

IN EXERCISE of the powers conferred by Sections 74 of the Tea Act, 2020, the Cabinet Secretary for Agriculture, Livestock, Fisheries and Co-operatives, makes the following Regulations: -

TEA (PAYMENTS) REGULATIONS, 2021

PART I – PRELIMINARY		
1.	These Regulations may be cited as the Tea (Payments) Regulations 2021 and shall come into operation upon publication in the gazette.	Citation
2.	In these regulations, unless the context otherwise requires-	Interpretation
	“Board” means the Tea Board of Kenya as defined under Section 2 of the Tea Act, 2020.	
	“Cabinet Secretary” means the cabinet secretary for the time being in charge of agriculture.	
	“auction” means a physical or electronic system where potential buyers place competitive bids for tea;	
	“auction organizer” means a person, company or firm established for the purpose of organizing tea auctions in Kenya;	
	“complete farm management services” means management of all farm operations including tilling, application of farm inputs, weeding, plucking and farm labour management; crop husbandry; production; transportation; financial; sales and related services;	
	“broker” means a person or company or firm established for the purpose of negotiating the purchase or sale of tea between tea growers or tea factories and buyers for a fee;	
	“buyer” means a person, company or a firm engaged in acquiring made tea for sale in the local or export market, including export of imported tea;	
	“exporter” means a person, a firm, or a corporate body engaged in the business of blending, packaging and exporting of tea in bulk or in value added form;	
	“grower” means any person who is cultivating tea in an area;	
	“made tea” means the derivative from tea leaf through a manufacturing process;	
	“Proceeds of sale” means proceeds from the sale of tea after deducting brokerage fees only where applicable.	
	“tea factory” means a factory that processes and manufactures tea leaf into made tea;	
	“value addition” means improvements on made tea through packaging, blending, flavouring, tea extracts, tea aroma and branding into not more than ten kilograms;	
3.	The object of these regulations is to ensure:- (a) growth and sustainability of the tea industry; (b) equity and fairness in the distribution of the proceeds from sale of tea to all players along the value chain; (c) To protect the investment interest for both traders and tea growers; (d) Maximize returns to the tea grower.	Object and purpose

	PART II – PAYMENTS	
4.	<p>(1) The remuneration paid to a tea broker by a tea factory limited company and a tea buyer/exporter for services rendered shall not exceed zero point seven five percent (0.75%) of the gross sales by the broker.</p> <p>(2) The remuneration under paragraph (1) above, shall be apportioned between the tea factory limited company and the buyer/exporter as follows;</p> <p style="padding-left: 40px;">(a) Zero point two percent (0.2%) shall be borne by the tea factory limited company.</p> <p style="padding-left: 40px;">(b) Zero point five five percent (0.55%) shall be borne by the buyer/exporter.</p>	Apportionment of brokerage fees
5.	<p>(1) A tea factory limited company intending to engage the services of a management agent shall do so in accordance with the provisions of the Act.</p> <p>(2) The management agreement between the tea factory limited company and management agent shall provide for:-</p> <p style="padding-left: 40px;">(a) a commencement date;</p> <p style="padding-left: 40px;">(b) the duration of the agreement which shall not exceed five years;</p> <p style="padding-left: 40px;">(c) the remuneration to be paid to the management agent for services rendered which shall not exceed one point five per centum (1.5%) of the net sales value of the tea sold at the auction per year;</p> <p style="padding-left: 80px;">provided that a management agent offering complete farm management services may enter into a separate management agreement for remuneration of such services.</p> <p style="padding-left: 40px;">(d) obligations and responsibilities of each party;</p> <p style="padding-left: 40px;">(e) services to be offered by the management agent which shall not include company secretarial services;</p> <p style="padding-left: 40px;">(f) the performance standards to be adhered to by the management agent;</p> <p style="padding-left: 40px;">(g) reimbursable costs by the tea factory limited company which shall exclude payment of personnel seconded to the tea factory limited company by the management agent;</p> <p style="padding-left: 40px;">(h) an arbitration clause;</p> <p style="padding-left: 40px;">(i) applicable laws and effect of changes in the laws.</p> <p style="padding-left: 40px;">(j) termination clause of not less than six months and not more than nine months;</p> <p>(3) Notwithstanding the provisions of Regulation 5, sub-regulation (2) (c) above</p>	Management Agreement

	<p>shall not apply to a management agent offering complete farm management services.</p> <p>(4) A tea factory limited company and management agent shall amend the existing management agreements to comply with the provisions of the Act and any regulations made there under.</p> <p>(5) Any changes made to the management agreement shall be submitted to the Board for approval.</p>	
6.	<p>(1) Payment for tea traded at the auction shall be remitted by tea brokers, buyers and auction organizers to the respective tea factory's account as specified in the Act.</p> <p>(2) A tea factory shall pay tea growers at least fifty percent of payment due for the green leaf delivered to the factory every month within thirty days period.</p> <p>(3) Notwithstanding the provisions of (4) above, tea factories shall consolidate payments due to tea growers for green leaf delivered each month provided that the payments are made within thirty days of receipt of the proceeds of sale.</p> <p>(4) The monthly payment to tea growers shall be computed by multiplying the monthly proceeds of sale of tea by fifty percent and dividing it by the monthly green leaf delivered in kilograms</p> <p>(5) The formula for calculating the monthly green leaf price shall be :-</p> $\text{Monthly green leaf price} = \frac{50\% \times \text{monthly proceeds of sale of tea}}{\text{Total green leaf deliveries for the month}}$ <p>(Kgs.)</p> <p>(6) The balance due to the tea grower from the proceeds of sale of tea during the year shall be paid in accordance with the Act.</p> <p>(7) A person who contravenes the provisions of this regulation commits an offence and shall be liable upon conviction to the penalty prescribed under Section 71 of the Act.</p>	Growers' Payments
7.	<p>Contracts for all services rendered to a smallholder tea factory limited company shall be renegotiated to comply with the provisions of the Act and these regulations within three months of the coming into effect of these regulations</p>	Transitional provision

