

# **SWAZILAND DAIRY REGULATIONS, (2016)**

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In terms of section 32 of the Dairy Act Number 28 of 1968, the Minister for Agriculture makes following regulations:-

PART 1  
PRELIMINARY

***Citation and Application***

1. (i) These regulations may be cited as the Swaziland Dairy Regulations, 2016 and shall come into operation after the date of publication thereof.  
(ii) These regulations shall apply in the Kingdom of Swaziland.

***Interpretation***

2. Any word or expression in these regulations to which a meaning has been assigned in the Act shall have that meaning and, unless the context otherwise indicates:-

***"Address"*** means a physical address and includes the street or road number or name and the name of the town, village or suburb and, in the case of a farm, the name or number of the farm and of the Region in which it is situated;

***"Amenities"*** include toilets, showers, locker rooms, change rooms, canteens and kitchens;

**“Animal feed”** means food given to animals in the course of animal husbandry;

**“Animal food”** means milk and milk products for use as feed for animals;

**“Auditor”** means an auditor whose qualifications are recognized by the law of any country as entitling him to practise as an auditor in that country;

**“Authority”** means the Board, Government or agencies that have the legal authority to implement and enforce the regulations;

**“Authorized officer”** means an officer that has the legal authority to implement and enforce the regulations;

**“Animal fat”** means any fat of animal origin, excluding milk fat and marine fat;

**“Board”** means the Swaziland Dairy Board;

**“Butter substitute”** means renovated, milled, milk-blended or process butter containing not more than eighteen per centum of water and no fat except pure milk fat;

**“Calendar”** means any period of twelve months commencing with the first day of January;

**“CEO”** means the Chief Executive officer of the Swaziland Dairy Board;

**“Chairman”** means the chairman or, in his absence, the vice-chairman of the board;

**“Cheese factory”** means any premises used for the manufacture of cheese;

**“Clarified butter”** means the residual non rancid produce obtained solely from boiled butter or cream and containing butterfat and not more than 0.2 per centum moisture, and zero point (0.1) percentum protein or other substance;

**“Codex”** means the *Codex Alimentarius* issued by the body known as the Codex Alimentarius Commission of the Food and Agriculture Organization of the United Nations and the World Health Organization.

**“Condemned”** means not suitable for use as food or for animal food and requiring destruction;

**“Condensed milk”** means milk concentrated by the evaporation of a portion of its water content with or without the addition of sugar;

**“Contaminated”** in respect of a dairy product, means containing, for any reason whatsoever, a chemical, drug, food additive, heavy metal, industrial pollutant, ingredient, medicament, microbe, pesticide, poison, toxin or any other substance not permitted by, or in an amount in excess of limits prescribed or regulated by public health laws;

**“Country of origin”** with respect to a dairy product, means the country in which the product was produced or manufactured or the country in which the product last underwent substantial transformation or processing;

**“Cream depot”** means a place or premises where cream is, pending consignment to a creamery collected, or deposited, for the purpose of weighing, sampling, grading or treatment;

**“Commercial sterile”** means the absence of microorganisms capable of growing in the food at normal non-refrigerated conditions at which the food is likely to be held during manufacture, distribution and or storage.

**“Composite dairy product”** means a product consisting of a combination of a primary dairy product and another foodstuff the solids of which are not intended to replace any part of the milk solids of that primary dairy product;

**“Consumer”** means:-

- (a) a natural person who buys dairy products or services for personal use and not for manufacture or resale;
- (b) a natural person who can make a decision whether or not to purchase an item;
- (c) a natural person who can be influenced by marketing and or advertisement;
- (d) a natural person that consumes, especially one that acquires goods or services for direct use or ownership rather than for resale or use in production and manufacturing; or,
- (e) an entity that acquires dairy products for the furtherance of its operations.

**“Control measure”** means a measure that prevents, eliminates or reduces a food safety hazard

**“Container”** means the container or wrapper or any object in which a dairy product or an imitation dairy product is sold

**“Creamery”** means any premises used for the manufacture of butter;

**“Creamery butter”** means butter manufactured in a creamery;

**“Critical control point”** means a factor, practice, procedure, process, or location which can be controlled in order to prevent, control, eliminate or reduce a hazard, or minimise the likelihood of its occurrence.

**“Critical limit”** means the level at which a hazard may be controlled to prevent, control, eliminate or reduce the occurrence of the hazard.

**“Dairy”** means any premises on which milk is produced for the purposes other than for consumption by a household that produced such milk;

**“Dairy animal”** means a cow, goat, sheep, camel or such other species of animal as may be kept for the purpose of milking;

**“Dairy Auditor”** means a qualified and authorized person who systematically and independently examines data, statements, records, operations and performances of a specified dairy industry chain for a stated purpose. The auditor perceives and recognizes the propositions before him for examination, collects evidence, evaluates the same and on this basis formulates his judgment, which is communicated through his audit report.

**“Dairy business”** means an enterprise established for the harvesting or processing of milk from dairy animals or both;

**“Dairy farming”** means a practice of agricultural, or an animal husbandry, enterprise, for production of milk, from dairy animals which may be either processed on-site or transported to a dairy factory for processing and eventual retail sale;

**“Dairy plant”** means equipment, premises, a building or a structure where milk is received or stored or processed into dairy products;

**“Dairy product”** means –

- (a) milk, milk product such as milk powder, dried or condensed milk contained in sealed containers;
- (b) clarified butter, whey butter or other butter, cheese, cream or ice-cream; or
- (c) margarine or other substitute for butter made from vegetable or animal fats or a combination of those fats;

**“Dairy substitute”** means a substance or product marketed or used as an alternative to a dairy product;

**“Dairy stakeholders”** means a person, group or organization having an interest or being impacted upon by anything happening in the dairy industry;

**“Dairy transport business”** means an enterprise or activity involving the collection and transport of milk from any place to the dairy business, distributor, trader, retailer or consumer or the transport of milk, dairy product or dairy substitute and related products within Swaziland;

**“Dairy distribution premises”** means any premises where packaged dairy and dairy related products are sold or distributed other than:-

- (a) dairy manufacturing premises; or
- (b) premises used only for retail purposes;

**“Dairy distributor”** means a person who:-

- (a) is the owner of a business that operates a dairy distribution premises; or
- (b) purchases dairy and dairy related products for the purposes of distribution and sale;

**“Dairy farmer”** means a person who operates a dairy farm or establishment for business purposes;

**“Disqualified”** means sanctioned by the Board in terms of section 5 of the Act;

**“DOHS”** means the Director of Health Services in the Ministry of Health;

**“Dried milk”** or “milk powder” means a dry substance produced by desiccation of milk;

**“DVLS”** means the Director of Veterinary and Livestock Services in the Ministry of Agriculture;

**“Establishment”** means premises that are approved or registered by the board in which milk, milk products and milk related products are produced, processed, prepared, handled, packed or stored ;

**“Factory butter”** means butter that is –

- (a) manufactured on premises of which the registration as a butter factory is required; or
- (b) imported into Swaziland;

**“Farm butter”** means butter, excluding medium-fat butter and low-fat butter, that is manufactured at premises other than premises of which the registration is required

**“Farm cheese”** means cheese that is manufactured in a farm cheese factory;

**“Financial year”** means any period of twelve months commencing with the first day of April;

**“Fit for human consumption”** means safe and suitable for consumption by natural persons;

**“Flavour”** means a complex sensation derived from the blending of smell and taste;

**“Food additive”** means

- (a) any of the various natural or synthetic substances, used in the processing of food as preservatives, antioxidants, emulsifiers, etc, in order to preserve or add flavour, colour, or texture to processed food; or
- (b) means an enrichment substance, supplement or any other substance which may be added to a foodstuff to effect its keeping quality, consistency, colour, taste, flavour, smell or other technical property as permitted and includes but is not limited to acids, bases, salts, preservatives, antioxidants, anti-caking agents, colourants, flavourings, emulsifiers, stabilisers and thickeners

**“Food carrying compartment”** means the part or area of a vehicle, ship, aircraft or other means of transport in which dairy products are contained during transportation;

**“Foodstuff”** means any substance that can be used or prepared for use as food;

**“Fresh milk”** means milk that has been pasteurized produced directly from raw milk;

**“Fresh Dairy Product”** means a product produced directly from fresh milk and should be clearly labelled as such before being placed for sale;

**“Fruit”** means all the recognized fruit pulp and fruit puree and those vegetables pulp and vegetable puree recognised as suitable in adding to a dairy product and imitation dairy products;

**“Fruit pulp”** means the edible part of the fruit with or without peel or skin and pips or seed as appropriate, which although it may have been sliced or crushed, has not been reduced to a puree;

**“Further processing”** means further treating a dairy product or subjecting it to heat, either alone or in the process of being used as an ingredient in food manufacturing;

**“Hazard”** means a biological, chemical or physical agent in, or a condition of, food that has the potential to cause an adverse health effect;

**“Hermetically sealed container”** means a container that is designed to be secure against the entry of micro-organisms, including spores;

**“Ice-cream”** means the frozen product:–

- (a) of water added to cream or milk with or without the addition of flavouring or other food; or
- (b) formed partly from water and cream or milk and intended for human consumption;

**“Imitation dairy product”** means any product other than a dairy product or a fat spread, that is of animal or plant origin and in general appearance, presentation and intended use corresponds to a dairy product;

**“Importing country authority”** in relation to a dairy product imported or to be imported into a country, means the authority or body in that country responsible for regulating the import of dairy products of that kind into that country;

**“Importing country requirement”** means a requirement relating to dairy products that an importing country authority requires to be complied with before the dairy product/s may be imported into that country;

**“Inner container”** means the immediate container or wrapper in which a dairy product or an imitation dairy product is packed;

**“Inputs”** includes any feed, water, chemicals, reagents, etc, used in connection with the primary production and processing of dairy products;

**“Main panel”** means that portion of a container in which a dairy product or an imitation dairy product is packed, and on which the largest depiction of the trade mark used in connection with the sale of that dairy product or imitation dairy product is indicated, and also any other portion of such container on which the depiction of the trade mark concerned is of equal prominence;

**“Label”** means any tag, brand, mark, pictorial, graphic or other descriptive matter, which is written, printed, stencilled, marked, embossed, impressed upon, or permanently attached to a container of a dairy product, and includes labelling for the purpose of promoting its sale or disposal;

**“Labelling”** means the statutory information which should be placed on packaging of dairy products, as determined by the Board in order to be placed for sale;

**“Levy”** means a fee charged on dairy products, substitutes of dairy products and dairy related products, collected by the Board for the services rendered in the regulation and development of the dairy industry and financing the operations of the Board;

**“License”** means a permit issued by the Board to own or use, do a particular thing, or carry on a trade;

**“Licensing authority”** means the designated authority authorized to issue a licence pursuant to these regulations;

**“Lot (batch)”** means a quantity of dairy products of the same type processed or packed under essentially the same conditions during a particular time interval generally not exceeding 24 hours, and from a particular processing or packing line or other identifiable processing or packing unit;

**“Marine fat”** means fat obtained from marine animals;

**“Meeting”** means a meeting of the Board;

**“Member”** means a member of the Board;

**“Milk”** means:

- (a) the normal lacteal secretion obtained from a dairy or milk producing animal;
- (b) pasteurized or other milk derived from dairy animals but does not include –
  - (i) a milk product, or
  - (ii) condensed or dried milk contained in sealed containers; or
  - (iii) milk which is produced for delivery to a place other than a place in an urban area, but includes milk delivered to a milk purveyor or milk shop, whether inside or outside the urban area, and imported milk;

**“Milk-blended butter”** means renovated and milled butters in the process of reworking in which are used –

- (a) water, milk or cream, or
- (b) a mixture of any of the above, or
- (c) extraneous ingredients;

**“Milk product”** means cream, or separated or skimmed milk or butter milk or sour milk or any other product wholly or partly produced by milk;

**“Milk purveyor”** means a person who sells milk or milk products on or from premises other than a dairy, or of a milk-shop for consumption off those premises;

**“Milk solids”** means the dried powder left after all the water is removed from liquid milk;

**“Milk shop”** means premises other than that of –

- (a) a dairy, or

(b) of a milk purveyor on or from which first-mentioned premises there are handled, kept, stored or exposed for sale or sold only milk or milk products, butter, eggs, cheese, ice-cream or honey;

**"Milk treatment"** means the preparation of raw milk, including heat treatment as a precondition for milk processing or consumption

**"Milled butter"** means butter which is a mixture or blend of two or more butters of different grades, qualities or makes and which has been subjected to a process of reworking, either mechanically or otherwise, and has been mixed or blended at a place other than where it was originally processed manufactured or packed;

**"Minister"** means the Minister responsible for Agriculture;

**"Modified dairy product"** means a product that, in so far as it relates to general appearance, presentation and intended use, corresponds to a primary dairy product, and of which not more than fifty per cent (50%) of the fat content, protein content and carbohydrate content has respectively been obtained from a source other than a primary dairy product;

**"Multipack"** means a container other than an outer container which contains the same or more than one type of dairy product or imitation dairy product containers and is intended to be sold only as a unit;

**"Occupier"** means:-

(a) the individual, corporation or other legal entity or any combination of thereof in whose name a registered establishment preparing dairy products as food is registered; and

(b) in relation to an unregistered establishment means the individual, corporation or other legal entity (or any combination of these) who:

(i) is the operator of a business preparing milk and milk products as food; or

(ii) if that person cannot be ascertained, the person in charge of the operations for the preparation of milk and milk products as food;

**"Official mark"** means any stamp, seal, label or mark that is declared by the regulations, rules, schedules or guidelines to be an official mark.

**"Official marking device"** means a device that is capable of being used to apply an official mark and is declared by the regulations to be an official marking device;

**"Organic"** means a product which has been produced, processed and handled in compliance with organic standards and certified by a certification body or authority approved by the Board;

**"Outer container"** means a receptacle other than a gift pack that contains more than one container of a dairy product or an imitation dairy product;

**"Owner"** in relation to any premises or business includes in any case, the—

- (a) (i) occupier; or
- (ii) person in charge or apparently in charge; or
- (iii) owner's agent; or
- (iv) owner's manager; and
- (b) in the case of a body corporate or unincorporated, also includes the manager, secretary or other controlling officer of that body;

**"Package"** means anything in or by which food is wholly or partly cased, covered, enclosed, contained or packed;

**"Packer"** means a person dealing in the course of trade with a dairy product or an imitation dairy product by processing, manufacturing or packing it for sale, and also a person on behalf of whom such product is processed, manufactured or packed for sale and, in the case of such product that is imported into the Kingdom in the containers in which it is to be sold in the retail trade and, the person importing it for sale;

**"Pasteurization"** means:—

- (1) the process of heating milk to a temperature of between 145 degrees and 150 degrees Fahrenheit, holding the milk at that temperature for a period of thirty minutes after that immediately cooling it to a temperature of between 40 degrees and 50 degrees Fahrenheit; or the high temperature short time process,
- (2) the time and temperature combination needed to destroy 'target' microorganisms that varies according to a number of complex inter-related factors. For milk, the heating time and temperature is either 63°C for 30 minutes or alternatively 72°C for 15 seconds with rapidly cooling to prevent the growth of surviving bacteria;

**"Pasteurized milk"** means milk which has been subjected to pasteurization;

**"Pasteurize"** means the heat treatment of a dairy product or an imitation dairy product to such extent that –

- (a) all pathogens and the large majority of the micro-organisms present therein are destroyed without a substantial change in the composition and flavour of the product concerned; and
- (b) in the case of milk, the result of the phosphatase test is negative, and, if the product concerned does not undergo further processing, the cooling thereof to below 5°C immediately after having been thus heat treated;

**"Principal Secretary"** means the Principal Secretary of the Ministry responsible for Agriculture;

**"Permit"** means authorization issued by the Board or an official document giving someone authorization and permission to deal in dairy products

**"Person"** includes a body corporate or association and a partnership;

**"Polyunsaturated"** means is a fatty acid or a fat which has two or more methylene- interrupted cis-double bonds in the fatty acid chain;

**"Postal address"** means a postal address registered with the Swaziland Post and Telecommunications and shall include the telephone number of the farmer, manufacturer, packer, seller, trader or importer or the address last advised or known by the Board;;

**"Prepackaged"**, with respect to a dairy product, means a dairy product that is packaged in a container in such a manner that it is ordinarily sold to or used or purchased by a consumer without being repackaged;

**"Prescribe"** refers to the action taken in accordance with section 16 of the Act;

**"Primary dairy product"** means milk or a product that has been derived or manufactured solely from milk, and to which has been added no substance other than a permitted manufacturing substance, flavourant, colourant, vitamin or mineral not intended to replace any part of the milk solids in that product, and includes a product that consists of a combination of two or more such products;

**"Primary dairy farmer"** means a person or an organisation that sells raw milk that has been produced by a herd of dairy animals that the dairy farmer owns or controls;

**"Process butter"** means butter melted, clarified or refined and reworked by any kind of process with or without the addition of water, milk, cream, milk-fat or extraneous ingredients and made to resemble creamery butter;

**"Processor"** means a business or person who processes or manufactures milk, milk substitutes, milk imitations and milk products in a quality oriented activity into dairy and dairy related products grading, standardisation, designation, classification, packaging, marking and labelling of the products of which will be in accordance with these regulations and other relevant enactments in Swaziland

**"Quota"** means:-

- (a) a Board imposed trade restriction that limits the quantity, or in certain cases the value, of goods and services that can be produced, imported or exported during a particular time period; or
- (a) a portion of supply entitlement allotted to a dairy farmer, processor, trader, retailer in units and / or value as prescribed by the Board;

**"Raw milk"** means milk that has not been pasteurized or otherwise processed;

**"Reconstituted milk product"** means milk or a milk product resulting from the addition of water to the dried or concentrated form of the product in the amount necessary to re-establish the appropriate water to solid ratio, with all reconstituted milk products being clearly labelled as such before being placed for sale;

**"Reconstituted dairy product"** means any dairy product such as yoghurt, cheese, UHT milk produced from reconstituted or recombined milk powders

and other related ingredients, where the use of fresh milk in the final product falls below a specified percentage to be determined by the Board and all reconstituted dairy products should be clearly labelled as such before being placed for sale;

**“Recombined milk product”** means milk or a milk product resulting from the combination of milk-fat and milk-solids-non-fat in their preserved forms with or without the addition of water to achieve the appropriate milk product composition, with all recombined milk products being clearly labelled as such before being placed for sale;

**“Registered establishment”** means an enterprise that is registered in accordance with the Act or these regulations issued by the authorized body such as the Board in Swaziland;

**“Registration number”** means the number assigned to a registered establishment by the relevant authority under the Act and these regulations;

**“Regulated product”** means a dairy product or dairy related products or any combination thereof, as may be determined by the Board in a legal notice, guidelines, schedule or rules;

**“Retailer”** means a business or person that sells goods to the consumer, as opposed to a wholesaler or supplier who normally sell their goods to another business;

**“raw milk”** means milk that has not been pasteurized;

**“Renovated butter”** means butter so labelled, renewed or treated in any manner in premises other than those in which it was manufactured, so as to eliminate any defects and to restore it to a condition resembling creamery butter;

**“Sealed container”** means a container so closed or sealed that access to the contents cannot be obtained without damage to the container;

**“Secretary”** means the officer of the Board who is appointed under section 11 (1) of the Dairy Act;

**“Sterilize”** means the heat treatment after packing of a dairy product or an imitation dairy product to such extent that the product concerned will be resistant to microbiological decay for a period of at least 14 days if kept at a temperature of  $30\text{ }^{\circ}\text{C} \pm 1\text{ }^{\circ}\text{C}$ ;

**“The Act”** means the Dairy Act, No.28 of 1968;

**“Trader”** means a business or person who buys and sells dairy and dairy related products;

**“Ultra High Temperature (UHT)”** means the process whereby a dairy product is subjected to a heat treatment above  $100^{\circ}\text{C}$  and aseptically packaged so that the end product, after incubation for not less than 14 days at a temperature of  $30\text{ }^{\circ}\text{C} \pm 1\text{ }^{\circ}\text{C}$ , is free from spoilage micro-organisms and shall comply with set out requirements;

**“Ultra pasteurized”** means that a dairy product has been thermally processed at a temperature higher than  $80\text{ }^{\circ}\text{C}$  for less than one second and cooled immediately to below  $5\text{ }^{\circ}\text{C}$ , either before or after packaging, so as to produce a product which is resistant to micro-biological growth and

spoilage for at least twenty-one days at temperature of higher than 0°C but less than 5 °C and which comply with requirements set out in applicable statutes in Swaziland;

**"U.H.T. treated"** means the heat treatment of a dairy product or an imitation dairy product during a continuous flow process at an ultra-high temperature, and the aseptic packaging thereof, to such extent that the product concerned will be resistant to microbiological decay for a period of at least 14 days if kept at a temperature of 30°C ± 1°C;

**"VAT"** means the value added tax imposed on products in terms of the Value Added Tax Act, 2011;

**"Vegetable oil"** means oil or fat that is obtained from vegetable matter;

**"Whey butter"** means the product obtained by churning whey or cream obtained from whey;

**"Yoghurt culture"** means a culture consisting of *Lactobacillus bulgaricus*, *Streptococcus thermophilus* or other similar culture used for the manufacture of the primary dairy product known as yoghurt or other cultures as reasonably approved by the Board.

## PART 2

### PERMITS AND LICENCES

#### **Permits**

3. (1) The Board may, in accordance with the requirements of the Act, import and export regulations and other laws in the country, issue permits for milk and milk products for import, transit or export.

(2) The permit is for the purpose of controlling and facilitating the importation or exportation of milk and milk products into a country.

(3) Electronic permits may also be issued including electronic signatures.

#### **Application for a dairy permit**

4. (1) The importer, exporter, transitor, distributor, trader may apply for a permit to the Board by furnishing the following information where applicable:

- (a) the applicant's name and address;
- (b) Swaziland trading licence;
- (c) name and address if different from the applicant;
- (d) the name and address of the supplier of the goods;
- (e) the country of origin of the goods;
- (f) the country from which the goods are imported or exported;

- Swaziland;
- (g) the customs office where the goods will enter or depart
  - (h) the date of entry or exit of the goods in Swaziland;
  - (i) a description of the goods;
  - (j) the number of units of the goods to be imported or exported and their value in Swaziland currency;
  - (k) any information requested by the Board in any case where, in its opinion, the information furnished by the applicant requires clarification or the description of the goods to be imported is not in sufficient detail.
  - (l) Value Added Tax (VAT) or Tax identity number (TIN);
  - (m) export number and certificate for the manufacturer or its equivalence for imports and transit;
  - (n) Export number and certificate for the distributor or its equivalence for imports and transit;
  - (o) Export number and certificate for exports;
  - (p) Market availability (evidence such as the commitment letter for the market); and
  - (q) a product recall plan.

### ***Issue of Permits***

5. (1) Where a permit is issued, the Board shall:-
- (a) affix the signature of the authorized official to the permit,
  - (b) permits shall be valid for thirty (30) calendar days or as stated in the permit,
  - (c) payment of permit fee, and
  - (d) update information every twelve months and when necessary
- (2) Every person to whom a permit has been issued shall, prior to importing or exporting the goods described in the permit certify that;
- (a) the information furnished in the application in respect of the permit is correct, and
  - (b) their status as a registered business.

### ***Permit renewal***

6. (1) A permit shall be valid for thirty (30) calendar days or as stated in the permit,
- (2) A permit renewal should commence seven (7) days before its expiry date,

(3) A permit renewal shall require payment of a levy based on the invoice value or specific duty depending on the current board's notice.

(4) Payments of any other fees associated with the permit shall be in the Schedule of fees notice.

***Lost Permits***

7. (1) Where a permit has been lost or destroyed, the person to whom it was issued may request from the Board a permit to replace it and shall, when making the request, submit a statutory declaration or an affidavit containing:

(a) A statement that the permit has been lost or destroyed and an explanation of the loss or destruction;

(b) In the case of a permit that has been lost, an undertaking to return the original permit to the Board without delay, if it is found.

(c) Pay a penalty for the lost permit if not found 30 days after being issued as stated in the offences and penalties section.

***General permit control***

8. (1) The Board reserves the right:

(a) not to issue a permit;

(b) to revoke a permit before the expiry date;

(c) to amend the permit where and when the need arises;

(2) A permit may be issued electronically.

(3) A person, including a farmer, processor, distributor, importer, exporter, trader, manufacturer, wholesaler, and retailer must have the relevant operating licence for operating a dairy business which may include a trading licence, Board licence, etc.

(4) Payment of fees shall be communicated by the Board through notices or schedule of fees.

(5) Details and amendments on the conditions of the permit shall be in the guidelines on permit control.

***Application for a government permit***

9. (1) The Ministry or the department responsible may, in accordance with the requirements of Animal Diseases Act of 1965, import and export regulations and other laws in the country, issue permits for milk and milk products for import, transit or export.

(2) A person who intends to apply for the issue of a government permit in respect of milk and a milk product shall lodge a written application to the responsible Government Ministry or department.

- (3) The application must:
- (a) describe the milk and milk products to be exported or imported;  
and
  - (b) Identify the exporter or importer of the milk and milk products;  
and
  - (c) Identify each establishment including the establishments' import or export number at which they are to be prepared; and
  - (d) Be signed by the exporter or importer and the occupier of each such establishment; and
  - (e) Identify the country to which they are to be exported or imported.
- (4) If an application is given the ministry must give each of the persons concern a written notice or permit in relation to, the milk and milk products.

***Requirement for a licence***

10. (1) No person shall, directly or indirectly, engage in or carry on the business of producing, transporting, processing, distributing or marketing dairy and dairy related products unless the person is the holder of a valid licence issued by the Board.

(2) A licence issued pursuant to sub-regulation (1) above may be subject to such terms and conditions as the Board considers appropriate.

(3) Where the Board is not satisfied that an applicant for a licence is qualified by experience, financial responsibility and equipment to properly conduct the proposed business and that the issuance of the licence is in the public interest, the Board may refuse to grant the licence to the applicant.

PART 3

INSPECTOR'S ADMINISTRATIVE POWERS

***Inspectors***

11. Inspectors may include dairy inspectors, dairy development officers, dairy extension officers or other agencies for the Board and relevant Government Ministries.

***Powers of inspectors***

12. (1) An inspector shall have the power to:

- (a) enter and inspect any premises or conveyance used for the producing, processing or marketing of milk or dairy products and inspect anything relevant to the inspection found in the premise or conveyance;
- (b) stop any conveyance that the inspector believes may contain any milk or dairy product and inspect the conveyance and any milk or dairy product found in it;
- (c) obtain a sample of any milk or dairy product at the expense of the owner for the purpose of making an inspection of it;
- (d) require any person who has the custody or control of any books, records or documents of a person engaged in the producing, processing or marketing of milk or dairy products to produce the books, records or documents or to furnish copies of or extracts from them.

(2) A person, when requested to do so by an inspector, shall, in respect of the milk or dairy product, produce such books and records or supply extracts therefrom and permit the inspection of the premises.

(3) No person shall

- (a) hinder or obstruct an inspector in the performance of the inspector's duties,
- (b) refuse to permit the inspector to carry out such duties,
- (c) refuse to furnish the inspector with information or furnish the inspector with false information.

(4) The production by any person of a certificate of appointment by the Minister, the municipal Council or the Board to inspect the books, records, documents, equipment and premises of a person engaged in the producing, marketing or processing of a dairy product shall be accepted by any person engaged in the producing or marketing of the dairy product as prima facie proof of such appointment.

(5) Where an inspector believes on reasonable grounds that these regulations or any order or direction of the Board has been violated, the inspector may seize the dairy product and other things by means of or in relation to which the inspector reasonably believes a violation was committed.

(6) Where a person has been convicted of a violation of these regulations, an order of the Board, every dairy product or other thing by means of or in relation to which the offense was committed is, upon conviction, in addition to any penalty imposed may in addition, forfeit the products.

(7) Any dairy product or other thing detained pursuant to this Section is at all times at the risk and expense of the owner, but the inspector shall immediately notify the owner or person having possession of the product by personal service or mail that the product is being detained in storage or otherwise, as the case may be.

PART 4  
DAIRY FARM OPERATIONS

*Dairy farm Licences and Permits*

13. (1) A person who wishes to operate a farm or establishment shall submit an application to the Board for a licence to operate,
- (a) before beginning to operate the farm;
  - (b) if the dairy farm is not yet constructed or if alterations are required to the dairy farm, before commencing the construction or alterations; and
  - (c) Details on the categorisation and management of the different categories of the farms or establishments shall be in the relevant guidelines.
- (2) A person who holds a licence to operate a dairy farm and who wishes to change any aspect of the licence shall submit an application to the Board to change the licence before implementing such a change.
- (3) A person who submits one of the following types of application shall, at the same time, submit an application for a permit as stated in these regulations:
- (a) An application for a licence to operate a dairy farm that is not yet constructed or that requires alterations.
  - (b) An application to change a licence, if the change would require that a dairy farm undergo construction or alterations.
- (4) A person who wishes to renew a licence to operate a dairy farm shall submit an application to the Board at least sixty (60) days before the licence expires.
- (5) Where applicable, an application for a licence shall include the following information:
- (a) The applicant's name, address, phone number and other relevant contact information;
  - (b) Curriculum Vitae for the management and/ or operators;
  - (c) Business plan for the project;
  - (d) The location or proposed location of the dairy farm;
  - (e) The type of dairy farm or establishment for which the licence is sought;
  - (f) The species of animal that will produce the milk;
  - (g) An estimate of the animal carrying capacity and stocking rate;
  - (h) An estimate of the number of animals in the farm;
  - (i) An estimate of the volume of milk to be produced;
  - (j) Market for the milk;

- (k) The sources of animals to be milked at the dairy farm;
- (l) The signature of the applicant, or of the signing officer, as appropriate;
- (m) An application made under this section shall be in a form provided by the Board.

(6) The Board shall issue a licence to operate a dairy farm to a person who applies in accordance with these regulations unless the Board determines that the licence should be refused. The licence shall set out,

- (a) The licence number;
- (b) The licensee's name, address, phone number and other relevant contact information;
- (c) The name and address of the dairy farm;
- (d) The species of animal that will produce the milk at the dairy farm;
- (e) The type of dairy farm approved for operation;
- (f) The categorisation of the farm or establishment;
- (g) The market for the milk;
- (h) The effective date and expiry date of the licence; and
- (i) The Board Chief Executive Officer's or his representative's signature.

(7) A licence to operate a dairy farm is effective on the date set out in the licence and expires on the:

- (a) date set out in the licence; or
- (b) day of the fifth anniversary or (5) years after the effective date.

(8) The fee for a licence to operate a dairy farm shall be stipulated in the published schedule on Board's fees

(9) If the licence to operate a dairy farm expires on a day other than the anniversary of the licence's effective date, the Board may prorate the licence fee that is payable for the period from the effective date, or the last anniversary of the licence's effective date, until the expiry date.

(10) No person shall operate a dairy farm except in accordance with a licence from the Board.

(11) A licence to operate a dairy farm shall be subject to the following conditions:

- (a) The licence holder shall ensure that the milk at the dairy farm is milk produced by the species specified in the licence;

- (b) The licence holder shall ensure that the dairy farm being operated is the \_\_\_\_\_ type of dairy farm specified in the licence;
- (c) The licence holder must not be found guilty of an offence related to dairy \_\_\_\_\_ activities such as stock-theft, under declaration of products or poor animal \_\_\_\_\_ welfare standards;
- (d) The licence holder shall not permit an employee to work in the dairy farm \_\_\_\_\_ while the employee has a communicable disease;
- (e) The licence holder shall ensure that every employee working in the dairy \_\_\_\_\_ farm wears outer clothing that is clean and light in colour;
- (f) The licence holder shall ensure that any person in the supervisory position \_\_\_\_\_ attend a minimum relevant course;
- (g) The licence holder must apply for a private dipping permit from the \_\_\_\_\_ Ministry of Agriculture;
- (h) The licence holder shall carry on business in accordance with the law, \_\_\_\_\_ with honesty and integrity and with regard to the public interest;
- (i) The licence holder shall observe, perform and carry out the provisions of \_\_\_\_\_ the Act, the regulations, all plans, agreements and awards and all orders of \_\_\_\_\_ the Board;
- (j) A licence to operate a dairy farm is not transferable.
- (k) The licence holder must have a dip tank name and number and a public \_\_\_\_\_ dipping exemption from the Ministry of Agriculture
- (l) Consumption of raw milk is not allowed

***Suspension or revocation of a dairy licence***

14. (1) The Board may, after a hearing, suspend or revoke a licence issued if the licence holder fails to comply with any condition of the licence.

***Refusal to issue or renew a licence***

15. (1) The Board may refuse to issue or renew a licence for the operation of a dairy farm,
- (a) where the applicant is not qualified by experience, personnel or equipment to properly engage in the business for which the application was made;
  - (b) where the applicant fails to observe, perform or carry out the requirements of the Act, the regulations, a plan, an agreement or an award, or an order of Board;

(c) where, in the opinion of the Board, any material representation or information made or provided by or on behalf of the applicant is false or misleading;

(d) where the applicant does not comply with the relevant trading and tax regulations and the regulations there under;

(e) where, in the opinion of the Board, the issuance or renewal of the licence is not in the public interest having regard to the past conduct of the applicant or, where the applicant is a corporation, of its officers or boards;

(f) where, in the opinion of the Board, the past conduct of the applicant or, where the applicant is a corporation, of its officers or boards, affords reasonable grounds for belief that the business will not be carried on in accordance with law or with honesty and integrity;

(g) where the applicant or, where the applicant is a corporation, any officer, Board or servant thereof, or any person who is or will be in any way associated with the applicant in the operation of the business, has contravened or has permitted any person under their control or direction in connection with the business to contravene any provision of the Act or the regulations or of any other Act or the regulations there under or of any law of any jurisdiction applying to the carrying on of business and, in the opinion of the Board, such contravention warrants the refusal to issue or renew the licence;

(2) Where the Board is of the opinion that the dairy farm is not necessary or desirable having regard to,

(a) the environmental impact assessment and other environmental issues, in which the dairy farm is located,

(b) the impacts on the facilities of other dairy farms in operation,

(c) the interests of the market who would be served by the dairy farm,

(d) the conditions and policies governing both the milk supply in Swaziland and the allocation of milk to the market,

(e) the socio-economic impacts resulting from a decision to grant a licence, including direct and indirect economic activity, both in the locality in which the dairy farm is located and in other parts of the country.

(3) Before the Board refuses to issue or renew a licence, it shall within the reasonable period of time or stated in the CEO's rules or the board's guidelines;

(a) give the applicant notice that he or she may request a hearing before the Board; and

(b) If a request for a hearing is made, hold a hearing within the reasonable period of time

***Permit to construct or alter an existing dairy farm***

16. (1) A person who holds a licence to operate a dairy farm and who wishes to construct or alter a building intended for use as a dairy farm or wishes to make alterations to an existing dairy farm shall submit an application to the Board for a permit to construct or alter the building or dairy farm before commencing the construction or alterations.

(2) The application for the permit shall include all the information required above and two copies of drawings and specifications of the proposed construction or alteration, one copy to be retained by the Board and the second copy to be returned to the applicant.

(3) An application for a permit shall be in a form provided by the Board.

(4) A permit to construct or alter a building intended for use as a dairy farm or to alter an existing dairy farm is issued subject to the condition that,

(a) The dairy farm is located on land that is well drained and readily accessible;

(b) the building being constructed or altered or the dairy farm being altered has a supply of clean, fresh water, and has facilities for disposal of sewage sufficient for the purposes of the operation of the dairy farm as constructed or altered;

(c) The construction or alteration of the building or alteration of the dairy farm is carried out in accordance with the drawings and specifications submitted with the application; and

(d) The applicant has complied with the municipal by-laws and the Acts and regulations applicable to the construction or alteration being made.

(5) No dairy farmer shall sell or offer for sale milk that is not produced, handled and stored in accordance with these Regulations.

***Penalties on contravening the licence conditions***

17. (1) Where, after a hearing, the Board has determined that a licensee or former licensee has contravened any condition of a licence or any provision of the Act, may impose a penalty as stated in the section on penalties and offences or on schedule for penalties .

***Surrender of License***

18. (1) Where the holder of a licence to operate a dairy farm ceases to carry on the business for which the holder is licensed, the holder shall forthwith surrender the licence to the Board.

***Health of the dairy animals***

19. (1) No animal that is, suffering from an illness or infected with a disease, that adversely affects the animal, the quality or flavour of the milk or cream shall be

stabled, so as to come into contact with animals from which milk is obtained for sale or on premises used in connection with the producing, handling, storing or transportation of milk or cream.

(2) No dairy farmer shall sell or offer for sale milk that is obtained from an animal, in the period of fifteen days before, or in the period of three days after, parturition, or such longer period as is required to insure that the milk is colostrum-free.

(3) Withdrawal period for medications and other substances must be observed as per the manufacturer's prescription.

(4) Milk must not be sold from an animal that:

- (a) is not in good physical condition and free from any illness or disease that adversely affects the quality or flavour of the milk or cream,
- (b) is not clean, has an objectionable flavour or odour,
- (c) shows evidence of being watery, flaky, stringy, bloody, thick or adulterated,
- (d) shows evidence of coagulation; contains any foreign substance;
- (e) has an abnormal freezing point;
- (f) contains an inhibitor, when tested by an official method at a laboratory approved by the Board is a mixture of milk from two different species of animals; or
- (g) is produced in an unsanitary manner.

(5) Animals in the stables shall be kept clean, the hair on udders, flanks and tails above the switch of the animals shall be kept short, the switch of an animal's tail shall clear the floor when the animal is standing and immediately before the time of each milking of an animal, the udder shall be cleaned.

### ***Quality of the milk***

20. (1) No dairy farmer shall sell or offer for sale milk that:

- (a) shows evidence of melted or churned fat floating on the surface of the milk;
- (b) has had any part of the milk fat removed that has not been cooled in a farm bulk tank in proper working condition so that it cools milk to a temperature of 4°C or lower within two hours of milking and maintains milk at a temperature not lower than 1°C nor higher than 4°C except in a period of two hours after milking; or
- (c) that has not been filtered by means of a single-service filter or a stainless steel mesh-type filter approved by the Board.

(2) No dairy farmer shall sell or offer for sale cream separated from milk that has not been filtered by means of a single-service filter or a stainless steel mesh-type filter approved by the Board.

(3) No food shall be given to an animal of a kind or at a time or in a manner that causes its milk to give off an objectionable odour or to have a taste or appearance other than that of normal milk or cream.

(4) No person shall remove or cause to be removed anything from, add or cause to be added, anything to milk as it is produced.

(5) The milk in the milk house may be cow's milk or goat's milk, but the milk of both species may not both be stored in the same bulk tank.

(6) Consumption of raw milk is not permitted

### ***Farm buildings and premises***

21. (1) Every dairy farmer shall keep all buildings or premises where animals are stabled or milked, clean and in a sanitary condition; as free as possible from flies and other insects; as free as possible from dust; adequately lighted; and ventilated sufficiently to prevent odours from affecting the milk or cream.

(2) All walls, ceilings, partitions and other parts of the stable shall be whitewashed, painted or cleaned at least once a year and be kept clean.

(3) Where milking parlours are used, where practicable, the parlour shall be partitioned off from the stable or loafing area; animal entrance and exit doors shall be self-closing where practicable and shall be kept closed between milking;

(4) Concrete or similar impervious materials shall be used for floors, ramps and platforms; the floor and animal platforms shall be adequately sloped to trapped covered floor drains that are capable of draining any liquids from the parlour to a location outside the parlour;

(5) Sufficient area shall be provided to perform the normal duties of preparing and milking the animals;

(6) Walls and ceilings shall have smooth surfaces and walls shall be impervious to liquids for a reasonable distance from the floor;

(7) Screens shall be provided to prevent the entrance of insects; adequate lighting shall be provided in order that the dairy farmer has good visibility of the udders while milking;

(8) Adequate hoses, nozzles, water supply and cleaners shall be provided to maintain the parlour in a sanitary state; and proper ventilation and heating shall be provided.

(9) No dairy farmer of milk shall permit animals other than of the milking group such as the bovine or caprine genus in any part of a stable used for the stabling or milking of animals or any species approved by the board;

(10) Every dairy farmer shall keep all parts of the premises clean and, except for loafing-type stables, free from accumulations of manure and refuse.

(11) A dairy farmer shall store or dispose manure so as to be inaccessible to animals and so as to minimize run-off and the breeding of flies.

(12) A dairy farmer shall provide a milk house attached to or adjacent to buildings where animals are milked.

- (13) A milk house shall be in a location that:-
- (a) ensures good drainage and freedom from contamination; is accessible for tank-truck pick-up; and provides a tank-truck loading area that is reasonably level;
  - (b) have clear space sufficient for washing, cleaning, rinsing and storing milking equipment and utensils;
  - (c) have a floor capable of supporting, without sagging or heaving, the milking equipment and utensils have a floor with a smooth surface that is impervious to liquids and that has adequate slope towards the floor drain;
  - (d) have one or more drains that, can be maintained in a sanitary condition, are in an open position, are located in the floor of the milk house at least sixty (60) centimetres from the outlet of each farm bulk tank, have a diameter of at least ten (10) centimetres, and are capable of draining any liquids from the floor in a manner approved by the Board;
  - (e) have walls with smooth surfaces, impervious to liquids, extending for a reasonable distance from the floor,
  - (f) be lighted sufficiently for the carrying out of all operations therein, including visual inspection of the milk in each farm bulk tank;
  - (g) be provided with at least one door to the outside and, where it has a door opening into the milking area, such door shall be solid and tight-fitting
  - (h) have each door, including the door into the milking area, equipped with a self-closing device and such doors shall be kept closed;
  - (i) be provided with screens for all windows and other openings sufficient to prevent entry of insects;
  - (j) have walls and roof insulated to prevent condensation upon the inside walls and ceilings except such condensation as is caused by steam or hot water used in the milk house;
  - (k) be properly ventilated;
  - (l) be provided with a sink having two compartments;
  - (m) be provided with adequate amounts of hot and cold potable water under adequate pressure;
  - (n) be provided with a water hose with attached nozzle for rinsing each farm bulk tank; the bulk tank must be provided with a milk hose transfer-port that shall be, located near the outlet valve on each farm bulk tank, maintained in good condition, equipped with a self-closing device, and used only for the passage of hose in the transfer of milk from a farm bulk tank to the tank-truck.

(14) Every milk house shall be, kept neat and clean and reasonably free from insects at all times, used only for, cooling and storing milk, storing milking equipment and utensils, and washing and sanitizing milking equipment and utensils; and maintained so as not to impede the bulk tank milk grader in the performance of his or her duties.

(15) No animals or fowl shall be permitted to enter a milk house;

(16) The farm bulk tanks must be situated in the milk house so that its milk can be transferred to the tank-truck by the bulk tank grader on one stop using a standard tank-truck hose;

(17) No person shall use milking equipment or utensils that were not, rinsed with lukewarm water and thoroughly cleaned after each milking; sanitized before each milking; and stored on suitable clean racks in the milk house, milking parlour or other suitable location when not in use.

(18) Every dairy farmer shall provide and maintain in good condition and state of repair milking equipment and utensils for the producing, handling and storing of milk;

(19) No dairy farmer shall use utensils that are not in good condition and state of repair;

(20) Every dairy farmer shall provide equipment and materials necessary to clean, rinse and sanitize milking equipment and utensils.

(21) No dairy farmer shall:-

(a) use milking equipment or utensils for the production, handling, storage or transportation of milk if the milking equipment or utensils are made of materials that, adversely affect the flavour of milk or cream that comes into contact with them;

(b) have rough surfaces or surfaces not easily cleaned;

(c) have joints not flush with the surfaces; or

(d) have open seams, cracks or exposed threads.

(22) No person shall use essential farm equipment that does not comply with the manufacturers' specifications;

(23) Every electrical outlet shall be of adequate capacity with the on and off switch located in the milk house and a receptacle of a twist-lock design located on the outside of the milk house at a point convenient to the tank-truck dairy farmer;

(24) A milk house shall be equipped with,:-

(a) a refrigeration unit capable of cooling milk in the tank to a temperature of 10°C or lower within one hour after the completion of milking, and 4°C or lower within two hours after the completion of milking, except within a period of two hours after the completion of milking, maintaining a temperature of milk in the tank not higher than 4°C while milk remains in the tank, maintaining a temperature of milk in the tank not lower than 1°C at any time while milk remains in the tank;

(b) an agitator capable of agitating milk in the tank, without splashing or churning, so that the milk is thoroughly mixed in five minutes;

(c) a measuring device by which the volume of milk in the tank may be accurately determined;

(25) Every dairy farmer shall install and maintain as many time temperature recorders as necessary to monitor the farm bulk tanks and pipelines.

(25) Every dairy farmer shall maintain a computer program or a milk chart, for the management of the farm and animals.

### ***Health of farm employees***

22. (1) No person shall milk unless he or she has washed his or her hands immediately before the milking; and keeps his or her hands clean during the milking.

(2) No person shall milk an animal or handle milking equipment or utensils that come into contact with milk or cream except a person who is in good health, free from any communicable disease, cleanly dressed, and personally clean at each time of milking and of handling milk, cream and utensils.

### ***Operational hygiene***

23. (1) Milk and milk products must:

(a) be prepared at an establishment where there is compliance with the applicable requirements of Operational hygiene; and

(b) be transported to and from establishments engaged in the preparation of the milk and milk products using vehicles and equipment that comply with the applicable requirements of Operational hygiene.

### ***Record keeping requirements***

24. (1) A person must comply with the following record keeping requirements:

(a) Retain a copy and submit the original copy to the relevant authority of each import, transit or export permit issued by the person designated under the approved arrangement; and

(b) Retain a copy of transit permit issued by the person where applicable; and

(c) must retain a copy of each application for an import or export permit for all milk and milk products to be imported or exported by the person; and

(2) A person to whom this regulation applies must retain the following:

- (a) a declaration of compliance that relates to milk and milk products imported or exported or in transit;
- (b) the permit given by the Board; and
- (c) a Government(s) permit(s) issued to him; and
- (d) all other documents that:
  - (i) are made by the person or come into the person's possession; and
  - (ii) are relevant to whether the person complies with the requirements of the Act and the regulations applying to the person, for a minimum period of three years after the day the document is made by the person or comes into the person's possession, as the case may be.

## PART 5

### ANIMAL HEALTH RISK ASSESSMENT

#### *Animal health risk assessment*

25. (1) Every dairy farmer shall ensure that a Veterinarian licensed under the Swaziland Veterinary Council attends the dairy farmer's premises at least quarterly to perform a livestock health risk assessment or herd health assessment program of the dairy farmer's herd;
- (2) When doing the assessment, the Veterinarian shall conduct a review of the general herd health program, production and health status of the animals and the general conditions of the farm.
- (3) The dairy farmer shall keep the completed assessment report on the dairy farmer's premises for at least three years after the date of the assessment which shall duly be signed by the Veterinarian.
- (4) The Veterinarian and the farmer may provide a copy to the Board and or the Department of Veterinary and Livestock services on request or when necessary.

## PART 6

### TRANSPORTING MILK AND MILK PRODUCTS

#### *From the farm to the processing plant*

26. (1) No person shall operate a tank-truck for the transportation of milk except:
- (a) a tank-truck equipped with a tank with an inside lining of stainless steel, an insulated dust-tight cabinet constructed of

- stainless steel for the holding of milk hose, a pump and other equipment used in transferring milk to or from the tank-truck;
- (b) an insulated dust-tight cabinet for the holding of samples of milk and a means by which the samples are maintained at a temperature of not less than 1°C and not more than 4°C;
- (b) a hose that has smooth surfaces, is readily cleaned, is not toxic and does not affect the flavour of milk that comes in contact with the hose; and
- (c) a spray-ball equipment for cleaning and sanitizing, by means of the continuous circulation of a cleaning fluid and a sanitizing fluid, all surfaces that come in contact with milk.

(2) Before transferring any milk from a farm bulk tank to a tank-truck, a bulk tank milk grader shall examine the milk in the farm bulk tank to determine if the milk must be rejected and take the temperature of the milk in the farm bulk tank to determine if it must be rejected.

(3) A bulk tank milk grader shall take the temperature of cow's milk in accordance with the following procedures:

(a) The temperature of the milk shall not be taken until the agitator has been in operation for at least two minutes or such longer period of time as is necessary for the milk to be thoroughly mixed;

(b) The temperature shall be taken a first time, by reading the temperature displayed on the time temperature recorder for the bulk tank;

(c) If the time temperature recorder for the bulk tank has not displayed the temperature at the time the milk is picked up from the bulk tank, with an accurate hand thermometer with a stainless steel stem supplied by the bulk tank milk grader;

(d) If, after examining milk or taking the temperature of the milk the bulk tank milk grader determines that the milk must be rejected he shall refuse to transfer the milk or, if the transfer has already begun, cease to transfer the milk, and shall, attach to the tank a rejection tag showing the reason for the rejection notify the farmer and the processor as soon as possible.

(e) No bulk tank milk grader shall transfer milk from a farm bulk tank without determining the volume of the milk in the tank.

(f) The bulk tank milk grader, when recording the volume of milk in a farm bulk tank shall not record a volume in excess of that for which the tank has been calibrated or for which the gauge rod or other measuring device has been graduated;

(g) The bulk tank milk grader shall, immediately after determining the volume of the milk in a farm bulk tank, make a report to the dairy farmer showing, the date, the volume of milk in

the tank, the reading of the gauge rod or other measuring device, and the temperature of the milk determined;

- (h) Immediately after determining the volume of the milk in a farm bulk tank, the bulk tank milk grader shall start the agitator.
- (i) After the agitator has been in operation for at least two minutes or much longer as may be necessary for the milk to be thoroughly mixed, the bulk tank milk grader shall take a sample of the milk with a sampling pipette or, if a sampling pipette cannot be used, a sanitized long-handled dipper.
- (j) A sample of milk taken shall be in the amount that is necessary to permit sample testing and approved by the Board. The bulk tank milk grader shall place each sample of milk, other than goat's milk, taken into a container which shall be closed and clearly identified with a unique number so that the sample can be associated with the dairy farmer's licence and the bulk tank from which the sample was taken.
- (k) The bulk tank milk grader shall place each sample of milk taken under sub-regulation (5) into a container which shall be closed and clearly marked with the name or number of the dairy farmer of the milk;
- (l) Immediately after putting the samples of milk into a container the bulk tank milk grader shall place each container into a plastic insert that is filled with a mixture of ice and water and that is held in a clean, fully insulated carrying case;
- (m) After transferring the milk from a farm bulk tank to a tank-truck the bulk tank milk grader shall rinse the farm bulk tank with cold or lukewarm water from the hose with attached nozzle provided by the dairy farmer;
- (n) Where the bulk tank milk grader is unable to transfer all the milk from a farm bulk tank to a tank-truck, he shall, on the same day, return for the rest of the milk or notify the farmer that he is unable to return;
- (o) The bulk tank milk grader shall provide enough ice to fill the plastic insert and shall keep each sample of milk refrigerated therein until it is placed in a refrigerated sample cabinet at a sample storage depot;
- (p) As soon as possible, but no later than 24 hours after the sample was taken, the bulk tank milk grader shall place the sample in a sample rack, mark the rack in a manner approved by the board and place the rack in a refrigerated sample cabinet and until the sample is tested, it shall be maintained at a temperature not lower than 0°C and not higher than 4°C.
- (q) No person shall put into a sample of milk, any foreign substance or any milk other than milk from the same dairy farmer;

- (r) Every sample storage depot shall contain a segregated area with enough room to label sample racks and store samples for five days. A sample storage depot shall be equipped with adequate mechanical refrigeration capacity for sample storage, an impervious table top for labelling sampleracks, adequate lighting and ventilation, a source of ice, storage facilities for sample containers, labels, sample racks and pipettes in numbers satisfactory to the Board and each sample cabinet equipped with a device that logs and indicates time and temperature;
- (s) The owner of a sample storage depot shall maintain the area, in a clean and orderly manner and samples shall be kept in a sample storage depot and shall be available for pick-up and transport to a laboratory 24 hours a day or during the hours approved by the Board for each sample storage depot;
- (t) The owner of a sample storage depot shall keep for a period of ninety days official receipts in a form approved by the Board showing the date and time, the number of sample racks picked up, the number of special samples and the signature of the person picking up the sample racks;
- (u) The operator of a tank-truck shall, immediately after each load is emptied, thoroughly clean and sanitize all surfaces of the tank-truck that come in contact with milk and where more than one load of milk is emptied from a tank-truck in any one day, the tank-truck driver shall, immediately after the last load of milk is emptied, thoroughly clean and sanitize all surfaces of the tank-truck that come in contact with milk;

***From the processing plants to the consumers***

27. (1) Manufacturers, processors, distributors, importers, exporters, traders are encouraged to have appropriate transport for their products.

(2) Manufacturers, processors distributors, importers, exporters, traders are encouraged to submit name(s) of their registered and approved transporters to the Board.

***Preparation and transport for export***

28. (1) Milk and milk products for export as food must:

- (a) be prepared; and
  - (b) transported to and from establishments engaged in the preparation of the milk and milk products.
- (2) Milk and milk products for export as food and their ingredients must comply with the applicable requirements of Product standards.
- (3) Milk and milk products must not be imported or exported as food unless they are fit for human consumption.

- (4) Milk and milk products for import and export as food must comply with the applicable requirements in the relevant Schedule.
- (5) Milk and milk products for import and export as food must be prepared in an establishment that complies with the applicable requirements of Schedule 8, "Identification, tracing systems, integrity and transfer".

## PART 7

### CLEANING, SANITIZING, EQUIPMENT AND UTENSILS

#### *Cleaning and Sanitizing*

29. (1) Any part of a plant, except raw milk storage tanks but including piping, pumps, containers, tanks and other equipment that is in contact with or likely to be in contact with milk or milk products shall be cleaned and sanitized at least once every twenty-four hours and that A cleaning schedule must be drawn up, be visible and be adhered to.

(2) Raw milk storage tanks shall be emptied, cleaned and sanitized at least once every forty-eight hours.

(3) The floor of each room in a plant in which milk or milk products are handled or processed shall be scrubbed and rinsed with fresh water at least once every twenty-four hours.

(4) The walls and ceilings of each room in a plant, in which milk or milk products are handled, processed or stored and the floor of each room in a plant in which milk or milk products are stored shall be scrubbed and rinsed at such times as may be necessary to remove any noticeable accumulation of soil.

#### *Cleaning and sanitizing a work station*

30. (1) The cleaning and sanitizing prescribed shall be carried out at a work station or a milk transfer station in the following manner;

- (a) After each cleaning and sanitizing of a work station, the operator of the station shall, determine by inspection that the station is clean and sanitary; and keep a record of such cleaning and sanitizing in a form approved by the Board and retain such record for a period of ninety days;
- (b) Where the pick-up of a load of milk is not completed in one day, the operator of the tank-truck or containers shall thoroughly clean and sanitize and hose after the final pick-up on the first day or prior to use on the second day;
- (c) Every operator shall maintain in a clean condition all surfaces that do and do not come in contact with milk.
- (d) Every plant shall be equipped with or the operator thereof shall have adequate work station;

- (e) The equipments and materials for cleaning and sanitizing shall be made available by the processor of a plant;
- (f) The processor is responsible for the safe and proper functioning of work stations;
- (g) The uses of a tank-truck or milk containers wash station and the equipment and materials at a plant are restricted to cleaning and sanitizing the interior of tanks and equipment thereon and washing the outside of tank-trucks;
- (h) Processors shall post on the wall of the facility in a prominent place the procedure to be used for cleaning a tank-truck or milk containers including, the quantities of washing compound and water used in the washing cycle and the maximum and minimum water temperatures used in the washing cycle;
- (i) The length of time used in the washing cycle; the quantities of sanitizer and water used in the sanitizing cycle must comply with the drawn cleaning schedule in the work station;
- (j) The manufacturer's names for the washing and sanitizing compounds used the instructions as to the procedures to be used in operating the equipment for cleaning; and the name of and the procedure for contacting the person to be contacted in the event of equipment failure or other information being required to operate the wash-up facilities;
- (k) The temperature of the water used in the washing cycle shall not be higher than 60°C or lower than that recommended by the manufacturer of the washing compound.
- (l) The temperature of the water used in the sanitizing cycle shall not be higher than, the temperature of the cold water supply; 10°C whichever is less;
- (m) Information regarding the use of acidified wash or rinse shall be posted in addition to the information required.
- (n) Every work station shall have:-
  - (i) clear space sufficient for cleaning and sanitizing; a floor that is capable of supporting plant and equipments without sagging or heaving;
  - (ii) a smooth surface that is impermeable to liquids and has a minimum two (2%) per cent slope towards the floor drain; a drain that can be maintained in a sanitary condition located in the floor in an open position with a diameter of at least fifteen (15) centimetres and that is capable of draining any liquids from the floor;
  - (iii) under pressure, an adequate supply of potable hot and cold water;
  - (iv) a means of lifting the wash hose safely to the top;

- (v) an adequate supply of the materials required for cleaning and sanitizing; have a properly-functioning device for indicating washing compound content  
have adequate means for cleaning small parts and the milk hose;
  - (vi) a pump with sufficient capacity and pressure to thoroughly clean all surfaces that come in contact with milk; have a return pump with a capacity equal to or greater than the capacity of the pump to remove the cleaning solution;
  - (vii) in the wash line on the suction side of the pump a removable pump filter which does not materially impede the flow of wash water; have in each tank containing a cleaning or sanitizing solution or in the line leading from the tank a thermometer clearly; and
  - (viii) adequate means of sanitizing all surfaces that come in contact with milk.
- (o) No person shall transport milk to a plant in a vehicle or container that is in an unsanitary condition or that has been used for a purpose that may cause contamination of milk;
  - (p) Milk delivery to a processing unit, plant or establishment must be within the agreed period between milking and delivery or as promptly as possible for good quality purposes;
  - (q) The processor may negotiate or refuse to accept milk delivered to the plant if it does not comply with the agreed quality and quantity conditions of accepting the milk subject to the contractual agreements.

### ***Cleaning Equipment***

31. (1) A plant shall be equipped with:-
- (a) washing areas that are separated from the processing area;
  - (b) a temperature-control system capable of automatically controlling the temperature in each curing-room, cold-storage room or storage room for efficient processing or preserving of milk or milk products therein;
  - (c) a boiler or other equipment capable of maintaining a supply of hot water or steam sufficient for processing milk and cream, and hot water for cleaning and sterilizing the equipment and rooms used in receiving, handling, processing or storing milk or milk products; and
  - (d) thermometers of shatter-proof material on equipment used in processing, cleaning or sterilizing milk or milk products, capable of recording the temperature of the milk or milk product.

- (2) A processing plant must be equipped with a pasteurizer having a capacity to handle the production demand.
- (3) Where a plant is equipped with conveyors for moving containers of cream in the receiving room, the conveyors shall be of sufficient length and in such locations that the cream can be readily graded, sampled and weighed and, where cream is rejected, the containers can be moved on a conveyor other than the conveyor used for incoming containers.
- (4) Where equipment or containers for handling, processing or storing milk or milk products are of metal, the surfaces likely to come in contact with milk or milk products shall be,
  - (a) Smooth and anti-corrosive;
  - (b) Without open seams;
  - (c) Accessible at all points for scrubbing; and
  - (d) Made with joints that are flush with adjoining surfaces.
- (5) Wooden equipment used in a plant shall be of sound material with smooth surfaces, and joints or seams shall be sealed
- (6) Tanks used for storing skim-milk, buttermilk or whey that is not intended for human consumption or for processing milk into milk products for human consumption in a plant shall,
  - (a) be of metal or plastic construction;
  - (b) Shall not be used for any other purpose.

## PART 8 MANUFACTURING AND PROCESSING

### *Processing and processing principles*

32. (1) The handling, processing or storing of milk, cream or milk products shall be carried on in such a location and in such a manner that no foreign matter can enter the milk, cream or milk product.
- (2) Every person who enters an area of a plant where there is a danger that foreign matter may enter milk, cream or milk products shall wear,
- (a) clean clothing without pockets and buttons above the waist and not worn outside the plant; and
  - (b) appropriate hair and beard coverings.
- (3) Nothing shall be placed in a milk, cream or milk products storage area that may contaminate or deteriorate the milk, cream or milk products stored in that area.
- (4) No plant shall contain odours other than those resulting from the handling, processing or storing of milk, cream or milk products.

(5) Where milk or cream is accepted at a plant and is not used in processing on the day it is received, the milk or cream shall be cooled to a temperature not higher than 5°C and maintained in storage at that temperature until it is used in processing.

(6) No milk or cream in storage under sub-regulation (1) shall be used in the processing of a milk product where the milk or cream on removal from storage does not comply with the standards required for milk or cream to be accepted at the plant when delivered to it

(7) No stale or rancid cream, butter, ice cream or ice milk shall be used in the preparation of ice cream mix or ice milk mix or in the processing of ice cream or ice milk.

(8) In order to promote sales and marketing in the country and beyond the borders dairy processors, distributors and retailers may meet to discuss contract packaging.

### ***Plant Licences and Permits***

33. (1) A person who wishes to operate a plant shall submit an application to the Board for a licence to operate the plant,

(a) before beginning to operate the plant; and

(b) if the plant is not yet constructed or if alterations are required to the plant, before commencing the construction or alterations.

(2) A person who holds a licence to operate a plant and who wishes to change any aspect of the licence shall submit an application to the Board to change the licence before implementing such a change.

(3) A person who submits one of the following types of application shall, at the same time, submit an application for a permit as stated in these regulations:

(a) An application for a licence to operate a plant that is not yet constructed or that requires alterations.

(b) An application to change a licence, if the change would require that a plant undergo construction or alterations.

(4) A person who wishes to renew a licence to operate a plant shall submit an application to the Board at least 60 days before the licence expires.

(5) An application for a licence shall include the following information;

(a) the applicant's name, address, phone number and other relevant contact information;

(b) a Curriculum Vitae for the management and/ or operators;

(c) a business plan for the project;

(d) confirmation of the market for the dairy and dairy related products;

(e) the location or proposed location of the plant.

- (f) the type of plant for which the licence is sought and, in the case of a processing plant, the kinds of processing activities to be carried out at the plant;
- (g) a list of the milk products to be processed at the plant;
- (h) The species of animal that will produce the milk to be processed at the plant;
- (i) an estimate of the volume of milk to be processed at the plant;
- (j) the source of milk to be processed at the plant;
- (h) the signature of the applicant or of the signing officer, as appropriate;

(6) An application made under this section shall be in a form provided by the Board. The Board shall issue a licence to operate a plant to a person who applies in accordance with these regulations. Approval may not be unreasonably withheld. In the event that a licence is refused, reasons for refusal must be provided as well as reasonable corrective action.

- (7) The licence shall set out,
  - (a) the licence number;
  - (b) the licensee's name, address, phone number and other relevant contact information;
  - (c) the name and address of the plant;
  - (d) the species of animal that will produce the milk to be processed at the plant;
  - (e) the type of plant approved for operation and, in the case of a processing plant, the kinds of processing activities approved to be carried out at the plant;
  - (f) in the case of a processing plant that will process cow's milk, the classes or sub-classes of Grades, Standards, Designations, Classes, Packing and Marking made under these regulations;
  - (g) the effective date and expiry date of the licence; and
  - (h) the Board's signature.

(8) A licence to operate a plant is effective on the date set out in the licence and expires on the date:

- (a) set out in the licence; or
- (b) five (5) years after the effective date.

(9) The fee for a licence to operate a plant shall be provided for in the schedules.

(10) If the licence to operate a plant expires on a day other than the anniversary of the licence's effective date, the Board may prorate the licence fee that is payable for the period from the effective date, or the last anniversary of the licence's effective date, until the expiry date.

(11) No person shall operate a plant except in accordance with a licence from the Board which is subject to the following conditions:

- (a) The licence holder shall ensure that the only milk processed at the plant is milk produced by the species specified in the licence;
  - (b) The licence holder shall ensure that the plant being operated is the type of plant specified in the licence and, in the case of a processing plant, which the plant carries out only the kinds of processing activities specified in the licence;
  - (c) In the case of a licence to operate a plant that processes cow's milk, the licence holder shall ensure that milk products processed at the plant are well graded, labelled and packaged;
  - (d) The licence holder shall not permit an employee to work in the plant while the employee has a communicable disease;
  - (e) The licence holder shall ensure that every employee working in the plant wears clothing that is clean;
  - (f) The licence holder shall ensure that any person who grades milk received at the plant is the holder of a certificate for that purpose from an institution recognised by the Board;
  - (g) The licence holder shall carry on business in accordance with the law, with honesty, integrity and with regard to the public interest and safety;
  - (h) The licence holder shall observe, perform and carry out the provisions of the regulations, all plans, agreements and awards and all orders of the Kingdom of Swaziland, the Board and other relevant bodies;
  - (i) The plant must be Hazard Analysis & Critical Control Points (HACCP) compliant as determined by the national, regional or international standard setting bodies that are recognized by the Board;
  - (k) The plant depending on the size, market requirement and the request from the Board may be ISO complaint mainly in quality management systems, environmental management system to be stipulated by the Board and the market;
  - (l) The plant must have a Swaziland Government (SG) Number for exports;
  - (m) A licence to operate a plant is not transferable;
  - (n) The Board may recognize provisional and interim accreditation given by any Board's approved standard setting bodies.
- (12) The Board may impose conditions on a licence to operate a plant in addition to those set out in these regulations.
- (13) The Board, after a hearing, may suspend or revoke a licence issued under these regulations if the licence holder fails to comply with any condition of the licence.

(14) If the Board receives an application in respect of a licence to operate a plant at which cow's milk is to be processed, the Board shall not issue the licence unless he or she first complies with the process described in these regulations;

(12) The Board may refuse to issue or renew a licence for the operation of a plant, (a) where the applicant is not qualified by experience, personnel or equipment to properly engage in the business for which the application was made;

(b) where the applicant fails to observe, perform or comply with the requirements of the Act, the regulations, a plan, an agreement or an award, or an order of the Board;

(c) where, in the opinion of the Board, any material representation or information made or provided by or on behalf of the applicant is false or misleading;

(d) where the applicant does not comply with the Value Added Tax Act, Trading laws and the regulations there under;

(e) where, in the opinion of the Board, the issuance or renewal of the licence is not in the public interest having regard to the past conduct of the applicant;

(f) where, in the opinion of the Board, the past conduct of the applicant or, where the applicant is a corporation, its officers or board, affords reasonable grounds for belief that the business will not be carried on in accordance with law or with honesty and integrity;

(g) where the applicant has contravened or has permitted any person under their control or direction in connection with the business to contravene any provision of the Act or the regulations or of any other Act or the regulations hereunder or of any law of any jurisdiction applying to the carrying on of business and, in the opinion of the Board, such contravention warrants the refusal to issue or renew the licence;

(h) where the Board is of the opinion that the plant is not necessary or desirable having regard to,

(i) the environmental impact assessment,

(ii) the impacts on the facilities to other plants in operation,

(iii) the interests of consumers, who would be served by the plant,

(iv) the conditions and policies governing the milk, dairy and dairy related products supply in the country,

(v) The socio-economic impacts resulting from a decision to grant a licence, including direct and indirect economic activity, both in the locality in which the plant is located and in other parts of the country.

(13) Before the Board refuses to issue or renew a licence it shall:-

- (a) give the applicant notice that he or she may request a hearing before the Board; and
- (b) if a request for a hearing is made, hold a hearing.

(14) Where, after a hearing, the Board has determined that a licensee or former licensee has contravened any condition of a licence or any provision of the Act, the regulations, a plan or any order or direction of the board, the Board may impose a penalty on the person as stated in the offences and penalties section

(15) Every person who operates more than one plant is required to be the holder of a licence in respect of each plant and shall be deemed to be a separate operator in respect of each such plant.

(16) Where the holder of a licence to operate a plant ceases to carry on the business for which the holder is licensed, the holder shall forthwith surrender the licence to the Board. However temporary interruption of operations may be accommodated example but not limited to business interruption as result of acts of God

(17) A person who holds a licence to operate a plant and who wishes to construct or alter a building intended for use as a plant or wishes to make alterations to an existing plant shall submit an application to the Board for a permit to construct or alter the building or plant before commencing the construction or alterations

(18) Extension or repairs below 5% of total capital employed or below 5% of total fixed assets per year may be exempted from sub-regulation (17) above.

### ***Construction of processing a Plant or Processing Establishment***

34. (1) The construction or alteration of a building intended for use as a plant shall be made so that:-

- (a) the floors of all rooms in which milk or milk products are handled, processed or stored are of concrete or other material impervious to liquids and have adequate slope towards a floor drain;
- (b) each room in which milk or cream products are processed or stored has a trapped drain capable of draining any liquids from the floor;
- (c) each wall in a room in which milk or milk products are handled, processed or stored has a base at least fifteen (15) centimetres above the floor level made of concrete or other waterproof material, and the joint between the floor and the base is watertight;
- (d) the ceiling of a room in which processing is done is at least three metres above the floor;
- (e) the surfaces of the walls and ceilings of all rooms in which milk or milk products are handled, processed or stored are of washable and moisture-proof material;

- (f) there is provision for equipping all openings with screens or other approved equipment capable of preventing the entry of flies or other insects and all doors with self-closing devices or equivalent methods of ensuring that flies or other insects do not enter;
- (g) rooms where milk is handled or processed contain provision for lighting that is shatterproof or covered with a protective shield;
- (h) the ceiling in the plant are insulated and sealed against infiltration of dampness or vapour, with free circulation of air between the insulation and the roof;
- (i) a washroom does not open directly into a room where milk or milk products are handled or processed and doors are equipped with a preferably self-closing device;
- (k) sewage is carried from the building by pipes, each of which contains a trap in an accessible location and connects with a municipal sewer or septictank;
- (l) any heating unit must be located in a safe place;
- (m) in the case of:-
  - (i) cheese factory, there is a curing room large enough for the operation intended,
  - (ii) A creamery, there is a cold storage room of a size large enough to hold at least seven days production of butter, and
  - (iii) a building intended for use as a plant for the manufacture of milk products other than butter or cheese, there are storage rooms large enough for the operation intended capable of being equipped with an automatic temperature-control system;
- (n) receiving rooms for milk is enclosed and of sufficient size to permit freedom of movement in receiving, grading, sampling and handling of milk and, where applicable, the washing and sanitizing of tank-trucks;
- (o) receiving rooms for milk must have a pump capable of unloading milk from a tank;
- (p) receiving rooms for milk have enough operating space
- (q) rodents and other vermin do not enter or remain on the premises.

(2) The construction of a building intended for use as a plant or an alteration to increase the incoming milk capacity of such a building shall be made so that:-

- (a) there is storage sufficient for the volume of raw milk required at the plant; and
- (b) in the event of non compliance on design of premises, a grace period not exceeding twelve (12) months during which the

necessary alterations are made in order to comply with the regulations, the board may reserve the rights to extend or revoke the granted grace period.

(3) Details on the designs, layout and standard operating procedures of a processing plant, processing unit or processing area are specified in the relevant schedule, guidelines and rules.

## PART 9

### CLASSES, STANDARDS AND QUALITY FOR MILK AND MILK PRODUCTS

#### *Classes and standards for milk and milk products*

35. (1) No person shall, sell dairy product or imitation dairy product in Swaziland unless:

- (a) the product in question is sold according to classes as prescribed by the regulations
- (b) the product in question complies with the standards so prescribed for the composition thereof, and contains the ingredients and other substances so prescribed as ingredients and other substances which it shall contain;
- (c) the product in question is packed in a container and in a manner so prescribed by regulations;
- (d) a container in which such product is packed, is marked with particulars and in a manner so prescribed by the regulations;
- (e) the product in question does not contains a substance so prescribed as a substance which it may not contain; and
- (f) the dairy and imitation dairy product does not contains prohibited substances.
- (g) the product is clearly and accurately labelled as a “Fresh Dairy Product”, a “Fresh Milk”, a “Reconstituted milk product”, a “Recombined milk product”, “Reconstituted dairy product in line with the definitions set out in this regulations
- (h) Any product not produced from fresh milk but produced on the basis of reconstituted and recombined dairy ingredients should be clearly labelled “Reconstituted dairy product”, with this information appearing on the main panel in a letter size to be determined by the Board;
  - (i) Any milk or milk product produced from reconstituted or recombined dairy ingredients should be clearly labelled as such in line with requirements set out by the Board.
  - (j) Products must be manufactured mainly from the primary dairy products known as raw milk, where recombined milk or

reconstituted milk is used this shall be clearly labelled and where the use of recombined milk or reconstituted milk exceeds a percentage of the content determined by the Board, the products will no longer be known as “fresh dairy product” but shall be clearly labelled “reconstituted dairy product”;

(k) Dairy products produced from the recombining or reconstitution of bulk dairy ingredients such as milk powders shall be clearly labelled as such, in line with the appropriate provisions of the regulation and implementing instructions established by the Board.

(2) The prohibition shall also apply to the sale of a dairy product or an imitation dairy product that is an infant formula and a follow-up formula.

(3) The Board may grant written exemption, entirely or partially to any person on such condition, the Board may deem necessary,

(4) Details on the classes, standard and quality of milk and milk products are specified in the schedule for classes, standard and quality of milk and milk products.

## PART 10

### SAMPLING AND METHOD OF ANALYSIS

#### *Sampling*

36. (1) The methods to be employed and the procedure to be followed when a sample of a dairy product or an imitation dairy product is taken shall be as set out in any latest approved international standard setting body

#### *Certificates of analysis*

37. (1) The following persons must if given a written notice by the Board provide at their expense to the Board a certificate of analysis of the kind specified in the notice within the period specified:

- (a) an occupier;
- (b) an exporter of milk and milk products.
- (c) an importer of milk and milk products.
- (d) a distributor
- (e) a processor

#### *Analysis to be done in an accredited lab*

38. (1) If a statement as to a particular condition of milk and milk products is made on a board or Government permit, the analysis, inspection or examination required for the certificate must be carried out in a laboratory accredited by any international or regional standard setting bodies or the Board to perform the analysis, inspection or examination.

***Methods of analysis***

39. (1) The method to be employed and the procedure to be followed in connection with the determination of a property of a dairy product or an imitation dairy product shall be as set out in the publication, schedule or any other method approved by the Board.

(2) Details on the sampling and methods of analysis are specified in the schedule for sampling and methods of analysis.

## PART 11

## DAIRY AND DAIRY PRODUCTS CONTAINERS

***Requirement for milk and dairy products containers***

40. (1) A container in which a dairy product or an imitation dairy product is packed shall;

- (a) be made from a material that --
  - (i) is suitable for this purpose;
  - (ii) will protect the contents thereof from contamination;
 and
  - (iii) Will not impart any undesirable flavour to the contents thereof.
- (b) be so strong that it will not be damaged or deformed during normal storage, handling and transport practices;
- (c) in the case of a container that is re-used, be thoroughly cleaned and sterilized before a dairy product or an imitation dairy product is packed therein;
- (d) be unbroken; and
- (e) be closed properly in a manner permitted by the nature thereof;

(2) No outer container shall contain more than one class of dairy product or imitation dairy product, irrespective whether those dairy products or imitation dairy products are packed therein in separate containers.

***Marking of containers, multipacks and outer containers;***

41. (1) All marking requirements as stipulated by the regulations shall be clearly legible and be indicated in at least English, in a letter or figure size of at least one (1) mm for lower case vowels, provided that the height of the indications and the letter size complies with the requirements

(2) The main panel of a container of a dairy product or an imitation dairy product shall be marked with the following particulars:

- (i) the applicable class designation of that dairy product or imitation dairy product as required,

(ii) in letters of the same type, colour and font;

(3) If a primary dairy product known as cheese is cut and packed in the retail trade, the container or wrapper thereof shall be provided with a label on which the class designation, as well as a production lot (batch code) shall be indicated in clear, legible letters and figure, the country of origin shall be indicated on the label with other marking requirements.

(4) A container of a dairy product or an imitation dairy product shall, either on the main panel or on any other conspicuous place thereon, be marked with the following particulars:

- (a) the name and address of the packer, manufacturer, or seller of that dairy product or imitation dairy in the case where it is not possible to use the physical address a postal address with a telephone number may be used;
- (b) the net and drained mass, whichever one is applicable or volume of dairy product or imitation dairy product packed therein as required;
- (c) the ingredient list, in the manner as required;
- (d) the date marking in the manner as required;
- (e) the country of origin, which shall be declared as follows;
  - (i) "Product of (name of country)" if all the main ingredients, processing and labour used to make the foodstuff are from one specific country;
  - (ii) "Produced in (name of country)", "Processed in (name of country)", "Manufactured in (name of country)", "Made in (name of country)" or similar words when a foodstuff is processed in a second country which changes its nature; or;
  - (iii) The words "Packed in (name of country)" may be used in addition to the requirement of paragraph (a) or (b) above.
- (f) if a primary dairy product known as sour milk or Emasi is sold in the container of the buyer, the container from which such milk or Emasi is sold shall be marked in the immediate vicinity of the tap of the container with the applicable class designation and the manner of heat treatment, e.g. "pasteurised" or if not heat treated, "raw" or "unpasteurised" in terms of these regulations, in letters and figures of which the minimum vertical height is at least fifty (50)mm;
- (g) the nutritional content with the recommended daily rates must be well stated;
- (h) no word or expression may be bigger than the class designation unless it is a registered trade mark or trade name.
- (i) In the case of a multipack containing less than 105 g or 105 ml as the case may be, of the concerned product;

- (j) only the particulars prescribed need to be indicated on the containers containing the individual units provided that such individual units may not be sold loose and that the outer container or the foil lid is marked with the required marking requirement; and
- (k) reconstituted or artificial products must be well labelled.

***Indication of class designation***

42. (1) The class designation of a dairy product or an imitation dairy product that is marked on the main panel of a container thereof shall;

- (a) in the case of a dairy product and imitation dairy be the applicable class designation or alternate class designation centrally located on the main panel specified;
- (b) in the case of cheese, a combination of such class designation and alternate class designation may be used:

Provided that such a designation shall represent a true description of the cheese concerned.

(2) The unspecified class shall include:

- (a) cheese with a recognised protected designation of origin, and
- (b) the registered trade mark for that cheese.

(3) The alternate class designation, “unspecified” must be indicated together with the class designation as specified.

(4) In the case of modified butter, the applicable class designation or alternate class designation:

Provided that in the case of any other modified dairy product the word “modified” must form part of the class designation;

(5) In the case of reconstituted or recombined dairy product, the word “reconstituted” or “recombined” must form part of the class designation;

(6) The word "fruit" in the class designation of the type of a dairy product may be substituted by the name of the type of fruit that has been added thereto: Provided that in the case of yoghurt, depictions or illustrations of the respective fruit(s) added to or used in the manufacturing shall only be allowed if the product concerned contains at least 6% (m/m) but not more than 25 % (m/m) of such fruit.

(7) If the milk is derived from plant material, the word “milk” shall be preceded by the name of the plant concerned.

(8) If a primary product has been obtained from the milk of an animal other than a cow of the bovine species, the applicable class designation for that product shall be preceded by the name of the species of the animal concerned.

(9) If a flavourant has been added to a dairy product or an imitation dairy product in order to render a distinctive specific flavour thereto, the applicable class designation for that product shall be preceded by the descriptive name for the distinctive flavour concerned and the expression “X Flavoured” or followed by the

expression “with X Flavour” or “with X Flavouring”, where “X” indicates the name(s) of the flavouring(s) used unless the flavourant concerned has been added thereto to enhance the flavour of the fruit or added foodstuff concerned.

(10) In the case where a foodstuff has been added to a dairy product or imitation dairy product, the applicable class designation must include the actual name of the foodstuff added.

(11) The depictions or illustrations of any other ingredient or ingredients emphasised on the label shall only be allowed if the requirements, have been complied with.

(12) In the case of composite product with added foodstuffs and/or fruits, the expression “with” may be used in conjunction with the class designation.

(13) The expression “dairy dessert” or “dairy snack” maybe used as a class designation in the case where the primary dairy product does not meet the specified milk protein required.

(14) In the case of the type of imitation product known as imitation cheese, expression “vegan” may be used instead of the expression “imitation” provided the requirements, as specified in the regulations have been complied with.

(15) A class designation may be marked in altered word sequence on the main panel of a container on condition that the altered word sequence does not constitute a misrepresentation or does not or may not directly or by implication create a misleading impression regarding the quality, nature, origin or composition of the dairy product or imitation dairy product concerned.

***Additional particulars on main panel***

43. (1) The main panel of a container of a primary dairy product of the type known as dairy powder blend or dairy liquid blend, and of an imitation milk product, shall be marked with a product description of the product concerned; and
- (2) Such product description shall;
- (a) in the case of a primary dairy product of the type known as dairy powder blend and dairy liquid blend, consist of an indication of the descriptive names of the main dairy ingredients of the product concerned, indicated in descending order by mass; and
- (b) in the case of imitation dairy products, consist of an indication of the descriptive names of the main ingredients of the product concerned, indicated in descending order by mass on the main panel.
- (3) If a primary dairy product of a particular class is a main constituent of an imitation dairy product, it shall be the applicable class designation for that dairy product.
- (4) If vegetable oil is a constituent of an imitation dairy product referred to in paragraph (1) (a), the type of vegetable oil shall also be indicated.

(5) In the case of a modified dairy product, any source of fat other than butterfat shall be indicated on the main panel in close proximity to the class designation.

- (6) If a dairy product or an imitation dairy product has been sweetened;
- (a) the expression "Sweetened" and the content of the "sweetener" shall be indicated on the main panel of a container thereof;
  - (b) the descriptive name and quantity of the sweetener which was used, shall be included in the particulars required to be indicated; and
  - (c) an imitation dairy product labelled as "non-dairy" shall contain no dairy ingredients.

(7) If the types of primary dairy products known as milk and cream, have been pasteurized, sterilized, ultra-pasteurized, or U.H.T.-treated the manner of processing thereof shall be included on the main panel.

(8) The provisions of the regulation shall *mutatis mutandis* apply to fermented dairy products if it is subjected to heat-treatment after fermentation: Provided that the expression "contains no live cultures" shall be indicated in close proximity to the class designation in the same letter size, however the provision of this regulation shall not apply in the case of a primary dairy product known as yoghurt.

(9) If the types of primary dairy products known as milk and cream have not been treated as contemplated, the applicable class designation for that product shall include the expression "Unpasteurized" or "Raw".

(10) The expression "long life" may be used for commercially sterile dairy products such as ultra pasteurized or UHT treated products.

#### ***Indication of production lot***

44. (1) A container of a dairy and imitation dairy product shall be identifiable and traceable to such an extent that the factory where the final product was produced can be identified as well as details regarding the specific production lot or batch.

(2) Such identification shall be the same for all containers of a dairy product originating from the same production lot or batch.

#### ***Additional particulars on containers***

45. (1) A container of a powdered dairy or imitation dairy product shall be marked with producers directions for the reconstitution thereof in order to obtain a final product.

- (2) (a) The main panel of a container of a powdered dairy, imitation dairy product, dairy powder blend, dairy liquid blend, whey powder, sweetened condensed milk, and goat's milk should be clearly marked with the following words "Not for baby or infant feeding",.

- (b) The expression referred to shall be marked in conjunction with the class designation for the product concerned.
- (3) A container of butter of the class known as medium fat butter, and of modified butter of the class known as medium fat modified butter may be marked with the expression "Not suitable for frying purposes".
- (4) (a) A container of butter of the classes known as medium-fat butter, and of modified butter of the classes known as high-fat modified butter, medium-fat modified butter, shall be marked with the expression "Moisture content" followed by an indication of the extent, expressed as a percentage, to which moisture constitutes part of that product; and
- (b) The percentage referred to shall not differ by more than three per cent from the actual moisture content of the product concerned.
- (5) If the fat content of a dairy product or an imitation dairy product is indicated on the cover of a container thereof, the indicated fat content of the product concerned shall
- (a) in the case of a liquid product, not differ by more than 0,2 gram from the actual fat content thereof; and
- (b) in the case of a non-liquid product, not differ by more than 2,0 gram from the actual fat content thereof.
- (6) A primary product of the type known as cream shall, for the purpose of this sub regulation be deemed to be a non-liquid product.

## PART 11

### KEEPING OF PROCESSING ESTABLISHMENT RECORDS

#### *Keeping of records by operator of a plant or establishment*

46. (1) An operator of a plant or manufacturer shall keep for twelve months complete records of all milk bought and the records shall include:-
- (a) the volumes of all milk received daily;
- (b) the milk-fat, milk-protein and other milk solids tests of all milk received;
- (c) the original entries of the volumes of milk bought and the milk-fat, milk-protein and other milk solids tests of the milk; and
- (d) and any other relevant tests.
- (2) An operator of a plant shall keep for at least twelve months completed monthly records of milk utilization for audit purposes and the records shall include:
- (a) the number of litres sold in bulk and the number of units of each package size of products and other units of products sold by wholesale and at retail each day by each driver-salesman of a delivery vehicle and the proceeds of sales by retail and wholesale;

- (b) the number of units of each package size products and other units of products sold each day at the plant and the proceeds of the sales;
- (c) the number of units of each package size of products sold each day to distributors;
- (d) the total amount of all products sold for each payment period by a distributor, including the total number of units of each package size sold and the selling price of the fluid milk products;
- (e) where cheese is manufactured, individual V.A.T records giving date of manufacture, V.A.T number, type of cheese made, disposition of the cheese, volume of milk in the V.A.T, volume of skim-milk added or weight of skim-milk powder added, weight of milk-fat removed, weight of milk-fat in the V.A.T and weight of cheese made; and
- (f) where other milk products are processed, records giving date of manufacture, type of product made, ingredients, volume of milk, partly-skimmed milk, skim-milk and cream used and weight of milk-fat used and other ingredients

***Keeping of records by distributor***

47. (1) A distributor who operates a wholesale warehouse from which retail or grocery products are distributed and who is engaged in the buying products, and selling or distributing such products to other distributors, shall keep, for at least 12 months, complete records on a monthly basis of,

- (a) all purchases of products; and
- (b) all sales of products, which records shall identify the sales of such products in the country (places or areas where the products were sold).

(2) Every distributor who obtains products from any other distributor and whose delivery, sale or distribution is governed by an agreement in writing or otherwise with such other distributor shall furnish to the Board with a copy of any agreement in writing or the provisions of any agreement not in writing, as the case may be.

(3) The operator of every plant shall keep a record of,

- (a) all goat's milk or milk from other specie received at the plant, showing the date received and the name of the producer or farmer and the number, if any, used for identification of the producer or farmer;
- (b) the rejection of milk and the cause for rejection;
- (c) the weights and grades of all milk accepted at the plant for processing into milk products; and
- (d) the results of all tests made at the plant under this regulation.

(4) Where a milk grader or tester, as the case may be, measures, weighs, grades or tests milk, the grader or tester shall immediately make an accurate record of the volume, weight, grade or test, as the case may be, in ink or indelible lead.

(5) The operator of a plant shall keep a record of the full name and address of each producer or farmer who ships milk to the plant.

(6) The operator of a plant shall keep for at least one year all records of weights, grades and tests milk made at the plant.

### ***False Records***

48. (1) No person shall falsify any records or statements, or make any incorrect determination that may affect the price paid for milk at a plant.

(2) Where any record or statement in respect of the price paid for milk at a plant is changed, the persons responsible for the change shall write their initials in ink or indelible lead at the place in the record or statement where the change was made. Details are in the trade returns and product recall sections.

(3) Farmers, manufacturers, processors, traders, distributors, importers, exporters, traders, wholesalers, and retailers are obliged to:

- (a) supply products that comply with the general safety requirement;
- (b) monitor the safety of products on the market;
- (c) provide the necessary documents ensuring that the products can be traced.

## PART 13 REGULATED PRODUCTS

### ***Regulated products***

49. (1) The Board may fix conditions or rules with respect to regulated products generally or to any regulated product, and, without limiting the generality of the foregoing, may make terms and conditions:

- (a) providing for the licensing of any or all persons before commencing or continuing to engage in the producing, processing or marketing of a regulated product;
- (b) prescribing or providing for classes of licences and the imposition of terms and conditions on any class of licence;
- (c) providing that the Board may impose such terms and conditions upon a licence as the Board or considers proper;

- (d) guide in the production, marketing or processing of any regulated product;
- (e) providing for the refusal to grant or renew or the suspension or revocation of a licence;
- (f) providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Board is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence or any provision of this regulations, any plan or any order or direction of the Board;
- (g) providing for the fixing of licence fees and the payment thereof by any or all persons producing, marketing or processing a regulated product and the collecting of the licence fees.;
- (h) requiring any person who receives a regulated product from a dairy to pay such licence fees;
- (i) requiring any person who produces and processes a regulated product to furnish to the Board statements of the amounts of the regulated product that the person produced;
- (j) prescribing the form of licences; and
- (k) providing for the exemption from any or all of the regulations under any plan of any class, variety, grade or size of regulated product or of any person or class of persons engaged in the producing or marketing of the regulated product or any class, variety, grade or size of regulated product.

***Suspension or Revocation of a regulated product licence***

50. (1) The refusal to grant or renew or the suspension or revocation of a licence, may be based on the following:
- (a) where the applicant or licensee is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made or the licence granted, or
  - (b) where the applicant or licensee has failed to comply with or has contravened any provision of the dairy act, the regulations, any plan or any order or direction of the Board or the country's laws.

PART 14

DISTRIBUTION

***Licences***

51. (1) A person who carries on business as a distributor shall be deemed to hold a licence as a distributor as long as that person complies with all applicable provisions of the Act, the regulations and the orders of the Board irrespective of the location .

(2) A licence as a distributor is not transferable.

(3) A licence as a distributor expires if the holder of the licence ceases to carry on business as a distributor.

(4) A licence as a distributor only permits the selling or distribution of dairy and dairy related products on the premises approved by the Board, local authority or public health units.

(5) No person shall obtain milk and milk products for resale or distribution from any person who is not a holder of a licence as a distributor under these regulations.

### ***Application for a licence***

52. (1) An application for the issue, renewal or amendment of a licence to carry on business as a distributor shall be made to the Board and may be on the form provided by the Board.

(2) An application for renewal of a licence to carry on business as a distributor shall be filed with the Board at least sixty days prior to the expiry of the licence.

(3) Subject to the approval of the Board, a licence as a distributor shall be issued to the applicant and shall include,

- (a) the licence number;
- (b) the type of licence issued, local, import, export, distributor and distribution centre;
- (c) the name and address of the licensee;
- (d) description of each location at which the distributor carries on business as distributor;
- (e) the effective date of the licence;
- (f) the expiry date of the licence; and
- (g) the Board's signature.

(4) The Board shall amend a licence as a distributor to reflect all changes in the description of the location at which the distributor carries on business as distributor, of which the distributor notifies the Board.

(5) A licence to carry on business expires five (5) years after the effective date of the licence or upon such earlier date as may be fixed by the Board or specified in the schedule on fees.

(6) The fee for a licence as a distributor shall be five hundred Emalangeni (E500) per year or as specified in the schedule on fees.

(7) If any licence expires on a day other than an anniversary of its effective date, the Board may prorate the licence fee payable for that part of the year from the last anniversary to the expiry.

***Number of licences***

53. (1) A distributor shall only hold one licence in respect of all locations at which the distributor carries on business as a distributor.

***Refusal to issue or renew licence***

54. (1) The Board may, after a hearing, refuse to issue a licence to or renew or amend the licence of a distributor where:

(a) the applicant is not qualified by experience, personnel or equipment to properly engage in the business for which the application was made;

(b) the applicant fails to observe, perform or carry out the requirements of the Act, the regulations, a plan, an agreement or an award, or an order of, the Board or the marketing Board;

(c) in the opinion of the Board, the area in which the applicant intends to deliver, sell or distribute fluid milk products is already adequately served;

(d) in the opinion of the Board, regular service to consumers in the area in which the applicant intends to deliver, sell or distribute products should be provided or continued, and the applicant will not provide or continue such service;

(e) in the opinion of the Board, the applicant will not distribute in relation to the needs of customers in the area in which the applicant intends to deliver, sell or distribute;

(f) in the opinion of the Board, the applicant will not make adequate provision for the segregation of milk and milk products from other products carried by the applicant's delivery vehicles;

(g) in the opinion of the Board, the existing relationship between producers and distributors in the area in which the applicant intends to deliver, sell or distribute should not be continued;

(h) in the opinion of the Board, any material representation or information made or provided by or on behalf of the applicant is false or misleading;

(i) the applicant does not comply with the Health Protection and Promotion Acts and the regulations thereunder;

(j) in the opinion of the Board, the issuance or renewal of the licence is not in the public interest having regard to the past

conduct of the applicant or, where the applicant is a corporation, of its officers or Boards;

(k) in the opinion of the Board, the past conduct of the applicant or, where the applicant is a corporation, of its officers or boards, affords reasonable grounds for belief that the business will not be carried on in accordance with the country's laws and with honesty and integrity;

(l) the applicant or, where the applicant is a corporation, any officer, board or employee thereof, or any person who is or will be in any way associated with the applicant in the operation of the business, has contravened or has permitted any person under their control or direction in connection with the business to contravene any provision of the Act or the regulations or of any other Act or the regulations there under or of any law of any jurisdiction applying to the carrying on of the business and, in the opinion of the Board, such contravention warrants the refusal to issue or renew the licence;

(m) the applicant has already been issued the licence applied; and where

(n) dumping of products from other countries is suspected and or confirmed.

(2) A licence as a distributor is not transferable.

(3) A detailed risk analysis report must be submitted for products sourced outside the country.

(4) Products that are in the last quarter of their useful life, that is the time between production dates and expiry dates, must not be distributed especially when sourced outside Swaziland.

### ***Contravening licence conditions***

55. (1) Where, after a hearing, the Board has determined that a licensee or former licensee has contravened any condition of a licence or a provision of the Act, the regulations, a plan or an order or direction the Board, it may impose a penalty on that person.

(2) Within the range set out, the Board shall consider a contravention that,

(a) harms or has the potential to harm the health of any person;

(b) endangers the safety of any person; or

(c) results in a significant economic benefit to the contravener,

(d) harms the local dairy industry

(e) harms the Board's and the country's revenue as warranting a penalty at or near the maximum set out and the seriousness of the harm, danger or benefit, as the case may be, shall be a factor to be considered.

(3) If a contravention that was caused by wilful neglect by the person penalized causes harm to the health of any person, the penalty imposed may be the maximum provided in the Act. If a contravention is of an administrative nature that does not have the potential to cause harm to the health of any person, the penalty shall not be the maximum set out.

(4) A licence as a distributor is issued on the condition that:-

(a) the holder of the licence observes, performs and carries out the provisions of the Act, the regulations, all plans, agreements and awards, and all orders of the Board;

(b) where so required by the Board, the holder of the licence provides or continues regular delivery service to consumers in the area in which the applicant delivers, sells or distributes;

(c) the holder of the licence complies with the Health Protection and Promotion legislations in the country.

(d) the holder of the licence notifies the Board in writing of all changes in the description of the locations at which the holder carries on business as a distributor;

(e) the holder of the licence informs the Board in writing of the name of every distributor of those supplies to the holder;

(f) the holder of the licence distributes in relation to the needs of customers in the area in which the applicant delivers, sells or distributes;

(g) the holder of the licence segregates milk and milk products from other products carried by the licence holder's delivery vehicles;

(h) the holder of the licence or, where the holder of the licence is a corporation, every officer, board or employee thereof, does not contravene nor permit any person under their control or direction to contravene any provision of the Act or the regulations or of any other law or the regulations thereunder or of any law applying to the carrying on of such business, or the conditions for licensing;

(i) the holder of the licence carries on the business in accordance with law and with honesty and integrity and with regard to the public interest;

(k) the holder of the licence does not dump products from within and outside the country;

(l) the holder of the licence must have a valid approved export certificates for manufacturers or processors of dairy and dairy related products;

(m) the holder of the licence must have a valid approved export certificate for distributors of dairy and dairy related products;

(5) Products direct from distribution centres outside Swaziland shall not be issued with a permit if the distributors are not licensed in the country

(6) Distribution centres outside Swaziland are encouraged with time to set up centres in the country or work with the local distributors

(7) Due to food safety, traceability, product recall and trade returns challenges, distribution centres located outside Swaziland and directly supplying products to wholesalers, retailers and consumers are generally not recommended and preferred;

(8) All distributors in and outside Swaziland should apply for a licence before distributing products in Swaziland;

(9) Manufacturers, processors are encouraged to have their registered and approved distributors to operate in Swaziland;

(10) Manufacturers, processors are encouraged to submit name(s) of their registered and approved distributors in Swaziland to the Board;

(11) A detailed risk analysis report must be submitted for products sourced outside the country.

(12) Products that are in the last quarter of their useful life, that is the time between production dates and expiry dates, must not be distributed especially when sourced outside Swaziland

### ***Suspension, Revocation, Surrender of a licence***

56. (1) After a hearing, the Board may suspend or revoke a licence as a distributor for any failure by the distributor to comply with the conditions that apply to the licence.

(2) No person or manufacturer shall supply to a distributor who is;

(a) not the holder of a licence under this Regulation; or

(b) not exempt from the Act or these Regulations.

(3) A licensed distributor who ceases to carry on business as a distributor shall promptly surrender the licence to the Board.

## PART 15

### SAFE AND UNSAFE MILK

#### ***Unsafe milk***

57. (1) Milk and milk products are not safe if they would be likely to cause harm to a person who might consume them, assuming the milk and milk products are:

(a) subjected to the preparation that is relevant to their reasonable intended use; and

(b) consumed by the person according to their reasonable intended use.

(2) Milk and milk products are not unsafe merely because their inherent nutritional or chemical properties or their inherent nature causes an adverse reaction

only in persons with allergies or sensitivities that are not common to the majority of persons.

- (3) Consumption of raw milk is prohibited.

***Unsuitable products***

58. (1) Milk and milk products are not suitable if they:
- (a) are damaged, deteriorated, perished or contaminated to an extent that affects their reasonable intended use;
  - (b) contain any damaged, deteriorated, perished or contaminated substance that affects their reasonable intended use;
  - (c) are derived from an animal that is diseased or dead at the time of milking and are not declared by or under another Act to be safe for human consumption;
  - (d) contain a biological or chemical agent or other substance that is foreign to the nature of milk and milk products of that kind;
  - (e) are produced using, or is subjected to a harmful process contrary to regulations;
  - (f) are treated with a harmful substance contrary to the regulations; or
  - (g) are produced under controls, including hygiene, temperature and other processing controls, that are inadequate to ensure that they are safe and not unsuitable.
- (2) Milk and milk products are not unsuitable merely because they:
- (a) contain a chemical in an amount that does not contravene the regulations; or
  - (b) contain contaminant or natural toxicant in an amount that does not contravene the permitted level for the contaminant or toxicant in the regulations;
  - (c) contain any substance that is permitted by the regulations; or
  - (d) are produced using, or are subjected to, a process permitted by the regulations.

PART 16

REGISTRATION OF ESTABLISHMENTS TO EXPORT MILK AND MILK PRODUCTS

***Requirements for registration***

59. (1) Milk and milk products for export and import as food must be prepared at an establishment that is registered by the relevant and Authorised Government Ministry or Department in respect of the operations for the preparation of the milk and milk products undertaken.

- (2) Establishment includes premises, such as a building, ship, aircraft or vehicle,
- (3) Preparation includes processing, packing, storage, treatment, handling or loading.
- (4) If milk and milk products for export and import as food are prepared at an establishment that is not registered the occupier of the establishment and the distributor is guilty of an offence.
- (5) Milk and milk products for export as food need not be prepared in a registered establishment if:
- (a) the Board gives the occupier of the establishment written approval to prepare the milk and milk products concerned at the establishment; and
  - (b) the approval has effect.
- (4) The importation of milk from establishments shall be prohibited unless, before it is imported, it is subsequently prepared at a registered establishment with the country of origin and the importing country.

***Instrument of exemption***

60. (1) The regulations do not apply to milk and milk products that are:
- (a) Aircraft stores for the use of passengers and crew or for the service of the aircraft on a flight from Swaziland;
  - (b) imported into Swaziland and not prepared in Swaziland and held in bond at all times prior to export; or
  - (c) imported into Swaziland and then exported in the same covering and under the same trade description as the covering and trade description in and under which they were imported; or
  - (d) are on transit to the exporting country
- (2) Exemptions under these regulations include a person who is or is to be:
- (a) the occupier of an establishment at which milk and milk products for export or import as food are prepared;
  - (b) the exporter or importer of milk and milk products exported or imported as food; may make a written application to the Board for an instrument of exemption for the milk and milk products to be exported to a country specified in the application:
    - (c) as a commercial sample that does not exceed:
      - (i) in the case of liquid — 50 litres; and
      - (ii) in any other case — 60 kilograms;
    - (d) For experimental purposes; or
    - (e) In special circumstances approved by the Board.
- (3) The above exemptions may be subject to the following conditions;

- (a) Give the applicant an exemption subject to conditions specified in the instrument of exemption;
  - (b) Impose new conditions or vary or revoke the conditions by giving the applicant a further written notice;
  - (c) The Department of Veterinary and Livestock Services import and export requirements.
- (4) The application must:
- (a) be given to the Board at least thirty (30) clear working days, or such shorter period as the Board or the relevant Government agencies allow, before the proposed date of export or preparation of the milk and milk products concerned;
  - (b) specify the provisions of these Orders from which the exemption is sought; and
  - (c) give the reasons for seeking the exemption; and
  - (d) provide enough information to enable the Board to identify the milk and milk products concerned (including if possible any other information).
- (5) If an application is made under these regulations, the Board may give the applicant an instrument of exemption.
- (6) The Board with the relevant agencies such as the Ministry of Agriculture may by written notice given to the applicant revoke the instrument and the revocation takes effect:
- (a) on the day specified in the written notice given as being the day the revocation takes effect; or
  - (b) if no such day is specified, when the written notice is given.
- (7) The instrument ceases to have effect on the day specified in the instrument as being the day it ceases to have effect; or unless it is earlier revoked.
- (8) If the instrument of exemption ceases to have effect the provisions that are specified in the instrument as not applying, shall apply.

## PART 17

### IMPORT AND EXPORT OF MILK AND MILK PRODUCTS

#### *Import and Export permits*

61. (1) Before milk and milk products for import or export as food are exported or imported, an import or export permit must have been issued or given for their import or export.

(2) At the time of the import or export of the milk and milk products, the import and export permit must have effect.

(3) All imported milk products placed for sale in Swaziland must comply with the labelling requirements set out by the Board.

***Prohibition on import and export of milk and milk products***

62. Milk and milk products must not be imported or exported unless the requirements specified in this Part are complied with.

***Conditions and restrictions on import and export***

63. (1) For the purposes of this section the requirements specified for milk and milk products in this Part are specified conditions and restrictions applicable to the import and export of milk and milk products that are exported as food.

***Approved permit holder***

64. (1) If a permit is issued for an approved establishment, the permit holder or owner shall be the approved establishment that applied; and

(2) If a permit is issued for a processor, the permit holder or owner shall be the processor that applied; and

(3) If a permit is issued for a trader, the permit holder or owner shall be the trader that applied; and

(4) If a permit is issued to a distributor, the permit holder or owner shall be the distributor that applied; and

(5) If a permit is issued to a transporter, the permit holder or owner shall be the transporter that applied; and

(6) In any other case, the permit holder or owner shall be the applicant registered and approved by the board as the permit holder.

***Security of import and export permits and government permits***

65. (1) A person to whom this Part applies must ensure that import, export permits and government permits are held under conditions of security when not in use.

(2) Failure to comply may preclude the approval of approved arrangements as they relate to the issue of permits and the approval of persons as approved import or export permit issuers or result in the revocation of these approvals.

***Return of import, export permits and government permits***

66. (1) Import, export permits and government permits must be returned to the insurer if:

(a) an import or export permit for milk and milk products is revoked;

- (b) a government permit for milk and milk products is cancelled; or
- (c) the intention to import or export milk and milk products is abandoned; and
- (d) any import or export permit for the milk and milk products issued by the person or given to the person by the Board.

***Requirement to notify***

67. (1) If before the import or export of milk and milk products for which an import or export permit is issued or given, a person to whom this Part applies suspects that:

- (a) the fitness for human consumption of the milk and milk products is jeopardised or their security or integrity is compromised;
  - (b) an importing or exporting country requirement applying to the milk and milk products is not complied with,
- that person must notify an authorized officer immediately on forming the suspicion.

***Effective measures to ensure accuracy and completeness***

68. (1) A person to whom this Part applies must have effective measures in place to ensure that:

- (a) information given to the Board in, or in connection with, an application for an import and export permit or a government permit is accurate and complete; and
- (b) there is a sound basis for the information given.

PART 18

AUDITS

***Purpose of an audit***

69. (1) The purpose of an audit of operations is to establish whether there is compliance with one or more of the applicable requirements for which the audit is required by the Board.

- (2) The Board may require the audit to be for:
  - (a) the compliance with all of:
    - (i) the applicable requirements of the Act and the regulations;
    - (ii) the requirements of any applicable approval, including an approval of an approved arrangement and its conditions;

(iii) the applicable exporting or importing country requirements; and

(iv) for all aspects of the operations in relation to all milk and milk products

(b) The audit of one or more of the following:

(i) the aspects of operations specified by the Board;

(ii) the milk and milk products of the kind specified by the Board;

(iii) compliance with one or more of the applicable requirements referred to in sub-regulation (b) (i).

### ***Who may be audited***

70. The following shall be subject of a required audit:

(a) The whole dairy industry value chain including direct and indirect beneficiaries and sectors;

(b) Operations for the preparation of milk and milk products;

(c) Operations for the import or export of milk and milk products as food;

or

(d) Operations for all aspects of the operations production to consumption of milk, milk products and milk related products such as substitutes, recombined and reconstituted dairy products.

### ***Who may perform an audit***

71. (1) An audit may be conducted by an authorized officer of the Board or the responsible Government Ministry; or

(2) If so specified by the Board in writing, by an auditor approved by the Board to perform an audit of that kind.

### ***Additional audits on request***

72. (1) The Board may, at the request of the dairy industry stakeholder, occupier, importer or exporter, provide audits of the occupier's, importer's or exporter's operations by an authorized officer that is in addition to those required by the Board under these regulations.

(2) The Board may at any time withdraw the provision of additional audits.

### ***Notice of audit***

73. (1) An audit may be announced or unannounced.
- (2) If the audit is unannounced, the auditor must, before starting the audit, produce his or her identity card for inspection.
- (3) If notice has been given of the audit, the auditor must, at the request of the occupier, importer or exporter, produce his or her identity card for inspection before starting the audit.

***Audit frequency and intensity***

74. (1) The Board may by giving a written notice to the occupier, importer, and exporter specify the frequency and intensity of the audits of their operations.
- (2) The Board may by giving a further written notice to the person to whom the first notice is given vary or revoke the earlier notice.
- (3) The Board may specify the conditions of any applicable approved arrangement or approval of a person and the frequency and intensity of audits required.

***Assistance to be provided***

75. (1) The occupier, importer and exporter must provide such assistance to an auditor as is reasonably necessary to enable the auditor to perform the audit of their operations.
- (2) Without limiting the generality the occupier, importer and exporter must:
- (a) provide information to the auditor on request including to provide explanations and make documents and translations available and operate any equipment at their premises;
  - (b) allow an auditor to:
    - (i) observe and interview their employees, agents or contractors of the occupier, importer and exporter;
    - (ii) observe any of their procedures;
    - (iii) use their equipment for the purpose of accessing, examining, testing, sampling, recording or reproducing any documents or other thing at their premises; and
    - (iv) bring onto the premises at which the audit is conducted equipment for that purpose.

***Audits to be conducted expeditiously***

76. (1) An auditor must conduct an audit as expeditiously as possible and in a way that causes as little interference as possible to the operations that are the subject of the audit.

***Failure to comply***

77. (1) If as a result of an audit of operations, in the auditor's opinion, there is a failure or a combination of failures to comply with a requirement the auditor must:

(a) notify the occupier, importer and exporter immediately on ending the audit of their operations; and

(b) assess whether the failure or a combination of failures is a critical non-compliance.

(2) If in the auditor's opinion the failure, or a combination of the failures, amounts to a critical non-compliance, the auditor must notify the Board immediately on forming the opinion.

(3) A critical non-compliance when used in relation to the audit of an establishment, importer and exporter means a failure or a combination of failures to comply with a requirement referred in the regulations and;

(a) results in, or is likely to result in, the preparation or importation or export of milk and milk products as food that:

(i) are not fit for human consumption or their integrity is compromised; or

(ii) do not comply with an importing or exporting country requirement;

(b) prevents an accurate assessment being made as to whether milk and milk products:

(i) are fit for human consumption and their integrity is assured; or

(ii) comply with an importing and exporting country requirement; or

(c) results in, or is likely to result in the issue or giving of an import or export permit or government permit that is inaccurate or incomplete; or

(d) prevents an accurate assessment being made as to whether an import or export permit or government permit that is issued or given is accurate or complete.

### ***Audit reports***

78. (1) The auditor must make a report of the audit.

(2) The audit report must include the following information:

(a) the name of the auditor;

(b) the date of the audit;

(c) the identity of the operations audited; and

(d) the nature and scope of the audit, including the activities audited.

(3) The audit report must state:

- (a) whether in the auditor's opinion the audit was satisfactorily completed or was terminated prior to completion;
- (b) whether in the auditor's opinion the requirements referred for which the audit is required by the Board are complied with; and
- (c) the reasons for the auditor's opinion.

(4) The audit report must:

- (a) describe each failure to comply with the requirements referred to (a) identified by the auditor; and
- (b) state whether in the auditor's opinion the failure or a combination of the failures is a critical non-compliance or has contributed to a critical non-compliance.

(5) An audit report should be given to the Board, occupier and other relevant stakeholders:

- (a) within fourteen (14) working days after the day an approved auditor ends an audit the approved auditor must give the audit report to the Board.
- (b) within 14 working days after the day an auditor including an approved auditor ends an audit the auditor must give the occupier, importer and exporter concerned a copy of the audit report for their operations.

## PART 19 OFFICIAL MARKINGS

### *Power to make markings*

79. (1) A person may manufacture an official marking device for use for milk and milk products if the person is an authorized officer or is acting in accordance with a direction of an authorized officer and other laws governing markings in the country.

(2) A person may manufacture an official mark for use for milk and milk products or have in his or her possession an official marking device for use for milk and milk products if:

- (a) that person is an authorized officer or is acting in accordance with a direction of an authorized officer; or
- (b) the person is designated in an approved arrangement as a person who may do the relevant act and the act is done in accordance with the approved arrangement by the Board, the purchaser and the supplier.

### *Interfering with an official marking*

80. (1) A person must not alter or interfere with an official mark applied:
- (a) to milk and milk products for import or export, their packaging or to anything containing the milk and milk products; or
  - (b) to any thing that is attached to:
    - (i) milk and milk products for import or export; or
    - (ii) the packaging; or
    - (iii) anything containing milk and milk products for import or export; unless;
  - (c) the person is an authorized officer, or is acting in accordance with a direction of an authorized officer; or
  - (d) the person is designated in an applicable approved arrangement as a person who may do the relevant act and the act is done in accordance with the approved arrangement by the Board, purchaser and the supplier.

### ***Resemblances***

81. (1) Resemblance of an official mark means a design that:
- (a) is similar to the design of an official mark and
  - (b) differs materially from the design so specified only in respect of its dimensions.
- (2) A person must not apply the packaging to anything containing the milk and milk products a mark resembling an official mark, including a resemblance of an official mark or any thing apparently intended to resemble or pass for an official mark unless the following circumstances exist:
- (a) the person is designated in an applicable approved arrangement as a person who may do the relevant act; and
  - (b) the act is done in accordance with the provisions of the approved arrangement.

### ***Altered markings***

82. (1) If milk and milk products are located at an establishment; and the occupier suspects that an official mark applied to the milk and milk products is altered or interfered with other than in accordance with these Regulations; the occupier must:
- (a) notify an authorized officer without delay on forming the suspicion; and
  - (b) not deal further with the milk and milk products concerned without the written approval of an authorized officer.

### ***Application of marking***

83. (1) An official mark is applied to:
- (a) packages or anything containing milk and milk products; or

(b) anything that is attached, not easily defaced, pre-printed and imprinted to:

- (i) milk and milk products;
- (ii) packages of milk and milk products; or
- (iii) containers of milk and milk products.

***Keeping of official marks***

84. (1) The occupier must keep official marks and marking devices under conditions of security when not in use.

(2) The occupier must make a record of the occupier's:

- (a) receipt, use and return of official marking devices;
- (b) receipt or manufacture of official marks; and
- (c) use and defacement of official marks.

(3) The occupier must give an authorized officer each official marking device that is:

- (a) in the occupier's possession; and
- (b) not damaged, worn out or otherwise fit for applying an official mark.

(4) The Board may revoke an official marking if the authorized officer has reasonable grounds to believe that:

- (a) the occupier has not, or is not likely to comply with a requirement of the Act, these regulations and other relevant Acts;
- (b) the fitness for human consumption is or is likely to be jeopardised or their integrity is, or is likely to be compromised;
- (c) milk and milk products are not likely to comply with the quality standards;
- (d) the occupier of the establishment at which the milk and milk products are processed in unapproved and unregistered locations; or
- (e) the occupier of the establishment at which the products are prepared is not registered ;

(5) The authorized officer may issue a directive requiring action to be taken if he has reasonable grounds to believe that a requirement of the Act or these regulations applying to or in relation to milk and milk products is not complied with or is not likely to be complied with;

(6) If the authorized officer has reasonable grounds to believe that a matter exist he may take one or more of the following:

- (a) Any action to address the fact that the requirements are not complied with or is not likely to be complied with;
- (b) Action to ensure that the failure to comply with the requirement or the likelihood thereto does not recur;

- (c) Action to assess the effectiveness of the action.
- (7) The direction provided may require the following action:
  - (a) the movement of milk and milk products out of the premises including movement to premises identified by the authorised officer;
  - (b) the retention, securing, identification, segregation, treatment, inspection, examination, sampling, condemnation, destruction, denaturing or other disposal of milk and milk products;
  - (c) the cessation of the preparation of milk and milk products;
  - (d) that action is taken in relation to a mark, premises, equipment and vehicle used.

(8) An occupier's failure to take corrective action if a requirement of these regulations is not being met may result in the suspension or revocation of an approved arrangement.

(9) An authorized officer may not give a direction requiring that the preparation of milk and milk products cease unless the authorized officer has reasonable grounds to believe that the purpose specified cannot be achieved without the cessation of the preparation.

***Obligation to comply with direction***

85. (1) An occupier who is given written notice of a direction under this Part must take the action specified in the notice within the period specified in the notice.

(2) The notice must state that a failure to take the action specified within the time specified is an offence.

(3) An authorized officer may amend or revoke the notice by giving a further written notice to the person to whom the notice is given.

***Requirement to provide translations***

86. (1) If any part of a trade description applied appears in a language other than English or SiSwati an authorized officer may give any of the following persons a written notice requesting a translation:

- (a) the occupier of the establishment at which the information is applied;
- (b) the occupier of the establishment in possession of the products concerned;
- (c) the importer or exporter of the milk and milk products concerned.

(2) The translation must be prepared by a person who:

- (a) has appropriate qualifications to make the translation; and
- (b) is independent of and not employed in operations to prepare the products.

(3) For the purpose of this regulation a trade description is taken to be applied to the milk, milk products and milk related products.

***Assistance to authorized officers***

87. (1) The occupier must, if requested by an authorized officer, provide reasonable assistance to the authorized officer for the purpose of the exercise of a function by the authorized officer.

***Alternative regulatory arrangements***

88. (1) The occupier may make a written application to the Board for a notice stating that an alternative procedure, standard or other requirement specified in the application achieves the purpose of a requirement of these regulations specified in the application.

(2) If the Board is satisfied that the specified alternative procedure, standard or other requirement achieves the purpose of the specified requirement, the Board may give the occupier a written notice to this effect.

(3) The Board may amend or revoke the notice by giving the occupier of the establishment a further written notice.

(4) If the notice has effect then compliance with the procedure, standard or other requirement specified in the notice given by the Board is taken to be compliance by the occupier with the requirement of these regulations that is specified in the notice in the circumstances specified in the notice. This shall apply only if a variation is made to the occupier's approved arrangement to include the specified procedure, standard or other requirement.

(5) The occupier may make a written application to the Board for a notice stating that a requirement of these regulations that is specified in the application does not apply to, or in relation to the products prepared at the occupier's establishment.

(6) If the Board is satisfied that the relevant importing country authority does not require the requirement of these regulations to be complied with, the Board may comply with the importing country requirements

(7) If the Board is satisfied that all of the following circumstances exist:

(a) a relevant importing country requirement differs from the requirement of these regulations specified in the application;

(b) compliance with the importing country requirement would not result in compliance with the requirement of these regulations specified in the application;

(c) an establishment's approved arrangement contains controls to achieve the importing country requirement;

(d) products processed in the establishment are not for the local markets the Board may at the Board's discretion give the occupier a written notice.

(8) A notice may specify that the requirement of these regulations specified in the notice does not apply to or in relation products prepared at the establishment only for export.

(9) If a notice given by the Board has effect, the requirement of these Regulations specified in the notice as not applying does not apply.

(10) A notice given under this section only while the establishment's approved arrangement contains controls to achieve the importing country requirement only if the products from the establishment are for exports only, if the milk and milk products are processed for local and export purposes the application shall not be successful.

(11) The Board may amend or revoke the notice by giving the occupier a further written notice.

### ***Application for reconsideration***

89. (1) A person whose interests are affected by a decision to give a direction made under these Regulations may make a written application for a reconsideration of that decision by a senior authorized officer at the office of the board where the direction is given.

(2) The application must:

(a) set out the reasons for the application; and

(b) be given to the senior authorized officer within seven (7) days after the \_\_\_\_\_ day on which the decision to give the direction first comes to the notice of \_\_\_\_\_ the applicant or within such further period as the senior authorized officer \_\_\_\_\_ allows.

(3) On receiving an application made the senior authorized officer must reconsider the decision to give the direction and may make any decision to give a direction that may have been made in the first instance.

(4) When the senior authorized officer makes a decision, the authorized officer decision ceases to have effect.

(5) Within 14 days after the day on which the senior authorized officer receives the application the senior authorized officer must give the applicant written notice of:

(a) the senior authorized officer's decision; and

(b) the reasons for the decision.

### ***Application to the Board***

90. (1) A person whose interests are affected by a decision made by the senior authorized officer may make a written application to the CEO for a review of that decision.

(2) The application must:

(a) set out the reasons for the application; and

(b) be given to the CEO within seven (7) days after the day on which the \_\_\_\_\_ decision made by the senior authorized officer first comes to the notice of \_\_\_\_\_ the applicant or within such further period as may be prescribed.

(3) On receiving an application made, the CEO must reconsider the decision made by the senior authorized officer and may confirm or set aside the decision.

(4) When the CEO makes a decision, the senior authorized officer's decision ceases to have effect.

(5) The CEO may inform the Board of the reviewed decision for information.

(6) Within twenty-eight (28) days after the day on which the CEO receives the application made, the CEO must, give the applicant a written notice of:

- (a) the CEO's decision; and
- (b) the reasons for the decision.

### ***Application to the Minister***

91. (1) A person whose interests are affected by a decision made by the Board may make a written application to the Minister for review of that decision.

(2) The application must:

- (a) set out the reasons for the application; and
- (b) be given to the Minister within seven (7) days after the day on which the decision made by the Board first comes to the notice of the applicant or within such further period as the minister allows.

(2) On receiving an application made, the Minister must reconsider the decision made by the Board and may make any decision to give a direction that may have been made by a Board in the first instance.

(3) When the Minister makes a decision, the Board's decision that the Minister reconsidered ceases to have effect.

(4) Within sixty (60) days after the day on which Minister receive the application made, the Minister shall give the applicant written notice of:

- (a) the Minister's decision; and
- (b) the reasons for the decision.

## PART 20

### PRODUCT RECALL PLAN

#### ***Purpose of the Recall plan***

92. (1) The main purpose of the plan is to remove or correct violative products that may represent a health hazard to the consumer or user.

(2) Product recall must be the responsibility of a manufacturer, distributor, trader, exporter or importer to protect the public health and well-being.

(3) As a precautionary measure, product recall must commence as soon as the health hazard is suspected while further information is gathered to determine if the health hazard with the product is genuine.

### ***Types of Recalls***

93. The product recall plan is broadly categorised into three (3) classes depending on the severity of the adverse health consequences

(1) **Class I recall:** Reasonable probability that use or exposure to a product will cause serious, adverse health consequences such as:

- (a) a disease causing agents in dairy products or reagents;
- (b) allergens in the dairy product such as undeclared peanuts or eggs in the dairy product;
- (c) expired dairy products or reagents;
- (d) contaminated products or reagents;
- (e) products not fit for human consumption; and
- (f) metal or glass fragments found in a product

(2) **Class II recall:** Use or exposure to the product may cause temporary or medically reversible adverse consequences, but the probability of serious adverse health consequences is not as in class 1. Examples are:

- (a) Wash water solution in fluid milk
- (b) Adulterated products
- (c) Wrong combination of edible ingredients

(3) **Class III recall:** Use or exposure to the product is not likely to cause adverse health consequences such as:

- (a) misbranding of flavors or not using the term artificial; or
- (b) incorrect labelling type size and prominence.

### ***Recall Discovery and Decision Phases***

94. (1) The first step in a recall situation is the discovery of a potential product problem. Discovery can happen in many ways such as laboratory discovery, employee observation and consumer complaints as illustrated below:

- potential improper missing or ice cream, and shavings in a any other serious
- (a) Lab discovery may occur by a product testing positive for a problem, such as high or pathogenic bacterial count, pasteurization, or antibiotics being present.
  - (b) An employee observation could relate to parts of a filler being broken glass being found in the filling area.
  - (c) Consumer complaints need to be divided into two classes:
    - (i) Routine complaints such as not enough condiments in leaking package, and other non-critical issues,
    - (ii) Complaints that cause a health concern such as metal product, cross-contamination with allergens, or situations.

(2) If there is a laboratory discovery, an employee observation or a consumer complaint that warrants a concern, the recall decision phase of this plan goes into effect by gathering the following information;

- and package and shifts
- (a) Identity of the product in question:
    - (i) the items involved including products, brand names, sizes,
    - (ii) the production dates and code dates of affected product,
    - (iii) the location where the items were produced;
  - (b) Reasons for the product to be of questionable quality:
    - (i) the type of defect,
    - (ii) the cause(s) of defect,
    - (iii) the problem(s) discovered,
    - (iv) the potential health hazards,
    - (v) potential illnesses or injuries reported,
    - (vi) potential hazards result from the problem,
    - (vii) problem severity to public health
  - (c) Quantity of the product in question:
    - (i) the production lines or batch(s) affected and involved
    - (ii) quantities produced;
  - (d) Customers that received the product:
    - (i) identify customers and quantities received.
    - (ii) distribution of the product.

***Mock recall plan***

95. (1) The mock recall is used to test the efficacy of the current recall procedure in place.
- (2) It is part of a food safety management system and is obligatory.
  - (3) Mock recalls shall be conducted in all the sections of the value chain.

***Recommended information in recall submission***

96. (1) The recall submission form or report may have the following information;
- (a) Product name, include brand name and generic name;
  - (b) Model, catalogue, or product order number(s);
  - (c) Description of the product;
  - (d) Include if product is powder, liquid, tablet, capsule, etc;
  - (e) Include the intended use or indications;
  - (f) If the product is perishable, include the expected shelf life;
  - (g) Include type of packaging, such as a box, flexible plastic, glass;
  - (h) Product labelling including all private labels;
  - (i) Individual package label;
  - (j) Case label, photocopy acceptable;
  - (k) Package inserts;
  - (l) Directions for use;
  - (m) Promotional material, if applicable;
  - (n) Code, Production Identification Number;
  - (o) Lot or unit numbers, if "all lots" are involved or the product is not coded, explain how non-recalled or reintroduced product may be distinguished from product subject to recall. Provide an explanation of your lot number coding system;
  - (p) Expiry date, use by date or expected shelf life of the product;
  - (q) Serial numbers, medical devices;
  - (r) Details of the recalling company, organization or person details;
  - (s) Details for the responsible individual for the recalling company;
  - (t) Details of the place where the product is recalled,
  - (u) Details of the company or person responsible for the violation or problem.

(2) Where there are reasons for the recall, the company recalling a product must;

- (a) explain in detail how product is defective;
- (b) explain how the defect affects the performance and safety of the product, such as where the recall is due to the presence of a foreign object, describe the foreign objects' size, composition, hardness, and sharpness;
- (c) if the recall is due to the presence of a contaminant, cleaning fluid, machine oil, or paint vapours, explain level of contaminant in the product and provide labelling, a list of ingredients and the Material Safety Data Sheet for the contaminant,
- (d) if the recall is due to failure of the product to meet product specifications, provide the specifications and report all test results and provide copies of any sample analysis;
- (e) if the recall is due to a label or ingredient issue, provide and identify the correct and incorrect labels, description, and formulation;
- (f) if the recall is due to expiry date, provide the expiry date and the recall date;
- (g) explain how the problem occurred and the date it occurred;
- (h) explain how the problem was discovered and the date discovered;
- (i) explain if the problem or defect affects all units subject to recall, or just a portion of the units in the lots subject to recall;
- (j) explain why this problem affects only those products or lots subject to recall;
- (k) provide detailed information on complaints associated with the product or problem;
- (l) date of complaint;
- (m) description of complaint, include details of any injury or illness; and
- (n) lot number or serial number involved.

(3) A health hazard assessment must be provided and a recall decision depends on the health risk of the product including defective or a misbranded product.

(4) The company responsible for a recalled product must indicate the volume of the recalled product such as:-

- (a) the total quantity produced;
- (b) the date produced;
- (c) the quantity distributed;

- (d) the date distributed;
- (e) the quantity in the custody of the recalling person and its distribution centres;
- (f) to indicate how the product is being quarantined
- (g) the estimate amount remaining in marketplace, distributor level, retail level
- (h) provide the status or disposition of marketed product, if known, e.g. used in further manufacturing, or destroyed.

(5) A recall strategy of the responsible company must;

(a) indicate the level in the distribution chain to which you are extending the recall;

(b) if the recall only extends to the wholesale or distributor level, it is recommended that you explain your rationale for not recalling to other areas such as the retail level;

(c) indicate the method of notification whether by mail, phone, facsimile, e-mail and it is advisable to include a written notification so that customers will react to your instructions,

(c) indicate how information will be sent to customers, and if there is a web site, consider posting the recall notification on the web site as an additional method of recall notification.

(d) report on what instructions that were issued to customers to comply with the recall of the product;

(e) explain if this recall will create a market shortage that will impact on the consumer;

(f) report on recall effectiveness check strategy, include actions for non-responders;

(g) determine and provide your course of action for out-of-business distributors.

(h) provide a proposed method of destruction, if applicable and if the product is to be "reconditioned", explain how and where the reconditioning will take place;

(i) contact local authority or public health unit prior to product destruction, which may choose to witness the destruction;

(j) the documentation of the product destruction must be kept safe and whether or not destruction was witnessed by the board or other agencies; and

(k) have field corrections performed by the recalling company, representatives, or under their supervision and control.

### ***Product Recovery Phase***

97. There are two main items that need great detail during a product recovery phase:

- (1) Physical Recovery and Disposal of the product:-
  - (a) distribution and plant management or their agencies will need to designate a return pooling area for the recalled product;
  - (b) if this area is within the plant it must be segregated from normal operations.
  - (c) the concerned parties need to review the scope of distribution product and determine the quickest way to get the product out of circulation; and
  - (d) all returns need to be clearly marked to avoid any confusion with and unrelated products. A disposal site must be found for the recalled product;
  
- (2) Documentation of the collection and disposal of the recalled product:-
  - (a) Everyone that is involved with the retrieval of the recalled product must record the amounts and locations from which the product was retrieved, along with its disposition. This documentation is essential to gain closure and termination of the recall.
  - (b) This documentation must be forwarded to the board on a daily basis so that an up-to-date Status Report can be generated.
  - (c) All the relevant stakeholders must assist in cross border recalled products.

### ***Evaluation of the Recall***

98. (1) It is the recalling company's responsibility to ensure that the recall is effective and therefore, effectiveness checks for every recall are recommended.

(2) The purpose of an effectiveness check is to verify the recall notification letter received by the customer and that the customer read and understood the letter and followed the recall instructions.

(3) The effectiveness check should also verify that the recall reached the appropriate level in the distribution chain.

(4) The effectiveness check is for evaluating the effectiveness of the recall.

(5) If the effectiveness checks indicate that the recall notification was not received, read and or instructions followed, then necessary steps should be taken to make the recall effective.

(6) These steps may involve sending out a follow up notification that better identifies the product, better explains the problem and/or provides better instructions to customers.

### ***Notification Phase***

99. (1) If a class I Recall is warranted, the first group to be notified is the Board, retailers, consumers; processors, city council, public health unit and any other relevant stakeholders. Class I recall also requires notification to the media in the affected marketing areas by the owners of the products or their agency. A press release should be prepared before any contacts are made. The purpose of a prepared press release is to avoid any confusion or misinterpretation of the situation.

(2) In the event of any recall, a list of talking points should be developed. This is to include what facts are known and what corrective action has taken place. These will be the only facts that we will discuss with consumers and customers. At no time should anyone say “No Comment” when talking to customers, government agencies or the media. The only information to be shared should come from the list of talking points developed.

(3) Sequence of notification should be determined by the quantities received. Notification can be by means of telephone, fax, email, or personal contact. The severity of the recall will determine which method is used. There must be a contact person for media interviews.

(4) Regardless of which method is used, each person making contact with the customers must keep a written report outlining who was contacted, the business location, and time and date of contact.

(5) In a situation where the product may pose a significant health hazard and recalled product is in the hands of consumers, a press release is usually appropriate.

(6) Issuance of a press release should be the highest priority and it should be issued promptly.

(7) Unique situations will be handled on a case-by-case basis.

(8) A joint press release may benefit the company, Board and other relevant stakeholders by alerting the public to a serious health hazard or situation deemed to be in the public interest.

### ***Termination of the recall***

100. (1) It is recommend that involved parties evaluate the recall plan for termination when all possible information sources and actions have been received and it is reasonable to assume that the recalled product has been recovered, corrected, reconditioned, or destroyed.

(2) There has to be a follow-up inspection by the board and other related agencies such as city council, public health unit and other relevant structures to verify that the reason for the recall has been corrected.

(3) The affected party or the agent will issue a report to the Board, local authority, public health and other relevant stakeholders as to the reason for the recall and corrective actions and steps to prevent this from happening again.

(4) A final status report and documentation of recalled product disposition should be provided to the board, city council and public health unit and other relevant stakeholders to consider formal termination of the recall action.

(5) A recall across the border should be facilitated, or product for rework as approved by the responsible and competent Government Veterinary Officer, the inspector and any other relevant officer.

(6) Relevant stakeholders must have the product recall or returns policy and plan in place.

## PART 21

### E-COMMERCE OR E-BUSINESS

#### *E-commerce or e-business*

101. The Board may decide that any or all of the services it provides to its clients be done using electronic and computer networks, such as the internet.

## PART 22

### TRADE RETURN PLAN

#### *Trade return plan*

102. (1) It is generally accepted in the industry that returns at the top and bottom end of the market are normal where spoilt and expiry dated products are handled and suppliers, retailers, traders and distributors are then also required to return and destroy these spoilt and non-saleable products at own cost.

(2) In order to ensure that the process of returns be handled in the most effective manner to minimize the impact that spoilt products have on the profitability of the undertaking, it is of the utmost importance that all parties accept responsibility and apply the process or policy of returns meticulously.

(3) The representative or merchandiser supervisor as well as the responsible store or perishable manager must ensure that the product is sorted, weighed and sealed in plastic bags and gathered in the reception area.

(4) The different categories of returns include farm faults, plant faults, and damages by the store, fridge breakdowns, distribution faults, transport faults, or legal returns.

(5) Trade returns, prevention, control, management, communication, eradication and mock trade returns plans must be in place for all the industry stakeholders who include farmers, producers, processors, manufacturers, transporters, distributors, wholesalers, retailers, traders, importers and exporters

(6) Trade returns across the border or a product for rework as approved by the responsible government veterinary officer should be facilitated by the Swaziland Revenue Authority official, Home Affairs official, the police and the Board inspector within a reasonable period of time and any other relevant officer.

(7) Relevant stakeholders must have a trade return policy.

(8) It is essential that guidelines are applied stringently during the identification, management and communication of the different categories.

***Dated stock***

103. (1) The distributor, importer, processor, farmer, producer, manufacturer, trader, wholesaler, and retailer must ensure that no “undated stock” are sent to stores.

(2) No retailer, sales representative, merchandiser or merchandiser supervisor must accept any “undated stock”.

***Products damaged by store***

104. (1) A damaged product in the store must be pointed out to the manager of the store or any person responsible, in particular where and when the problems occurred.

(2) Steps to prevent similar future damage must be implemented and monitored with that store official.

***Plant faults***

105. (1) Plant faults must be clearly indicated on all forms, that may include spoilages such as sour, blown, mould, dirty, short dated, leakers, no date or wrong date, over or under fill labels and packaging .

***Cooling or Equipment problems***

106. (1) A damaged product is for the account of the product holder at that time which will under normal circumstances claim from its insurance.

(2) All stakeholders from top to bottom of the value chain are urged to be responsible and maintain the cold chain at all times.

***Returns collation***

107. (1) Returns must be collated on regular basis.

(2) Field staff must do a floor walk and check for damages, expired, quality and factory fault products on a daily basis.

(3) In the event damages and expired products are discovered, they should be removed from the shelf.

(4) Quality or factory fault products need to also be removed from shelf and put into a separate place for damages or expired products and be quickly disposed.

(5) The product code, description, expiry date, quantity and correct reasons for disposal need to be written up.

(6) The good stock returns must not be mixed with ‘bad’ stock returns.

(7) Fridge breakdown returns, rat eaten returns, store damages due to negligence should not be taken back to the market but must be disposed off using a disposal plan in place.

(8) Field staff or agents must manage stock control in store taking proactive corrective action in good time to minimize returns

(9) Selling of expired products, or after best before or after sell by date is prohibited.

(10) Resale of expired products in the trade is prohibited.

(12) The concerned parties must have a plan in place to dispose expired products.

***Short dated products***

108. (1) A short dated product or markdown shelf life must be identified and must not be overstocked.

(2) A merchandiser, sales or wholesale representative and merchandising agent must also manage by identification and corrective action in good time.

(3) When the industry stakeholders who include farmers, producers, processors, manufacturers, transporters, distributors, wholesalers, retailers, traders, importers and exporters discover a faulty product in their line of business that product must be removed immediately.

(4) A batch number or expiry date must be recorded to determine the cause of the defect of a product.

(5) A sample of the product should preferably be returned to the source or plant or laboratory to do the necessary tests.

(6) Upon result received, the written instruction from the laboratory or quality manager doing the test must then be given to the concerned parties to remove a product from the trade and inform the Board.

(7) The concerned party must check the batch number, where applicable, of the product in other areas to determine how widespread the problem is and give feedback to the quality manager responsible for the specific product, as well as to the Board.

(8) Dairy industry stakeholders such as a sales representative or merchandising supervisor, shop, distributor, trader and merchandiser must familiarize themselves with trade shelf life specifications documents on standard shelf life to ensure proper stock rotation on shelves.

(9) The necessary equipment must be available for checking and maintaining the cold chain such thermometers, temperature monitoring in delivery trucks of outgoing and incoming products.

(10) When complaints received on products exceed the norm all the concerned stakeholders must initiate investigations to determine if there is a quality problem with a total batch which necessitates a product recall.

(11) Donations must always be the good quality products fit for human consumption.

(12) All products returned from the trade due to quality problems, damaged in transit or shops and expired sell by dates must be disposed of in an appropriate manner.

(13) Dairy industry stakeholders such as farmers, producers, processors, manufacturers, transporters, distributors, wholesalers, retailers, traders, importers and exporters are encouraged to take insurance cover for all possible claims.

(14) Relevant information covered in the product recall plan shall also apply in this section even though they were not captured or repeated in this section.

(15) All the relevant stakeholders must assist in cross border trade returns.

PART 23  
CONSUMER PROTECTION PLAN

***Applicability***

109. (1) These regulations shall apply to any transaction in which dairy and a dairy related product, is supplied or offered to be supplied, or where a person is exposed to any goods or services regardless whether any supply actually took place, as long as the consumer is a natural person or a juristic person.

(2) A person who is exposed to marketing and consumption of a dairy product is considered a consumer.

(3) There need not be a direct relationship between the manufacturer or producer and the end user for application of the regulations between the end user and the manufacturer.

***Discriminatory Marketing***

110. (1) The regulations prohibit discriminatory marketing between consumers on any grounds such as race, gender, sexual orientation, religion and the like.

(2) Discrimination based on purely commercial reasons, such as a milk distribution area which is economically viable, is also permitted but extreme care must be exercised not to discriminate between various small retailers who are considered consumers, for example corner shops, spaza shops in the rural areas, urban and peri-urban areas and the like.

***Inspection and Delivery of Goods***

111. (1) Every consumer has a right to inspect goods before accepting delivery or consumption and this is especially important when deliveries of perishable products such as milk and other dairy products are made by producers to small processors or to small retailers considered to be consumers.

(2) If the consumer is not permitted to inspect the products before accepting delivery, the consumer may reject the delivery and demand a full refund.

***Labelling and Marketing***

112. (1) Where any direct marketing to consumers is undertaken, this has to be limited to the times and days permitted by the authorising officer, and the consumer must be given the option to either pre-emptively opt out from all or certain direct marketing, or to opt out from a specific supplier's and that no charge may be imposed to a consumer either for opting out or for responding to direct marketing with a request not to be contracted again.

(2) Where promotional competitions are held, the rules of the promotion must be strictly in support of the consumer and there must be enough prizes or awards to satisfy the demand which results therefrom and only the actual cost of communication may be charged to an entrant.

(3) The use of specific languages in documents, forms, and notices is not prescribed and where specific forms, notices and documents are prescribed then such should be used but in all other cases where no prescribed format exists, plain language must be used such that it is reasonable to conclude that an ordinary consumer for whom the notice is intended could be expected to understand the content, significance and import thereof without undue effort and therefore the choice of language is up to the individual producer, but the above requirements must be met.

(4) In the context of dairy products it is believed that where any statements as to the benefits of the product or special characteristics of the product are advertised or appear on labelling, great care must be taken to ensure that consumers will understand the content, significance and importance thereof.

(5) In so far as labelling, marketing ,and advertising are concerned, any misrepresentations to consumers is prohibited, whether direct or indirect, and where a supplier is aware that a consumer has a misapprehension as to any fact then it is considered a deception not to put the consumer right and correct the misapprehension.

(6) No advantage should be taken out of consumer inability to look after his own interests due to literacy, blindness, deafness, inability to understand a language, age and the like.

(7) All products must be clearly labelled as a “Fresh Dairy Products”, “Fresh Milk”, “Reconstituted milk product”, “Recombined milk product”, or “Reconstituted dairy product” in line with the definitions set out in this regulations, with this information appearing on the main panel in a letter size to be determined by the Board.

(8) All imported milk and milk related products must comply with the labelling requirements set out by the Board.

### ***Right to goods which are safe and of Good Quality***

113. (1) There must be a warranty of quality, right to safe and good quality goods and warnings concerning the fact and nature of risks associated with goods, safety monitoring and recall of products and liability for damages.

(2) Consumption of raw milk is prohibited.

(3) Schedule on standards of testing procedures for milk and milk products shall be published by the Board annually or such periods as deemed necessary.

(4) Products that are in the last quarter of their useful life, such as the time between the production and expiry date, must not be distributed.

### ***Liability for damages***

114. (1) The liability for damages is not only in terms of these regulations but also in existing common law liability and criminal law liability.

(2) These regulations will also put in place a product recall regime in terms of the sales of designated products and trade returns thereof for product failure, monitoring and for reporting of such figures in order to permit recalls of products to be ordered before they cause damage or harm.

(3) As regards the liability for harm or injury caused by goods, a farmer, manufacturer, producer, wholesaler, retailer, importer, exporter, trader, distributor or processor may be charged for negligent or breach of an explicit or implied contractual term.

(4) For damages caused wholly or partly as a consequence of supplying any unsafe goods, a product failure, defect or hazard in any goods, or inadequate instructions or warnings provided to the consumer pertaining to any hazard arising from or associated with the use of any goods the supplier may be charged.

(5) Some of the causes from which claims could arise include allergic reactions to ingredients in dairy products of which the consumer has not adequately been warned, foreign objects in products and adulteration of products by melamine and other substances which cause harm to consumers, food poisoning and other food safety related situations.

(6) It is not a defence to a claim by a consumer against a farmer, producer or importer, exporter, trader, wholesaler, distributor, processor and possibly a retailer for damages due to defective products or product failure for the seller, or anyone else in the supply chain, to show there was no negligence on his part and or that liability was excluded or limited in terms of contractual term such as a warrantee. This is a typical situation where food poisoning or the effects of additives or chemicals used in production cause harm or injury to a consumer where the producer or importer, distributor, processor or retailer would merely claim ignorance and show that they acted reasonably in the manufacture or supply of the dairy product.

(7) The only defence open to a person in the supply chain may include where scientific evidence proves that:

(a) the unsafe product characteristic, failure, defects or hazard that results in harm is wholly attributable to compliance with any public regulation;

(b) the alleged unsafe product characteristic, failure, defect or hazard-

(i) did not exist in the goods at the time it was supplied by that person to another person alleged to be liable;

(ii) was wholly attributable to compliance by that person with instructions provided by the person who supplied the goods to that person; or

(iii) it is unreasonable to expect the farmer, manufacturer, producer, wholesaler, retailer, importer, exporter, trader or processor or distributor to have discovered the unsafe product characteristic, failure, defect or hazard, having regard to that person's role in the goods to consumers.

(8) To counter the no fault liability; farmer, manufacturer, producer, wholesaler, retailer, importer, exporter, trader or processor or distributor need to have systems, both administrative and laboratory to test products and keep accurate records

***General information for protecting consumers***

115. (1) Every consumer has a right to receive goods that are reasonably suitable for the purposes for which they are generally intended for, are of good quality, in good working order and free of any defects, will be useable and durable for a reasonable period of time, and comply with any applicable standards.

(2) The circumstances of the supply must be considered, including but not limited to the manner in which, and the purposes for which the goods were marketed, packaged and displayed, the use of any trade description or mark, any instructions for, or warnings with respect to the use of the goods, the range of things that might reasonably be anticipated to be done with or in relation to the goods, and the time when the goods were produced and supplied.

(3) It is irrelevant whether a product failure or defect was latent or patent or whether it could have been detected by the consumer before taking delivery of the goods unless the consumer has been expressly informed that particular goods were offered in a specific condition, and has expressly agreed to accept the goods in that condition.

(4) A consumer is entitled to dairy products which have the product characteristic as indicated on the packaging and in marketing, which will have a reasonable shelf life depending on the type of product.

(5) A dairy product should be safe and should not contain any foreign object nor be produced using any undesirable additives or packed in material which would detract from the safety suitability thereof.

(6) A product should always comply with all Agricultural Product Standards, food labelling requirements, and compulsory specifications

(7) Where a consumer states his requirement for a particular dairy product, perhaps because he intends to use it as an ingredient, the product must satisfy the requirement or else the consumer would have to be refunded or the product replaced, in addition to any claim for damages which he may have.

(8) It is very important to note that the farmer, manufacturer, producer, wholesaler, retailer, importer, exporter, trader or processor or distributor and the retailer each warrant that the goods comply with the requirements and standards contemplated above and that the retailer, for example, can not merely return the consumer back to the supplier when a situation arises.

(9) The person to whom the consumer takes back the product must either replace or refund the price paid at the direction of the consumer.

(10) The role of the Board is to ensure that dairy producers and processors fulfil their obligations in supplying safe, good quality dairy and dairy related products.

(11) The role of self-regulation by the industry is essential if the industry is to avoid a sea of complaints and claims as a result of poor quality or adulterated products, or claims for alleged harm caused by unsafe or adulterated or improperly labelled products.

(12) The Swaziland Dairy Board and other relevant authorities shall have the power to investigate an industry which it considers to be under suspicion of carrying out prohibited conduct, such as adulteration of a product or unsafe or poor quality product.

(13) The Board must play an important role in negotiating and contributing to the regulatory and developmental framework of the industry.

(14) In addition the Board must play an important role in both the consumer and industry education.

(15) The Board must approve, accredit, licence, control and regulate all dairy and dairy related training and education service providers, dairy feed companies and other dairy and dairy related input suppliers in Swaziland.

(16) The Board must actively support and facilitate the promotion of the production and consumption of good quality milk and milk products in the country

(17) Research and Development projects must be initiated and developed by the dairy industry stakeholders with the Board taking a leading role to improve the quality and safety of dairy products and address problems which arise in the industry to ensure a reduction in the consumer complaints and claims in respect of product quality and safety issues.

## PART 24

### DAIRY INDUSTRY PROMOTION AND CONTROL

#### *Dairy industry promotion*

116. (1) The Minister may on the recommendation of the Board impose levies, tariffs whether specific or Ad valorem, licences, voluntary import and export restraints, promotion of local content requirements in the industry and quotas on farmers, processors, producers, importers, exporters, distributors, traders, or manufacturers, of dairy and dairy related products which shall be used as provided by sub-section (3).

(2) Sub-regulation (1) above may be imposed at such time, and in such manner as is specified in the notice.

(3) Sub-regulation (1) and (2) may be imposed for the purpose of promoting domestic employment, promoting the dairy industry, protecting consumers and developing the country's economy.

(4) Sub-regulation (2) may consider the duration, impact and effects of the notice.

(5) The Minister may review the notice annually or such shorter period as he deems expedient to do so.

#### *Dairy Tax*

117. (1) The Minister may, on the recommendation of the Board and by notice published in the Gazette, impose a dairy tax, specific or *Ad valorem*, on farmers, processors, producers, importers, exporters, distributors, traders, or manufacturers, of dairy and dairy related products which shall be used as provided by sub-regulation (3) *infra*.

(2) Such dairy tax shall be mandatory and be paid to the Board at such time, and in such manner as is specified in the notice.

(3) The Board may use the dairy tax for the purposes of meeting the expenses of the board, support and improve the dairy industry in Swaziland.

(4) The dairy tax shall be based on the total invoice value and total quantities of a dairy product imported into, including transiting or exported from or produced or traded in Swaziland.

(5) The Minister may review the dairy tax charged annually or such shorter period as he deems expedient.

***Powers of the Board's to charge for services***

118. (1) The Board may impose a charge for the permits, licences, inspections, audits, penalties, taxes, levies, fees and any other services carried out for the industry stakeholders pursuant to the Act, the regulations and the schedule of fees.

***Powers of the Minister to amend the regulations***

119. (1) The Minister may amend the regulations periodically or at such period as it may be necessary to do so.

PART 25

OFFENCES AND PENALTIES

***Offences Related to Registration***

120. (1) A person who fails:

(a) to apply for registration to be a farmer, producer, processor, distributor, importer, exporter, manufacturer, trader and service provider;

(b) to notify the board of a change in circumstances as required by the regulations;

(c) to apply for cancellation of registration as required commits an offence and is liable:

(i) where the failure is deliberate or reckless, to a fine not exceeding three times the invoice value of previous submitted permit;

(ii) in case of failure to apply for cancellation of a permit, to a fine not exceeding three times the value of goods; and

(iii) in a case of failure to apply for registration, to imprisonment for a term not exceeding six (6) years, or to both.

(iv) in case of failure to apply for a licence or its renewal, a fine not exceeding two percent (2%) of the annual total revenue or a imprisonment for a term not exceeding six (6) years or both.

***Offences Related to permits of import, export, emergency, transit, invoices, declaration forms and licences***

121. (1) A person who fails to provide a permit for import, export, emergency, transit or an invoice, declaration forms and licences to the Board or relevant authorised officer commits an offence and is liable on conviction to a fine not exceeding three times the invoice value or to imprisonment for a term not exceeding three (3) years, or both.

(2) A person who provides a permit for import, export, emergency, transit or an invoice, declaration form and a licence otherwise than as is provided for in the regulations commits an offence and is liable on conviction to, where the act is deliberate or reckless, a fine not exceeding three times the invoice value or to imprisonment for a term not exceeding six (6) years, or both.

***Failure to submit a permit***

122. (1) A person who fails to submit a permit or any other document under these regulations within fifteen (15) days of being so required commits an offence and is liable to a fine not exceeding three times the invoice value of the previous submitted permit or to imprisonment for a term not exceeding three (3) years, or both.

***Failure to pay levy and other fees***

123. (1) A person who fails to pay a levy when due commits an offence and is liable to a fine not exceeding three times the invoice value or to imprisonment for a term not exceeding six (6) years, or both.

(2) A person who fails to pay for a permit and a licence fee when due commits an offence and is liable to a fine not less than three times the invoice value or to imprisonment for a term not exceeding three (3) years, or both.

***Smuggling of products***

124. (1) A person who smuggles a dairy product commits an offence and is liable to a fine not exceeding three times the invoice value of that product or to imprisonment for a term not exceeding six (6) years, or both.

(2) In addition to imposing a penalty the goods smuggled shall be confiscated by the Board in collaboration with the Swaziland Revenue Authority.

***Failure to Maintain Proper Records***

125. (1) A person who, whether deliberate or reckless, fails to maintain proper records under these regulations commits an offence and is liable on conviction to a fine not exceeding five percent (5%) of the annual total revenue or to imprisonment for a term not exceeding six (6) years, or both.

***Failure to Provide Reasonable Assistance***

126. (1) A person who fails to provide the Board or authorized officer with all reasonable facilities and assistance as required by these regulations commits an offence and on conviction is liable to a fine not exceeding five percent (5%) of the annual total revenue or to imprisonment for a term not exceeding six (6) years, or both.

***Improper use of licence and permit numbers***

127. (1) A person who knowingly uses a false licence and a permit number, including the licence and a permit number of another person, commits an offence and, on conviction, is liable to a fine not exceeding three times the invoice value of his correct previous permit or to imprisonment for a term not exceeding six (6) years, or both.

***False or misleading statements***

128. (1) A person who:

- (a) makes a statement to an officer that is false or misleading; or
- (b) omits from a statement made to an officer any matter or thing without which the statement is misleading, commits an offence and is liable on conviction to, where the statement or omission was made knowingly or recklessly, a fine not exceeding three times the invoice value or to imprisonment for a term not exceeding six (6) years, or both;

(2) It is a defence to an accused person to prove that he did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

(3) A reference in this section to a statement made to an officer is a reference to a statement made orally, in writing, or in any other form to that officer acting in the performance of duties under these regulations and includes a statement made:

- (a) in an application, certificate, declaration, notification, return, objection, permit, licence or other document made, prepared, given, filed, or furnished under this Act and regulations;
- (b) in information required to be furnished under the Act and the regulations;
- (c) in a document furnished to an officer otherwise than pursuant to this Act and regulations;
- (d) in answer to a question asked of a person by an officer; or
- (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to an authorised officer.

### ***Obstructing an Officer of the board***

129. A person who obstructs the Board or an authorized officer in the performance of his duties under these regulations commits an offence and is liable on conviction to a fine not exceeding five percent (5%) of the annual total revenue or to imprisonment for a term not exceeding six (6) years, or both.

### ***Offences by Officers and Persons***

130. (1) Any officer or any other person employed in carrying out the provisions of this Act and regulations who:

- (a) directly or indirectly asks for, or takes in connection with any of the officer's duties, any payment or reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive;
- (b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal, or connive at any act or thing whereby the Board is or may be defrauded or which is contrary to the

provisions of these regulations or to the proper execution of the officer's duty; or

- (c) appointed under or employed in the carrying out of these regulations, who do not preserve secrecy with regard to all information or documents which may come to his or her knowledge in an official capacity in the performance of duties under these regulations, commits an offence and is liable to dismissal and a fine not exceeding the value equivalent to thirty percent (30%) of his annual gross salary or to imprisonment for a term not exceeding ten (10) years, or both.
- (2) Any person who:
- (a) directly or indirectly offers or gives to any officer payment or reward, whether pecuniary or otherwise, or any promise or security for such payment or reward; or
  - (b) proposes or enters into any agreement with any officer in order to induce him to do, or to abstain from doing, permit, conceal, connive at any act or thing whereby the Board is or may be defrauded or which is contrary to the provisions of these regulations or the proper execution of the duty of such officer, commits an offence and is, on conviction, liable to a fine not exceeding five percent (5%) of the annual total revenue or not exceeding the value equivalent to thirty percent (30%) of his annual gross salary or to imprisonment for a term not exceeding six (6) years, or to both.

### ***Schemes for obtaining undue benefit from the Board***

131. (1) A person who sets up, assist, facilitate, or is involved directly or indirectly in a scheme for obtaining undue benefits from the Board commits an offence and is liable on conviction to a fine not exceeding five percent (5%) of the annual total revenue or the value equivalent to thirty percent (30%) of his annual gross salary or to imprisonment for a term not exceeding six (6) years or both.

### ***Compounding of Offences***

132. (1) Where any person has committed an offence in the regulations other than all offences mentioned in this regulation, the Board may at any time prior to the commencement of the proceedings, compound the offence and order the person to pay a specific sum of money not exceeding the amount of the fine prescribed for the offence.

(2) The Board shall only compound an offence if the person concerned admits in writing that he has committed the offence.

- (3) Where the Board compounds an offence, the order;
  - (a) shall be in writing and specify the offence committed, the sum of money to be paid, and the due date for the payment, and shall have attached the written admission
  - (b) shall be served on the person who committed the offence;

- (c) shall be final and not subject to any appeal; and
- (d) may be enforced in the same manner as an order of a court for the payment of the amount stated in the order.

(4) Where the Board compounds an offence, the person concerned shall not be liable for prosecution in respect of that offence or for an additional fine.

(5) If the concerned person does not pay the compounded amount within the time limit stated by the Board, the compounding shall be considered null and void and prosecution shall be carried into effect as well as imposition of additional fines.

***Failure to comply with product declarations***

133. (1) A person who fails to comply with:

- (a) declarations of products or
- (b) the other relevant requirements of this section, commits an offence and is liable to a fine not exceeding three times the invoice value or to imprisonment for a term not exceeding six (6) years, or both.

(2) In addition to imposing a penalty the goods not declared will be confiscated by the Board in collaboration with the Swaziland Revenue Authority.

***Offences not specified in this section***

134. (1) A person, who commits an offence under the Act or regulations other than all offences mentioned in this section, is liable to a fine not exceeding three times the invoice value or not exceeding the value equivalent to thirty percent (30%) of his annual gross salary or to imprisonment for a term not exceeding six (6) years, or both.

***Plan to dispose off Confiscated Products***

135. (1) where a product is confiscated, and if it is edible, it shall be donated to a chosen orphanage but if not edible it may be auctioned by the Board in collaboration with the Swaziland Revenue Authority.

***Regulations by Minister to review offences***

136. (1) The Minister may make regulations, subject to the Act, from time to time to review and add offences and penalties as the need arises.

***Rules, orders, guidelines and schedules by the Chief Executive Officer of the Board***

137. (1) In line with these regulations the Chief Executive officer may from time to time pass or make rules, orders ,schedules and guidelines that will be in sync with these regulations for the operation of the dairy industry.

***Savings***

138. Save as where specifically provided in these regulations, these regulations shall be in addition to and not in substitution for any other regulations which are not in conflict or inconsistent with these regulations, where any other regulations are in conflict or inconsistent with these regulations, these regulations shall prevail.