

(Legislative Supplement No. 95)

LEGAL NOTICE NO. 164

THE CROPS ACT

(No. 16 of 2013)

THE CROPS (NUTS AND OIL CROPS) REGULATIONS, 2020

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.
- 3—Application.
- 4—Purpose of Regulations.

PART II—REGISTRATION AND LICENSING

- 5—Registration of small-holder growers and growers associations.
- 6—Registration of plantation growers.
- 7—Commercial Nursery registration and licensing.
- 8—Issuance of commercial nursery licence.
- 9—Mother plants/mother block registration.
- 10—Registration and licensing of traders, retailers, transporters, marketing agents, warehousemen and distributors.
- 11—Registration and licensing of importers and ex-porters.
- 12—Application for approval to establish a manufacturing facility.
- 13—Issuing of a manufacturing licence.
- 14—Renewal of licences.
- 15—Additional information.
- 16—Decision on registration, licensing and renewal.
- 17—Licensing fee.
- 18—Revocation, suspension or varying of a licence
- 19—Certificate of registration, licence or permit not transferable.

PART III— PRODUCTION, PROCESSING AND MARKETING
PROVISIONS

- 20—Approved seed or planting material source.

- 21—Mother plants, mother block or nursery establishment.
- 22—Contracts between grower or dealer or manufacturer.
- 23—Production and processing.
- 24—Traceability of produce and products.
- 25—Bi-annual verification of traceability.
- 26—Manufacturing and being in possession of scheduled nuts and oil crops.
- 27—Buying and selling of nuts and oil crops.
- 28—Collection centres.
- 29—Importation and exportation of nuts and oil crops produce and products
- 30—Field inspection and manufacturing facility inspection.
- 31—Appointment of crop inspectors.
- 32—Functions of crop inspectors.
- 33—Entry, inspection and obstruction of crop inspectors.
- 34—Compliance with quality standards.
- 35—Sampling and testing of produce and product.

PART V—GENERAL PROVISIONS

- 36—Dispute resolution procedure.
- 37—Validity of licences.
- 38—Fees and levies.
- 39—Submission of returns.
- 40—General penalty.
- 41—Transition.

SCHEDULES:

FIRST SCHEDULE—SCHEDULED NUTS AND OIL CROPS

SECOND SCHEDULE—FORMS

THIRD SCHEDULE—FEES AND LEVIES

FOURTH SCHEDULE—MINIMUM REQUIREMENTS

FIFTH SCHEDULE—GUIDELINES

THE CROPS ACT

(No. 16 of 2013)

IN EXERCISE of the powers conferred by section 40 of the Crops Act, 2013, the Cabinet Secretary for Agriculture, Livestock, Fisheries and Co-operatives, in consultation with the Agriculture and Food Authority and the County Governments, makes the following Regulations—

THE CROPS (NUTS AND OIL CROPS) REGULATIONS,
2020.

PART I—PRELIMINARY

1. These Regulations may be cited as the Crops (Nuts and Oil Crops) Regulations, 2020. Citation.
2. In these Regulations unless the context otherwise requires— Interpretation.
 - “Act” means the Crops Act 2013; No.16 of 2013.
 - “agent” means a dealer acting on behalf of a licensed player and can be a marketing agent or clearing agent;
 - “annual crop” means plants that complete their entire life cycle from seed to flower and to seed within a single growing season in this case includes rape seed, groundnuts, sesame, castor bean, sunflower, safflower, linseed, jojoba and any other similar nut and oil crop as may be scheduled;
 - “authorized agent” means a person appointed in writing by the Authority to carry out specific duties and functions in the nuts and oil crops subsector on behalf of the Authority;
 - “Authority” means the Agriculture and Food Authority established by section 3 of the Agriculture and Food Authority Act, 2013; No.13 of 2013.
 - “certificate” means a document issued by the Authority or the County Government for a specified purpose upon fulfilling certain requirements;
 - “collection center” means a designated site that is established for the purposes of storage and marketing of different nuts and oil crops produce and products;
 - “commercial nursery” means an approved site where nuts and oil crops seedlings are raised for sale;
 - “County Government” shall have the meaning assigned to it under Article 176 of the Constitution;
 - “crop inspectors” means persons appointed as inspectors in accordance with section 27 of the Act;
 - “dealer” includes a person engaged in either collecting, transporting, storing, distributing, or buying and selling nuts and oil crops produce, products or by-products and includes marketing agents, exporter, importer and ship chandler. For purposes of these regulations, a commercial nursery operator is also a dealer;

“Directorate” means the Directorate established under the Agriculture and Food Authority Act, 2013 for the time being responsible for matters related to scheduled nuts and oil crops;

“export” means to move or ship locally (Kenyan) produced nuts and oil crops produce or products to another country;

“grower” means any person who cultivates nuts and oil crops in Kenya and may be a small-holder or plantation grower;

“grower associations” means any association, common interest group, community-based group, co-operative, union or federation of nuts and oil crops growers or any other legal entity comprised of nuts and oil crops growers;

“import” means to bring into Kenya, nuts and oil crops produce or products from another country;

“licensee” means a person who holds a license granted under the Crops Act, 2013 or these Regulations;

“manufacture” means the processing of all nuts and oil crops produce and products and includes cracking, grading, packaging, labelling and distribution of nuts and oils crops products for sale; and does not include de-husking and drying;

“manufacturer” means a processing facility that transforms nuts and oil crops produce or products into various end use products;

“mother block” means an area set aside with selected plants for the purpose of obtaining clean planting, grafting and budding material;

“mother plant” means a tree that has been identified and approved by the relevant authority as a source of planting, grafting or budding material;

“nuts and oil crops” means any of the crops listed under the First Schedule and includes such other crops that the Cabinet Secretary may on the advice of the Authority, *gazette* to be a scheduled crop under section 7 of the Crops Act, 2013;

“perennial crop” means plants that persist for many growing seasons and in this case includes macadamia, cashew, coconut, oil palm, and any other nuts and oil crop that may be scheduled from time to time;

“person” includes an individual, company, firm, co-operative society, association or a corporation;

“plantation grower” means a grower with fifty acres or more for perennial crops or ten acres or more for annual crops;

“raw macadamia nut” means unprocessed produce still in shell, whether wet or dry;

“raw cashew nut” means unprocessed produce still in shell;

“record” means a written or electronic data or information relating to a process or procedure;

“rootstock” means the part of a plant which forms the root system of the plant, and into which a scion cultivar is grafted or budded;

“scion” means a detached shoot or bud used in vegetative propagation in the process of grafting or budding;

“ship chandler” means a person registered and authorized by the Authority to supply nuts and oil crops produce and products to a ship or an aircraft;

“single window system” means a platform hosted by a government agency responsible for trade facilitation for clearing exports and imports electronically;

“small-holder grower” means a grower with less than 50 acres under perennials or less than 10 acres under annuals for nuts or oil crop;

“stakeholder” means any person involved directly or indirectly in the nuts and oil crops industry; and

“traceability” means ability to track nuts and oil crops produce and products from production to the final consumer and vice versa.

3. These Regulations shall apply to the nuts and oil crops set out in the First Schedule.

Application.

4. (1) The purpose of these Regulations is to guide the development, promotion, and regulation of scheduled nuts and oil crops for the benefit of the growers and other stakeholders in the nuts and oil crops industry.

Purpose of Regulations.

(2) Without prejudice to the generality of sub-regulation (1), the purpose of these Regulations is to provide for—

- (a) the production, harvesting, processing and marketing of nuts and oil crops;
- (b) promotion of best practices in the sub sector;
- (c) registration and licensing of all players along the value chain;
- (d) the recommendation of general industry agreements or contracts;
- (e) the development and enforcement of quality and safety standards for compliance;
- (f) the collection, collation, maintenance and management of statistical data related to the sub sector;
- (g) the imposition and administration of levies; and
- (h) regulation of the sub sector.

PART II—REGISTRATION AND LICENSING

5. (1) A small-holder grower may, for purposes of accessing economies of scale, register with an association, common interest groups, community based organizations and co-operatives registered by the respective County Government under these Regulations.

Registration of small-holder growers and grower associations.

(2) A small-holder grower association cultivating nuts and oil crops shall apply to the respective County Government for registration in Form A1 as set out in the Second Schedule.

(3) The respective County Government shall issue a certificate of