

LEGAL NOTICE NO.....

THE DAIRY INDUSTRY ACT
(Cap. 336)

THE DAIRY INDUSTRY (MILK SALE CONTRACT) REGULATIONS,
2020 ARRANGEMENT OF REGULATIONS

Regulation

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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 and Fisheries on the advice of the Kenya Dairy Board makes the following Regulations —

DAIRY INDUSTRY (MILK SALES CONTRACT) REGULATIONS, 2020

- Citation 1. These Regulations may be cited as the Dairy Industry (Milk Sale Contract) Regulations, 2020.
- Interpretation 2. In these Regulations, unless the context otherwise requires—
- Cap 336 “Act” means the Dairy Industry Act;
- “buyer” means a person who buys milk from a primary producer or a registered entity for processing or resale;
- “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to dairy industry;
- “contract” means a written agreement for sale of milk between a buyer and a seller;
- “county based dairy business” means a dairy business involving a buyer or a seller who operates within the same county;
- “dairy business operator” means a person who handles dairy produce for business but does not include a primary producer, a retail shop, a grocery shop, a restaurant or a similar establishment.;
- “inter county dairy business” means a dairy business involving buyers or sellers who operate in more than one county;
- “milk” refers to raw or pasteurized milk.
- “primary producer” means primary producer as defined under the Act;
- “producer organization” means an entity which produces or aggregates milk for sale;
- “relevant standard” means the standards for the quality of the dairy produce, product or equipment used in the dairy industry, determined by the Kenya Bureau of Standards or a regional or international convention or protocol.
- “sale” means the exchange of milk for agreed payment;
- “seller” means a primary producer, primary producer organization or any other registered entity.

- Application
3. These Regulations apply to every sale of milk by an aggregator, producer organization or a registered entity to a buyer for processing or resale. It shall not apply to primary producers except where a primary producer wishes to enter into a contract with a buyer.
- Objects of the Regulation
4. The objects of these Regulation are to—
- (a) ensure fair trade in the sale of milk;
 - (b) protect the investment interests for both buyers and sellers of milk.
- Milk sale contract
5. A dairy business operator shall not buy milk for processing, distribution or resale, unless the dairy business operator has entered into a written contract with a seller in accordance with these Regulations.
- Content of milk sale contract
6. (1) Subject to regulation 7, a contract for sale or purchase of milk shall contain, at a minimum, provisions on the following:
- (a) names of parties to the contract;
 - (b) respective obligations of the parties;
 - (c) milk price per kilogram;
 - (d) quantity to be sold or bought;
 - (e) applicable terms in case of oversupply or undersupply;
 - (f) specifications on agreed quality;
 - (g) testing and rejection terms;
 - (h) time of actual transfer of ownership;
 - (i) time of collection or delivery;
 - (j) frequency of collection or delivery;
 - (k) duration of the contract;
 - (l) terms of payment;
 - (m) the need to keep the contract confidential;
 - (n) terms for waivers and amendment;
 - (o) terms of termination of contract;
 - (p) indemnity or insurance;
 - (q) sanctions for default of either party;
 - (r) manner of issuing notices and demands;
 - (s) circumstances that constitute force majeure;
 - (t) dispute resolution mechanism.
- (2) A compliance officer may at any time inspect any contract to ascertain compliance to the requirement of this regulation.
- (3) Despite paragraph (1), a contract shall—
- (a) provide for the agreed payment terms, which shall conform to the pricing formula provided under the Dairy Industry (Pricing of Milk) Regulations 2020.
 - (b) be subject to the relevant standard test methods for quality determination.

Prompt payment

7. (1) A buyer shall pay a seller for milk delivered in the month as provided in the contractual arrangements after the end of the month in which the supply is made.

(2) Where a buyer defaults in paying the seller within time, the amount due shall attract simple interest on monthly basis, in accordance with the prevailing base rate published by the Central Bank of Kenya, till payment is made in full.

(3) The seller may request the Board to intervene in any instance where the buyer fail or neglects to honor the contractual obligations regarding the payments of sum/s due to the seller.

General penalty

8. A person who contravenes any of the provision of this regulation commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Dated the2020

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