

THE DAIRY INDUSTRY (LICENSING OF RETAILERS) REGULATIONS

L.N.158/1961, L.N.130/1963, L.N.126/1970, L.N.79/1972.

Citation and application

1. These Regulations may be cited as the Dairy Industry (Licensing of Retailers) Regulations, and shall apply to such areas as may, from time to time, be prescribed by the Minister.

Interpretation

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

Infra

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

Infra

"licence" means a licence granted under regulation 7 for the sale of licensed produce by a retailer;

"licensee" means the holder of a valid licence;

"licensed premises" means premises in respect of which a licence is in force;

"licensed produce" means milk, including separated or skimmed milk, and cream and any other prescribed dairy produce;

"premises" includes a bicycle or other vehicle utilized for the storage, distribution or sale of licensed produce;

"prescribed" means prescribed in an order made by the Board and published in the Gazette;

"prescribed area" means any area prescribed under regulation 1;

"retailer" means a person who purchases dairy produce for re-sale to consumers from either Kenya Co-operative Creameries Limited or direct from a producer licensed pursuant to the Dairy Industry (Sales by Producers) Regulations and includes a producer who is licensed to sell dairy produce direct to consumers and an importer of dairy produce who imports for re-sale to consumers but does not include purchasers of milk in bulk as defined by the Dairy Industry (Prices of Dairy Produce) Order.

Application for licence

3. (1) A person desiring to make an application for a licence shall apply to the Board in the prescribed form.

(2) A person making an application shall, if he has been convicted of an offence under the provisions of any written law at any time in force relating to the care or handling or sale or distribution of dairy produce or relating to the cleanliness or hygiene of that person's premises, give in his form of application full particulars of the offence of which he was convicted, of the court by which he was convicted, of the date of the conviction and of the penalty imposed by the court.

Assurance of grant of licence on completion of construction or reconstruction of premises

4. (1) Where premises are about to be constructed or reconstructed or are in course of construction or reconstruction for the purpose of being used as licensed premises, a person having an interest in the premises may apply in the prescribed form to the Board for an assurance that, on the completion of the construction or reconstruction, a licence will be granted in respect of those premises.

(2) The application shall be accompanied by a signed copy of the plans of the premises endorsed with the approval of the appropriate local authority.

(3) The Board may, subject to such reasonable conditions as it may therein include, give to the applicant an assurance that, on the completion of the premises and provision of specified plant and equipment by not later than the date therein mentioned, a licence will be granted.

(4) Where an assurance has been given by the Board, the chairman or vice-chairman and executive officer or secretary of the Board shall, on being satisfied that the premises have been completed in accordance with the signed and approved plans submitted under paragraph (2), and the specified plant and equipment provided, and that any conditions which may have been imposed in the assurance have been complied with within the period specified, issue a licence to the applicant:

Provided that an assurance shall become ineffective and a licence may not be issued if, between the date of the giving thereof and the date of completion of the premises, the applicant becomes a person to whom, in accordance with the provisions of regulation 5 or paragraph (a) of regulation 6, a licence may not be granted.

When new licence or transfer of licence may be refused

5. The Board may refuse to grant a new licence or transfer an existing licence to any person who has been convicted of selling dairy produce or offering or exposing it for sale without a licence.

When new licence or transfer or renewal or removal of licence may be refused

6. (1) The Board may refuse to grant a new licence or transfer or renew or remove an existing licence or may suspend or cancel an existing licence if the Board is satisfied that—

(a) the applicant or licensee—

(i) is not a fit and proper person to hold a licence; or

(ii) has, while holding a licence or during a period of six months prior to obtaining a licence, been convicted of an offence under the provisions of any written law at any time in force relating to the sale or care or handling of dairy produce; or

(iii) has failed to give particulars of any conviction which he is required to give under regulation 3 (2); or

(b) the harness to which an existing licence relates is conducted in an improper manner; or

(c) the conditions of an existing licence have not been satisfactorily fulfilled; or

(d) any person taking part in the storage, handling, distribution or sale of licensed produce on the premises in respect of which the application is made or to which an existing licence relates is suffering from any infectious or contagious disease or is not clean in his person or clothing; or

(e) the premises in respect of which the application is made or to which an existing licence relates are not in good repair or are deficient in accommodation or sanitary or drainage requirements or are not in

a clean and wholesome condition or are not provided with plant and equipment adequate for the purpose of the business or that the plant or equipment are not being satisfactorily maintained or utilized and the owner of the premises or the applicant or the licensee refuses or is unable to give guarantees satisfactory to the Board that the necessary repairs or cleansing will be carried out or plant or equipment provided within a time specified by the Board and the premises and plant and equipment there after maintained and utilized to the satisfaction of the Board.

(2) The Board may refuse to grant a new licence or to transfer an existing licence if the Board is satisfied that the locality served or proposed to be served by the premises in respect of which the application is made or to which an existing licence relates is satisfactorily served from premises in respect of which licences have already been granted.

General provisions as to grant, renewal, transfer, removal, suspension or cancellation of licence

7. (1) Save as otherwise provided in these Regulations the Board may grant, renew, transfer, remove, suspend or cancel a licence and may embody therein such conditions as it may deem appropriate or it may refuse to grant, renew, transfer, remove, suspend or cancel a licence.

(2) Every licence and every renewal or transfer or removal thereof shall be subject to the payment to the Board of such fee or fees as may be prescribed, and shall expire on the 31st December in the year of issue.

Licences to corporations

8. (1) A licence issued to a body corporate shall be issued to the secretary or to the manager thereof.

(2) No transfer of the licence shall be necessary on a change in the office of secretary or manager, as the case may be, but any person for the time being holding that office shall be entitled to the privileges granted by, and shall be subject to the duties and liabilities imposed upon the holder of, the licence.

Power to carry on business bankruptcy, etc. on death

9. In the event of the death, bankruptcy or unsoundness of mind of a licensee or in any similar event to which the chairman of the Board declares in writing that the provisions of this regulation should be applied, for the purpose of these Regulations the widow, executor, administrator, trustee or manager, as the case may be, or any other person approved by the chairman, may carry on the business of the licensee without a transfer or grant of a licence, either personally or by an agent approved by the chairman, until the expiry of the licence on the following 31st December, or for such shorter period as the Board may direct.

Licences to be displayed

10. A licence shall be prominently and conspicuously displayed on the premises to which it relates and a licensee who fails or neglects so to display his licence shall be guilty of an offence and liable to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding one month, or to both.

Managers and employees

11. (1) No licensee shall permit another person to manage, superintend or conduct the day-to-day business of the premises in respect of which he is licensed except with the written consent of the Board, and every person in respect of whom consent is given shall be subject and liable to the same duties, obligations and penalties under these Regulations as the licensee:

Provided that nothing in this paragraph shall relieve the licensee of any such duties, obligations or penalties.

(2) A licensee who contravenes the provisions of paragraph (1) shall be guilty of an offence and liable to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding one month, or to both.

(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.

Holding out as a licensee

12. A person causing or permitting to be on his premises or on premises under his control any words, letters or sign falsely importing that he is a licensee shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months.

No sale of licensed produce except under licence

13. A retailer who sells licensed produce or offers or exposes it for sale except under and in accordance with, and on such premises as may be specified in, a licence shall be guilty of an offence and liable—

(a) for a first offence, to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding nine months, or to both;

(b) for a second or subsequent offence, to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding one year, or to both;

but this regulation shall not apply to a person who purchases licensed produce from a licensee for resale to consumers.

Licences, etc., to be in writing

14. Every licence and every renewal, transfer, removal, suspension or cancellation thereof and every direction by the Board under regulation 9 shall be sufficiently authenticated by writing signed by any two of the following members and officers of the Board—

(a) the executive officer;

(b) the vice-chairman;

(c) the executive officer;

(d) the secretary.

Penalty for failure to disclose conviction

15. A person who is required by these Regulations to disclose a conviction and fail to do so when making any application shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Areas prescribed under regulation 1—

- L.N.290/1961
- L.N.192/1962.
- L.N.455/1962.
- L.N.521/1962.
- L.N.565/1962.
- L.N.329/1964.
- L.N.382/1964.
- L.N.60/1966.
- L.N.21/1969.

- The City of Nairobi.
- Mombasa.
- Eldoret.
- Nakuru.
- Kitale.
- Kericho.
- Thika.
- Nyeri.
- Naivasha.
- Gilgil.
- Nanyuki.
- Kisumu.
- Kiamlbu.
- Machakos.
- Nyahururu

FIRST SCHEDULE

Form 1 (para. 2)

THE DAIRY INDUSTRY (LICENSING OF RETAILERS) REGULATIONS

Application for the Grant or Renewal of a Licence for Sale of Licensed Produce

- 1. Full name of applicant
- 2. Full name(s) of owner(s) of business of applicant

(N.B.—In case of a firm, give full names of all partners. In case of a body corporate, give full name thereof and full names of all directors.)

- 3. Trade name (if different)
- 4. Postal address of applicant
- 5. Address of premises in respect of which application made:

L.R. No. Plot No.

Name of street/district

(Give sufficient details adequately to identify premises including description of premises and name by which premises are known; if necessary, attach rough sketch showing position of premises.)

6. Full name and address of owner of premises

7. Full name of manager (if any)

8. Particulars of previous experience in retail dairying of applicant and manager (if any)

9. Whether milk and cream to be sold in bottles/packs or in bulk or both and whether to be sold by retail or wholesale or both

10. Are premises in respect of which application made licensed or registered by a local authority(YES)?
.....
If so, give details of such licence(s)/registrations)

11. If for renewal, give expiring Licence No.

12. Details of applicant's convictions as required by regulation 3 of the Regulations
.....

13. I enclose Sh. 5 licence fee, returnable if application is refused.

I, the applicant named in the foregoing application, do solemnly and sincerely declare that the statements made by me in the foregoing application are true and correct in all respects to the best of my knowledge and belief, and I make this declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act.

.....
Applicant

Declared at in the
....., 19.....
before me.

.....
Magistrate or Commissioner for Oaths

Form 2 (para. 3)

THE DAIRY INDUSTRY (LICENSING OF RETAILERS) REGULATIONS

Application for Transfer/Removal of a Licence for Sale of Licensed Produce

1. Full names of applicants

(a) Licensee

(b) Transferee

2. No. of licence held

3. Address of premises specified therein

4. Full name(s) of owner(s) of business of transferee

(N.B.—In case of a firm, give full names of all partners. In case of a body corporate, give full name thereof and full names of all directors.)

5. Trade name (if different)

6. Postal Address of transferee

7. Address of premises to which it is desired to remove licence:

L.R. No. Plot No.

Name of street/district

(Give sufficient details adequately to identify premises including description of premises and name by which premises are known; if necessary, attach rough sketch showing position of premises.)

8. Full name and address of owner of premises

9. Full name of transferee's manager (if any)

10. Particulars of previous experience in retail dairying of transferee and manager (if any)
.....

11. Whether milk and cream to be sold in bottles/packs or in bulk or both and whether to be sold by retail or wholesale or both.

12. Are premises to which it is desired to remove licence licensed or registered by a local authority(ies)?

If so, give details of such licence(s)/registration(s)

13. Details of transferee's convictions as required by regulation 3 of the Regulations
.....

14. We enclose Sh. 5 transfer/removal fee, returnable if application is refused.

We, andthe applicants named in the foregoing application, do solemnly and sincerely declare that the statements made by us in the foregoing application are true and correct in all respects to the best of our knowledge and belief, and we make this declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act.

.....

Licensee

.....
Transferee

Declared at in the.....
.....,19.....
before me.

.....
Magistrate or Commissioner for Oaths.

Form 3

(para. 4)

THE DAIRY INDUSTRY (LICENSING OF RETAILERS) REGULATIONS

Application for an Assurance in Accordance with the Provisions of regulation 4

1. Full name of applicant

2. Full name(s) of owner(s) of business of applicant

(N.B.—In case of a firm, give full names of all partners. In case of a body corporate, give full name thereof and full names of all directors.)

3. Trade name (if different)

4. Postal address of applicant

5. Address of premises in respect of which assurance applied for

6. Whether being constructed or reconstructed

7. Particulars of plant and equipment to be provided

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

(use separate sheet if space insufficient)

8. Full name and address of owner of premises

9. Date from which licence would require to run

10. Full name of manager (if any)

11. Particulars of previous experience in retail dairying of applicant and manager (if any)
.....

12. Whether milk and cream to be sold in bottles/packs or in bulk or both and whether to be sold by retail or wholesale or both

13. Details of applicant's convictions as required by regulation 4 of the Regulations
.....

14. Details of applicant's interest in the premises

15. I enclose Sh. 5 assurance fee, returnable if application is refused.

I,
named in the foregoing application, do solemnly and sincerely declare that the statements made by me
in the foregoing application are true and correct in all respects to the best of my knowledge and belief,
and I make this declaration conscientiously believing the same to be true and according to the Oaths
and Statutory Declarations Act.

.....
Applicant

Declared at in the, 19..... before me.

.....
Magistrate or Commissioner for Oaths

Note.—In accordance with the Dairy Industry (Licensing of Retailers) Regulations, regulation 4 (2),
this application must be accompanied by a signed copy of the plans endorsed with the approval of the
appropriate local authority.

Form 1

(para. 6)

THE DAIRY INDUSTRY (LICENSING OF RETAILERS) REGULATIONS

Licence for Sale of Licensed Produce

Licence No.

This licence is granted under the provisions of the Dairy Industry (Licensing of Retailers) Regulations
to
.....
of
in respect of premises situate at
.....

(Full details of premises to be inserted by issuing officer.)

This licence is granted subject to the provisions of the Dairy Industry (Licensing of Retailers)
Regulations, and to the following conditions
.....

This licence shall expire on

Fee paid Sh.

Date of issue

.....
Chairman /Vice-Chairman

.....
Executive Officer/Secretary
Kenya Dairy Board

Form 2

(para. 7)

THE DAIRY INDUSTRY (LICENSING OF RETAILERS) REGULATIONS

Assurance that a Licence will be Issued

.....
of
having satisfied us that he has an interest in premises to be built/being built* at
..... for the purpose of being used for the sale of
licensed produce, and having supplied us with a signed copy of the plans of the premises, he is hereby
assured that, on completion of the premises in accordance with the signed plans and provision of the
plant and equipment specified in Part I of the Schedule hereto not later than 19....., and
subject to the conditions specified in Part 2 of the said Schedule and to the provisions of regulation 4
of the Dairy Industry (Licensing of Retailers) Regulations, he will be granted a licence.

SCHEDULE

PART 1

Plant and equipment to be provided

PART 2

Conditions

Fee paid: Sh.

Date of issue

.....
Chairman/ Vice-Chairman

.....
Executive Officer/Secretary Kenya Dairy Board

* Delete where not applicable