



THE REPUBLIC OF KENYA

LAWS OF KENYA

**THE FOOD, DRUGS AND CHEMICAL
SUBSTANCES (FOOD HYGIENE) REGULATIONS**

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Food, Drugs and Chemical Substances Act

The Food, Drugs and Chemical Substances (Food Hygiene) Regulations

Legal Notice 106 of 1978

Legislation as at 31 December 2022

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The Food, Drugs and Chemical Substances (Food Hygiene) Regulations (Legal Notice 106 of 1978)
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FOOD, DRUGS AND CHEMICAL SUBSTANCES ACT

THE FOOD, DRUGS AND CHEMICAL SUBSTANCES (FOOD HYGIENE) REGULATIONS LEGAL NOTICE 106 OF 1978

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1. Citation

These Regulations may be cited as the Food, Drugs and Chemical Substances (Food Hygiene) Regulations, 1978 and shall come into operation on 1st May, 1979.

[L.N. 228/1978.]

2. Interpretation

In these Regulations, unless the context otherwise requires—

"adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice;

"food contact surface" means any surface which comes into contact with food during the sale, preparation, packaging, conveying or storing of such food;

"food plant" means the building or part thereof used for or in connection with the sale, preparation, packaging, or storing of food;

"health authority", in relation to the area of a municipality, means the municipal council of the municipality concerned, and, in relation to any other area, means the Cabinet Secretary;

"sanitise" means to adequately treat surfaces by a process that is effective in destroying vegetative cells of pathogenic bacteria and in substantially reducing other micro-organisms such that the treatment shall not adversely affect the food and shall be safe for the consumer.

3. Premises not to be used unless licensed

- (1) No person shall use any premises or being the owner or occupier thereof permit or allow the premises to be used for the purposes of selling, preparing, packaging, storing, or displaying for sale any food unless that person is in possession of a licence issued under these Regulations.
- (2) No licence shall be issued under these Regulations unless—
 - (a) the health authority is satisfied that the provisions of these Regulations have been complied with; and

- (b) the fee prescribed in the second column of the Third Schedule has been paid to the health authority.

[L.N. 165/1990, s. 2.]

4. Application for registration of premises

Every person desiring a licence in respect of any premises used or to be used for the purpose of selling, preparing, storing, or displaying for sale any food shall make application in Form "A" set out in the First Schedule, to the health authority and shall, on request, supply any information which may be required by the health authority for the purposes of these Regulations.

5. Issue and expiry of licence

- (1) Every licence issued under these Regulations shall be in Form "B" set out in the First Schedule, and shall expire on the 31st December next following the date of issue.
- (2) No person to whom a licence has been issued under these Regulations shall lend, hire, sell, transfer or otherwise dispose of that licence to any person without the approval of the health authority which approval shall be endorsed on the licence.
- (3) No licence shall be transferred from the premises in respect of which it was issued to any other premises.

6. Growing and harvesting operations to be of a sanitary nature

Every person who owns, operates or is in charge of the growing and harvesting operations for raw materials to be used in the preparation of food shall ensure that such operations are of a clean and sanitary nature and that—

- (a) unfit raw materials are segregated out during harvesting and disposed of in such place and such manner that they cannot contaminate food or the water supply to a food plant or any other crops; and
- (b) harvesting containers do not constitute a source of contamination to raw materials and are of such construction as to facilitate thorough cleaning.

7. Grounds surrounding a food plant to be kept free from contaminating conditions

- (1) Every person who owns, operates or is in charge of a food plant shall keep the grounds surrounding the food plant free from conditions which may result in the contamination of food and more particularly he shall keep such grounds free from—
 - (a) improperly stored equipment, litter, waste and refuse which may attract, harbour or constitute breeding places for rodents, insects and other pests; and
 - (b) inadequately drained areas that may contribute to the contamination of food products through seepage or foot-borne filth and provide breeding places for insects or micro-organisms.
- (2) Where the grounds adjacent to a food plant are not under the control of the owner or the operator of the food plant, the owner, operator or person in charge shall exercise care in the plant by inspection, extermination or other means to effect seclusion of pests, dirt and other filth that may be a source of contamination to food.

8. Layout and construction of food plants and facilities

- (1) All food plants shall be of suitable design, layout and construction to facilitate easy maintenance and sanitary food production.

- (2) The food plant and the facilities installed therein shall have—
- (a) sufficient space for such placement of equipment and storage of materials as is necessary for sanitary operations;
 - (b) separate areas, either by partition, location or other effective means, for those operations which may cause the contamination of food or food contact surfaces with undesirable micro-organisms, chemicals, filth or other extraneous materials;
 - (c) adequate lighting to hand-washing areas, dressing and locker rooms, toilets and to all areas where food or food ingredients are examined, processed or stored and where equipment and utensils are cleaned;
 - (d) adequate ventilation or control equipment to minimize odours and noxious fumes or vapours (including steam), particularly in areas where such odours and noxious fumes or vapours may contaminate food, so however that such ventilation or control equipment shall not create conditions that contribute to food contamination by air-borne contaminants; and
 - (e) where necessary, effective screening or other protection against birds, animals and vermin (including, but not limited to, insects and rodents).

9. Construction of floors, walls, etc., of food plants

- (1) The floors, walls and ceiling of a food plant shall be of such construction as to be adequately cleanable and maintained in a clean and good state of repair.
- (2) The fixtures, ducts and pipes shall not be suspended over areas where drips or condensate may contaminate food, raw materials or food contact surfaces.
- (3) Aisles or working spaces between equipment and walls shall be unobstructed and of sufficient width to permit the employees to perform their duties without contaminating the food or food contact surfaces with their clothing or personal contact.
- (4) Light bulbs, fixtures, skylights or other glass suspended over exposed food in any stage of preparation shall be of the safety type or otherwise protected to prevent the contamination of food in case of breakage.

10. Equipments, utensils and food contact surfaces

- (1) Every utensil and equipment used in a food plant shall be—
 - (a) suitable for their intended use;
 - (b) so designed and of such materials and workmanship as to be adequately cleanable; and
 - (c) properly maintained.
- (2) Every food contact surface shall be—
 - (a) smooth and free from pits, crevices and loose scale;
 - (b) non-toxic;
 - (c) capable of withstanding repeated cleaning, disinfection and sanitizing; and
 - (d) non-absorbent, unless the nature of a particular and otherwise acceptable process renders the use of an absorbent surface such as wood necessary.
- (3) The design, construction and use of the utensils and equipment referred to in paragraph (1) of this Regulation shall be such as to prevent the contamination of food by lubricants, fuel, metal fragments, contaminated water, or any other contaminants.

- (4) The equipment in a food plant shall be installed and maintained in such manner as to facilitate the cleaning of such equipment and the adjoining areas.

11. Sanitary facilities and controls

- (1) No person shall use any premises as a food plant unless—
- (a) adequate sanitary conveniences are provided for use by employees and every premises where food is prepared and served are provided with adequate separate sanitary conveniences for public use;
 - (b) the water supply to the premises is derived from an adequate source, sufficient for the intended operations and potable;
 - (c) running water at a suitable temperature is provided in all areas where the processing of food, and the cleaning of equipment, utensils and containers are carried on;
 - (d) the drainage of effluents is made through an adequate sewerage system or disposed of through other adequate and approved means;
 - (e) the plumbing is of adequate size and design and so installed and maintained as to—
 - (i) carry sufficient quantities of water to all areas where the water is required;
 - (ii) properly convey sewage and liquid disposal waste;
 - (iii) provide adequate floor drainage in all areas where the floors are subject to flooding type cleaning or where normal operations release or discharge water or other liquid waste on the floor; or
 - (iv) constitute no source of contamination to food ingredients, food products and water supplies;
 - (f) refuse and offal is conveyed and disposed of so as to minimize noxious odour, to prevent waste which attract or harbour or provide a breeding place for vermin and to prevent the contamination of food, food contact surfaces, ground surfaces and water supplies.
- (2) The sanitary conveniences provided under this Regulation shall conform to the following conditions —
- (i) separate conveniences shall be provided for members of each sex and each shall be maintained in a sanitary condition and kept in conditions of good repair at all times;
 - (ii) toilets shall be furnished with sufficient toilet tissue, clean towels and soap;
 - (iii) doors to toilet rooms shall be self-closing and not open directly into areas where food is exposed to air-borne contaminants except where alternate means have been devised to prevent contamination of such food; and
 - (iv) signs shall be posted in appropriate places directing employees to wash their hands with soap after using the toilet.
- (3) Adequate and convenient facilities for hand-washing, and where applicable hand- sanitizing, shall be provided at each place where good hygiene practices require employees to wash or sanitize and dry their hands, and such facilities shall have running water at a suitable temperature for effective hand-washing and sanitizing preparation and include nail brushes, hygienic towel service or suitable drying devices and, where appropriate, cleanable waste receptacles.

12. General maintenance of the plant

Notwithstanding any other provisions of these Regulations, every person who owns, operates or is in charge of a food plant shall ensure that—

- (a) the buildings, fixtures and other facilities of the plant are kept in a state of good repair and maintained in a hygienic condition;
- (b) cleaning operations are conducted in such a manner as to minimize the danger of contamination of food and food contact surfaces;
- (c) supplies used in cleaning and sanitizing procedures are free from micro- biological contamination and are safe and effective for their intended use;
- (d) only such toxic materials as are required to maintain sanitary conditions, or for use in laboratory testing procedures, or plant and equipment maintenance, or in the preparation of food, are used or stored in the plant;
- (e) no animals or birds, other than those essential as raw materials, are allowed in the plant;
- (f) effective measures are taken to exclude pests from food areas and to protect against the contamination of food in or on the premises by animals and vermin; and
- (g) the use of pesticides is done under such precautions and restrictions as to prevent the contamination of food or packaging material.

13. Sanitation of utensils and equipment

- (1) Every person who owns, operates or is in charge of a food plant shall ensure that—
 - (a) all utensils and food contact surfaces or equipment are cleaned as frequently as necessary to prevent contamination of food products;
 - (b) single-service articles are stored in appropriate containers and handled, dispensed, used and disposed of in a manner that prevents contamination of food or food contact surfaces;
 - (c) all utensils and the equipment used in the plant are cleaned and sanitized prior to use to prevent the contamination of food products by micro-biological organisms; except that where such utensils and equipment are used in a continuous operation, the contact surfaces of the utensils and equipment shall be cleaned and sanitized on a predetermined schedule using adequate methods; and
 - (d) sanitizing agents used in the plant are effective and safe.
- (2) Any procedure, machine or device may be used for cleaning and sanitizing equipment or utensils if it is established, to the satisfaction of an authorized officer, that such procedure, machine or devices provide adequate sanitizing treatment.
- (3) Cleaned and sanitized equipment and utensils with food contact surfaces shall be stored in such areas and manner that the food contact surfaces are protected from splash, dust and other contaminants.

14. Process and controls

Every person who owns, operates or is in charge of a food plant shall comply with the following requirements as regards the overall control of the operations carried on therein, that is to say—

- (a) all operations in the receiving, inspecting, handling, segregating, preparing, processing, storing and transportation of food are conducted in a hygienic manner;
- (b) overall sanitation of the plant is done under the supervision of a person or persons specially assigned to supervise the sanitizing processes in the plant;

- (c) reasonable precautions, as set out in Part A of the Second Schedule to these Regulations, are taken to ensure that production procedures shall not contribute to the contamination of food by filth, harmful chemicals, undesirable micro-organisms or any other contaminants;
- (d) each container shall be embossed or otherwise permanently marked in code or in clear to identify the producing factory and the lot;
- (e) specific products, as may be specified by the Cabinet Secretary, bear prominently a date-marking, showing the last day, month and year (for instance, 1 May, 1978 or 1.5.78) the product may be sold and any product bearing a date marking showing the last day, month and year on which the product may be sold in accordance with the law, regulations, practice or conventions of the country in which the product was manufactured shall be deemed to be a specified product for the purpose of these Regulations;
- (f) packaging processes and materials are such as not to transmit contaminants to the products and provide adequate protection from contamination.

[L.N. 62/1986, s. 2.]

15. Health measures to be taken in a food plant

- (1) Every person who owns, operates or is in charge of a food plant shall take all reasonable measures and precautions to ensure that—
 - (a) no person suffering from any disease in a communicable form or having boils, sores or infected wounds works in a food plant in any capacity where there is a reasonable possibility of food ingredients becoming contaminated by such person or the disease being transmitted to the other employees;
 - (b) thorough medical examination is carried out in a Government medical institution or by a medical officer of health on all employees prior to their employment and at regular intervals of not more than twelve months; and the health certificate and health records of each employee showing the dates and results of the health examination are kept at the food plant;
 - (c) all persons while working in direct contact with food, food ingredients or food contact surfaces comply with requirements as to general cleanliness set out in Part B of the Second Schedule;
 - (d) the personnel responsible for identifying sanitation failures or food contamination are properly trained to provide a level of competency necessary for the production of clean and safe food, and in the case of food handlers and supervisors, proper techniques and food protection principles to make them cognisant of the danger of poor personal hygiene and insanitary practices; and
 - (e) proper supervision is provided so that responsibility for ensuring the compliance by all employees with the requirements of these Regulations (copies of which shall be prominently displayed in all appropriate places in the plant) is assigned to competent supervisory personnel.
- (2)
 - (a) The owner, operator or the person in charge of a food plant shall, in pursuance of the provisions of paragraph (1)(b), apply to the health authority for a medical examination of all persons employed at the food plant.
 - (b) Every application for medical examination under subparagraph (a) shall be made in the form prescribed in Form "C" in the First Schedule and shall be accompanied by a fee of one hundred shillings.
- (3) The certificates of medical examination issued by health authority under this Regulation shall be in the form prescribed in Form "D" in the First Schedule.

[L.N. 165/1990, s. 5.]

16. Notice to clean, reconstruct or repair food plant

- (1) Where any food plant, by reason of its situation, construction or disrepair, is in such a condition that any food in the premises may be exposed to contamination or deterioration or become dirty, an authorized officer may serve a notice in writing on the person who owns or operates the food plant requiring him—
 - (a) to clean, reconstruct or repair the premises in the specified manner and period; or
 - (b) not to use the plant until the conditions stated in such notice have been fulfilled.
- (2) Any person, on whom a notice is served under paragraph (1) of this Regulation may, within fourteen days from the date he receives such notice, appeal to the Cabinet Secretary who shall make such order thereon as he thinks fit and whose decision shall be final.
- (3) A notice served under this Regulation shall remain effective until such a time as the person on whom it is served receives a copy of the Cabinet Secretary's decision and complies with any direction which may be given by the Cabinet Secretary.
- (4) It shall be sufficient compliance with a notice served under this Regulation if the person on whom such notice is served ceases to use the premises as a food plant.

17. Offences and penalties

Any person who contravenes the provisions of these Regulations shall be guilty of an offence and liable—

- (a) in the case of a first offence, to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment; and
- (b) in the case of a second or subsequent offence, to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

[L.N. 120/1980, s. 2.]

FIRST SCHEDULE**FORMS****FORM A**

(r. 4 and 5(1))

FOOD, DRUGS AND CHEMICAL SUBSTANCES (FOOD HYGIENE) REGULATIONS, 1978**APPLICATION FOR A LICENCE**

[L.N. 165/1990, r. 3.]

To the Health Authority:

I hereby apply for a licence under the above Regulations.

Name of applicant

Name of person, firm or company to be issued with the licence

Full name of partners and/or directors

Nature of occupation for which a licence is required

Owner of premises

Plot No. L.R. No. Fronting on

General business postal address

.....

I enclose a fee of shillings in respect of this application in accordance with regulation 3(2) of the Food, Drugs and Chemical Substances (Food Hygiene) Regulations.

Date

.....

Applicant

FORM B

REPUBLIC OF KENYA

FOOD DRUGS AND CHEMICAL SUBSTANCES (FOOD HYGIENE) REGULATIONS

LICENCE

LICENCE is hereby granted to to sell, prepare, pack, store or display food at plot No. L.R. No. situated at

This licence expires on the 31st December, 20

This licence is not transferable to any other person without the health authority endorsed hereon.

This licence is not transferable to any other premises.

.....

Health Authority

FORM C

REPUBLIC OF KENYA

MINISTRY OF HEALTH

MEDICAL EXAMINATION CERTIFICATE

UNDER REGULATION 15 OF THE FOOD, DRUGS AND
CHEMICAL SUBSTANCES (FOOD HYGIENE) REGULATIONS

[L.N. 165/1990, r. 6.]

Name and address of health
authority.....
.....
.....

To: The Medical Officer in-charge

.....
.....
.....

Mr./Mrs./Miss working at (food plant) Plot No.
Town is sent herewith for medical examination to determine fitness to work
at food plant.

KSh. 100

Receipt No.

..... Designation

.....

Signature

.....

Date

FORM D

FOOD, DRUGS AND CHEMICAL SUBSTANCES ACT

[Cap. 254.]

CERTIFICATE OF MEDICAL EXAMINATION

MINISTRY OF HEALTH

Microscopy

Culture

 Throat Swab

 Urine

 Stool

 Sputum

 Chest X-Ray if Sputum is TB Positive

 I hereby certify that I have this day examined

Mr./Mrs./Miss and that in my opinion he/she is fit under the Food, Drugs and Chemical Substances (Food Hygiene) Regulations to work at (Name of Food Plant), Plot No. Town/Market

This certificate is valid for six months with effect from 20 to

Date

.....

.....
(Signature and Name of Medical Officer)

.....
(Official Stamp of Medical Institution)

SECOND SCHEDULE [r. 14(c), 15(c)]

PRECAUTIONS

Part A - The following precautions shall be taken to ensure that production procedures do not contribute to contamination of food—

- (a) raw materials and ingredients shall be cleaned, inspected and segregated to ensure that they are clean, wholesome and fit for processing into food;
- (b) water used for cleaning of food products shall be of potable quality;

- (c) containers and carriers of raw ingredients shall be inspected at the time such ingredients are delivered to the food plant;
- (d) where ice is used with food products, it shall be made from potable water, and shall be prepared, handled, stored and conveyed in such manner as to protect it from contamination;
- (e) food processing areas and equipment used in processing food shall not be used to process animal feed or inedible products unless there is no reasonable possibility of contaminating the human food;
- (f) chemical, micro-biological or extraneous material testing procedures shall be utilised where necessary to identify sanitation failures or food contamination and all foods and ingredients that have become contaminated shall be rejected or adequately treated or processed to eliminate the contamination where this may be properly accomplished;
- (g) storage and transportation of food shall be under such conditions as shall prevent contamination, including development of pathogenic or toxigenic micro-organisms or both.

Part B - The following requirements shall be complied with as regards the cleanliness of all persons working in direct contact with food—

- (a) they shall wear clean outer garments and conform to hygienic practices while on duty;
- (b) they shall wash their hands thoroughly, remove all jewellery, and take any other necessary precautions to prevent contamination of food with microorganisms or foreign substances;
- (c) refrain from smoking, snuffing, chewing or using tobacco in areas where food is prepared, stored or handled;
- (d) if gloves are used in food handling, they shall be maintained in a clean, intact and sanitary condition;
- (e) as is necessary for the work on which the employee is engaged, he shall wear effective head-dress, such as hair net, head-band or cap; and
- (f) all employees shall refrain from storing their clothing or any other personal belongings or from eating food or drinking beverages, in areas where food is or food ingredients are exposed or areas used for washing equipment or utensils.

THIRD SCHEDULE [r. 3(2)]

RANGE OF FEES FOR FOOD HYGIENE LICENCES

[L.N. 165/1990, s. 4.]

<i>Categories of Premises</i>	<i>Fees</i>
A	
Market stalls, posho mills (no packaging) and retail shops	100
B	
Canteens, rural dairies and milk bars	200
C	

Fish shops, butcheries, eating houses, cafes, bars, restaurants and members clubs	300
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D

Hotels, night clubs, slaughter houses/slabs, warehouses, wholesalers and jaggeries	500
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E

Bakeries, bottling plants, canning plants, cremeries, abbatoirs flour mills, sugar factories and other food processing plants	1,000
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