

THE DAIRY INDUSTRY ACT, 2004

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THE UNITED REPUBLIC OF TANZANIA



No. 8 OF 2004

I ASSENT,

BENJAMIN W. MKAPA

*President*4th June, 2004

An Act to provide for the production, regulation and promotion of the dairy industry; establishment of the Tanzania Dairy Industry Board and repeal of the Dairy Industry Act, 1965 and for other related matters

[.....]

**PART I
PRELIMINARY PROVISIONS**

1.-(1) This Act may be cited as the Dairy Industry Act, 2004 and shall come into force on such date the Minister may, by notice published in the *Gazette*, appoint. Short title

(2) The Minister may appoint different commencement dates for different parts of this Act.

2.-(1) This Act shall apply to all milk and milk products. Scope

(2) Without prejudice to subsection (1), this Act shall not apply to milk or milk products not intended for sale and those produced for consumption of the producer, members of his family, his employee or animals kept by him.

3. In this Act unless the context otherwise requires:
"Annual Council" means a council established under section 4;
"Board" means the Tanzania Dairy Board established under section 8 of this Act;
"dairy" means any premises used for the production, processing or manufacturing of milk into milk products for sale; Interpretation

- "designated milk" means milk of milch animals other than that of cows;
- "milk" means milk of cows;
- "milk product" means any product prepared from milk by any approved process including heating, separation, fermentation, evaporation, drying and includes cultured sour milk, yoghurt, butter, ghee, cream, dairy ice cream and any other product manufactured wholly or mainly from milk;
- "milkshed area" means any part of Mainland Tanzania which has a recognized dairy industry stakeholder or organization at district, regional or zonal level;
- "milk vendor" means a person who carries on business of selling milk or milk products by delivering it to the places of residence or business of a purchaser;
- "Minister" means the Minister responsible for livestock development;
- "producer" means any person who keeps cattle or other milch animals for the production of milk, and includes a manager or a person who carries out the business of processing milk or milk products;
- "processor" means any person who carries out the business of processing milk or milk products;
- "producer- processor" means a person who processes milk or milk products solely obtained from his own farm;
- "pasteurized cream" includes any kind of milk product classified as such;
- "pasteurized milk" includes any kind of milk product classified as such;
- "retailer" means a person who buys milk or milk products from a distributor for resale to consumers;
- "registered dealer" means a producer, processor, marketing agent, importer, exporter, dairy inputs supplier, manufacturer registered under section 17 of this Act; and
- "Stakeholder" means an individual, organization or institution, private or public, interested in, concerned with, or involved in the development of the dairy industry in Mainland Tanzania, whether directly or indirectly.

PART II

ESTABLISHMENT OF THE ANNUAL COUNCIL

Establish-
ment of
Annual
Council

4. There is established an assembly to be known as the Annual Council or in its acronym - "AC".

Composi-
tion of
the
Annual
Council

- 5.—(1) The Annual Council shall consist of:
- (a) the Chairman who shall be appointed by the Minister;
 - (b) one member representing recognized stakeholder organizations in every district;

- (c) one member from registered National Milk Producers' Organizations;
- (d) one member from registered National Milk Processors' Organizations;
- (e) one member from registered National Milk Consumers' Organizations;
- (f) one member from the ministry responsible for livestock development;
- (g) one member from a public institution responsible for food quality control;
- (h) one member from public university of agriculture;
- (i) one member from the ministry responsible for local government;
- (j) one member from the ministry responsible for co-operatives; and
- (k) two members from Non- Governmental Organizations active in dairy industry development.

(2) The Secretariat of the Board shall be the Secretariat of the Annual Council.

6. Tenure of office, meetings and proceedings of the Annual Council shall be as provided for in the First Schedule to this Act.

Tenure of
office,
meetings
and
proceed-
ings of
the
Annual
Council

7. Functions of the Annual Council shall be:

- (a) to promote the development of a sustainable dairy industry in Tanzania;
- (b) to propose members of the Board for appointment by the Minister;
- (c) to receive and scrutinize various reports from the Board;
- (d) to advice the Minister and the Board on issues concerning the dairy industry and matters arising from the implementation and operation of this Act; and
- (e) to carry out any other functions as may be necessary for effective implementation of this Act.

Functions
of the
Annual
Council

PART III

ESTABLISHMENT OF THE TANZANIA DAIRY BOARD

Establish-
ment of
the
Tanzania
Dairy
Board

8. There is established a Board to be known as the Tanzania Dairy Board, or in its acronym - TDB.

Composi-
tion of
the Board

- 9.-(1) The Tanzania Dairy Board shall consist of:
- (a) the Chairman who shall be appointed by the Minister,
 - (b) three members representing milk producers;
 - (c) one member representing dairy processors;
 - (d) one member representing milk traders;
 - (e) one member representing dairy inputs suppliers;
 - (f) one member representing milk consumers;
 - (g) one member representing the Attorney-General;
 - (h) one member representing the Ministry responsible for livestock development;
 - (i) one member from the public institution responsible for food quality control;
 - (j) one member from a public university of agriculture; and
 - (k) one member from the ministry responsible for local government.

(2) Members under paragraphs (b) to (f) of subsection (1), shall be appointed by the Minister upon recommendation from the Annual Council.

Functions
of the
Board

10. Functions of the Board shall be:

- (a) to advise the Minister on matters concerning dairy development policies and strategies for promotion and development of the dairy Industry;
- (b) to perform regulatory activities in the dairy industry in accordance with the provisions of this Act;
- (c) to search and develop markets;
- (d) to conduct market research;
- (e) to develop and monitor strategies and plans designed to achieve and maintain self sufficiency and efficiency in milk production, processing and marketing;

- (f) to ensure availability of appropriate technology for the industry;
- (g) to create and promote a competitive environment conducive to fair play among stakeholders in the dairy industry;
- (h) to monitor the execution of contracts and marketing arrangements between dairy producers and processors or other bodies related to dairy sector and reconcile the parties, when disputes arise;
- (i) to collect, analyse, maintain and disseminate data and information relating to dairy industry;
- (j) to promote and facilitate formation of associations or other bodies of stakeholders within the dairy (sub-sector) which shall form a consultative forum with the Board and monitor their activities;
- (k) to promote and co-ordinate the development of small, medium and large scale dairy keepers and processors;
- (l) to promote the training and improvement of skills in technological advancement in the dairy industry;
- (m) to promote advocacy on dairy industry;
- (n) to monitor trends for local dairy production, dairy export and import requirements;
- (o) to represent stakeholders in international fora relating to or dealing with the dairy industry;
- (p) to monitor the implementation of agreements governing sale of dairy factories and farms and submit the report to the Minister;
- (q) to register producers and processors of dairy and dairy products;
- (r) to liaise with the Tanzania Food, Drugs and Cosmetics Authority (TFDA) on licensing;
- (s) to collaborate with the Tanzania Food, Drugs and Cosmetics Authority (TFDA) in inspection of dairy facilities such as dairy farms, plants, kiosks, parlours and other similar facilities; and
- (t) to organize dairy shows and participation of stakeholders in such shows within and outside the country.

- Tenure of office, meetings and proceedings of the Board **11.** Tenure of office, meetings and proceedings of the Board shall be as provided for in the Second Schedule to this Act.
- Executive Officer of the Board **12.** The Registrar appointed under section 16 shall be;
(a) the Chief Executive Officer of the Board and shall be responsible for the day to day operation of the Board; and
(b) the Secretary to the Board.
- Seal of the Board **13.—(1)** There shall be a Seal of the Board to be under the custody of the Secretary.

(2) The seal of the Board shall not be affixed to any instrument except in the presence of the Chairman or the Registrar.
- Staff of the Board **14.** The Board may, on such terms and conditions, after approval of the Annual Council, employ such number of staff to hold appropriate offices under the supervision of the Registrar.
- Indemnity for bona fide acts **15.** No matter or thing done by any member or officer of the Annual Council or Board shall, if done *bona fide* in the execution or purported execution of the functions of the Annual Council or Board, as the case may be, render such member or officer personally liable for such matter or thing.

PART IV

REGISTRATION PROVISIONS

- Appointment of the Registrar **16.—(1)** There shall be a Registrar of the Board who shall be appointed by the Board.
(2) The Registrar shall have and perform all duties designated to him by the Board.
(3) The Registrar shall be:
(a) responsible for the management of funds, property and business of the Board;
(b) responsible for the administration, organization and control of staff of the Board;

- (c) responsible for keeping the Board and Annual Council informed on the progress of the business of the Board;
 - (d) taking minutes of the meetings and keeping records of activities of the Board; and
 - (e) perform any other function as may be directed by the Board.
- (4) The Registrar shall hold office for such period and upon such terms and conditions as the Board may determine.
- (5) Without prejudice to the generality of subsection (1) of this section, the Registrar shall-
- (a) keep and maintain a register of:
 - (i) milk producers;
 - (ii) milk processors;
 - (iii) milk or milk products importer or exporter;
 - (iv) marketing agent;
 - (v) dairy inputs suppliers, manufacturers and importers; and
 - (vi) retailers.
 - (b) publish periodically a register of persons under paragraph (a); and
 - (c) issue certificate of registration in accordance with the provisions of this Part.

17.- (1) Any person who deals with milk or milk products shall, with effect from the commencement of this Act, register with the Board under this Act.

Registra-
tion

(2) The Board may, on application by any person, register such person to under take any or all of the following activities -

- (a) milk producer, processor or marketing agent;
- (b) milk or milk products importer or exporter;
- (c) dairy inputs suppliers, manufacturers or importers; and
- (d) retailer.

18. The Board may refuse to register an applicant under section 17 if the applicant does not meet the prescribed conditions.

Refusal to
register

19.-(1) The Board may, if the registered person fails to comply with the terms and conditions of the registration, revoke or suspend the registration.

Revoca-
tion of
registra-
tion

(2) The revocation or suspension may be in addition to any other penalty to which the registered person may be liable under this Act.

Validity
of a
registra-
tion

20.-(1) A registration issued under this Act, shall be valid for one year and shall be renewable on payment of the prescribed fee.

(2) The Minister may, by regulations and on the recommendation of the Board, prescribe the terms and conditions for registration, including-

- (a) the form and method of application under this section;
- (b) the fee payable on the issuing of the registration certificate; and
- (c) such other information as may be prescribed.

Certifi-
cate not
to be
transfer-
able

21. The certificate issued under this Act shall not be transferable.

Replace-
ment of a
lost or
destroyed
document

22.-(1) Where the registration certificate, licence or any other document issued under this Act is lost or destroyed, the holder of such document, may apply to the Board in that regard, and the Board shall, after being satisfied with proof of loss from the applicant and on payment of the prescribed fee, issue a certified copy of the certificate or document.

(2) The certified copy of the licence or document shall be effective as the original.

Appeals

23.- (1) Any person who is aggrieved by the decision of the Board may, within thirty days from the date of the decision of the Board, appeal to the Minister.

(2) An appeal may be lodged to the Minister in respect of any refusal of the Board to issue or renew registration or licence provided under this Act or against the revocation or suspension of persons subject to this Act and the Minister's decision shall be final.

(3) The Minister may for any good reason extend the time for the lodging of an appeal.

(4) In determining an appeal under this section, the Minister may -

- (a) dismiss the appeal;
- (b) require the Board to issue registration or licence;

- (c) quash any revocation or suspension or substitute suspension for any revocation; or
 - (d) order a person to make a fresh application for registration or licence.
- (5) The Board shall give effect to any direction given by the Minister.

PART V

OFFENCES AND PENALTIES

24. Any person who, directly or indirectly, impedes or obstructs any officer or a member of the Board in performance of his duties under this Act, commits an offence and is liable on conviction to a fine of not less than one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and Imprisonment.

Obstruction of
an officer

25.—(1) Any person contravenes any provision of this Act or subsidiary legislation made under this Act, where no specific penalty has been provided, shall be liable on conviction to a fine of not less than fifty thousand shillings or to imprisonment for a term not exceeding four months or to both such fine and Imprisonment.

General
penalty

(2) Where a person is convicted of an offence under this Act, the court may order that any milk or milk product in respect of which the offence has been committed be forfeited.

(3) Where, in case of a subsequent offence, the court may order, in addition to penalties provided for under this Part, withdrawal of any licence, certificate, permit or any other right held by the offender under this Act.

PART VI

FINANCIAL PROVISIONS

26.—(1) There is established a Fund to be known as the Dairy Industry Development Fund into which all moneys received by the Board shall be paid into and out of which all payments required to be made by it shall be made.

Establishment of
the Fund

(2) The Board shall manage the Fund.

27. The functions of the Fund shall be-

- (a) to finance the activities of the Board and Annual Council;
- (b) to support various dairy development activities including dairy

Functions
of the
Fund

extension, dairy breeding, dairy research, dairy training, dairy market research, development and promotion of milk and milk products consumption as well as export; and

- (c) to cover the cost of any other activities as may be required in the furtherance of the objectives of this Act.

Sources
of the
Fund

28. The Sources of the Fund shall be:

- (a) such sums of money as may be appropriated by Parliament for the purpose of this Act;
- (b) all fees and other charges payable under this Act;
- (c) such donations, grants and bequeaths as the Board may from time to time receive from stakeholders or organizations;
- (d) income derived from investments;
- (e) proceeds derived from sale of assets; and
- (f) contribution from fees collected on importation of milk and milk products;
- (g) any other source of income identified by the Board and legally acquired.

Manage-
ment of
the Fund

29. The Fund shall be managed in accordance with sound financial accounting procedures.

Proper
account-
ing

30.-(1) The Board shall prepare accounts and records of its transactions and affairs, and shall ensure that all moneys received are properly accounted for, and all payments are properly authorized and correctly made and that adequate control is maintained over its property and the incurring liabilities.

(2) The Secretary to the Board shall, within three months after the end of each financial year, submit to the Board an annual report in respect of that year containing—

- (a) Audited accounts;
- (b) general information relating to the activities and operations of the Board and the dairy industry during the preceding financial year; and
- (c) other information as the Board may, prior to the completion of the annual report or any supplementary to the report, request in writing.

(3) The Board shall thereafter table the Annual Report to the Annual Council.

31.—(1) The annual accounts of the Board shall be audited within ninety days by any qualified firm of auditors appointed by the Board and approved by the Controller and Auditor General.

Auditing

(2) The firm of auditors appointed under subsection (1) of this section, shall audit the accounts of the Board within two months of the receipt of the accounts and present its opinion to the Board.

(3) The Chairman of the Board shall cause copies of each annual report together with a copy of opinion of the auditors or firm of auditors to be laid before the Annual Council, three months after receipt.

(4) The Board may order any audit in addition to the one prescribed under subsection (1) of this section.

(5) As soon as the accounts of the Board have been audited and in any case not later than four months after the close of the financial year, the Board shall submit to the Minister a copy of the audited statements of accounts together with a copy of the report made by the auditor on the statement of accounts.

31A. The Board may, where it sees fit invest any monies not required for immediate use.

Power of
the Board
to invest

PART VII MISCELLANEOUS PROVISIONS

32: The Minister may, upon advise of the Board, make regulations-

- (a) prescribing standards for the construction, lighting, ventilation, cleanliness, drainage and water supplies of dairies;
- (b) prescribing types and standards of equipment to be used in the production or manufacture of milk and milk products;
- (c) prescribing minimum standards of milk and milk products and prohibiting the sale of any milk or milk product which does not conform to any such minimum standard;
- (d) prescribing methods of treatment and disposal of any waste product or effluent resulting from the production or processing of milk and milk products;
- (e) prescribing methods of processing milk and manufacturing milk products;
- (f) prescribing methods and conditions of use, limitations on the use of preservatives, coloring or other substances added to milk or milk products;

Power of
the
Minister
to make
regula-
tions

- (g) providing for the cleanliness of vehicles and vessels used for the transport of milk and milk products;
- (h) prescribing methods of packaging any milk or milk products;
- (i) prescribing methods for cooling, aerating, storing, conveying and distributing milk and milk products;
- (j) providing for the grading of milk or milk products, labeling and description to be used to distinguish any grade of milk or milk product and prohibiting the sale or delivery for sale of any milk or milk product under any description or distinguished by any marking other than that appropriate to the grade or type thereof;
- (k) prescribing methods for grading milk or milk products;
- (l) providing for the issue of grading certificates to producers or manufacturers and for cancellation of such certificates;
- (m) prescribing precautions to be taken for the protection of milk or milk products from infection or contamination;
- (n) providing for the disposal of infected or contaminated milk or milk products;
- (o) providing for the inspection of dairies and persons in or about dairies who have access to milk or milk products or to any vessels or containers used therein;
- (p) providing for the inspection, sampling, examination and analysis of milk and milk products at any time before retail sale;
- (q) prescribing the duties of inspectors, graders, sampling officers and analysts;
- (r) providing for the sampling, examination and analysis of any article or substance found within a dairy;
- (s) authorizing any person authorized by the Board to seize and detain milk or any milk product and any vehicle carrying such milk or milk product;
- (t) prescribing forms required in the implementation of the Act and regulations;
- (u) prescribing conditions under which milk or milk products may be imported into or exported from Tanzania;
- (v) prescribing anything which may be prescribed under this Act, or which may be required for the better carrying into effect of the provisions of this Act.

33. The Minister may, from time to time amend any of the Schedules under this Act.

Minister
may
amend the
Schedules

34. The Minister may, by notice published in the *Gazette*, exempt any class of persons from all or any of the provisions of this Act.

Exemp-
tion

35.-(1) The Dairy Industry Act, 1965 is hereby repealed.

Repeal of
Cap 590

(2) Any applicable regulations, rules orders or notices made under the Dairy Industry Act, 1965 and in force, shall remain in force, so far as may be, as if they have been made as regulations, rules, notices or orders under this Act until such time as they are amended or revoked by regulations, rules, orders, or notices made under this Act.

SCHEDULES

FIRST SCHEDULE

(Made under section 6)

TENURE OF OFFICE, MEETINGS AND PROCEEDINGS OF THE ANNUAL COUNCIL

1. The members shall elect one amongst their number to be Vice-Chairman of the Annual Council.

Vice-
Chairman

2.-(1) The members of the Annual Council shall hold office for a period of three years and shall be eligible for re-appointment for a further period of three years.

Tenure of
office of
members

(2) A member of the Annual Council may at any time resign his office by giving notice in writing addressed to the Minister, and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the Minister, he shall cease to be a member.

(3) In the case of a member who is a member by virtue of his holding some other office, he shall cease to be a member upon his ceasing to hold that office.

3. Where a member of the Annual Council who is a member by virtue of his holding some other office is unable for any reason to attend any meeting of the Annual Council, another person from his organization may attend the meeting in his place.

Proxy
represen-
tation

4. Where any member ceases to be a member for any reason before the expiration of his term of office, the appointing authority may appoint another person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

Casual
vacancy

Meeting of the Annual Council	5.—(1) The Annual Council shall ordinarily meet once every year for the transaction of its business at the times and at the places determined by it. (2) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Annual Council and in the absence of both the Chairman and the Vice-Chairman, the members present shall appoint one of their number to preside over the meeting. (3) The Chairman, or in his absence the Vice-Chairman, may at any time call a special meeting of the Annual Council and shall call a special meeting upon a written request by a majority of the members in office. (4) The Chairman, or in his absence the Vice-Chairman, may invite any person who is not a member to participate in the deliberations at any meeting of the Annual Council, but any person so invited shall not be entitled to vote.
Quorum	6. The Quorum at any meeting of the Annual Council shall be half of the members in office.
Decisions of the Annual Council	7.—(1) Matters proposed at a meeting of the Annual Council shall be decided by majority of votes of the members present and voting and in the event of equality of votes, the person presiding shall have a second or casting vote in addition to his original or deliberative vote. (2) A decision may be made by the Annual Council without a meeting by circulation of the relevant papers amongst the members and the expression of the views of the majority of the members in writing be honoured but any member may require that the decision be deferred and the subject matter be considered at a meeting of the Annual Council.
Minutes of Meetings	8.—(1) The Annual Council shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Annual Council shall be read and confirmed, or amended and confirmed, at the next meeting of the Annual Council and signed by the person presiding at the meeting. (2) Any minute, purporting to be signed by the person presiding at a meeting of the Annual Council shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.
Vacancies, etc., not to invalidate proceedings	9. The validity of any act or proceeding of the Annual Council shall not be affected by any vacancy among its members or by any defect proceedings in the appointment of any of them.
Orders, directions, etc of Annual Council	10. All orders, directions, notices or other documents made or issued on behalf of the Annual Council shall be signed by- (a) the Chairman or Vice-Chairman of the Annual Council; and (b) the Secretary.
Proof of the Documents	11. Any document purporting to be under hand of the Chairman, Vice-Chairman, Secretary as to any resolution of Annual Council or as having been issued on behalf of the Annual Council, shall be receivable in all court or tribunals or other bodies authorized to receive evidence and shall, unless the contrary is shown, be deemed, without further proof, to be sufficient evidence of what is contained in the document.