




Draft

Mr. Jeremiah Nyegenye, CBS
The Clerk of the Senate
National Assembly, Clerks Chambers
Parliament Buildings
P. O BOX 41842 00100
NAIROBI.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 JUL 2020	
DAY: <input type="text"/>	
TABLED BY:	Lomp
CLERK-AT THE TABLE:	pmk

10.07.2020

Dear

RE: THE CROPS (SUGAR) (IMPORTS, EXPORTS & BY-PRODUCTS) REGULATIONS, 2020.

Please refer to the above subject matter.

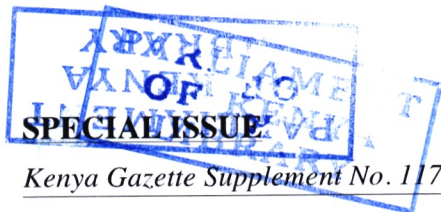
Following the enactment of the Crops Act, 2013 the Ministry of Agriculture, Livestock, and Fisheries & Cooperatives has now prepared the Crops (Sugar) (Imports, Exports & By-products) Regulations, 2020 for the Sugar sub-sector. The said regulations have gone through the requisite statutory processes and been published through the office of the Attorney General.

In line with the provisions of the Statutory Instruments Act, please find attached the said regulations together with the requisite statutory documents for consideration by the National Assembly Committee on Delegated Legislation

- a) The Crops (Sugar) (Imports, Exports & By-products) Regulations 2020 (The hard copy from the Government printers will be availed once available).
- b) Explanatory Memorandum.
- c) Regulatory Impact Statement.
- d) A copy of the Notification of the preparation of Regulatory Impact Statement for the Regulations in the Kenya Gazette and in the Newspaper.
- e) Report on stakeholder Comments and Submissions.
- f) The certificate indicating compliance with provisions of the Statutory Instruments Act.

Hon Peter Munya, MGH
Cabinet Secretary

Encls



Kenya Gazette Supplement No. 117

1539

10th July, 2020

(Legislative Supplement No. 76)

LEGAL NOTICE No. 125

THE CROPS ACT

(No. 16 of 2013)

IN EXERCISE of the powers conferred by section 40(1) of the Crops Act, 2013, the Cabinet Secretary for Agriculture, Livestock, Fisheries and Co-operatives, in consultation with the Agriculture and Food Authority and the County Governments, makes the following Regulations—

THE CROPS (SUGAR) (IMPORTS, EXPORTS AND BY-PRODUCTS) REGULATIONS, 2020

1. These Regulations may be cited as the Crops (Sugar) (Imports, Exports and By-products) Regulations, 2020.

Citation.

2. In these Regulations, unless the context otherwise requires—

Interpretation.

“COMESA” means the organisation established by the Treaty establishing the Common Market for Eastern and Southern Africa, 1994;

“consignment” means sugar or a by-product of sugar, to be exported or imported, by an exporter or importer, who has a valid export permit or import permit, as the case may be;

“export permit” means an permit issued by the Authority in accordance with regulation 3;

“exporter” means a person who exports sugar or a by-product of sugar;

“import permit” means a permit issued by the Authority in accordance with regulation 6;

“importer” means a person who imports sugar or a by-product of sugar;

“permit” means an export permit, import permit, pre-export permit, pre-shipment permit or a release order, issued in accordance with these Regulations;

“PIN” has the meaning assigned to it in the Tax Procedures Act, 2015;

No. 29 of 2015.

“register” means the register of maintained by the Authority under regulation 5;

“tax compliance certificate” has the meaning assigned to it in the Tax Procedures Act, 2015;

No. 29 of 2015.

“tax registration certificate” has the meaning assigned to it in the Value Added tax Act, 2013;

No. 35 of 2013.

3. (1) A person who intends to import or export sugar shall apply to the Authority for registration in Form 1 set out in the First Schedule.

Registration of dealers.

(2) A person who intends to import or export, a by-product of sugar shall apply to the Authority for registration in Form 1 set out in the First Schedule.

(3) An application made under sub-regulation (1) or (2), shall be accompanied by the payment of the registration fee set out in the Second Schedule.

(4) Where the Authority approves an application under sub-regulation (1) or (2), it shall—

- (a) record the name and such other particulars as may be required, of the applicant in the register; and
- (b) issue the applicant with a certificate of registration in Form 2 set out in the First Schedule.

4. In considering applications for permits, the Authority shall rely on the COMESA and the Community Annual Quota Export Allocation and the market deficit, the Authority shall provide guidelines to applicants.

Consideration of applications for a permit.

5. (1) The Authority shall maintain a register of all importers and exporters who have been registered in accordance with these Regulations.

Exporters and importers register.

(2) The Authority shall maintain a register of all importers and exporters who have been granted permits in accordance with these Regulations.

6. (1) A person who intends to import sugar or a by-product of sugar shall apply for an import permit in Form 3 set out in the First Schedule.

Permits for importers.

(2) An application made under subregulation (1) shall be accompanied by—

- (a) the profile of the applicant;
- (b) a copy of certificate of incorporation or certificate of registration of the applicant (if the applicant is a company or registered entity);
- (c) a copy of the applicant's valid business permit at the time of making the application;
- (d) the applicant's latest audited accounts;
- (e) a copy of the applicant's PIN certificate;
- (f) a copy of the applicant's tax registration certificate;
- (g) a copy of the applicant's memorandum of association (if the applicant is a company);
- (h) a copy of the applicant's articles of association (if the applicant is a company);

- (i) a copy of the identity cards or passports of each of the applicant's directors (if the applicant is a company);
- (j) a copy of the profile of each of the applicant's directors (if the applicant is a company);
- (k) a copy of the applicant's valid tax compliance certificate;
- (l) a copy of a valid certificate of good conduct for each of the applicant's directors (if the applicant is a company);
- (m) a copy of the applicant's valid certificate of good conduct (if the applicant is an individual); and
- (n) proof of payment of the prescribed fee set out in the Second Schedule.

(3) If the Authority approves an application made under subregulation (1), it shall issue an import permit in Form 4 set out in the First Schedule to the applicant.

(4) The import permit issued under subregulation (3) shall be valid for a period of one year.

(5) The import permit issued under subregulation (3) shall not be transferrable.

(6) A holder of a valid import permit shall apply for a pre-shipment permit for the importation of each consignment in Form 5 set out in the First Schedule.

(7) An application made under subregulation (6) shall be accompanied by the documents referred to in regulation 9(2).

(8) If the Authority approves an application made under subregulation (6), it shall issue a pre-shipment permit in Form 6 set out in the First Schedule to the applicant.

7. (1) A person who intends to export sugar or a by-product of sugar shall apply for an export permit in Form 3 set out in the First Schedule.

Permits for exporters.

(2) An application under subregulation (1) shall be accompanied by—

- (a) the profile of the applicant;
- (b) a copy of certificate of incorporation or certificate of registration of the applicant (if the applicant is a company or registered entity);
- (c) a copy of the applicant's valid business permit at the time of making the application;
- (d) the applicant's latest audited accounts;
- (e) a copy of the applicant's PIN certificate;
- (f) a copy of the applicant's tax registration certificate;
- (g) a copy of the applicant's memorandum of association (if the applicant is a company);
- (h) a copy of the applicant's articles of association (if the applicant is a company);

- (i) a copy of the identity cards or passports of each of the applicant's directors (if the applicant is a company);
- (j) a copy of the profile of each of the applicant's directors (if the applicant is a company);
- (k) a copy of the applicant's valid tax compliance certificate;
- (l) a copy of a valid certificate of good conduct for each of the applicant's directors (if the applicant is a company);
- (m) a copy of the applicant's valid certificate of good conduct (if the applicant is an individual); and
- (n) proof of payment of the prescribed fee set out in the Second Schedule.

(3) If the Authority approves an application made under subregulation (1), it shall issue an import permit in Form 4 set out in the First Schedule to the applicant.

(4) The export permit issued under subregulation (3) shall be valid for only one year.

(5) The export permit issued under subregulation (3) shall not be transferrable.

(6) A holder of a valid export permit shall apply for a pre-export permit for the importation of each consignment in Form 5 set out in the First Schedule.

(7) An application made under subregulation (6) shall be accompanied by the documents referred to in regulation 9(2).

(8) If the Authority approves an application made under subregulation (6), it shall issue a pre-export permit in Form 6 set out in the First Schedule to the applicant.

8. The Authority shall determine the quantity of sugar that may be required from manufacturers for domestic consumption while accounting for any shortfall in domestic production of sugar.

Determine of
distribution of sugar
in the market.

9. (1) The Authority shall physically verify each consignment before issuing a release order in respect of that consignment.

Inspection of
consignments.

(2) A person whose consignment is being verified under subregulation (1) shall submit to the Authority, duly certified copies of—

- (a) the customs entry or exit documents for the consignment;
- (b) a proof of payment of taxes by the exporter from whom the consignment was procured;
- (c) the invoice and proof of payment for the consignment from the exporter or importer;
- (d) the identification and contact details of the exporter or dealer from whom the consignment was procured;

- (e) the certificate of origin of the consignment;
- (f) the phytosanitary permits, certificates, permits for the consignment; and
- (g) the certificate of conformity in respect of the consignment.

10. (1) After a consignment has been verified in accordance with regulation 9, the Authority may issue a release order in Form 7 set out in the First Schedule.

Release order.

(2) The release order issued under subsection (1) shall authorise the consignment to be released to the holder of a valid export permit or import permit, as the case may be.

11. (1) A holder of an export permit shall submit monthly returns of their consignments in Form 8 set out in the First Schedule to the Authority.

Monthly returns.

(2) A holder of an import permit shall submit monthly returns of their consignments in Form 8 set out in the First Schedule to the Authority.

12. (1) A person shall not pack sugar or a by-product of sugar, into a package of a different quantity, material or brand from the original packaging, without the approval of the Authority.

Repackaging of consignments.

(2) An application for approval under subregulation (1) shall be made in Form 9 as set out in the First Schedule to the Authority

(3) A package of an imported consignment, whether repackaged or in its original packaging, shall carry, in bold print, the name and contact details of the manufacturer, country of origin, and the vendor and purchaser, of the consignment.

13. (1) A approved importer of sugar or a by-product of sugar, who wishes to rebrand a consignment shall apply for a permit from the Authority before rebranding the sugar.

Rebranding of consignments.

(2) A person who does not comply with subregulation (1) commits an offence.

14. Sugar that is smuggled or otherwise imported without the authority of the Authority shall be deemed to be prohibited goods under section 18 (2) of the East African Community Customs Management Act, 2004.

Smuggling.
No. 1 of 2005.

15. The Authority may cancel the import or export permit, or a pre-shipment permit or pre-export permit, issued to a person who contravenes these Regulations.

Cancellation of permits.

16. (1) An applicant for or holder of a permit who is aggrieved by a decision of the Authority on or in respect of—

Appeals.

- (a) the grant, refusal to issue, variation or revocation; or
- (b) the conditions imposed on the grant or variation, of a permit, may appeal to the Cabinet Secretary.

(2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision.

17. The Sugar (Imports, Exports and By-products) Regulations, 2008. are revoked.

Revocation of L. N.
No. 114 of 2008

FIRST SCHEDULE

(r. 3(1), (2), (4) (b) 6(1), (3), (6), (8), 7(1), (3), (6), (8), 10(1), 11(1), (12(2))

FORMS

AGRICULTURE AND FOOD AUTHORITY



FORM 1
(r. 3(1), (2))

APPLICATION FOR REGISTRATION AS IMPORTER/ EXPORTER

1. Name of applicant:
.....
2. Categories (tick as appropriate)

a.	Exporter	brown sugar	<input type="checkbox"/>
		white refined sugar	<input type="checkbox"/>
		by-product of sugar	<input type="checkbox"/>
b.	Importer	brown sugar	<input type="checkbox"/>
		white refined sugar	<input type="checkbox"/>
		by-product of sugar	<input type="checkbox"/>

3. Registered address:.....
 Building:.....
 Street:.....
 Town/City:.....
 L. R. No.:.....
 Telephone Number:.....
 E-mail address:.....
 Postal Address:.....
4. Date of Incorporation (if company):.....
 Registration No:.....

5. Full names, addresses and occupations of the directors:

<i>Name</i>	<i>Address</i>	<i>Occupation</i>
a.		
b.		
c.		
d.		

6. Branch Office(s) if any

Address:.....

Building:.....

Town/City:.....

L. R. No.:.....

Telephone

E-mail:.....

Postal Address:.....

a. Address:.....

Building:.....

Street:.....

Town/City:.....

L. R. No.:.....

Telephone

E-mail:.....

Postal Address:.....

7. Declarations

a. I/We certify that we have read and understood the provisions of the Crops Act, 2013 and the regulations made there under.

b. I/We also understand that the registration certificate granted on this application may be cancelled and penalties may be imposed on each of us if any document or statement submitted by us in the course of this application is false or materially misleading.

Date.....

Name of Director.....

Signature

Name of Director.....

Signature

Name of Secretary.....

Signature

FORM 2

r.3(4)(b)

AGRICULTURE AND FOOD AUTHORITY
SUGAR DIRECTORATE

Serial No.: AFA/SD/.....
License No.....

Importers's/Exporters

EXPORTER/IMPORTER CERTIFICATE OF REGISTRATION

THIS IS TO CERTIFY that
..... of

Physical Address Postal Address

Email..... Telephone: located in

County..... Sub-County..... Ward

Is hereby issued with a certificate of registration as a Suagr Exporter/Importer (Delete appropriately) beginning thisday of20.....

Date: Signed:

Valid from To.....

Official Stamp

*Director-General,
Agriculture and Food Authority*

This certificate of Registration is not transferable

AGRICULTURE AND FOOD AUTHORITY



FORM 3

(r. 6(1), 7(1))

APPLICATION FORM FOR AN IMPORT/EXPORT PERMIT

1. Name of applicant:

.....

Registration number:.....

(attach a copy of the certificate of registration)

2. Categories (tick as appropriate)

a.	Exporter	brown sugar	<input type="checkbox"/>
		white refined sugar	<input type="checkbox"/>
		by-product of sugar	<input type="checkbox"/>
b.	Importer	brown sugar	<input type="checkbox"/>
		white refined sugar	<input type="checkbox"/>
		by-product of sugar	<input type="checkbox"/>

3. I/We enclose the following required certified documentation in support of our application:

- a. the profile of the applicant;
- b. a copy of certificate of incorporation or certificate of registration of the applicant (if the applicant is a company or registered entity);
- c. a copy of the applicant's valid business permit at the time of making the application;
- d. the applicant's latest audited accounts;
- e. a copy of the applicant's PIN certificate;
- f. a copy of the applicant's tax registration certificate;
- g. a copy of the applicant's memorandum of association (if the applicant is a company);
- h. a copy of the applicant's articles of association (if the applicant is a company);
- i. a copy of the identity cards or passports of each of the applicant's directors (if the applicant is a company);

- j. a copy of the profile of each of the applicant’s directors (if the applicant is a company);
- k. a copy of the applicant’s valid tax compliance certificate;
- l. a copy of a valid certificate of good conduct for each of the applicant’s directors (if the applicant is a company);
- m. a copy of the applicant’s valid certificate of good conduct (if the applicant is an individual); and
- n. proof of payment of the prescribed fee.

4. Declarations

- a. I/We certify that we have read and understood the provisions of the Crops Act, 2013 and the regulations made there under.
- b. I/We also understand that the export permit/import permit granted on this application may be cancelled and penalties may be imposed on each of us if any document or statement submitted by us in the course of this application is false or materially misleading.

Date.....

Name of Director..... Signature

Name of Director..... Signature

Name of Secretary..... Signature

AGRICULTURE AND FOOD AUTHORITY



FORM 4

(r. 6(3), 7(3))

Permit Number:.....

IMPORT/EXPORT PERMIT

Issued to

.....
(Insert the name of the successful applicant and their registration number)

This Permit is valid from
.....to.....

In respect of—

a.	Exporter	brown sugar	
		white refined sugar	
		by-product of sugar	
b.	Importer	brown sugar	
		white refined sugar	
		by-product of sugar	

.....
Director-General

Date of issue.....

Official stamp.

Kindly note:

1. The holder of this Permit shall submit their returns quarterly without fail.
2. This Permit is not transferrable.
3. The holder of this Permit shall apply for a pre-shipment permit, a pre-export permit, and a release order, in respect of each consignment.

AGRICULTURE AND FOOD AUTHORITY



FORM 5
(r. 6(6), 7(6))

APPLICATION FORM FOR A PRE-SHIPMENT PERMIT/PRE-EXPORT
PERMIT

1. Name of applicant:

.....

Permit Number:.....

(attach a copy of the import permit/export permit)

2. Categories (tick as appropriate)

a.	exporter	brown sugar	
		white refined sugar	
		by-product of sugar	
b.	importer	brown sugar	
		white refined sugar	
		by-product of sugar	

3. I/We enclose the following required certified documentation in support of our application:

- (a) the dated Bill of Lading and Imports Declaration Form, for the consignment;
- (b) a proof of payment of taxes by the exporter from whom the consignment was procured;
- (c) the invoice and proof of payment for the consignment from the exporter or importer;
- (d) the identification and contact details of the exporter or dealer from whom the consignment was procured;
- (e) the certificate of origin of the consignment;
- (f) the phytosanitary permits, certificates, permits for the consignment; and
- (g) the certificate of conformity in respect of the consignment.

5. Declarations

- (a) I/We certify that we have read and understood the provisions of the Crops Act, 2013 and the regulations made there under.
- (b) I/We also understand that the pre-export permit/pre-shipment permit granted on this application may be cancelled and penalties may be imposed on each of us if any document or statement submitted by us in the course of this application is false or materially misleading.

Date.....

Name of Director.....Signature

Name of Director.....Signature

Name of Secretary.....

Signature

AGRICULTURE AND FOOD AUTHORITY



FORM 6

(r. 6(8), 7(8))

Pre-Shipment/Pre-Export Permit Number:.....

PRE-SHIPMENT PERMIT/PRE-EXPORT PERMIT

Issued to

.....
(Insert the name of the successful applicant and their import/export permit number)

This Permit is valid fromto.....

In respect of—

a.	Exporter	brown sugar	
		white refined sugar	
		by-product of sugar	
	Details of consignment to be exported	
b.	importer	brown sugar	
		white refined sugar	
		by-product of sugar	
	Details of consignment to be imported	

.....
 Director-General

Date of issue.....

Official stamp.

Kindly note:

1. The holder of this Permit shall submit their returns quarterly without fail.
2. This Permit is not transferrable.
3. The holder of this Permit shall obtain a release order, in respect of each consignment at the port of entry/exit during clearance.

AGRICULTURE AND FOOD AUTHORITY



FORM 7
(r. 10(1))

Release Order Number:.....

RELEASE ORDER

Issued to

.....
(Insert the name of the exporter or importer and their pre-shipment /pre-export permit number)

This Release Order is valid from
to.....

In respect of—

- a. exporter brown sugar
 white refined sugar
 by-product of sugar

Details of consignment to be exported

- (1) Declarant/Clearing Agent:.....

(2) Number of Containers:

-
-
- (3) Quantity in Metric
Tonnes.....
-
-
- (4) Entry Number:
.....
-
- (5) UCR Number:
.....
-
- (6) Country of Origin:
.....
-
-

b. Importer

brown sugar
white refined sugar
by-product of sugar

Details of
consignment to
be imported

- (1) Declarant/Clearing
Agent:.....
-
- (2) Number of Containers:
.....
-
- (3) Quantity in Metric
Tonnes.....
-
- (4) Entry Number:
.....
-
- (5) UCR Number:
.....
-
- (6) Country of Origin:
.....
-
-

Verification Officer Details:

- (a) Batch Number:
- (b) Production Date:
- (c) Expiry Date:
- (d) Number of Containers Verified:

Name of Officer

Sign.....

Date

Stamp.....

AGRICULTURE AND FOOD AUTHORITY



FORM 8
(r. 11(1))

RETURNS FOR AN EXPORTER/IMPORTER

1. Name of Exporter/Importer:
.....
Registration number:.....
(attach a copy of the certificate of registration)
2. Details of consignments imported or exported:
 - a. Port and Country of origin:
.....
 - b. Manifest Numbers at Gazetted entry points
 - c. Quantity
 - d. C.I.F. value:.....
3. Utilization of imports. Please give detailed breakdown of utilization under following categories: (If space is inadequate provide attachment)
 - (a) Direct human consumption (give a full list of purchasers, addresses, physical location and quantities purchased)

-

- (b) Industrial manufacturing (specify type of products in which sugar was used and production returns for the period)

- (c) Raw sugar for processing (specify quality of raw sugar processed into mill white, refined sugar, brown sugar or other by-products. Also give a full list, addresses and physical locations of all the end users of the processed goods.)

- (d) Transit sugar (provide full details of the quantities imported and exported including the dates of actual export at entry and exit points. Also attach copies of re-export certificates duly signed)

4. Full name and address of purchasers or vendors, to who consignments were sold or bought from:

5. Name and address of warehouses where consignments were inspected:

6. Consignment short shipment if (any):

<i>Manifest Number</i>	<i>Invoice Nos.</i>	<i>Type of consignment</i>	<i>Net Weight (kilograms)</i>
a.			
b.			
c.			

(If space provided is not adequate provide an attachment.)

NB: Applicant to attach certified copies of the following documents for verification.

- (a) Sale contract
- (b) Letter of credit / Telegraphic Transfer Documents
- (c) Commercial invoice
- (d) Brokers invoice; and
- (e) Sugar Development Levy payment slip.

Date.....

Name of Director.....

Signature

Name of Director..... Signature
.....

Name of Secretary..... Signature
.....

For official use:

.....
Director-General

Date of issue.....

Official stamp.

Form 9

(r. 12 (2))

APPLICATION FOR REGISTRATION OF SUGAR
REPACKAGING

To

Agriculture and Food Authority,

1./We.....(Officials

.....(Name of
Association/Institution)

2. Physical Address:.....Market.....Location

Sub-County

3. Land Ref. No.....

4. Postal Address:.....

Tel:..... Fax: E-mail

5. (name of applicant) apply for
the registration of (name of
brand).

6. Copies of the following documents are attached to this application

- a. Trademark registration certificate;
- b. Sample of the brand
- c. Certificate of Incorporation or Business name.
- d. ID or Passport of Directors

8. Project Objectives

- a.
- b.
- c.

Contact Details:

Name: Title:

Telephone:..... Fax:

Email.....

SECOND SCHEDULE

(r. 3(3), 6 (2)(n), 7(2)(n))

FEES

No.	Particulars of Service	Amount in Kshs.
1.	Registration of an exporter or importer.	100,000/-
2.	Issuance of an export permit or an import permit.	100,000/-

Made on the 9th June, 2020.

PETER MUNYA,
*Cabinet Secretary, Ministry of Agriculture,
 Livestock, Fisheries and Co-operatives.*

Draft

Mr. Michael Sialai, EBS,
The Clerk of the National Assembly,
The National Assembly, Clerk's Chambers,
Parliament Buildings,
P. O BOX 41842 – 00100,
NAIROBI

10.07.2020

Dear

**RE: THE CROPS (SUGAR) (IMPORTS, EXPORTS & BY-PRODUCTS)
REGULATIONS, 2020.**

Please refer to the above subject matter.

Following the enactment of the Crops Act, 2013 the Ministry of Agriculture, Livestock, and Fisheries & Cooperatives has now prepared the Crops (Sugar) (Imports, Exports & By-Products) Regulations, 2020 for the Sugar sub-sector. The said regulations have gone through the requisite statutory processes and been published through the office of the Attorney General.

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Yours

Hon Peter Munya, MGH
Cabinet Secretary

Encls