

TEA (ELECTIONS) REGULATIONS, 2000

[Section 3, 4, 25, L.N. 43/2000.]

PART I – PRELIMINARY**1. Citation**

These Regulations may be cited as the Tea (Elections) Regulations 2000.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**election**” means the process of selecting the candidate to represent registered tea growers or shareholders;

“**electoral areas**” means areas in which tea is grown and having leaf collection centers, leaf bases, tea factory or factories as may be specified on the ground or in schedules under these Regulations;

“**management agent**” means any person, co-operative society, marketing board or company, established under any written law that is appointed through a specific management contract or agreement by another person or company to perform or offer professional services in specific functions of production, processing and or marketing of tea but does not include a buyer, broker or packer of tea.

“**presiding officer**” means a person appointed by the Returning Officer to be in charge of the electoral process in a polling station;

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

PART II – ESTABLISHMENT OF THE SMALLHOLDER LEAF COLLECTION CENTRE AREA COMMITTEES AND THEIR ELECTIONS**3. Establishment of Leaf Collection Centre Area Committee**

(1) There shall be established in every tea growing area an approved Leaf Collection Centre Area Committee.

(2) The functions of the Committee shall be to—

- (a) foster tea development in its respective area in liaison with tea extension officers;
- (b) promote good tea husbandry;
- (c) supervise green tea leaf grading, weighting and collection;
- (d) receive, distribute and monitor the use of farm inputs; and
- (e) do such other things as are beneficial to the tea growers.

4. Elections to the Leaf Collection Centre Area Committee

(1) The Committee shall consist of five persons elected by and from among the tea growers registered by the tea factory company for delivery of green leaf to the centre serving that area.

(2) The members of the Committee shall elect annually one person from among their number to serve as chairman of the Committee.

(3) The members shall elect annually from among their number a Vice-Chairman who shall act in place of the chairman during his absence.

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(4) The leaf collection clerk who shall be an employee of the tea factory company shall be *ex officio* member and the secretary to the Committee.

(5) Every person registered as a tea grower may be elected to the Committee at a meeting in accordance with the provisions of these Regulations.

(6) The Committee shall meet at least once quarterly but shall not hold more than twelve meetings in a year.

(7) One person, shall be elected to represent every section of the area served by the centre as may be determined by the tea factory company.

(8) Every candidate for election to the Committee shall be a tea grower registered in the area which he aspires to represent; but no person may be elected to more than one committee.

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

(10) If only one candidate is nominated for election at a meeting, the returning officer or the presiding officer as the case may be shall forthwith declare such candidate to be duly elected.

(11) If more than one candidate is nominated for election, the returning officer or the presiding officer as the case may be shall put to the meeting the question whether the election shall be decided by a show of hands or by ballot, and such question shall be determined by a show of hands by a majority of registered tea growers present and voting.

(12) Where it is determined under subregulation (11) that the elections shall be decided by show of hands, the returning officer or the presiding officer as the case may be 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 registered tea growers present and voting.

(13) Where it is determined under subregulation (11) that the elections shall be decided by ballot, the returning officer or the presiding officer as the case may be shall cause a plain piece of paper to be delivered to every registered grower present and entitled to vote and the registered tea grower shall record his vote by writing on his paper the name of a candidate who has been proposed and seconded as aforesaid.

(14) No other mark, writing or signature shall be made on the paper, and the registered tea grower shall forthwith fold the paper so as to conceal his vote, and shall deliver it, or cause it to be delivered, to the returning officer or the presiding officer as the case may be in such manner as the returning officer or presiding officer shall direct.

(15) The returning officer or the presiding officer as the case may be 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 duly elected.

(16) In the event of an equality of votes between two candidates at the head of a poll, a second vote shall be taken pitting those two candidates and the same procedure shall be observed as if it was a first vote.

(17) Only the registered tea growers in the area in which such 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 grower of tea shall have one vote.

(18) The persons elected under these Regulations shall hold office for a maximum term of three years but one third of their number shall retire every year.

(19) The retiring members under subregulation (18) shall be eligible for re-election.

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(20) If an elected person is prevented by absence, illness or other sufficient cause from fulfilling the duties of his office he may report to the chairman, in writing, who shall organize an election to have a new person elected within thirty days.

5. Eligibility for election to Committee

No person shall be eligible for membership of the Committee if—

- (a) he is not a registered tea grower in that area;
- (b) he is an employee of the company;
- (c) he is an undischarged bankrupt or is of unsound mind;
- (d) he has been convicted for mismanagement or corrupt practices;
- (e) he has been convicted of any offence involving dishonesty;
- (f) he has been convicted of any offence under the Act;
- (g) he has any uncleared debt owing to the factory company at the end of the company's financial year other than in respect of a loan;
- (h) he produces less than 2,000 kgs of green tea leaf per annum or such other weights as may be determined from time to time by the Minister;
- (i) he is not literate.

6. Disqualifications from membership of Leaf Collection Centre Area Committee

No person shall remain a member of the Committee if—

- (a) any of the provisions of regulation 5 becomes applicable to him;
- (b) he resigns his membership by notice in writing to the chairman,
- (c) he is absent from more than three consecutive meetings of the Committee without the permission of the Chairman.

PART III – ESTABLISHMENT OF THE SMALLHOLDER TEA LEAF BASE COMMITTEES AND THEIR ELECTIONS

7. Application of Part

This Part shall apply to areas where there is a leaf base but there is no adjacent tea factory.

8. Interpretation of this Part

In this Part, unless the context otherwise requires—

“**company**” means the smallholder tea factory company having limited liability (with the registered office in the Republic of Kenya) in which tea growers are registered for delivery of the green tea leaf to the factory;

9. Establishment of Tea Leaf Base Committee

- (1) There shall be established in each leaf base a Tea Leaf Base Committee.
- (2) The functions of the Tea Leaf Base Committee shall be to—
 - (a) advise and co-ordinate the Leaf Collection Centre Area Committees;
 - (b) co-ordinate and programme the movement of leaf carriers;
 - (c) estimate and advise the factory company on the farm inputs, leaf collection, vehicles, bags, spares, weighing scales and personnel matters; and
 - (d) undertake any other functions as may be referred to the Committee by the factory company board or the Leaf Collection Area Committees.

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10. Elections to the Tea Leaf Base Committee

(1) The Committee shall consist of—

- (a) six members elected from among the registered tea growers;
- (b) the leaf Base Manager and the Tea Extension Manager who shall be *ex officio* members of the Committee.

(2) The Leaf Base Manager shall be the secretary to the Committee and the convenor of meetings of the Committee.

(3) One person, shall be elected to represent a number of the leaf collection centers served by the leaf base.

(4) The Members of the Committee shall elect annually one person from among their number to serve as chairman of the Committee.

(5) The Members shall elect annually from among their number a vice-chairman who shall act in place of the chairman during his absence.

(6) The provisions of regulation 4(5) to (20) in relation to the election of members of the Smallholder Leaf Collection Centre Area Committees shall apply *mutatis mutandis* to the election of members of the Smallholder Leaf Base Committees.

(7) The Committee shall meet at least once quarterly but not exceeding twelve meetings in a year.

11. Eligibility for election to the Leaf Base Committee

No person shall be eligible for membership of a Leaf Base Committee if—

- (a) he is ineligible under any of the provisions of regulations 5 and 6 *mutatis mutandis*;
- (b) he has not attained the 'O' Level certificate of education or has no relevant professional qualification or management experience in a public organization.

12. Disqualification from membership of Leaf Base Committee

No person shall remain a member of the Committee if any of the provisions of regulation 11 becomes applicable to him.

PART IV – ELECTION TO THE SMALLHOLDER TEA FACTORY COMPANIES

13. Interpretation of this Part

In this Part, unless the context otherwise requires—

“**Board of Directors**” means the directors of a company present at a meeting of directors duly convened and constituted by the company for purposes of transacting any business;

“**Company**” means the smallholder tea factory company having limited liabilities (with the registered office in the Republic of Kenya) in which tea growers are registered for delivery of the green tea leaf to the factory;

14. Election of Board of Directors

(1) The Board of Directors of a company shall be elected in accordance with the articles of association of the company and all directors shall be registered tea growers in that company.

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(2) The number of directors of a company shall not be less than four nor shall they exceed nine as provided for in the articles of association of the company.

(3) The functions of a Board of Directors shall be—

- (a) policy formulation;
- (b) implementation of resolutions of the general meetings;
- (c) appointment of a management agent;
- (d) appointment of factory employees;
- (e) formulation of terms of remuneration and service;
- (f) procurement of stores and supplies;
- (g) appointment of brokers in consultation with the management agent;
- (h) appointment of the auditors;
- (i) any other functions beneficial to the factory company.

(4) In the conduct of the affairs of the company, the Board of Directors shall exercise the prudence and diligence of ordinary men of business and shall be held, jointly and severally liable for any losses sustained through any of their acts which are contrary to the Act, these Regulations and the articles of the company or the directions of any general meeting.

15. Committees of the Board

(1) The Board of Directors may form committees to address specific aspects of its responsibility, including but not limited to matters relating to—

- (a) marketing;
- (b) finance and planning;
- (c) personnel and welfare;
- (d) factory operations;
- (e) leaf operations;
- (f) tendering.

(2) The Committees constituted under this Regulation shall act as delegates of the Board of Directors and their decisions shall be subject to the ratification of the Board of Directors.

(3) The Board of Directors may not delegate any of its powers in policy formulation to either a management agent or to an officer of the Board.

(4) The chairman and the Board of Directors shall be non-executive.

16. Amendment of memorandum of association and articles of association

Every company shall amend its memorandum of association and articles of association to—

- (a) cater for the elections of the Leaf Collection Centers Area Committees and Leaf Base Committees;
- (b) be in harmony with the provision of the Act;
- (c) elect directors in accordance with the amended articles of association and shall make provision to ensure that all the registered tea growers vote as shareholders and participate in the election:

Provided that—

- (i) if a person, co-operative societies or bodies' corporate holding shares, ceases to be a grower of tea or starts delivering all tea to

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another company or fails or neglects to deliver tea to the company for a continuous period of one year, he shall be deregistered and barred from voting at an election or meeting of the company.

- (ii) every person who is a shareholder and is in the company's share register on 30th June of each year and who delivers green tea leaf to the company between 1st July to 30th June of that year and who is a *bona fide* tea grower in the catchment area served by the company shall be entitled to vote at an election.
- (c) create electoral areas in every factory catchment to ensure equitable distribution of directorship;

17. Meetings

The Board of Directors shall hold their meetings quarterly but shall not hold more than twelve meetings in a year.

18. Eligibility for election to the Board

No person shall eligible for membership of the Board of Directors if—

- (a) he is ineligible under any of the provisions of regulation 11 *mutatis mutandis*;
- (b) he is not a shareholder of the company;
- (c) he is an employee of the company.

PART V – ELECTION TO THE KENYA TEA DEVELOPMENT AGENCY LIMITED

6. Interpretation of this Part

In this part, unless the context otherwise requires—

“**Agency**” means the Kenya Tea Development Agency Limited;

“**Board**” means the Board established under the articles of association of the Agency;

“**shareholder**” means the registered tea factory company;

“**zone**” means a specified area under tea cultivation or earmarked for the cultivation, with none, one or more tea factories to which registered tea growers deliver their green tea leaf and in which area they are entitled to vote at an election as specified in the First Schedule.

20. Election of directors of the Board

(1) All the elected directors of the tea factory companies in every zone specified in the First Schedule shall attend zonal meetings convened by the Minister for purposes of electing one director to represent the shareholders in accordance with that schedule.

(2) For purpose of elections to the Board, the shareholders shall be entitled to participate in the election notwithstanding the fact that the tea factory company has a different management agent.

(3) New tea factory companies shall become shareholders of the Agency upon registration in the register of shareholders.

21. Functions of the Board

(1) The functions of the Board shall be—

- (a) policy formulation;

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- (b) appointment of chief executive and heads of departments;
- (c) formulation of terms of remuneration and service;
- (d) implementation of resolutions of the general meetings;
- (e) approval of establishment levels and functional responsibilities;
- (f) approval of managerial salary scales and levels;
- (g) approval of corporate plans and annual budgets including capital expenditure programmes;
- (h) approval of policies in key areas of operational management;
- (i) nomination of directors to represent the Agency in various organizations where it has interest;
- (j) any other functions beneficial to the Agency.

(2) In the conduct of the affairs of the Agency, the Board shall exercise the prudence and diligence of ordinary men of business and shall be held, jointly and severally liable for any losses sustained through any of their acts which are contrary to the Act, these Regulations and the articles of association of the company or directions of any general meetings.

22. Committee of the Board of Agency

(1) The Board may form Committees to address specific aspects of its responsibility including but not limited to matters relating to—

- (a) marketing;
- (b) finance and planning;
- (c) personnel and welfare;
- (d) factory operations;
- (e) tendering.

(2) The Committees constituted under this Regulation shall act on the delegated responsibility of the Board of Directors and their decisions shall be subject to ratification by the Board of Directors.

23. Amendment to the Memorandum of Association and Articles of Association

(1) The Agency shall amend its memorandum of association and articles of association to—

- (a) cater for the interest of the shareholders;
- (b) be in harmony with the provisions of the Act;
- (c) provide for the election of its directors in accordance with the provisions of the First Schedule.

(2) The Members of the Board shall hold office for a period of three years.

24. Cessation of Directorship

Where a director ceases to be a director of a tea factory company, he shall automatically cease to be a director of the Agency and shall be replaced in elections as prescribed under these Regulations by another director from the same zone as specified in the First Schedule.

25. Election of chairman of the Board

(1) The chairman of the Board shall be elected from among the directors.

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(2) The directors shall elect from among their number a vice-chairman, who shall act in place of the chairman during his absence.

(3) In the absence of the chairman and the vice-chairman the members present shall elect a chairman from among their number in accordance with the articles of association, and the person so elected shall act as chairman for that meeting.

26. Eligibility for election to the Agency

No person shall be eligible to be a director of the Board if—

- (a) he is not an elected representative of a shareholder;
- (b) if the provision of regulation 18 *mutatis mutandis* apply to him.

PART VI – ELECTION TO THE TEA BOARD OF KENYA**6. Interpretation of Part**

In this part, unless the context otherwise requires—

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

“**tea trade**” means the business of dealing in the commodity of made tea which includes buying, selling, packing and broking of tea but does not include production or manufacture of tea;

“**zone**” means a specified area under tea cultivation or earmarked for the cultivation, with none, one or more tea factories to which registered tea growers deliver their green tea leaf and in which area they are entitled to vote at an election as specified in the Second and Third Schedules.

28. Eligibility for election to the Board

(1) Every director of a tea factory company shall be eligible for election to the Board in accordance with the provisions of these Regulations.

(2) Regulation 4(8) to (20) shall apply *mutatis mutandis* to elections of producer members of the Board.

29. Nominations of representatives to the Board

The directors elected to the tea factory companies enumerated in the First Schedule shall attend zonal meetings convened by the Minister for purposes of electing six members to represent the smallholder sub-sector to the Board as set out in the Second Schedule.

30. Kenya Tea Growers Association’s representatives

(1) The members of the Kenya Tea Growers Association shall attend a meeting convened by the Minister for purposes of nominating four persons to represent the Association to the Tea Board of Kenya as set out in the Third Schedule.

31. Tea trade organisation representatives

The directors of the tea trade organisations registered under the provisions of any written law shall attend a meeting convened by the Minister to nominate one member to represent the interests of the tea trade in the Board.

32. Rotation of members

Where the member elected to the Board is from a given tea factory, and serves in the Board for the maximum two terms, the next member to be elected shall come from a different tea factory, on rotational basis, within the respective zone.

33. Facilitation of sectoral elections

The Minister in consultation with the Board, shall cause and facilitate the sectoral elections at all levels to be organized, commenced, supervised and executed under a specified programme provided that the registered tea growers and shareholders meet their costs to the electoral meetings while the Board of directors may have their costs met by the respective companies or organisations operating in the electoral area which they intend to represent.

34. Election of chairman of the Board

The election of the chairman and the vice-chairman of the Board shall be conducted in accordance with the provisions of the Act.

6. Eligibility for election to the Board

No person shall be eligible to be a producer member of the Board if the provisions of regulation 18 *mutatis mutandis* apply to him.

FIRST SCHEDULE

SCHEDULE OF ZONES FOR REPRESENTATION TO THE KENYA TEA DEVELOPMENT AGENCY LTD

ZONES	DISTRICTS	TEA FACTORIES	DIRECTORS
1.	KIAMBU " THIKA	KAMBAA KAGWE THETA MATAARA	ONE(1)
2.	THIKA " MARAGUA	NGERE NJUNU MAKOMBOKI IKUMBI	ONE (1)
3.	MURANGA " " "	GITHAMBO KANYENYAINI GATUNGURU KIRU	ONE(1)
4.	NYERI " " " "	CHINGA GATHUTHI GITUGI IRIA-INI RAGATI	ONE(1)
5.	KIRINYAGA/NYERI " " "	NDIMA MUNUNGA KANGAITA KIMUNYE	ONE(1)
6.	KIRINYAGA EMBU "	THUMAITA MUNGANIA RUKURIRI	ONE (1)

Tea

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FIRST SCHEDULE—*continued*

ZONES	DISTRICTS	TEA FACTORIES	DIRECTORS
7.	MERU CENTRAL “ “ MERU NORTH “ MERU SOUTH	KINORO IMENTI GITHONGO MICHIMUKURU KIEGOI	ONE(1)
8.	KERICHO BURETI	TEGAT LITEIN KAPKATET	ONE(1)
9.	BURETI “ BOMET NAKURU NAROK	MOGOGOSIEK KAPSET KAPKOROS	ONE(1)
10.	NYAMIRA “ “ “ RACHUONYO MIGORI	NYANSIONGO NYANKOBA SANGANYI TOMBE KEBIRIGO	ONE(1)
11.	GUCHA “ KISII CENTRAL TRANSMARA	OGEMBO NYAMACHE KIAMOKAMA	ONE(1)
12.	NANDI VIHIGA KAKAMEGA TRANS-NZOIA MARAKWET KEIYO MT. ELGON	CHEBUT MUDETE	ONE (1)

SECOND SCHEDULE

SCHEDULE OF ZONES FOR SMALLHOLDER REPRESENTATION TO THE TEA BOARD OF KENYA

ZONE	TEA FACTORIES	MEMBERS
KIAMBU THIKA MARAGUA	KAMBAA KAGWE THETA MATAARA	ONE (1)

SECOND SCHEDULE—*continued*

ZONE	TEA FACTORIES	MEMBERS
	MAKOMBOKI NGERE NJUNU IKUMBI	
MURANG'A NYERI KIRINYAGA	GITHAMBO KANYENYAINI GATUNGURU KIRU CHINGA GATHUTHI IRIA-INI RAGATI GITUGI KIMUNYE MUNUNGA NDIMA KANGAITA THUMAITA	ONE (1)
EMBU MERU SOUTH MERU CENTRAL MERU NORTH	RUKURIRI MUNGANIA KINORO GITHONGO IMENTI KIEGOI MICHIMUKURU	ONE (1)
KERICHO BURETI BOMET	KAPKATET MOGOGOSIEK KAPKOROS TEGAT LITEIN KAPSET	ONE (1)
KISII CENTRAL NYAMIRA GUCHA TRANSMARA	OGEMBO KIAMOKAMA NYAMACHE TOMBE NYANKOBA NYANSIONGO SANGANYI KEBIRIGO	ONE (1)
NANDI KAKAMEGA TRANS-NZOIA	CHEBUT MUDETE	ONE (1)

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SECOND SCHEDULE—*continued*

ZONE	TEA FACTORIES	MEMBERS
VIHIGA MARAKWET KEIYO MT. ELGON		

THIRD SCHEDULE

SCHEDULE OF ELECTORAL DISTRICTS FOR LARGE SCALE REPRESENTATION TO
THE TEA BOARD OF KENYA

ZONES	MEMBERS
LIMURU	ONE (1)
KERICHO	ONE (1)
SOTIK	ONE (1)
NANDI	ONE (1)