

GOVERNMENT NOTICE NO. 50 published on 17/02/2017

THE FERTILIZER ACT
(CAP. 378)

REGULATIONS

(Made under section 51)

THE FERTILIZER (AMENDMENTS) REGULATIONS, 2017

- Construction 1. These Regulations may be cited as the Fertilizer
(Amendments) Regulations, 2017 and shall be read as one with
GN No. 350 the Fertilizer Regulations, 2011 hereinafter referred to as the
“principal Regulations”.
- Amendment of regulation 2 by- 2. The principal Regulations are amended in regulation 2
- (a) deleting the definitions of the words “justice of peace” and “supplement”;
- (b) deleting the definitions of the words “official sample; “specialty fertilizer”, “specified risk material” and “solid fertilizer” and substituting for them the following-
- “official sample” means a representative amount of fertilizer or fertilizer supplements collected for analysis in the presence of the inspector and fertilizer dealer;
- “specialty fertilizer” means a fertilizer that contains no major plant nutrients and contains lesser plant nutrients other than calcium (Ca), magnesium (Mg) and Sulphur (S);
- “specified risk material” means a material that poses danger to humans, animals and environment;
- “solid fertilizer” means fertilizer which is in a form of powder, granules or crystal;”
- (c) inserting in their appropriate alphabetical order the following new definitions-
- “biofertilizer” means fertilizer which contains living microorganisms which colonise the rhizosphere or interior of plant and promotes growth by increasing the supply or availability of primary nutrients and/or growth

stimulus to the target crop, when applied to seed, plant surface or soil;

“stakeholder” means any person who deals with fertilizer business, and includes manufacturer, importer, exporter, transporter, distributor of fertilizer or fertilizer supplements, grower, the Authority, the Government and any other person or entity whose activity is directly linked with fertilizer business;”

Amendment
of
regulation 3

3. Regulation 3(1) of the principal Regulations is amended by deleting paragraph (c) and substituting for it the following-

“(c) where applicable, a written declaration that the fertilizer or fertilizer supplements have or have not been banned or restricted in the country of origin.”

Amendment
of
regulation 4

4. The principal Regulations are amended in regulation 4 by-

(a) deleting sub-regulations (2) and (3) and substituting for them the following-

“(2) For a new fertilizer or fertilizer supplement, the Director or a person authorised by him shall carry out laboratory and field test for one cropping season in at least two agro-ecological zones so as to determine the suitability for use of the fertilizer or fertilizer supplement.

(3) Without prejudice to sub regulation (2), where the Director is not satisfied with the field report, he may direct field test to be repeated.

(4) Without prejudice to sub-regulation (2), the Authority shall register a blend of registered fertilizer or fertilizer supplement without carrying out a field test, provided that-

(a) in case of dry blending, there is uniformity of particle sizes and that the results of the laboratory test and soil analysis show that the blend is suitable for use; and

(b) in case of wet blending, the results of

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the laboratory test and soil analysis show that the blend is suitable for use.”

- (b) deleting the cross reference “(3)” appearing in subregulation (6) and substituting for it with “(2)”;
- (c) deleting subregulation (8) and substituting for it the following-

“(8) Every holder of certificate of registration issued under this regulation shall comply with terms and conditions of registration specified in the Certificate.”

- (d) renumbering subregulations 4 to 8 as subregulations 5 to 9 respectively.

Amendment
of
regulation 6

by-

5. The principal Regulations are amended in regulation 6

- (a) deleting sub regulations (2) and (3) and substituting for them the following-

“(2) The Director shall, if satisfied that the applicant has complied with the requirements for licensing of sterilizing plant or manufacturing plant including payment of fees as specified in the Second Schedule to these Regulations, issue the applicant with a license in a form prescribed in the Sixth Schedule to these Regulations.

(3) The license issued under subregulation (2) shall be accompanied with terms and conditions issued from time to time by the Authority.”

Amendment
of
regulation
11

5. The principal Regulations are amended in regulation 11 by deleting the word “thirty” appearing between the words “within’ and “days” and substituting for it the word “fourteen”.

Amendment
of
regulation
12

6. The principal Regulations are amended by deleting regulation 12 and substituting for it the following-

“Insuance and
validity of
certificate

12. Every holder of
certificate of registration issued
under this regulation shall comply

with the terms and conditions of registration specified in the Certificate.”

Amendment
of
regulation
13

13-

7. The principal Regulations are amended in regulation

(a) by deleting sub regulation (1) and substituting for it the following-

“(1) An application for licensing of a fertilizer dealer shall be submitted to the Director in a form prescribed in the Ninth Schedule to these Regulations and shall be accompanied by the appropriate fees as set out in the Second Schedule to these Regulations.”

(b) in sub regulation (2) by deleting the word-

(i) “thirty” appearing between the words “within” and “days” and substituting for it the word “fourteen”;

(ii) “registration” appearing between the words “of” and “fee” and substituting for it the word “licence”.

Amendment
of
regulation
14

8. The principal Regulations are amended by deleting regulation 14 and substituting for it the following -

“Suspension
and
cancellation of
licence

14.-(1) Subject to these Regulations, the Director may suspend or cancel the licence if he is satisfied that, with respect to the holder of that licence, there has been a violation of the provisions of the Act or these Regulations.

(2) Where the Director intends to cancel or suspend a licence he shall by registered mail or any appropriate means forward to the licence holder a notice stating his intention to suspend or cancel the licence.

(3) The licence holder shall, within thirty days after he has

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received a notice referred to in sub regulation (2), notify the Director that he wishes to have an opportunity to be heard.

(4) The Director shall notify the licence holder by registered mail of the time and place of hearing to determine whether the licence be cancelled or suspended.

(5) The hearing shall be held within thirty days after the date on which the Director receives notice that the licence holder wishes to have an opportunity to be heard.

(6) Where a licence holder who has received a notice referred to in subregulation (2) fails to notify the Director that he wishes to have an opportunity to be heard or fails to satisfy the Director that his licence should not be cancelled or suspended, the Director may cancel or suspend the licence.

(7) Notwithstanding the provisions of subregulations (2) to (6), the Director may determine a written submission submitted to him with the view of opposing, cancelling or suspending any licence without formal hearing.”

Amendment
of
regulation
18

18 by-

9. The principal Regulations are amended in regulation

(a) deleting paragraph (a) and substituting for it the following-

(a) the inspector and fertilizer dealer shall be present when official sample is drawn.

(b) deleting the phrase “for example Poly Vinyl Chloride (PVC) or polthylene” appearing in paragraph (b) under item (iv);

(c) deleting the open phrase of paragraph (e) and

substituting for it the following-

“(e) the sample shall be divided into three equal parts and each sample container shall be completely filled by the sample and each container shall be air-tight sealed and affixed with a certificate signed by the inspector and fertilizer dealer with following details-”

Amendment
of
regulation
32

10. The principal Regulations are amended in regulation 32 by adding immediately after sub regulation (4) the following new proviso-

“Provided that, the Authority may, upon request of the applicant, allow package in weight of less than 5kg, subject to the terms and conditions which the Authority may impose.”

Amendment
of
regulation
34

11. The principal Regulations are amended in regulation 34 by-

(a) deleting the words “both English and Swahili” appearing in sub regulation (3) and substituting for them the words “Swahili or both English and Swahili”

(b) deleting sub regulation (4);

(c) renumbering subregulation (5) as subregulation (4);

(d) deleting paragraph (d) appearing in sub regulation (4) as renumbered and substituting for it the following-

“(d) net content in weight or volume;”

(e) adding immediately after paragraph (h) the following new paragraph as follows-

“(i) any other information as the Authority may determine”.

Amendment
of
regulation
37

12. The principal Regulations are amended in regulation 37 by deleting the words “at least unless” and substituting for them the words “unless at least”.

Amendment
of
regulation
39

13. The principal Regulations are amended in regulation 39 by deleting sub regulation (1) and substituting for it the following-

“(1) A label referred to under regulations 34 and 38 shall not contain any incorrect and misleading information, mark or brand name that tends to deceive or mislead a purchaser with respect to the composition or utility of the product to which the label relates.”

Amendment of regulation 41 14. The principal Regulations are amended in regulation 41 by deleting sub regulations (1) and (2) and substituting for them the following-

“(1) The fertilizer or fertilizer supplement having a composition set in Column I of Twelfth Schedule shall bear the designated name as set out in Column II of that Schedule.

(2) The grade of a fertilizer or fertilizer supplement referred to in subregulation (1) shall form part of the designated name of the fertilizer or fertilizer supplement.”

Amendment of regulation 42 15. The principal Regulations are amended in regulation 42 by deleting figure “42” appearing in sub regulation (1) and substituting for it with figure “41”.

Amendment of regulation 47 16. The principal Regulation are amended in regulation 47 by-

(a) deleting sub regulations (3) and (4); and

(b) renumbering sub regulations (5) and (6) as sub regulations (3) and (4) respectively.

Amendment of regulation 48 17. The principal Regulations are amended in regulation 48 by deleting it and substituting for it the following-

“Importation of fertilizer or fertilizer supplement

48.-(1) Every fertilizer dealer shall, before importing fertilizer or fertilizer supplement, make an application to the Director in a form prescribed in the Sixteenth Schedule to these Regulations.

(2) The application made under subregulation (1) shall be

accompanied by payment of non-refundable fees as provided for in this regulation and shall specify-

- (a) name and address of importer;
- (b) name and address of exporter;
- (c) country of origin;
- (d) the quantity of fertilizer or fertilizer supplement;
- (e) expected date of arrival of consignment;
- (f) port of entry; and
- (g) any other relevant information as the Authority may determine.

(3) The fees payable under subregulation (2) shall include-

- (a) a non-refundable application fee payable upon filling the application form as set out in the Second Schedule;
- (b) where applicable actual costs of transport and boarding of the inspectors during the inspection and sampling of the consignment;
- (c) testing fee or fees which include all expenses in respect of testing of samples

by the Authority or any other accredited or approved laboratory; and

- (d) an import fee equivalent to 1.2% of the Costs, Insurance and Freight (CIF) value which covers inspection, monitoring and quality assurance after release of the consignment to the market.

(4) Upon receipt of such application, the Director shall issue an Import Permit in a form prescribed in the Seventeenth Schedule to these Regulations, upon being satisfied with the application.

(5) Upon receipt of clearing documents from the supplier, the importer of fertilizer or fertilizer supplements shall fill a form prescribed in the Eighteenth Schedule to these Regulations.

(6) Any fertilizer or fertilizer supplement imported under this regulation shall not be sold unless its quality has been analysed and approved by the Authority.

(7) Where an import consignment of risk materials of animal origin is to be imported, an additional Quality Assurance Certificate from relevant

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authority of exporting country shall accompany the application form and approved by the Director of Veterinary Services.”

- | | | |
|---|--------|---|
| Amendment of regulation 49 | 49 by- | <p>18. The principal Regulations are amended in regulation</p> <p>(a) deleting sub regulation (2) and substituting for it the following-</p> <p style="padding-left: 40px;">“(2) The application made under sub regulation (1) shall specify-</p> <p style="padding-left: 80px;">(a) name and address of exporter;</p> <p style="padding-left: 80px;">(b) name and address of importer;</p> <p style="padding-left: 80px;">(c) country of destination;</p> <p style="padding-left: 80px;">(d) quantity of fertilizer or fertilizer supplement to be exported;</p> <p style="padding-left: 80px;">(e) payment of the export permit fee as stipulated under Second Schedule; and</p> <p style="padding-left: 80px;">(f) any other relevant information as may be required by the Director.”</p> <p>(b) deleting the words “notice of intention to export” appearing in subregulation (3) and substituting for them the words “provisions of these Regulations”.</p> |
| Amendment of regulation 51 | 51 by- | <p>19. The principal Regulations are amended in regulation</p> <p>(a) deleting figure “51” appearing in sub-regulation (1) and substituting for it with figure “50”; and</p> <p>(b) deleting figure “20” appearing in paragraph (a) and substituting for it with the word “ten”.</p> |
| Additional of new regulations 56, 57, 58, 59 and 60 | | <p>20. The principal Regulations are amended by adding immediately after sub regulation 55 the following new regulations-</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>“Setting and announcement of indicative prices</p> </div> <div style="width: 50%;"> <p>56.-(1) The Authority shall set and announce indicative price for fertilizer or fertilizer supplement.</p> <p>(2) The indicative price set pursuant to sub-regulation (1) shall</p> </div> </div> |

be the maximum price for selling fertilizer or fertilizer supplement at farm gate level.

(3) In setting the indicative price under this regulation, the Authority shall consider the following-

- (a) prevailing market prices of the fertilizer or fertilizer supplement at the sources;
- (b) costs associated with the transportation and handling of fertilizer and fertilizer supplement;
- (c) profit margins and affordability of fertilizer and fertilizer supplement; and
- (d) any other relevant factor.

(4) The Authority may, after considering relevant factors, revise the indicative price.

(5) A person who sells fertilizer or fertilizer supplement above the indicative price commits an offense and shall, upon conviction, be liable to imprisonment for a term of not less than three years or to a fine of not less than ten million Tanzanian shillings or to both such imprisonment and fine.

Fertilizer
industry
control
measures

57.-(1) The Minister may, in consultation with relevant authorities, set up control measures to deal with constraints of the

development of fertilizer industry including setting of a committee comprising the Authority and other relevant institutions to coordinate availability and quality compliance of all fertilizer or fertilizer supplement for sale to the farmers.

(2) In dealing with the illegal or substandard fertilizer or fertilizer supplements, the Authority may consult relevant authorities to put in place additional control measures from time to time.

(3) In order to ensure that the importers of fertilizers comply with the licence requirements, the Authority shall in collaboration with relevant institutions, undertake regular audit and supervision of the premises of the fertilizer dealers or any storage facilities or warehouse.

(4) For the better exercise of its role under these provisions and other regulatory provisions in the Act and these Regulations, the Authority may require any fertilizer dealer or person to submit necessary information to assist the Authority to well execute its mandates.

(5) Any person who contravenes the provisions of this regulation, commits an offence and in addition to any penalty imposed under the Act the Authority may-

- (a) withdraw or suspend any certificate, licence or permit issued to the violator;

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- (b) confiscate all fertilizer or part thereof and deal with it in the manner which the Authority shall deem fit;
- (c) request any other relevant authority to take appropriate measures to contain the said fertilizer or fertilizer supplements found to contravene the provisions of the Act and these Regulations.

Fertilizer and
fertilizer
supplements to
comply with
standards

58. All fertilizer or fertilizer supplements for sale to the farmers shall comply with the standards provided for in the Act and these Regulations and the standards shall include but not limited to-

- (a) quality specification as prescribed by the regulatory bodies or any other written laws; and
- (b) environmental issues as set by the body for the time being responsible for environmental matters.

Penalty

59.-(1) Any person who contravenes any of the provision of these Regulations for which the offence is not prescribed in the Act, commits an offence and shall, upon conviction, be liable to imprisonment for a term of not less

than three years or to a fine of not less than ten million shillings or to both.

(2) Where upon inspection, the Authority is satisfied that the fertilizer or fertilizer supplement is not fit for intended purpose or that any provision of the Act or Regulations has been contravened, he may-

- (a) if it is in a package, affix to that fertilizer or fertilizer supplement with a mark, seal or other designation;
- (b) issue a stop sale order;
- (c) without compensation to the owner, order the said fertilizer or fertilizer supplement to be destroyed or disposed at the owner's cost under full supervision of relevant authorities;
- (d) confiscate the said fertilizer or fertilizer supplement to the Government; or
- (e) for imported fertilizer or fertilizer supplements, order re-shipment- of the said fertilizer or fertilizer supplement to a country where it originates.

(3) The Authority shall, before taking steps indicated under the provisions of sub regulation

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- (2),
- (a) record or cause to be recorded-
 - (i) a description or other particulars of the fertilizer or fertilizer supplements;
 - (ii) description of premises where the fertilizer or fertilizer supplement was found;
 - (iii) any witness available and their signatures;
 - (iv) the grounds upon which the seizure was effected and relevant provisions of law violated; and
 - (v) an appropriate measure to be taken against such violation.

(4) Notwithstanding the penalty imposed under sub regulations (1) and (2), the Authority may impose fines or other penalties as provided for under the Act.

Issuance of
guidelines

60. The Authority may, from time to time, issue specific or general guidelines relating to the enforcement of these Regulations.”

21. The principal
Regulations are amended

GN.No.50 (Contd.)

in First Schedule -

- (a) by deleting the word
“Rejection letter Ref.
No.”
- (b) in paragraph 1(f) by
deleting the word
“consultant(s)” and
substituting for it the
word “agent(s).”

Repeal of the
Second and
Sixteenth
Schedules

22. The principal Regulations are amended by repealing
the Second and Sixteenth Schedules and replacing for them the
following-

SECOND SCHEDULE

(Made under regulation 3(2))

FORM FR 2

FOR OFFICIAL USE

*The Director;
Tanzania Fertilizer Regulatory Authority;
P. O. Box 9192;
DAR ES SALAAM*

*Application No.
Date received.....
Fees receipt No.
Date approved/rejected.....*

FEES

| S/N | ITEM | FEE (USD) |
|-----|---|-----------|
| 1. | Application for registration of fertilizer or fertilizer supplement | 0 |
| 2. | Laboratory and field test for new fertilizer | 10,000 |
| 3. | Application for registration and licensing of sterilizing plant or manufacture plant | 5,000 |
| 4. | Application for registration of fertilizer dealer | 0 |

Fertilizer (Amendments)

GN.No.50 (Contd.)

| | | |
|----|---|-------------|
| 5. | Application for licensing of fertilizer dealer- | |
| | (a) importer | 100 |
| | (b) stockist | 50 |
| 6. | Application for import permit | 0 |
| 7. | Application for export permit | 0.2 USD/ton |
| 8. | Application for lost certificate | 20 |
| 9. | Importation/inspection fee | 1.2% CIF |

SIXTEENTH SCHEDULE

(Made under regulation 48(1))

TANZANIA FERTILIZER REGULATORY AUTHORITY

FOR OFFICIAL USE

| | |
|--|------------------------------------|
| <i>The Director;</i> | <i>Application No.</i> |
| <i>Tanzania Fertilizer Regulatory Authority;</i> | <i>Date received.....</i> |
| <i>P. O. Box 9192;</i> | <i>Fees receipt No.</i> |
| <i>DAR ES SALAAM</i> | <i>Date approved/rejected.....</i> |

APPLICATION FORM FOR IMPORTING FERTILIZER OR FERTILIZER
SUPPLEMENT

I/We.....
of P.O Box
wish to import fertilizer/fertilizer supplement.....
.....
from
quantity
Name and address of importer
Port of entry
The importation will be made during the period of
Date
Importer/Agent Name of officer
Signature Signature
Date Date
For (Official Stamp).....”

Dar es Salaam,
10th February, 2017

CHARLES J. TIZEBA
*Minister for Agriculture,
Livestock and Fisheries*