



AGRICULTURE AND FOOD AUTHORITY

THE CROPS (SUGAR) (GENERAL) REGULATIONS, 2020

REGISTRATION OF UMBRELLA OUT-GROWERS' INSTITUTION AND UMBRELLA MILLERS' ASSOCIATION

The Crops Act, 2013 is an Act of Parliament that provides for the regulation, promotion and development of all scheduled crops in Kenya. Section 40 of the Act states that "The Cabinet Secretary may, in consultation with the Authority and the County Governments, make regulations for the better carrying into effect of the provisions of this Act, or for prescribing anything which is to be prescribed under this Act".

In line with the above provisions, the Cabinet Secretary for Agriculture, Livestock, Fisheries and Cooperatives gazetted the Crops (Sugar) (General) Regulations, 2020 on **27th May, 2020** to allow for the development, promotion and regulation of the sugar industry. These Regulations can be accessed at the Agriculture and Food Authority website: www.afa.go.ke

All out-growers' institutions and millers including sugar jaggeries are therefore required to comply with the provisions of the Crops (Sugar) (General) Regulations, 2020 as applicable.

A. Key requirements/Obligations for out-growers' institutions:

1. An out-growers' institution may register growers.
2. An out-growers' institution shall apply to the Authority for registration using **Form 3** set out in the First Schedule.
3. A registered out-growers' institution shall -
 - (a) organize its out-growers' farms into viable economic units to enable its farmers pool resources for bulk procurement of farm inputs, services and machinery;
 - (b) promote and represent the interests of its growers;
 - (c) ensure that its members comply with their obligations as per their agreements;
 - (d) negotiate the terms of supply of sugarcane to the millers;
 - (e) co-ordinate the production, harvesting and transport of sugarcane to the millers;
 - (f) provide financial credit or arrange for financing of its growers for the production of their sugarcane, land clearance and preparation, planting, cultivation and tending, harvesting, transport and the supply of goods and services relating thereto;
 - (g) provide services, advice and assistance for its growers as may be required;
 - (h) provide accounting services and record keeping services for its members in respect of their individual operations; and
 - (i) purchase, sell or otherwise deal in, securing or providing such goods, materials, supplies and services as may be required by its growers.
4. An out-growers' institution shall maintain a register of its members and the growers who have entered into an agreement with it for the farming or supply of sugarcane.
5. An out-growers' institution may enter in the maintained register, the particulars of the locations, land registration numbers, identity card numbers, agreement numbers, sugarcane harvesters, transporters, acreage, varieties, crop cycles and yield of sugarcane per acreage of its members and the growers who have entered into an agreement with it for the farming or supply of sugarcane.
6. An out-growers' institution shall forward a copy of the register of their smallholder growers to the respective County Government and to the Authority at least once in **every six months**.
7. An out-growers' institution shall notify the Authority of any change in its ownership, by-laws and shareholding.
8. An out-growers' institution shall notify the Authority of the appointment of a principal officer or a director **within thirty days** of the making of such appointment.
9. A registered out-growers' institution may organize themselves into an umbrella out-growers' institution and register as such with the Authority to represent and advocate for the interests of its members and the growers who have entered into an agreement with it for the farming or supply of sugarcane.
10. An umbrella out-growers' institution that intends to be registered as such shall apply to the Authority for registration in **Form 1** set out in the First Schedule.
11. An out-growers' institution shall submit to the Authority and the relevant County Government, annual returns of the registers maintained under this Part before the **thirty-first date of January every year** following the conclusion of the data collection period.
12. An out-growers' institution may enter into an agreement with a grower, miller or any person for sugarcane harvesting or transportation using **Form 5** set out in the First Schedule.
13. An out-growers' institution may enter into agreement with grower for the farming or supply of the grower's sugarcane using **Form 7** set out in the First Schedule.
14. An out-growers' institution may enter into an agreement with a miller for the farming or supply of the sugarcane on behalf of the growers who the institution have entered into an agreement using **Form 8** set out in the First Schedule.
15. An out-growers' institution shall submit the agreement entered into with any person to the Authority for registration.
16. An out-growers' institution shall develop and submit a sugarcane development plan to the Authority and the respective County Government.
17. A sugarcane development plan which shall be developed in consultation with the growers, shall contain the number of growers, the size of the land under cultivation, sugarcane varieties cultivated, yields of the sugarcane cultivated and the maturity profile of the sugarcane.
18. An out-growers' institution shall issue a grower with whom the institution has entered into an agreement, a payment statement that indicates the quantity of sugarcane delivered, the price and agreed deduction or recovery on the payment, as agreed upon by the grower and institution.

B. Key requirements/Obligations for millers:

1. A miller may register growers.
2. Registered millers may organize themselves into an association and register

with the Authority as an umbrella association to represent and advocate for the millers' interests.

3. An association of millers that intends to be registered as an umbrella millers' association shall apply to the Authority for registration as an umbrella millers' association using **Form 1** set out in the First Schedule and attach the following:
 - (a) a copy of registration certificate from a relevant government department;
 - (b) a copy of constitution or by-laws endorsed by the relevant government department;
 - (c) proof of current membership; and
 - (d) approved minutes for election of office bearers.
4. A miller shall maintain a register of the registered out-growers' institutions, growers and other dealers in sugarcane or sugarcane products, with whom the miller has entered into an agreement for the farming or supply of sugar cane.
5. The register maintained under sub-regulation (1) shall contain—
 - (a) the particulars of the registered out-growers' institutions;
 - (b) the particulars of the growers;
 - (c) the miller's location, land registration number, registration number, and agreement numbers;
 - (d) the particulars of the sugarcane harvesters;
 - (e) the particulars of the transporters; and
 - (f) the particulars of the acreage, varieties, crop cycles and yield of sugarcane per acreage.
6. All registered millers shall submit to the Authority and the relevant County Government, annual returns of the registers maintained under this Part before the **thirty-first date of January every year** following the conclusion of the data collection period.
7. A miller may enter into an agreement with a grower, out-growers' institution or any person for sugarcane harvesting or transportation using **Form 5** set out in the First Schedule.
8. A miller may enter into an agreement with a grower for the leasing of part of the grower's land to the miller on the terms and conditions mutually agreed between them.
9. A miller may enter into agreement with grower for the farming or supply of the grower's sugarcane using **Form 6** set out in the First Schedule.
10. A miller may enter into agreement with out-growers' institution for the farming or supply of the grower's sugarcane using **Form 7** set out in the First Schedule.
11. A miller shall submit the agreement entered into with any person to the Authority for registration.
12. A miller shall develop and submit a sugarcane development plan to the Authority and the respective County Government.
13. A sugarcane development plan which shall be developed in consultation with the growers, shall contain the number of growers, the size of the land under cultivation, sugarcane varieties cultivated, yields of the sugarcane cultivated and the maturity profile of the sugarcane.
14. A miller shall match the milling capacity with the sugarcane development plans.
15. A miller may in writing apply to the Authority for authorization to change the installed milling capacity by more than twenty percent of the registered capacity.
16. A miller shall issue a grower with whom the miller has entered into an agreement, a payment statement that indicates the quantity of sugarcane delivered, the price and agreed deduction or recovery on the payment, as agreed upon by the grower and the miller.
17. A miller shall issue a registered out-growers' institution with whom the miller has entered into an agreement a payment statement that indicates the quantity of sugarcane delivered, the price and agreed deduction or recovery on the payment, as agreed upon by the miller and institution.
18. A miller may accept burnt sugarcane by separate agreement between a grower and a miller using **Form 9** set out in the First Schedule.
19. A miller shall manufacture, package, transport or store in a warehouse, sugar and by-products of sugar in accordance with the Kenyan specifications for sugar set out in the Second Schedule.
20. A miller shall apply for registration of sugar brands for packaging or repackaging using **Form 10** set out in the First Schedule.

NOTE:

In addition to the above requirements, all out-growers' institutions and millers including jaggeries are requested to acquaint themselves with the provisions of the Crops Act 2013 and the Crops (Sugar) (General) Regulations, 2020 to ensure compliance.

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