

LAWS OF KENYA

THE TEA ACT

CHAPTER 343

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CHAPTER 343

THE TEA ACT

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CHAPTER 343

THE TEA ACT

Commencement: 9th May, 1961

An Act of Parliament to make provision for regulating and controlling the production, manufacture and export of tea, and for connected purposes

61 of 1960,
6 of 1962,
45 of 1963,
L.N. 365/1964
9 of 1967,
14 of 1971,
7 of 1975,
13 of 1978,
6 of 1979,
12 of 1985,
6 of 1999
L.N. 43/2000
L.N 107/2000

PART 1 – PRELIMINARY

1. This Act may be cited as the Tea Act.
2. In this Act, unless the context otherwise requires-

Short Title

Interpretation

9 of 1967, Sch.,
13 of 1978, Sch.
6 OF 1999

“Board” means the Tea Board of Kenya established by section 3;

“co-operative Society” means a co-operative society registered or deemed to be registered under the co-operative Societies Act;

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“Director” means the Director of Agriculture, and any person authorized by him to carry out the duties of Director under this act;

“buyer” means a person, company or firm engaged in buying made tea for resale in the local or export market;

“broker” means a person, or a company or firm established for the purpose of negotiating the purchase or sale of tea between producers and buyers;

“green tea leaf” means leaf detached from tea plants but not dried or processed in any way;

“grower” means any person who is cultivating tea in any area or who intends to plant and cultivate tea in any area;

“made tea” means the derivative from green tea leaf through a manufacturing process;

“management agent” means any person, co-operative society, marketing

Board or company established under any written law, that is appointed through a specific management contract or agreement by another person or company to perform or offer professional services in specific functions of production, processing or marketing of tea but does not include a buyer, broker or packer of tea;

“manufacturing licence” means a manufacturing licence issued under section 13;

“packer” means any person who packs tea into packets or containers holding not more than ten kilogrammes of tea intended for sale;

“producer” means a producer of tea and includes a smallholder or a plantation tea grower or his representative;

“registration” means registration of any person dealing in tea under this Act;

“smallholder” means a grower cultivating tea in a small piece or pieces of land who does not possess his own tea processing factory;

“sun-drying” means the manufacture of green leaf into made tea by using direct heat of the sun;

“tea factory” means a factory to process green tea leaf into made tea;

“tea manufacture” means the mechanical or chemical processing and conversion of green tea leaf into made tea or other tea products;

“tea plantation” means a large area of land on which tea is cultivated;

“licensee” means a person who holds a manufacturing licence under section 13;

“tea” means the plant known botanically as *Camellia Sinensis* and includes its seed, tea plants and the leaf, whether on the plant or detached therefrom, and, in the latter case, whether green tea or manufactured tea.

3. (1) There is established a Board to be known as the Tea Board of Kenya, which shall consist of-
- Establishment
of Board
6 of 1999
- (a) a chairman, who shall be elected by the members of the Board from amongst the members of the Board representing tea producers;
 - (b) the Permanent Secretary in the Ministry for the time being responsible for matters relating to Agriculture or a person deputed by him in writing;
 - (c) the Director of Agriculture or a person deputed by him in writing;
 - (d) one member nominated by tea trade organisations registered under the provisions of any written law at a meeting of the directors of the organisations convened by the Minister, to represent the interests of the tea trade;
 - (e) six members elected by the directors of tea factory companies at a meeting convened by the Minister, to represent the interests of smallholder tea growers, each of whom shall represent two zones;
 - (f) four members nominated by the Kenya Tea Growers Association to represent plantation tea growers;
 - (g) the Managing Director appointed under section 4A who shall be an *ex-officio* member of the Board;
 - (h) not more than two other members, nominated by the Board amongst persons who, in its opinion, possess knowledge and experience likely to be beneficial to the Board;
- (2) Repealed by 6 of 1999.
- (3) The Board may co-opt to serve on it for such length of time as it thinks fit any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Board or be counted as a member for the purpose of forming a quorum.
- (4) The Board shall elect a deputy chairman annually from amongst its members.
- (5) Repealed by 6 of 1999.

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Tea

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3A. (1) This section shall apply to the chairman and members of the Board other than the members appointed under paragraphs (b) and (c) of

Tenure of office

6 of 1967 sch.

section 3.

6 OF 1999
L.N. 43/200

- (2) The appointment of the chairman and every member of the Board to whom the section applies, shall be by name and by notice in the Gazette.
- (3) The Chairman and the members of the Board to whom this section applies shall hold office for a period of three years but shall be eligible for re-appointment.
- (4) The Chairman and any other member to whom this section applies may at any time, by a notice in writing under his hand addressed to the Minister, resign his office as such.
- (5) If the Minister is satisfied that the chairman or any other member to whom this section applies-
 - (a) has been absent from three consecutive meetings of the Board without the permission of the Board; or
 - (b) has become bankrupt or made an arrangement with his creditors; or
 - (c) is incapacitated by physical or mental illness; or
 - (d) has ceased to represent the interests in respect of which he is appointed; or
 - (e) is otherwise unable or unfit to discharge the functions of his office,

the Minister may declare his office as Chairman or a member of the Board, as the case may be, to be vacant, and shall notify the fact in such manner as the Minister thinks fit; and there-upon the office shall become vacant.

4. (1) It shall be the duty of the Board in exercise of its powers and in the performance of its functions to act in such manner as appears to it best calculated to promote the tea industry in Kenya.
- (1A) In the exercise of its powers and in the performance of its functions under this Act, the Board shall act in accordance with any general or special directions that may be given to it by the Minister.

Powers and
functions of
Board.

45 of 1963, s.9

6 of 1999

- (2) The functions of the Board shall include the carrying on of such activities and the doing of such things as are necessary, advantageous,

proper or for the benefit of tea growers and the tea industry, and, in particular but without prejudice to the generality of the foregoing, shall include-

- (a) Repealed by 6 of 1999;
 - (b) the licencing of tea factories;
 - (c) the regulation, control and improvement of the cultivation and processing of tea;
 - (d) the control of pests and diseases;
 - (e) monitoring trade in tea through registration of any person dealing in tea under this Act;
 - (f) investigation of, research into, and co-ordination of training in all matters relating to the tea industry.
- (3) The Board may authorise the Managing Director or any of its members, or any officer employed by it, to exercise on its behalf, at any time when it is not meeting, such of its powers as it may from time to time resolve.
- (4) The exercise of powers under subsection (3) shall, unless and so far as the Board may otherwise require, be reported without unreasonable to a meeting of the Board.
- 4A.** (1) There shall be a Managing Director of the Board who shall be appointed by the Board.
- (2) The Managing Director shall be responsible for the day to day management of the affairs of the Board and shall be the secretary to the Board.
- (3) The Board may appoint such officers or other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the Board may determine.
- 5.** (1) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

The Managing Director
officers and staff

Of the Board
6 of 1999.

Incorporation of Board
9 of 1967 Sch.
6 of 1999.

- (a) suing and being sued;

- (7) (Deleted by 9 of 1967, Sch).
- (8) Subject to this section, the Board shall have power to regulate its own proceedings, and may delegate to any member, committee of members or officer employed by the Board the power and authority to carry out on behalf of the Board such duties as it may determine.

7. (Repealed by 9 of 1967, Sch.).

PART III GROWING OF TEA

8. (1) Every tea grower shall, upon the commencement of this section, register with the tea factory to which he delivers green leaf, by supplying such particulars as the Board may, in regulations, prescribe.

Registration
of tea Growers
6 of 1999
L.N. 107/2000

(2) Upon the commencement of this section, every tea grower licenced by the Board or its agent shall be deemed to be a registered tea grower.

Provided that where the particulars supplied to the Board by such grower for purposes of licensing do not meet the requirements of any regulations prescribed under subsection (1), the grower shall comply with such requirements.

- (3) Where a person starts growing tea at any time after the commencement of this section, such person shall, within six months register with a tea factory in accordance with subsection (1).
- (4) Any change in the particulars supplied by a grower for purposes of registration in accordance with subsection (1) shall be notified to the Board or the tea factory in writing, without undue delay.
- (5) The tea factory shall maintain a register for the purposes of this part and shall record therein the particulars supplied in accordance with this section.
- (6) Where the tea factory has reasonable cause to believe that a person whose particulars are so recorded has ceased to be grower, it may, after giving that person written notification by registered post of its intention to do so, remove the name of such person from the register.

- (7) The register referred to in subsection (5) shall be *prima facie* proof of the fact that a person is a registered tea grower and the factory shall furnish the Board with particulars of all registered tea growers

in such manner as the Board may prescribe.

- (8) After the commencement of this section, any grower who carries on business as such without being registered in accordance with this section or knowingly or recklessly supplies false particulars, shall be guilty of an offence.

9. (Repealed by 6 of 1999).

10. (Repealed by 6 of 1999).

11. (Repealed by 6 of 1999).

12. (Repealed by 6 of 1999).

12A. (1) No person shall uproot tea except with the written authority of the Board.

Uprooting of tea
prohibited
6 of 1999

- (2) A person who contravenes the provisions of subsection (1) shall be guilty of an offence.

12B. Subject to this Act, the Board shall maintain a register, in form as it may determine, of all tea factories registering growers under this part and shall enter therein, in respect of each tea factory; ^{6 of 1999}

Register of
growers

- (a) the full names of the tea factory;
- (b) the date of issue of the licence;
- (c) the date of submission of annual returns of registered growers by the tea factory;
- (d) the particulars of numbers of registered growers, area planted with tea or variations of these particulars;
- (e) any other particulars the Board may deem necessary;

PART IV MANUFACTURE OF TEA

13. (1) No person shall manufacture tea for sale, whether by sun drying or otherwise, except under and in accordance with a licence issued by the Board.

No manufacture
of tea without

licence

(2) The Board may, after consultation with the Minister, issue a manufacturing licence, in accordance with rules made under this Act.

9 of 1967, Sch.
13 of 1978, Sch.
6 of 1999
L.N. 107/2000

(3) The Board may, after consultation with the Minister, cancel, vary or suspend any licence issued under this section, or suspend any such licence in respect of a specified factory only if in the findings of the Board, the licensee is found to have contravened the rules made under this Act for the operation of tea factories.

(4) Every application for a licence under this section shall be made in writing in the prescribed form.

13A. (1) Any person who:-

(a) manufactures tea for sale in contravention of section **13**;

Illegal manufacture,
possession, etc

(b) buys, sells, exposes for sale, transports or has in his possession any tea which to his knowledge or belief:-

13 of 1978, Sch
6 of 1979 Sch.

(i) has been grown, manufactured or dried otherwise than in accordance with this Act; or

6 of 1999

(ii) Deleted by 6 of 1999.

Shall be guilty of an offence and liable to a fine not exceeding five Hundred thousand shillings, or to imprisonment for a term not exceeding ten years, or to both.

(2) Where a person has in his possession or under his control any tea for which he is unable to account to the satisfaction of a person authorized under section 14 or 14A, such tea shall be deemed to have been grown, manufactured or dried otherwise than in accordance with this Act until the contrary is proved.

(3) Where a person is convicted of an offence under this section the court shall order that any tea and any vehicle, vessel or other conveyance in relation to which an offence has been committed shall be forfeited to the Government unless, in the case of a vehicle, vessel or other conveyance, the court sees good reason, to be recorded by it in writing, not to do so.

13B. The Board shall maintain a register, in such form as it may determine, of all manufacturers licenced under section **13** and shall enter therein, in respect of each manufacturer:

Register of tea
manufacturers,

6 of 1999

- (a) the full names of the manufacturer;
- (b) the date of issue of the licence ;
- (c) particulars of any cancellation, suspension or variation of the licence;
- (d) any other particulars the Board may deem necessary;

PART V ENTRY AND INSPECTION

- 14.** (1) Any person duly authorized in writing in that behalf by the Board may, at all reasonable times and upon production of such authority to any person so requesting, enter any land or buildings occupied by the holder of a manufacturing licence issued under section 13 or a person registered under this Act and make such inspection and enquiries as he may think fit for ascertaining whether the provisions of this Act, or any regulations made thereunder or the terms and conditions of the respective registration or licence are being complied with and may require any person found thereon to give such information as he may require.
- Entry and inspection
6 of 1999
- (2) Any person who hinders or obstructs any person duly exercising or attempting to exercise any of the powers conferred by subsection (1) or who fails to give to the best of his ability any information reasonably required of him under that subsection shall be guilty of an offence.

- 14A.** (1) An officer of the Ministry of Agriculture or of the Board, authorized in writing by or on behalf of the Director or the Board, as the case may be, upon production of his authority on demand, and any police officer or administration police officer may-
- Powers of Search and
seizure.
13 of 1978, Sch.
- (a) enter and search any premises upon which he has reason to

believe there is tea in respect of which an offence under section 13A is being or has been committed, and seize and remove any tea found thereon which he has reasonable cause to believe may provide evidence of that offence;

Provided that, before removing any tea under this paragraph, the person removing it shall furnish the person in whose custody or possession the tea is at the time of removal with a written receipt therefor;

- (b) stop, search and detain any vehicle, vessel or other conveyance which he has reason to believe is being or has been used for conveyance of tea in respect of which an offence under section 13A is being or has been committed.
- (2) Every seizure under subsection (1) (a) shall be reported without unnecessary delay to a subordinate court, and where any vehicle, vessel or other conveyance has been stopped and detained under subsection (1)(b) the person so stopping and detaining shall forthwith take it or cause it to be taken together with its contents, or report the fact of its detention, to the nearest police station and the officer in charge of the police station may thereupon order that the vehicle, vessel or other conveyance, together with any tea found therein, be seized.
- (3) Any person who hinders or obstructs a person acting in the exercise of his powers under this section shall be guilty of an offence.

PART VI EXPORT OF TEA

15. (Repealed by 6 of 1999).
16. (Repealed by 6 of 1999).
17. Any person who, except with the permission in writing of the Board, exports any tea seed, or any living tea plants, or any living parts of tea plants which are capable of use for the propagation of tea, shall be guilty of an offence. No export of tea seed or plants without permission

PART VII FINANCIAL PROVISIONS

18. (1) The Minister may from time to time, on the recommendation of the Board, by notice in the Gazette, impose either or both of- Cess. 14 of 1971, Sch.
- (a) a cess on all tea manufactured in Kenya;
- (b) *(Deleted by 6 of 1999).*

- (2) A cess imposed by notice under subsection (1) shall be at such rate, and shall be payable to the Board by such persons and at such times (being not earlier than one month after the date of publication of the notice) and in such manner, as are specified in the notice, and shall be recoverable by the Board as a civil debt due to it from the person by whom it is payable.

19. The proceeds of any cess imposed under section 18, and any other moneys accruing to the Board, may be used for all or any of the following purposes- Application of moneys of Board.

- (a) the remuneration of members of the staff and technical advisers of the Board;
- (b) the provision of offices, and of houses for members of the staff of the Board, and of furniture and equipment therefor, as the Board may deem necessary;
- (c) the payment of such remuneration, fees, travelling and other expenses and subsistence allowances to members of the Board on such scale and subject to such conditions as may be approved by the Board;
- (d) experiments, investigation and research in connexion with the tea industry;
- (e) the collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption;
- (f) the promotion of exhibitions for the display of tea and the processes for manufacture thereof, and matters incidental thereto;
- (g) the establishment of libraries, laboratories, experimental stations, workshops and factories, and the provision of facilities ancillary thereto;

- (h) advertising the merits of Kenya tea and increasing its sale by efforts to extend existing markets and exploiting new markets, and matters incidental thereto;
- (i) the payment of expenses and other charges incurred by the Board or for which the Board may become liable in the course of its operations;
- (j) making contributions to the finances of the Tea Foundation

of Kenya;

- (k) assisting the tea industry of Kenya in such manner as the Board may think fit.
20. (1) The Board may, with the approval of the Minister, invest any funds which may from time to time be standing to its credit, and which are not immediately required for any of the purposes specified in section 19, in such investments as the Minister may approve. Investment of funds and borrowing powers
- (2) The Board may, with the approval of the Minister, raise or borrow sums of money for the purposes of discharging its functions under this Act, and may, for that purpose, mortgage or charge the whole or any part of its property.
21. (1) The Board shall cause to be kept such books of account and other books in relation thereto and to all its undertakings, funds, activities and property as the Minister may from time to time require and shall, within a period of four months after the end of its financial year or within such longer period as the Minister may approve, cause to be prepared, signed and transmitted to the auditor- Audit of accounts 2 of 1977, s. 46. 12 of 1985, Sch.
- (a) a balance sheet showing in detail the assets and liabilities of the Board; and
- (b) such other statements of account as the Minister may require.
- (2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General (Corporations), or by such other person as the Minister may appoint, being a person who is the holder of a practising certificate issued pursuant to section 21 of the Accountants Act. Cap. 531

- (3) The Board shall produce and lay before the auditor all books and accounts of the Board, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditor shall be entitled to require from all members, officers, employees and agents of the Board such information and explanation as he may consider to be necessary for the performance of his duties as auditor; and the expenses of and incidental to the audit shall be paid by the Board.

22. (1) The Board shall, within a period of seven months after the end of its financial year or within such longer period as the Minister may approve, submit to the Minister a report of its Operations during such year, and the yearly balance sheet and such other statements of account as the Minister may require together with the auditor's report thereon, and the Board shall, if the Minister so requires, publish them in such manner as the Minister may specify.
- (2) The Minister shall lay the Board's report and the auditor's report, together with the balance sheet and such other statements of account as he may have required, before the National Assembly within thirty days after receipt of the reports and statements by him, or if the National Assembly is not then sitting, within fourteen days after the commencement of the next sitting.

Report and
accounts to
be submitted
to Minister.
L.N. 365/1964
9 of 1967, Sch.

PART VIII GENERAL PROVISIONS

23. Every person who is guilty of an offence under this Act in respect of which no penalty is specially provided shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months or to both.
24. Where any offence under this Act or under any regulations made thereunder is committed by any company or other body corporate, or by any society, association or body of persons, every person charged with, or concerned or acting in, the control or management of the affairs or activities of such company, body corporate, society, association or body of persons shall be guilty of that offence and liable to be punished accordingly, unless it is proved by such person that, through no act or omission on his part, he was not aware that the offence was being or was intended or about to be committed, or that he took all reasonable steps to prevent its commission.

Penalties.

Offences by
corporations,
societies, ect.

25. (1) The Minister may, after consultation with the Board, make regulations for the protection and promotion of the tea industry of Kenya, and generally for the better carrying out of the provisions of this Act.
- (2) Regulations made under this section may, without prejudice to the generality of the power conferred by subsection (1), provide for-
- (a) prescribing the areas outside which tea may not be planted, and regulating and controlling the variety, the cultural conditions, the

Regulations
9 of 1967, Sch
13 of 1978, Sch
6 of 1999

L.N. 43 of 2000
L.N. 107 of 2000

method of production and manufacture of tea and the grading of manufactured tea, and providing for the control of pests and diseases (including requiring the treatment or destruction of diseased or infested tea and empowering the Board in default of such treatment or destruction to effect such treatment or destruction and to recover from the person in default the cost of so doing);

- (b) regulating and controlling the method of blending and packing manufactured tea for sale;
- (c) empowering the Board or the director to give directions to any planter as to the method of sowing, planting and cultivation of tea and the harvesting, collection, movement, processing and storage of tea leaf, and to delegate the like powers to any servant of the Board or public officer;
- (d) requiring the submission of returns, reports and estimates by the holders of licences and permits under this Act and others;
- (e) prescribing the periods for which licences shall be issued;
- (f) prescribing the fees to be paid for anything to be done under this Act;
- (g) prescribing the forms which may be used under this Act;
- (h) prescribing anything which under this Act may be prescribed;

- (i) requiring the registration or deregistration of buyers, brokers, packers, management agents and any other persons dealing in tea;
- (j) requiring that the rules and regulations of any organisation dealing or involved in tea trade do in conformity with the provisions of this Act;
- (k) prescribing the regulations which shall govern the elections of the Board members to represent respective tea areas and interests.

authority in that behalf, to issue any licence or permit under this Act, or by the cancellation or suspension of any such licence or permit, or by the terms and conditions subjects to which the licence or permit is issued, or by any variation thereof, may, within thirty days after being notified of such refusal, cancellation, suspension, issue or variation, as the case may be, appeal to the Agricultural appeals Tribunal established by Part XV of the Agriculture Act, and the provisions of that Part shall, *mutatis mutandis* apply in relation to every such appeal.

Cap 318

SUBSIDIARY LEGISLATION

L.N. 107/2000

Deleted by 6 of 1999.

Cess imposed under section 18(1):

A cess imposed on all tea manufactured in Kenya at the rate of forty-six cents per hundred kilogrammes or part thereof (net weight) of the manufactured tea L.N. 331/1994

Regulations under section 25

THE TEA (FORMS) REGULATIONS, 2000

- L.N. 107/2000
1. These Regulations may be cited as the Tea (Forms) Regulations, 2000. Citation
 2. Every application to the Board under section 8 of the Act for registration as a small holder tea grower shall be as prescribed in Form A in the Schedule and in the case of a plantation grower, as prescribed in form A1 in the schedule. Registration of
tea growers.
 3. A certificate of registration of a tea grower shall be as prescribed in Form B in the schedule. Tea grower
certificate
 4. An application to the Board for a manufacturing licence under section 13 of the Act shall be as prescribed in Form C in the schedule. Manufacturing
licence
application
 5. A manufacturing licence issued by the Board under section 13 of the Act shall be as prescribed in Form D in the schedule. Manufacturing
licence
 6. Every registered tea factory shall, not later than 15th January in every year, complete and submit to the Board a statistical return as prescribed in Form E in the schedule. Statistical
returns
 7. Every holder of a manufacturing licence issued by the board shall, not later than the fourteenth day of each month, complete and submit to the Board a monthly cess and production return as prescribed in form F in the schedule. Cess and
production
returns
 8. An application for registration as a tea buyer or broker under section 25(2)(h) of the Act, shall be as prescribed in Form G in the schedule and the certificate of registration issued by the Board shall be as prescribed in Form H in the schedule. Tea buyer
certificate

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9. An application for registration as a tea packer or blender under section 25(2)(h) of the Act shall be as prescribed in Form I and the certificate issued by the Board shall be in Form J in the schedule. Tea packer or
blender
Certificate.
10. Every tea buyer and broker shall be required to make a monthly return of the tea dealt in to the Board as prescribed in form K in the schedule. Returns of
Tea packed.
11. Every tea packer or blender shall be required to make a monthly return of the tea packed to the Board as prescribed in Form L in the schedule. Return of tea
Deallt in.
12. Every tea exporter shall register the exports made and make a return on Returns of tea