

14th MAY, 2012

LEGAL NOTICE NO. 34

THE TEA ACT
(Cap. 343)

IN EXERCISE of the powers conferred by section 25 of the Tea Act, the Minister for Agriculture, in consultation with the Board makes the following Regulations:—

THE TEA (NOMINATION) REGULATIONS, 2012

Citation.

1. These Regulations may be cited as the Tea (Nomination) Regulations, 2012.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

“Board” means the Tea Board of Kenya established under section 3 of the Act;

“candidate” means a delegate proposed and seconded pursuant to paragraph 7;

“delegate” means a director or proprietor of a nominating organization entitled to vote in an election convened under this regulations;

“nomination” means the process of selecting or identifying individuals to represent specific stakeholder interest in the Board;

“nominating organizations” includes the factory organizations, the plantation tea producer organization, the registered auction organizers and the registered tea packers organizations;

“presiding officer” means a person appointed by the returning officer to preside over the nomination process at a meeting convened by the Minister;

“returning officer” means a person appointed by the Minister to be in charge of the nomination process for purposes of nominating members for appointment to the Board.

Objects and purpose of these Regulations.

3. The object and purpose of these regulations is to—

(a) prescribe the procedure for the nominating organizations to elect nominees to be appointed to the Board; and

(b) facilitate the process of electing the nominees.

Notice by the Minister.

4. At least two months before the expiry of the term of the Board, the Minister shall cause to be published in the Gazette and in at least two local daily newspapers of wide national circulation a notice to convene a meeting for nominating organizations under section 3 (1) (e) (i) (ii) (iii) and (iv) of the Act for purposes of nominating members to be appointed to the Board.

Eligibility for appointment of a member to the Board. No. 22 of 2011.

5. (1) Subject to subparagraph (2), a person shall be qualified for appointment to the Board if that person—

(a) holds at least a post-secondary education or its equivalent certificate in Kenya;

(b) has a professional qualification or management experience relevant to the tea sector; and

(c) meets the requirements of Chapter Six of the Constitution.

(2) A person shall be qualified for appointment to represent a factory organization if that person—

(a) is a serving Director of a licensed Tea Factory Company;

(b) holds at least a post-secondary education or its equivalent certificate in Kenya;

(c) has a professional qualification or management experience relevant to the tea sector; and

(d) meets the requirements of Chapter Six of the Constitution.

(3) A person shall not be qualified for appointment to the Board if the person—

(a) is an undischarged bankrupt;

(b) is of unsound mind;

(c) has been convicted of an offence under the Ethics and Anti-Corruption Commission Act; or

(d) has been removed from office for contravening the provisions of the Constitution or any other law.

Registration of nominating organizations.

6. A nominating organization shall be duly registered or licensed by the Board.

Nomination of a candidate representing a nominating organization.

7. (1) Each nominating organization shall be represented by one delegate at the meeting convened by the Minister under paragraph 4.

(2) A candidate for nomination shall be proposed and seconded by a delegate.

(3) Where the number of candidates proposed for nomination under subparagraph (2) are—

(a) as specified under the Act, the presiding officer shall declare such candidates to be duly nominated;

(b) more than the number specified under the Act, the presiding officer shall carry out an election in the manner provided under paragraph 8.

Election process.

8. (1) Each delegate shall have one vote.

(2) The method of election shall be by way of secret ballot.

(3) The presiding officer shall cause a ballot paper to be delivered to every delegate present and the delegate shall write the name of the candidate of their choice from among those nominated under paragraph 7 (2).

(4) No other mark, writing or signature shall be made on the ballot paper, and the delegate shall, on writing the name of the candidate, fold the paper so as to conceal their nomination, and shall deliver it, or cause it to be delivered, to the presiding officer in such manner as the presiding officer shall prescribe.

(5) Upon receiving all the ballot papers the presiding officer shall in the presence of the candidates and delegates count the votes cast.

(6) The presiding officer shall, upon counting all the votes cast, announce the number of votes cast for each candidate, and shall declare the candidates for whom the greatest number of votes has been cast to be duly nominated.

(7) In the event of a tie in the number of votes casted, subsequent elections shall be conducted following the procedure set out in these regulations until the candidate who emerges with the most votes is declared duly nominated.

(8) The returning officer shall forward the names of the persons nominated to the Minister.

Revocation of L.N 114 of 2005.

9. The Tea (Election) Regulations, 2005 are revoked.

Made on the 4th April, 2012.

SALLY KOSGEI,
Minister for Agriculture.