

LEGAL NOTICE NO.....

THE DAIRY INDUSTRY ACT
(*Cap. 336*)

**THE DAIRY INDUSTRY (PRODUCE TRACEABILITY AND
RECALL) REGULATIONS, 2020**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
2. Interpretation
3. Application
4. Objects of the Regulations
5. Requirements for traceability
6. Suppliers and customers to be identified
7. Mandatory information on consignments
8. Confidentiality and protection of information
9. Labelling of dairy produce
10. Recall plan
11. Requirements for recall
12. Authority to recall
13. Offences

SCHEDULE

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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 (TRACEABILITY AND RECALL) REGULATIONS, 2020

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| Citation | 1. These Regulations may be cited as the Dairy Industry (Traceability and Recall) Regulations, 2020. |
| Interpretation | 2. In these Regulations, unless the context otherwise requires — |
| Cap 336 | “Act” means the Dairy Industry Act;
“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to dairy industry;

“person” means natural or legal person;

“recall” means process of withdrawing dairy produce from the supply chain if there is evidence that it poses or is likely to pose substantial health risk to consumers or does not meet the requirements of the relevant standard;

“traceability” means the ability to trace, follow and identify uniquely a dairy produce through all stages of production, collection, processing, storage and distribution by means of verifiable documentation. |
| Application | 3. These Regulations apply to traceability and recall of dairy produce. |
| Objects of the Regulations | 4. The objects of these regulation are to —
(a) enhance consumer protection and safety of dairy produce;
(b) improve access to information on marketed dairy produce; and
(c) provide mechanisms for tracing and recall of dairy produce. |
| Requirements for traceability | 5. The traceability of dairy produce shall apply at production, collection, transportation, processing, distribution and retail of dairy produce. |

Suppliers and customers to be identified

6. (1) A dairy business operator shall keep a record of their immediate suppliers and their immediate customers except for final consumers.
- (2) Despite paragraph (1), a dairy business operator shall keep a record with the following details:
- (a) Name of dairy business operator or primary producer
 - (b) Postal and physical address including county, sub-county, village/street/road
 - (c) Telephone number
 - (d) Email address (where applicable)
 - (e) GPS coordinate (where applicable)
 - (f) Type of business
 - (g) Type of dairy produce
- (3) The records kept under this regulation shall be retained until it is reasonably assumed that there is no claim in relation to the consumption of the dairy produce and in any case not earlier than three months after the expiry date of the produce.
- (4) A compliance officer may at any time access the records kept under paragraph (2).

Mandatory information on consignments

7. (1) Every consignment by a dairy business operator shall be accompanied by a delivery note issued by the consignor and containing the following information:
- (a) date and time of collection and destination thereof;
 - (b) description of the dairy produce;
 - (c) volume or quantity of the dairy produce;
 - (d) name, signature and physical address of the producer or their agent from whom the produce is received;
 - (e) name and the physical address of the consignor if different from the producer from whom the produce has been dispatched
 - (f) the name and physical address of the consignee, if different from the producer from whom the produce is dispatched
 - (g) details of the lot, batch, consignment and expiry date where applicable;
 - (h) the date of dispatch;
 - (i) milk tanker or transport vehicle registration number and seal number, where applicable
 - (j) name of the driver; and
 - (k) in the case of imported dairy produce, the batch number and country of origin.
 - (l) Where imported milk has been cleared to enter the country it shall, in all respects, be subject to these Regulations and any other applicable law.
 - (m) Record of information in paragraph (1) shall be kept by the dairy business operator and may be availed to only the consignee or the Board upon request.

- Confidentiality and protection of information
8. Information obtained under these Regulations shall be handled in accordance with the provision of the Data Protection Act, 2019 or any other relevant law that may come into force from time to time.
- Labeling of dairy produce
9. A person who intends to sell or place dairy produce into the market shall ensure that the dairy produce is labelled in accordance with the relevant standard.
- Recall plan
10. (1) A dairy business operator shall establish a recall plan in Form A in the Schedule.
- (2) Despite paragraph (1), a recall plan shall, at the minimum include strategies for—
- (a) identifying, notifying and assessing a dairy produce safety issue;
 - (b) deciding to recall or withdraw dairy produce;
 - (c) identifying distribution of affected product;
 - (d) notifying government, business-stakeholders and consumers of a recall;
 - (e) retrieving and disposing of the affected dairy produce;
 - (f) monitoring the effectiveness of the recall process;
 - (g) closing the recall;
 - (h) post-recall reporting.
- (3) Where the produce is already in the market and a recall is warranted, the dairy business operator shall inform the Board and immediately institute a recall.
- (4) The dairy business operator shall notify the consumer or purchaser of the product of the identity, the nature of the risk, the place where the produce was sold and produce drop off point, and the procedure for refund, where applicable.
- (5) The dairy business operator shall notify the Board of the level of recall success in Form A in the Schedule.
- Requirements for recall
11. (1) Where a dairy business operator considers or has reason to believe that a dairy produce which has been produced, processed, manufactured or distributed is not in compliance with the dairy safety requirements, the dairy business operator shall immediately recall the produce in question from the market and inform the Board thereof.
- (2) If the product specified in paragraph (1) has reached the consumer, the dairy business operator shall appropriately notify the consumer of the reason for its recall, and if other measures are not sufficient to achieve consumer protection, physically withdraw from consumers the products already supplied to them.
- Authority to recall
12. (1) Where a dairy business operator receives a complaint from a consumer, distributor, retailer, or a compliance officer that a product is or likely to be a threat to the health and safety of a consumer or other person, or that there is likely to be tampering with the produce at any stage, the dairy business operator shall analyze the risk and if convinced of the need for recall, order a recall and report to the Board.

(2) Where a compliance officer is convinced that the dairy produce poses risk to the health or safety of the consumer or user, the compliance officer shall order the dairy business operator responsible for the produce to make a recall.

Offences

(13) A person who fails to -

(a) Keep a record as required under these Regulations;

(b) provide or make available to the Board required information;

(c) label dairy produce;

(d) inform the consumers of the reason for withdrawal of a dairy produce, or

(e) comply with an order issued by a compliance officer to recall dairy produce commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or imprisonment not exceeding twelve months or, to both such fine and imprisonment.

SCHEDULE

FORM A (reg. 10(1))

RECALL PLAN AND NOTICE

1) Business information (this section to be completed by the dairy business operator)

Business name

Address

Postal address

Main phone number

After hours phone number

Email address

Website address

2) Regulator's contacts:

3) Suppliers and customers contact information.

To effectively recall dairy produce, you must have a complete list of all dairy businesses that

—

- a) supply dairy produce, ingredients or packaging materials to you (your suppliers);
- b) you supply dairy produce to (your customers).

The contact information for these businesses should include:

Business name

Postal & physical address

Name of contact person

Contact phone (including for afterhours*) and email (if applicable).

4) Dairy produce recall process:

5) Method of disposal:

Note: If the recalled product is unfit for human consumption, it must not be provided for consumption in any form to any person.

6) Consumer/customer reimbursement:

7) **Procedure for termination of recall:**

8) **Reviewing the recall's effectiveness:**

Dated the2020

Hon. Peter Munya, EGH
Cabinet Secretary for Agriculture, Livestock, Fisheries and Cooperatives