

THE DAIRY INDUSTRY ACT

(Cap. 336)

THE DAIRY INDUSTRY (IMPORTS AND EXPORTS)
REGULATIONS, 2021

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SCHEDULE

THE DAIRY INDUSTRY ACT

(Cap. 336)

IN EXERCISE of the powers conferred by Section 19 of the Dairy Industry Act, the Cabinet Secretary for Agriculture, Livestock, Fisheries and Cooperatives, on the advice of the Kenya Dairy Board makes the following Regulations —

DAIRY INDUSTRY (IMPORTS AND EXPORTS) REGULATIONS,
2021

1. These Regulations may be cited as the Dairy Industry (Imports and Exports) Regulations, 2021. Citation
2. In these Regulations, unless the context otherwise requires — Interpretation
 - “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. These Regulations shall apply in respect to imports and exports of dairy produce. Application
4. The objects of these Regulation are to — Objects of the Regulations
 - (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. A person who wishes to import or export dairy produce shall— Requirements for import and export

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

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

- (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. An importer or exporter of dairy produce, equipment, materials or additives shall, with respect to the dairy produce, Compliance with relevant standards

equipment, materials or additives, comply with the requirements of the relevant standards.

9. (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.

Import levy & penalty for default

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

Disclosure on Dairy produce, materials, etc

- (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. (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.

Seizure and destruction of irregular imports

(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

accordance with the orders or directions of the court.

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

(2) An application for a transit permit referred to in sub-regulation 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. Any person who — Offences and penalties

- (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. 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. Forfeiture and destruction

15. The Dairy Industry (Imports and Exports) Regulations are hereby revoked. Revocation of Legal Notice number 103 of 2004 Sub Leg

SCHEDULE

FORM A (reg. 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 I: 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.) KShs. (in figures) | Value: (in words) | | |
| | Quantity – Kg. (in figures) | Quantity – Kg. (In words) | | |
| 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 I 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 (reg. 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 I: 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. (in figures) | | Quantity – Kg. (In words) | |
| Country of Origin*: | Destination: | Date of Manufacture: | Use by Date: | Route of export: |
| Point of Exit: | Shipment Date: | Storage Premises: L.R./Plot No.: | Town: | Street/Road: Warehouse No.: |
| Date of last Export: | Quantity-Kg. | | Value KShs. (C.I.F.): | |
| Purpose of Exportation: 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 I 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 C (reg. 6(2)(3))

THE DAIRY INDUSTRY (IMPORT AND EXPORTS) REGULATIONS, 2021

FEES PAYABLE ON IMPORT/EXPORTS

| <i>Category of Fees</i> | <i>Amount(KShs)</i> |
|---------------------------------------|---------------------|
| 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 (reg. 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

| <i>No.</i> | <i>Product</i> | <i>Quantity (Kg./litres)</i> |
|------------|----------------|------------------------------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |

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

Conditions:

.....

.....

.....

This Permit shall expire on20.....

Fee paid KShs.....

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

For Kenya Dairy Board

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

FORM E (reg. 6(5))

The Dairy Industry (Imports and Exports) Regulations, 2021
EXPORT PERMIT FOR DAIRY PRODUCE

Export Permit
No.....

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

Name.....

Address.....Tel.

E-Mail.....

To export the products listed below:

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

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

Conditions:

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

This Permit shall expire on20.....

Fee paid KSh.....

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

For Kenya Dairy Board

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

FORM F (reg. 7(4))

KENYA DAIRY BOARD

The Dairy Industry (Imports and 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.
 E-Mail.....

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.....

FORM G (reg. 7(4))

KENYA DAIRY BOARD

The Dairy Industry (Imports and 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.
 E-Mail.....

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 the2021

FORM H (reg. 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. (in figures) | Quantity – Kg. (In words) | |
| Country of Origin*: | Destination: | Date of Manufacture: | Use by Date: | Route of export: |
| Point of Exit: | Shipment Date: | Storage Premises: L.R./Plot No.: | Town: | Street/Road: Warehouse No.: |
| Date of last Export: | Quantity-Kg. | | Value Kshs. (C.I.F.): | |
| Purpose of Exportation: 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 (reg. 14(4))

THE DAIRY INDUSTRY (IMPORTS/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.

E-Mail.....

To export 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 KSh.....

Date of

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

For Kenya Dairy Board

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

Dated the 9th February, 2021.

PETER MUNYA,
*Cabinet Secretary for Agriculture,
Livestock, Fisheries and Co-operatives.*