULE —

FORMS

THE DAIRY INDUSTRY CITATION (RETURNS, REPORTS AND ESTIMATES) REGULATIONS

[Legal Notice 17 of 2021]

1. Citation

These Regulations may be cited as the Dairy Industry (Returns, Reports and Estimates) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Dairy Industry Act (Cap. 336);

"aggregator" means a person who collects milk from a primary producer for the purpose of bulking, processing or for resale.

"Board" means the Kenya Dairy Board;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to the dairy industry;

"County Executive Committee member" means the County Executive Committee member for the time being responsible for dairy matters;

"cost of processed milk" means the amount paid for milk used for processing by the dairy business operator to another dairy business operator or primary producer, or cost incurred in the production of the milk by own farm or in the case of imported dairy produce, the cost shall be the declared value at the point of entry.

"dairy business operator" means a person who handles dairy produce for business but does not include a primary producer, wholesalers and retailers of packaged dairy produce;

"county department" means the county department of a relevant county which is responsible for matters relating to the dairy industry;

"estimate" means quantity arrived at for the purpose of projecting the performance of the dairy operations over a defined period;

"report" means a written account submitted to the Board by a dairy business operator as prescribed by the Board, or by relevant County government where applicable;

"return" means a record of the actual operations of the dairy business operator over a defined period submitted to the County Government or the Board, where applicable.

3. Application

These Regulations apply to every person who is licensed as a dairy business operator.

4. Objects of the Regulation

The objects of these Regulations are—

- (a) to provide the procedures for submitting to the County Government or the Board returns, reports and estimates by dairy business operators;
- (b) to provide mechanisms for the County Government or the Board to collect relevant data and information for planning purposes.

5. Filing returns and other requirements

(1) A dairy business operator shall, not later than the tenth day of the month following that of production, distribution or retail for sale of any dairy produce, submit to the Board reports, a return relating to the production, distribution or sale of the dairy produce in Form A in the Schedule.

Dairy Industry

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(2) An aggregator shall, not later than the twentieth day of the month following that of production, distribution or retail for sale of any dairy produce, submit to the county department and to the Board reports, a return relating to the production, distribution or sale of the dairy produce in Form B in the Schedule.

(3) A dairy business operator shall, not later than the tenth day of the month following that of production, distribution or retail for sale of any dairy produce, file electronically or manually, returns with the county department and to the Board, a return relating to the deductions of monies from the dues of the suppliers of dairy produce, in Form C in the Schedule.

(4) A person licensed to import or export dairy produce shall not later than the tenth day of the month following that of import or export of dairy produce file the Board reports, returns or estimates relating to the import or export of the dairy produce.

(5) Subject to the provisions of this regulation, where the Board or a county department is of the opinion that it is necessary for a particular dairy business operator to submit other or necessary additional documents or information, the Board or the county executive committee member shall so direct in writing and the operator shall submit the required document or information within the time stipulated in the notice.

6. Protection of information

The information or document obtained under these Regulations shall be handled in accordance with any relevant provision of the Data Protection Act (Cap. 411C).

7. Offences

A dairy business operator who—

- (a) willfully neglects or fails to submit a return;
- (b) fails to supply the information or a document required in regulation 5;
- (c) knowingly or recklessly submits false, incorrect return, report or estimate; or
- (d) supplies any such particulars or documents, containing a matter which the operator knows or ought to know that it is materially false,

commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or to an imprisonment for a term not exceeding three months, or both.

SCHEDULE

FORMS

FORM A

(r. 5(1))

KENYA DAIRY BOARD LOGO

FORM OF RETURN OF DAIRY BUSINESS OPERATOR

(1) This form must be completed by every dairy business operator.

(2) This form must be completed and sent to the Kenya Dairy Board not later than the tenth day after the month of production.

(3) Name..... Regulatory Permit No.....

(4) Milk statistics for the month of.....

(5) Milk intake (kilograms):

No.	Type	Quantity	Cost (KSh.)	Source
(a)	Raw milk			
(b)	Pasteurized milk			
(c)	Milk powder			
(d)	Cream			
(e)	Other (specify)			

(6) Total Intake:.....

(7) Types and quantities of dairy products produced:

IN LITRES/KILOGRAMS

Dairy Produce	Units of Measure	Total Quantity
(a) Pasteurized Milk	Litres	
(b) UHT milk	Litres	
(c) Extended shelf life	Litres	
(d) Fermented Milk	Litres	
Yoghurt	Litres	
Lala	Litres	
Others (specify)	Litres	
(e) Butter	KG	
(f) Ghee	KG	
(g) Cheese (specify types)	KG	
(h) Cream (Kg)	KG	
(i) Milk powder		
Skim milk powder	KG	
KG Whole milk powder	KG	
Instant milk powder	KG	
Whey milk powder	KG	
Others (specify)	KG	
(j) Condensed milk	KG	
(k) Ice cream	KG	
(l) Milk shake m)	Litres	
(m) Flavored milk	Litres	
(n) Others (specify)		

DECLARATION

I/We declare that the above information is correct

Name:.....

Address:.....

Email Address..... Telephone Number:.....

Signature & Stamp:..... Date:.....

(if the signature is on behalf of the limited company or estate, this must be stated)

FOR OFFICIAL USE ONLY

Consumer safety levy charged at 40 cents per Kilogram OR 1% of the cost of processed milk (whichever is higher)

KShs:..... plus penalty for late return KShs..... Total KShs.....

Amount received in words.....

Debit Note No..... Receipt No.....

Officer's Name..... Signature.....

Date:.....

FORM B (r. 5(2))
FORM OF RETURN FOR AGGREGATORS

(1) This form must be completed by every aggregator.

Dairy Industry

[Subsidiary]

(2) This form must be completed and sent to the County Government not later than the twentieth day after the month of production.

(3) Name..... Licence No.....

(4) Milk statistics for the month of.....

(5) Milk intake (kilograms):

No.	Type	Quantity	Farmgate Price (Kshs)	Source
(a)	Raw milk			
(b)	Pasteurized milk			
(c)	Other (specify)			
(6) Total Intake (kilogram).....				

DECLARATION

I/We declare that the above information is correct

Name:..... Address:.....

Email Address..... Telephone Number:.....

Signature & Stamp:..... Date:.....

(if the signature is on behalf of the Limited Company or Estate, this must be stated)

FOR OFFICIAL USE ONLY

Consumer safety levy charged at 40 cents per Kilogram OR 1% of the cost of processed milk (whichever is higher)

KShs:..... plus penalty for late return KShs..... Total KShs.....

Amount received in words.....

Debit Note No..... Receipt No.....

Officer's Name..... Signature..... Date:.....

FORM C (r. 5(3))

KENYA DAIRY BOARD LOGO/COUNTY LOGO

DEDUCTIONS FROM SUPPLIERS OF DAIRY PRODUCE

Month	Quantity received (Kgs)	Payment to dairy producer supplier	Cost of Chilling	Cost of Transport	Deduction from primary producer for provision of services	Payment to primary producer

DECLARATION

I/We declare that the above information is correct

Name:..... Address:.....

Email Address..... Telephone Number:.....

Signature & Stamp:..... Date:.....

(if the signature is on behalf of the Limited Company or Estate, this must be stated)

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Dairy Industry

[Subsidiary]

Name of officer receiving the return.....

Signature..... Date:.....

DAIRY INDUSTRY (SALES BY PRODUCERS) REGULATIONS, 1961

[Legal Notice 259 of 1961, Legal Notice 210 of 1965]

Revoked by Legal Notice 102 of 2004 on 24th September, 2004