### THE DAIRY INDUSTRY ACT

**(Cap. 336)**

**THE DAIRY INDUSTRY (DAIRY INSPECTORS) REGULATIONS, 2020**

**ARRANGEMENT OF REGULATIONS**

<table>
<thead>
<tr>
<th>PART I- PRELIMINARY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Citation</td>
<td></td>
</tr>
<tr>
<td>2. Interpretation</td>
<td></td>
</tr>
<tr>
<td>3. Application</td>
<td></td>
</tr>
<tr>
<td>4. Objects of Regulation</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PART II – APPOINTMENT OF DAIRY INSPECTORS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Appointment of Dairy Inspector</td>
<td></td>
</tr>
<tr>
<td>6. Qualifications of Dairy Inspectors</td>
<td></td>
</tr>
<tr>
<td>7. Board to keep register</td>
<td></td>
</tr>
<tr>
<td>8. Revocation of Dairy Inspector</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PART III – APPOINTMENT AND CONDUCT OF DAIRY INSPECTOR</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Identification of dairy inspector</td>
<td></td>
</tr>
<tr>
<td>10. Prohibition of conflict of interest</td>
<td></td>
</tr>
<tr>
<td>11. Duties of dairy inspector</td>
<td></td>
</tr>
<tr>
<td>12. Presence of police officer required to enter business premise</td>
<td></td>
</tr>
<tr>
<td>13. Powers of a dairy inspector</td>
<td></td>
</tr>
<tr>
<td>14. Collection of Samples and Relevant Information</td>
<td></td>
</tr>
<tr>
<td>15. Presence of a dairy business operator, assignee or agent during inspection</td>
<td></td>
</tr>
<tr>
<td>16. Seizure and destruction of dairy produce</td>
<td></td>
</tr>
<tr>
<td>17. Protection of information</td>
<td></td>
</tr>
<tr>
<td>18. Offence by a dairy inspector</td>
<td></td>
</tr>
<tr>
<td>19. Offence to obstruct a dairy inspector</td>
<td></td>
</tr>
<tr>
<td>20. Offence for abating violation of the Regulation</td>
<td></td>
</tr>
<tr>
<td>21. Revocation of LN No.215/1964</td>
<td></td>
</tr>
</tbody>
</table>

Sub Leg
# THE DAIRY INDUSTRY (DAIRY INSPECTOR) REGULATIONS, 2020

## PART I — PRELIMINARY

<table>
<thead>
<tr>
<th>Citation</th>
<th>1. These Regulations may be cited as the Dairy Industry (Dairy Inspector) Regulations, 2020.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpretation</td>
<td>2. In these Regulations, unless the context otherwise requires,—</td>
</tr>
</tbody>
</table>

### Cap 336

- “Act” means the Dairy Industry Act;
- “Board” means Kenya Dairy Board established under the Dairy Industry Act;
- “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to dairy industry;
- “dairy inspector” means a dairy inspector appointed under clause 4 of these regulations.

<table>
<thead>
<tr>
<th>Application</th>
<th>3. These Regulations shall apply to all dairy inspectors and all aspects of inspection in the dairy industry.</th>
</tr>
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</table>
| Objects of the Regulation | 4. The objects of these Regulation are —  
(a) to provide mechanisms for inspection of primary producers and dairy business operators;  
(b) to provide for procedures and contact of dairy inspectors |

## PART II — APPOINTMENT OF DAIRY INSPECTOR

5. The Board shall appoint qualified persons to be dairy inspectors for the purpose of these regulations and such appointment shall be affected through a gazette notice to exercise the powers and perform the duties of a dairy inspector for purposes of these regulations.

6. A person shall qualify for appointment as dairy inspector if the person:
The Dairy Industry (Dairy Inspector) Regulations, 2020

a) possesses a diploma or other higher qualification in Dairy, animal or Food Science, Public Health, Veterinary Science or any other related fields, and  
b) has a minimum of two years’ experience in the dairy industry or any other related field as the Board may approve;  
c) is an employee of the Board, National or County Government

**Board to keep register**

7. (1) The Board shall keep a register of Gazzeted Dairy Inspectors.  
2) Whenever one ceases to be a dairy inspector under this regulation he/she shall be deleted from the inspectors’ register

**Revocation of Dairy Inspector**

8. (1) An appointment made under regulation (6) may be revoked if the dairy inspector is in contravention of any of the provisions of these regulations.  
An inspector whose appointment has been revoked may appeal to the Chairman of the Board.

**PART III –APPOINTMENT AND CONDUCT OF DAIRY INSPECTOR**

| Identification of dairy inspector | 9. (1) Every dairy inspector appointed under these Regulations shall be issued with a photo identity card duly stamped and signed by the Board’s authorized officer  
(2) The Board shall put in place a system for verifying the legitimacy of the dairy inspector for purposes of undertaking the requirements of these regulations.  
(3) The dairy inspector shall carry the dairy inspector’s card at all times when the dairy inspector is performing duties under these regulations and shall produce it upon entering any place or engaging any person to be inspected under these regulations whether or not the dairy inspector is required to do so by the person who is, for the time being, in charge of the undertaking.  
(4) The dairy inspector shall ensure that the identification document is-  
(a) at all times secured when not in use to avoid unauthorized use;  
(b) legible and clear for proper identification and when lost, defaced or destroyed, reported and replaced immediately; and  
(c) immediately returned to the Board upon ceasing to be a dairy inspector and if not returned for whatever reason, the Board shall revoke the appointment and degazette the inspector. |
| --- | --- |
| Prohibition of conflict of interest | 10. (1) No person shall, while still validly holding the position of a dairy inspector under these regulations, engage in any dairy business other than for primary production.  
(2) In undertaking the duties of a dairy inspector, the person shall observe relevant laws and rules which govern conflict of interest.  
(3) Inspection of dairy farms shall not include sanitary requirements as provided under the Animal Diseases Act. |
| Duties of dairy inspector | 11. A dairy inspector: — |
(a) shall have the power to inspect dairy farms, milk collection centers, transporters, milk bars, dispenser, cottage industries, mini dairies, milk processing plants, dairy equipment and any other place, facility or structure which the Board directs that it is in the interests of the public that such place, facility, structure, area or operation should be inspected in order to determine compliance with the requirements of these regulations.

(b) may at any reasonable time, enter any premises, dispenser, plant, facility, structure, place or area where the dairy inspector reasonably suspects, knows or in connection with which he has received information to the effect that dairy activities are being conducted or are about to be conducted therein or thereon, and conduct an inspection for purposes of ascertaining whether or not the premises, dispenser, plant, facility, structure, place or area is duly permitted for purposes of dairy business under the Act;

(c) where the inspector has reason to believe that the dairy product, material, substance, equipment or other thing which is the subject of inspection under these regulations, or any record or thing connected therewith, is in a dwelling house, the dairy inspector shall request the occupant thereof for permission to instantly enter the house to conduct inspection.

12. Where a dairy business operator declines, neglects or unduly delays to grant permission, the inspector shall seek the assistance of the nearest police officer to facilitate a forced entry into the business premise and the officer as well as the occupant shall stay with the inspector until the inspection is satisfactorily concluded.

13. (1) Any dairy inspector who is required to conduct an inspection under the provisions of regulation 11 may—

(a) at any reasonable time, enter premises whether, plant, facility, structure, place or area in connection with which he has reason to believe that an offence under this regulation is being, is about to or has been committed, in order to investigate and obtain evidence;

(b) examine or test or cause to be examined or tested, any dairy produce to which the Act and its regulations applies and which is found in or at such premises, plant, facility, structure, place or area;

(c) examine or test or cause to be examined or tested any equipment, material, substance or other article which is used or is suspected to be used at or in connection with the collection, evaluation, processing, packing or storing of any dairy produce;

(d) inspect the operations or process in connection with any action referred to in paragraph (c), and demand from the owner or custodian of the dairy produce, equipment, material, substance or things concerned, or from the person who has it in his custody, or who
supervises such operations or processes any information or an explanation regarding the operation, process, material, substance or thing;

(e) order correction of non-compliances detected or closure of dairy or any related business in the manner specified in the inspection notice set out in Form B of the schedule;

(f) examine and make copies of or take extracts from any book or document in respect of which he reasonably suspects that it relates to such dairy produce, material or any other thing, irrespective of whether or not it is kept on or at the place, premises, facility or conveyance concerned or at any other place or area, and demand from the owner of such book or document or from the person who has it in his custody an explanation regarding any record or entry therein;

(g) seize and remove from any premises, place, area or vehicle any dairy produce, or the whole or any part of material, substance, equipment or any other thing, or any book or document relating to such dairy produce, premises, place, area or vehicle, material, substance or other article or sale of the dairy produce, material, substance or thing which he has reasonable cause to believe affords evidence of contravention of any of the provisions of the Act and its’s regulations.

(h) examine any dairy produce, product, material, substance, equipment or any other thing and—

(i) if, in the dairy inspector professional determination, there is need for further analysis, take samples thereof in such quantities as is reasonable in the circumstances and give a dairy business operator the reason for his determination; and

(ii) where dairy inspector determines that there is nothing wrong with the produce, material, substance, equipment or thing, make a record covering the relevant period of inspection accordingly and give a copy of that record to a dairy business operator; or

(iii) as soon as the results of the analysis are known, inform a dairy business operator in writing of the same including, if any, remedial actions the dealer may be required to take.

(i) inspect any process or operation, manufacture, production, processing, mixing, packaging or treatment that may relate to any dairy product which is or appears to be carried out in those premises or places for purposes of determining whether or not the provisions the Act and these regulations are being contravened; and

(j) require from a dairy business operator or any person whom he reasonably believes to be in charge or control of any premises, place, dairy produce, material, substance or thing being inspected, to supply information or produce for inspection or for the purpose of obtaining copies thereof or extracts therefrom, any books, records, receipts, invoices, shipping bills, bills of lading, documents containing mixing
instructions, operational procedures or other documents or papers which are reasonably suspected or expected to be in the operator’s possession the production of which will render successful inspection.

(2) Any seizure or confiscation made under these Regulations shall be recorded in Form A as set out in the first Schedule.

| Collection of Samples and Relevant Information | 14. (1) Any sample taken pursuant to these regulations shall be taken:  
(a) free of charge from a dairy business operator;  
(b) by the dairy inspector with such care not to prejudice the results and in the best opinion of the dairy inspector that the sample is representative of the whole; and  
(c) in accordance with the method of sampling prescribed in the relevant Kenya standard, in the presence of a dairy business operator; and if the dealer is not there for whatever reason, in the presence of any assignee or agent of a dairy business operator whom the dairy inspector determines to be in charge of the premises, place, material, substance, equipment or thing being inspected, and in the absence of any such assignee or agent, the dairy inspector shall take the sample and document the circumstances under which the sample was taken.  
(2) A dairy business operator or assignee or agent, as the case may be, and any other person found in the place where inspection takes place, shall give the dairy inspector all reasonable assistance, including the actual taking of samples, as the dairy inspector may require to enable carrying out of duties under these regulations and shall furnish the dairy inspector with any other information which may reasonably be required with respect to the purposes of these regulations.  
(3) In the course of the performance of dairy inspector’ duties under these regulations, the dairy inspector may put any relevant question to a dairy business operator assignee or agent.  
(4) Where a dairy inspector inquires about any information by asking a question, the owner, assignee or agent shall be obligated to fully, honestly and without undue delay furnish the answer to the question; and, where the question put requires the preparation of written answer or some prior inquiry, the dairy inspector shall allow the owner, assignee or agent reasonable time, but in any case, not exceeding seven days, in the circumstances to prepare and furnish the written answer or the issue in question. |

| Presence of a dairy business operator, assignee or agent during inspection | 15. (1) A dairy inspector shall take such steps as are reasonably practicable to afford a dairy business operator of anything that is the subject of inspection under these regulations, an opportunity to be present during the inspection and the dairy business operator, assignee or agent shall have |
the right to put any relevant questions to the dairy inspector and the dairy inspector shall be obligated to answer unless the questions are calculated to, in any way, defeat the inspection.

(2) In return for taking away of any book, record, document, material or anything for purposes of inspection, the dairy inspector shall give to the person from whose custody any book, record, document, material or anything that has been taken away, the original of a duplicate confiscation note and such receipt shall fully indicate what has been taken away by the dairy inspector, be duly stamped by the dairy inspector’s official rubber stamp and signed by the person to whom the confiscation note is given and a copy of the receipt retained by the dairy inspector.

(3) If the person to whom the receipt is given as provided in sub regulation 2 refuses to sign the copy of the receipt, the dairy inspector shall document the circumstances leading to the occurrence and this shall be used as a prima facie evidence of obstruction of a dairy inspector.

(4) Anything taken away from a dairy business operator under this regulation shall, at the end of the purposes for which it was taken, and where practicable be expeditiously returned in whole or in part to the operator unless the thing taken affords evidence of an offence committed under the Act or its regulations.

Seizure and destruction of dairy produce

16. (1) A dairy inspector may at any time seize, any product, material, substance, article, plant and machinery, or any other thing which he has reason to believe or about which he has received credible information to the effect that it has been used or is about to be used in contravention of the provisions of the Act or its regulations.

where a dairy inspector confiscates any dairy produce for purposes of seizure, the dairy inspector shall issue a seizure receipt to the dairy business operator with the details of the dairy produce confiscated from in the manner set out in Form A of the first schedule.

Every seizure made under these regulations shall be reported without unnecessary delay to the nearest police station, who shall also be furnished with a copy of any written statement provided for in these regulations.

Any destruction pursuant to these regulations which is likely to endanger the environment or public health shall only be carried out in compliance with relevant regulations.
<table>
<thead>
<tr>
<th>Protection of information</th>
<th>17. All information obtained through the application of this regulation 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.</th>
</tr>
</thead>
</table>
| Offence by a Dairy Inspector | 18. Any dairy inspector who—  
(a) directly or otherwise solicits for, or receives in connection with any of his duties, a payment or other reward whatsoever, whether pecuniary or otherwise, or a promise or security for any such payment or reward whether or not he is entitled to claim;  
(b) enters into any agreement to do, abstains from doing, permit, conceal or connive at any act whereby the Board is or may be defrauded, or which is contrary to the provisions of these regulations or the power of execution of the duty of that dairy inspector;  
(c) discloses, except for the purposes of these regulations or when required to do so as a witness in a court of law or with the approval of the Board, information acquired by him in the performance of his duties relating to a person, premises, place, material, substance or thing being or already inspected, or  
(d) uses his position to improperly enrich himself or others,  
commits an offence and is liable on conviction to fine not exceeding ten thousand shillings imprisonment not exceeding twelve months or both. |
| Offence to obstruct a dairy inspector | 19. Any person who—  
(a) in any manner or style, willfully obstructs, impedes or hinders a dairy inspector or police officer accompanying the dairy inspector from exercising any of his powers or performing duties under these regulations;  
(b) knowingly makes a false statement in terms of questions put to him or information required from him under these regulations;  
(c) refuses or neglects to furnish any information or to produce any document, to attend at any place when required, or instigates any person to disobey or make it difficult for the dairy inspector to conduct inspection; |
| Offence for abetting violation of the Regulation | 20. Any person who in any way abets or facilitates the violation of any of the provisions of regulation (17) commits an offence under these regulations is liable to a fine not exceeding ten thousand shillings or an imprisonment not exceeding three months or to both such fine and imprisonment. |
FIRST SCHEDULE

FORM A               R .13(2)
THE DAIRY INDUSTRY (DAIRY INSPECTOR) REGULATIONS 2019
KENYA DAIRY BOARD
SEIZURE /CONFISCATION RECEIPT

The following dairy produce has been seized by………………………………………………………… on behalf of the Kenya Dairy Board in accordance with the powers given under the Dairy Industry (Dairy inspector) Regulations.

From (Name)………………………………………………………………...
Vehicle………………………………………………………………………………
(if bicycle list frame number)
Address……………………………………………………………………………………………………………….

Type and Quantity of dairy produce seized………………………………………………………………………………
Containers seized………………………………………………………………………………………………………………
Books or Records seized……………………………………………………………………………………………………
Any other item seized………………………………………………………………………………………………………………
How disposed of………………………………………………………………………………………………………………
Date………………………………… Signed………………………… Witness…………………………………………………

Note: The person issuing this receipt should ensure that he/she obtains a receipt from any person to whom he/she disposes or whom he leaves in charge of any item mentioned in this receipt.
THE DAIRY INDUSTRY (DAIRY INSPECTOR) REGULATIONS 2019

INSPECTION NOTICE/ORDER

S/No: ........................................

KENYA DAIRY BOARD
DAIRY INSPECTORATE DIVISION
INSPECTION NOTICE/ORDER

Branch: ______________________________________________________
Date: ______________________________________________________

INSPECTION PARTICULARS

Name of Premise: ____________________________________________
Located at: ________________________________________________
Licence No: _________________________________________________
Category: __________________________________________________

Volume of Milk (On site) __________________________ (Ltrs)
Nature of Milk: _____________________________________________

Following an inspection conducted at your premise(s) on (date) ______________ at (time) ______________ the following non-compliances were established:

i. ____________________________________________________________________________________________

ii. __________________________________________________________________________________________

iii. _________________________________________________________________________________________

iv. _________________________________________________________________________________________

v. _________________________________________________________________________________________

You are hereby notified that you are to correct the non-compliances identified at your premises [IMMEDIATELY] or [WITHIN FOURTEEN (14) DAYS] of this notice or [CLOSE THE BUSINESS OPERATIONS], failure to which necessary enforcement action will be undertaken in accordance with the Dairy Industry (Dairy inspector) Regulations.

Client Acknowledgement                                Dairy Inspector

Name______________________________________________
Name______________________________________________
Designation: __________________________        Designation: __________________________
Signature: __________________________        Signature: __________________________
Date: __________________________        Date: __________________________

DISTRIBUTION DETAILS:
ORIGINAL: CLIENT COPY        DUPLICATE: BRANCH FILE COPY        TRIPlicate: TO HEAD OFFICE
Dated the ………………………………………………………………………………………………………….2020

Peter Munya

Cabinet Secretary for Agriculture, Livestock, Fisheries and Co-operatives