

LEGAL NOTICE NO 114

THE SUGAR ACT  
(No 10 of 2001)

IN EXERCISE of the powers conferred by section 33 of the Sugar Act, 2001, the Minister for Agriculture, in consultation with the Board, makes the following Regulations: -

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

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

2. In these Regulations unless the context otherwise requires –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A person whose permit has been cancelled may appeal against the decision to the Sugar Arbitration Tribunal. [L.N. 122/2009]

11. The Sugar (Imports, Exports and By-Products) Regulations, 2003, are revoked. [L.N. 39/2003]

## SCHEDULE

r6 (.2)

### THE SUGAR ACT

(No 10 of 2001)

(a) The auction of rights to import the sugar is open to all pre-qualified importers for expression of interest.

(b) The rights shall be sold in lots of 500 metric tones each.

(c) The bid price of the right shall be determined by the difference between average ex-factory price of domestic sugar and the CIF landed Mombasa prices plus IDF fees of imported sugar.

(d) The highest bidder shall be the person offering the largest margin.

(e) Only the importers who qualify at the auction will be authorized to import as per the auction.

(f) The qualified importers shall make returns in prescribed format to Kenya Sugar Board for monitoring purposes to ensure that only the allowed quantity of sugar enters the country duty free.

(g) Participation at the auction shall be by catalogue only.

(h) To be issued a catalogue, a Banker's Cheque deposit of Ksh.200,000 (Shillings two hundred thousand) clearly marked "Kenya Sugar Board" must be paid at the KSB Cash office and receipt given for the amount before the date of the auction.

(i) A successful bidder shall be required to pay full amount for the bid balance within 30 days failure to which the deposit shall be forfeited.

(j) The right to import shall be issued only after full bids amount have been paid.

(k) The right to import is not transferable.

FORM A

(r. 3(2))

THE SUGAR ACT

(No 10 of 2001)

APPLICATION FOR IMPORT PERMIT

1. Name of applicant: .....
2. Address: .....
3. Telephone Number: .....
4. Physical Location: .....
5. L.R. No/Nos: .....
6. Names of Directors and addresses  
Name/address: ..... Signature: .....  
Name/address: ..... Signature: .....  
Name/address: ..... Signature: .....  
Name/address: ..... Signature: .....
7. Warehouse Capacity: ..... Metric Tonnes  
Physical Address: .....  
L.R. No: .....
8. Previous Experience .....  
Quantity of sugar imported in the last 12 months ..... (tones)  
Type of sugar (specify) .....  
Country of origin .....  
CIF Value .....  
Dates of importation .....  
Last registration number by the Board or its predecessor .....
9. Source of Sugar/Country of origin in respect of this application .....
10. Intended use of sugar/by-products:

Human Consumption ..... Industrial Manufacturing  
..... Further processing .....  
Transit .....

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

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

Name of signatory: .....  
Signature: ..... Date: .....  
(Applicant)

Decision of the Kenya Sugar Board: Approved/Not Approved/Deferred at a meeting of the Board held on ..... (date)  
Name: .....  
Signature: ..... Date: .....  
Chief Executive  
Kenya Sugar Board

FORM B [L.N. 122/2009]  
(r. 4(2))  
THE SUGAR ACT  
(No 10 of 2001)

IMPORT PERMIT

THIS IS TO CERTIFY THAT:

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

.....  
Chief Executive Officer  
Kenya Sugar Board

.....  
KSB Official  
For and on Behalf of Kenya Sugar Board  
Signature/Seal Stamp

N.B. This Permit is subject to conditions set out overleaf  
GENERAL TERMS AND CONDITIONS

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

FORM C  
(r. 3(3))  
THE SUGAR ACT  
(No 10 of 2001)

APPLICATION FOR EXPORT PERMIT

1. Name of applicant: .....
2. Address: .....
3. Telephone Number: .....
4. Physical Location: .....
5. L.R. No/Nos: .....
6. Names of Directors and addresses  
Name/address: ..... Signature: .....  
Name/address: ..... Signature: .....  
Name/address: ..... Signature: .....  
Name/address: ..... Signature: .....
7. Warehouse Capacity: ..... Metric Tonnes  
Physical Address: .....  
L.R. No: .....
8. Previous Experience .....  
Quantity of sugar imported in the last 12 months ..... (tonnes)  
Type of sugar (specify) .....  
Country of origin .....

CIF Value .....  
Dates of importation .....  
Last registration number by the Board or its predecessor .....

9. Country of destination in respect of this application .....

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

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

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

Name of signatory: .....  
Signature: ..... Date: .....  
Chief Executive  
Kenya Sugar Board

Date: ..... Signed: .....  
(Applicant or his duly authorized Agent)

FORM D [L.N. 122/2009]  
(r. 4(2))  
THE SUGAR ACT  
(No 10 of 2001)

**EXPORT PERMIT**

**THIS IS TO CERTIFY THAT:**

Exporter: .....  
PIN No: .....  
Postal Address: .....  
Physical Location: .....  
Telephone No: .....  
Business Permit No: .....  
Bill of Lading: .....  
Export Entry No: .....  
Type of Sugar: .....  
Quantity (MT): .....  
Source of the Sugar: .....  
Destination of the Sugar: .....  
F.O.B. Value: .....  
Mode of Transport/Vessel Name/Transport reference:  
.....  
Shipping Agent: .....  
Expected Date of Departure: .....  
Issue Date: .....  
.....

Chief Executive Officer  
Kenya Sugar Board

.....  
KSB Official  
For and on Behalf of Kenya Sugar Board  
Signature/Seal Stamp

N.N. This Permit is subject to conditions set out overleaf  
GENERAL TERMS AND CONDITIONS

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

FORM E  
(r. 9)

CONFIDENTIAL  
THE SUGAR ACT  
(No 10 of 2001)

#### SUGAR IMPORTS RETURNS

1. Name of Importer: .....
2. Address: .....
3. Details of sugar or by-products imports:
  - (a) Port and Country of origin .....
  - (b) Manifest Numbers at Gazetted entry points .....
  - (c) Category of import .....
  - (d) C.I.F Value ..... Quantity .....
4. Utilization of imports. Please give detailed break down of utilization under following categories: (If space is inadequate provide attachment)
  - (a) Direct human consumption (give a full list of purchasers, addresses, physical location and quantities purchased) .....
  - (b) Industrial manufacturing (specify type of products in which sugar was used and production

returns for the period)

.....  
.....

(c) Raw sugar for processing (specify quality of raw sugar processed into mill white, refined sugar, brown sugar or other by-products. Also give a full list, addresses and physical locations of all the end users of the processed goods.) .....

(d) Transit sugar (provide full details of the quantities imported and exported including the dates of actual export at entry and exit points: Also attach copies of re-export certificates duly signed) .....

5. Full name and address of buyer and consignee .....

6. Name and address of warehouse where sugar can be inspected

.....  
.....

7. Sugar short shipment if (any):

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

(If space provided is not adequate provide an attachment)

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

(a) Sale contract

(b) Letter of credit/Telegraphic Transfer Documents

(c) Commercial invoice

(d) Brokers invoice;

(e) Sheet (where applicable)

(f) Sugar Development Levy payment slip

Full Names: ..... Signature: .....

Date: .....

For official use:

AUTHENTICATION BY  
THE KENYA SUGAR BOARD

.....  
SIGNATURE AND STAMP  
Date: .....

FORM F  
(r.8)

Release Order No: .....  
THE SUGAR ACT  
(No 10 of 2001)  
CARGO RELEASE ORDER

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

Release Authority Stamp

SIGNATURE OF RELEASE OFFICER .....

For and on behalf of Kenya Sugar Board

Dated the 3rd September, 2008  
WILLIAM ARAP RUTO  
Minister for Agriculture