

LEGAL NOTICE NO.

THE NATIONAL CEREALS AND PRODUCE BOARD ACT

Chapter 338

IN EXERCISE of the powers conferred by Section 30 of the National Cereals and Produce Board Act Chapter 338, the Cabinet Secretary for Ministry of Agriculture, Livestock, Fisheries and Cooperatives makes the following Regulations: -

The National Cereals and Produce Board (National Food Reserve) Regulations, 2021

Arrangements of Regulations

| PART I: PRELIMINARY | |
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| Citation | 1. These Regulations may be cited as the National Cereals and Produce Board (National Food Reserve) Regulations, 2021. |
| Interpretation | 2. In this Regulations unless the context otherwise requires: - "Act" means the National Cereals and Produce Board Act Cap 338; "Base stock" means 90,000 Metric Tons or 3-months food requirement of the country's food-insecure population, whichever is higher and whose value is calculated based on maize consumption equivalent; "Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Agriculture; "Committee" means the Food Balance Sheet Committee established under Regulation 10; "Digital food balance sheet" means a tool for monitoring and evaluating national food patterns to inform food security policy interventions; |

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| <p>No. 18 of 2012</p> | <p>“Food-insecure population” means the number of people in the country who are not able to meet their daily food needs for an extended period of time due to social, natural or economic conditions;</p> <p>“Food reserve commodities” means the food commodities as listed in the First Schedule of the Act;</p> <p>“National Food Reserve Fund” means the Fund established in accordance with the provisions of the Public Finance Management Act</p> <p>“Maize consumption equivalent” means food commodities whose financial value is equated to the financial value of maize at a particular time;</p> <p>“National Food Reserve” has the meaning assigned to it under Regulation 5;</p> <p>“Price stabilization” means a process of sale and purchase of the Food Reserve commodities from and into the National Food Reserve;</p> <p>“Purchase” means the buying of food commodities through Warehouse Receipt system;</p> <p>“Sale” means the selling of food commodities through Warehouse Receipt system;</p> <p>“Warehouse Receipt System” has the meaning assigned to it under section 2 of the Warehouse Receipt System Act, 2019.</p> |
| <p>Scope</p> | <p>3. These Regulations apply to all activities relating to the management of the National Food Reserve concerning the agricultural food commodities listed in the First Schedule of the Act.</p> |
| <p>Objects and Purpose</p> | <p>4. The purpose of these regulations is to: -</p> <ol style="list-style-type: none"> a) Establish and maintain a National Food Reserve. b) Provide for food commodities price stabilization. |

PART II: THE NATIONAL FOOD RESERVE AND PRICE STABILIZATION

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| Establishment of the National Food Reserve | 5. <p>(1) There is hereby established the National Food Reserve which shall constitute physical stock of food commodities and its cash equivalent.</p> <p>(2) The physical stock in 5(1) shall be held in form of warehouse receipts issued in accordance with the Warehouse Receipt System.</p> |
| National Food Reserve Commodities | 6. The food commodities referred in Regulation 5 shall comprise of the commodities listed in the First Schedule of the Act. |
| Determination of the National Food Reserve quantities | 7. (1) The National Food Reserve shall be determined based on three-month country's population food requirement calculated at maize consumption equivalent. (2) The National Food Reserve shall comprise of the base stock and the price stabilization stock. (3) The quantities of the base stock and food commodities for price stabilization shall be determined by the Food Balance Sheet Committee based on the prevailing market demand and supply conditions and shall be communicated to the Board from time to time. |

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| <p>Price Stabilization</p> <p>No. 8 of 2019</p> | <p>8. (1) Price stabilization measures may include sale and purchase of Food Reserve commodities into and out of the National Food Reserve through the Warehouse Receipt System.</p> <p>(2) The Committee shall advise the Board to cause the purchase and sale of warehouse receipts for purposes of National Food Reserve.</p> <p>(3) In advising on price stabilization, the Committee shall consider parameters that include but are not limited to the following;</p> <ul style="list-style-type: none"> a) consumer purchasing power, b) cost of production of the food commodities, c) international price fluctuations, d) seasonal price movements, e) changes in the exchange rates and; f) market forces <p>(4) The commodities for price stabilization may be drawn into and out of the National Food Reserve subject to Regulation 7(3).</p> |
| <p>Base Stock</p> | <p>9. (1) The Board shall notify the Committee when the physical stock of the National Food Reserve reduces to the level of the base stock.</p> <p>(2) The Committee shall, based on the notification under sub-regulation 9(1), advise on replenishment of the National Food Reserve.</p> |
| <p>PART III: FOOD BALANCE SHEET COMMITTEE</p> | |
| <p>The Food Balance Sheet Committee</p> | <p>10.</p> <p>(1) There is established a committee known as the Food Balance Sheet Committee which shall be a committee of the Board.</p> <p>(2) The conduct and regulation of the business and affairs of the Committee shall be as provided in the First Schedule of these regulations</p> <p>(3) Except as provided in the First Schedule of these regulations the Committee may regulate its own procedures.</p> |

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| | <p>(4) The committee shall write and submit reports pursuant to meetings held and such reports shall inform on the country's food security situation and recommendations based on the functions outlined in Regulation 12.</p> |
| <p>Membership of the Committee</p> | <p>11. The committee shall consist of the following members appointed by the Board: -</p> <ul style="list-style-type: none"> a) A Chairperson who is trained, has experience and knowledge on matters of food security. b) A representative from the State Department for the time being responsible for Crop Development. c) A representative from the State Department for the time being responsible for Livestock Production. d) A representative from the State Department for the time being responsible for Fisheries. e) A representative from the office of Council of Governors. f) Director Kenya National Bureau of Statistics or his representative. g) Director of Internal Trade or his representative. h) Director Kenya Meteorological Department or his representative. i) A representative from the Joint Technical Committee between the Universities and the Government on Food Security. j) A representative from the Agriculture Sector Network. k) Managing Director National Cereals and Produce Board or his representative who shall be the Secretary |
| <p>Functions of the Food Balance Sheet Committee</p> | <p>12. (1) The Committee shall be responsible for;</p> <ul style="list-style-type: none"> a) Generating, analyzing and providing information subject to Regulation 7, 8 and 9. b) Advising the Cabinet Secretary, the Board and the County Governments on the country's food supply, utilization and distribution status. <p>(2) Without prejudice to Sub-regulation (1), the committee shall: -</p> <ul style="list-style-type: none"> a) manage the digital food balance sheet b) Undertake market intelligence and price monitoring c) guide on the purchase and sale of food commodities for price stabilization |

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| | <ul style="list-style-type: none"> d) Advise the Cabinet Secretary and the Board on the prevailing food supply situation and intervention measures to be undertaken to improve food availability and affordability. e) Advise the Cabinet Secretary on food production, utilization, distribution and incentive systems based on data and information from various sources. |
| | PART IV- GENERAL PROVISIONS |
| Funding of activities of the National Food Reserve and the Food Balance Sheet Committee. | <p>13. The following shall be funded from the National Food Reserve Fund;</p> <ul style="list-style-type: none"> a) purchase of the national food reserve stocks through the warehouse receipts b) purchase and sale of warehouse receipts of scheduled food commodities to stabilize the food supply and prices in the country; c) payment of warehousing costs d) operational and administrative costs of the Committee |

FIRST SCHEDULE
[Regulation 10(2)]
PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE
FOOD BALANCE SHEET COMMITTEE

1. Meetings

- (i) The Committee shall meet at least once in a month and not more than 30 days shall elapse between the date of one meeting and the date of the next meeting.
- (ii) Notwithstanding the provisions of subparagraph (i), the Chairperson may, and upon requisition in writing by at least six members, shall convene a special meeting of the Committee at any time for the transaction of the business of the Committee.
- (iii) Unless three quarters of the total members of the Committee otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Committee.
- (iv) The quorum for the conduct of the business of the Committee shall be six members including the Chairperson or the person presiding.
- (v) The Chairperson shall preside at every meeting of the Committee at which he is present but, in his absence, the members present shall elect one of the members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.
- (vi) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
- (vii) Subject to subparagraph (iv), no proceedings of the Committee shall be invalid by reason only of a vacancy among the members thereof.

2. Disclosure of interest by Committee members

- (i) If a member is directly or indirectly interested in any matter, before the Committee and is present at a meeting of the Committee at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or

vote on, any questions with respect to the matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

- (ii) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
- (iii) A member of the Committee who contravenes subparagraph (i) commits an offence and is liable to imprisonment for a term not exceeding one year, or to a fine not exceeding one hundred thousand shillings, or both.

3. Minutes

- (i) The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.