

LAWS OF KENYA

THE INDUSTRIAL REGISTRATION ACT

CHAPTER 118



CHAPTER 118**THE INDUSTRIAL REGISTRATION ACT****ARRANGEMENT OF SECTIONS****PART 1 – PRELIMINARY**

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CHAPTER 118**THE INDUSTRIAL REGISTRATION ACT***Commencement: 28th. October, 1988.*

14 of 1987

L.N. 437/1988

An Act of Parliament to make provision for the registration of industrial undertakings in Kenya and for connected purposes**PART I – PRELIMINARY**

- 1.** This Act may be cited as the Industrial Registration Act. Short title
L.N. 437/1988
- 2.** (1) In this Act, unless the context otherwise requires – Interpretation
- “applicable date”, in relation to any controlled product under section 3 is the date upon which the provisions of this Act become applicable to such product or, as the case may be, to the class of controlled products to which the article belongs;
- “controlled article” means an article falling within any class of controlled products;
- “controlled product” means any class of goods which is for the time being declared to be controlled product under section 3:
- “factory” means a building or place in or upon which any controlled article is manufactured for sale or in or upon which it is proposed to manufacture that article for sale;
- “manufacture” means to subject any physical matter to any process –
- (a) which materially changes such matter in substance character or appearance; and
- (b) which results in such matter, after being so processed, being a controlled article, whether or not it was such an article before the process; but does not include the repair or servicing of a controlled article;
- “owner”, in relation to a factory, means the person who is, for the time being, entitled to operate, or procure the factory for his own benefit or for the benefit of some other person for whose affairs he is legally responsible other than as a servant or agent;

“plant”, in relation to a factory, means the land, buildings, machinery, equipment and other property comprised in or used directly in the operation of a factory;

“prescribed factory” means a factory of a class required to be registered under this Act by virtue of a notice under section 4;

“registered factory” means a factory for the time being entered on the register and issued with a certificate of industrial registration.

“registrable particulars” means the particulars set forth in subsection (1) of section 9;

“the Registrar” means the Registrar of Industries appointed under section 6.

(2) In determining for any of the provisions of this Act whether –

- (a) any class of goods is a controlled product; or
 - (b) any article is a controlled article,
- regard shall be made to the normal trade usage in relation thereto.

(3) For the purposes of this Act –

- (a) where a controlled article is manufactured in the course of, and solely for the purpose of, manufacturing another controlled article, the first mentioned controlled article shall be deemed not to have been manufactured for sale; and;
- (b) where a controlled article is manufactured in the course of the manufacture for sale of any article, the controlled article so manufactured shall be deemed to have been manufactured for sale.

Controlled Goods **3.** (1) The Minister may, by notice in the Gazette, declare any class of goods to be a controlled product for the purposes of this Act, and any such notice shall specify a date, not being earlier than twenty-eight days after the date of publication thereof, upon which the provisions of this Act shall become applicable to such class of goods.

(2) In a notice under this section, goods may be classified in such a manner, or by reference to such system of classification, as the Minister may deem necessary.

4. The Minister may, by notice in the Gazette, specify the classes of factories which shall be required to be registered under this Act, and such classes may be so specified by reference to any or all of the following criteria, that is to say –
- Specification
of factories
- (a) the types of controlled articles manufactured in a factory;
 - (b) the book value of the plant of a factory; or
 - (c) the number of persons normally required, in any capacity, for the efficient operation of a factory,
- and different classes of factories may be so specified in respect of different controlled products or different controlled articles.

5. (1) The Minister may, by notice in the Gazette, declare any area to be an area to which the provisions of this Act shall not apply either generally or in respect of such controlled products as may be specified in that notice.
- Exemptions .
- (2) Where, by reason of the amendment of a notice under subsection (1), the provisions of this Act are to become applicable to any class of goods, those provisions shall not become applicable until the thirtieth day after the date of publication of the notice of amendment or revocation, and such day shall be deemed to be the applicable date in respect of any controlled product or controlled article concerned.

PART II – REGISTRATION OF INDUSTRIES

6. The Minister shall appoint a public officer to be the Registrar of Industries for the purposes of this Act.
- The Registrar
7. (1) The Registrar shall maintain an industrial register of in which shall be entered in respect of each registered factory-
- Register
of factories
- (a) the date of registration of the factory;
 - (b) the registrable particulars of factory;
 - (c) any change in such particulars; and
 - (d) such other matters, if any, as may be prescribed.

(2) Subject to subsection (3) –

- (a) neither the register nor any part thereof or extract therefrom; nor
- (b) an individual return made pursuant to this Act, and no part of or extract from any such return,

shall be published, admitted in evidence or shown to any person unless the written consent of the registered manufacturer concerned has been obtained by the Registrar.

(3) Nothing contained in subsection (2) shall apply to –

- (a) anything done for the purposes of any criminal proceedings;
- (b) the access to any matter referred to in that subsection by any person solely for the purposes of the due performance of the duties of that person under this Act; or
- (c) the supply to the Director of Statistics appointed under the Statistics Act of such statistical information as he may require, but any information so supplied shall, for the purpose of section 8 of that Act, be deemed to be an individual return or part thereof made for the purposes of that Act.

Cap 112.

Industrial
Registration.

8. (1) No person shall, after the applicable date –

- (a) manufacture for sale of any controlled article in a prescribed factory; or
- (b) erect, establish or operate any prescribed factory for the manufacture for sale of any controlled article.

unless the factory is a registered factory.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings, and in any prosecution for such the onus of proving that a factory is a registered factory shall lie upon the accused .

Registrable
Particulars

9. (1) For the purpose of this Act, the registrable particulars in respect of a prescribed factory shall be –

- (a) the type of controlled articles produced or intended to be produced in the factory;
- (b) the book value of the plant at the relevant date.

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- (c) the number of workers employed at the relevant date;
 - (d) the location of the factory;
 - (e) the name, address and nationality of the owner or of each of the joint owners, of the factory and, where the owner is a limited liability company, of each of the directors thereof;
 - (f) the quantity and ex-factory value of each type of controlled article produced in the factory in the year immediately preceding the relevant date; and
 - (g) such other particulars, if any, as may be prescribed in the order under which a factory is declared to be a prescribed factory or by regulations made under this Act.
- (2) In this section, “relevant date” means the date on or in respect of which the registrable particulars are submitted to the Registrar for any of the purposes of this Act.

10. (1) Any person wishing -

Registration of
factories

- (a) to register a prescribed factory; or
- (b) to amend the registrable particulars of a prescribed factory, shall make application to the Registrar in that behalf.

(2) An application under this section shall be made in the prescribed form showing the registrable particulars in respect to the factory as at the date of the application.

- (3) Upon receipt of an application under this section together with the prescribed fee the Registrar shall –
- (a) if the factory is already a registered factory, amend the entry in the Register relating to the factory accordingly; and;
 - (b) in any other case, enter the factory concerned in the register.

PART III – MISCELLANEOUS PROVISIONS

- 11. (a)** The owner shall, within twenty-eight days after each anniversary of the first registration of a registered factory, make a returns to the Registrar showing the registrable particulars as at such anniversary.

Annual
Return

False statement. **12.** Any person who makes any false statement for any of the purposes of this Act or in any return made under this Act, knowing the same to be false shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or imprisonment for a term not exceeding six months or both.

Offences by companies **13.** Where a person convicted of an offence under this Act is a limited liability company every director of the company and every officer concerned with the management thereof shall be guilty of a like offence unless he satisfies the court that he was not aware that the offence was being or to be committed or that he took all reasonable steps to prevent its commission.

Power to make regulations **14.** The Minister may make regulations for the better carrying into effect of the provisions of this Act and for prescribing anything which by any such provision is to be prescribed.

SUBSIDIARY LEGISLATION

Regulations under section 14

THE INDUSTRIAL REGISTRATION REGULATIONS		L.N. 465/1988 L.N. 22/1989
1. These Regulations may be cited as the Industrial Registration Regulations.		citation
2. In accordance with section 3 of the Act the goods specified in the second column of the First Schedule shall be the controlled goods the purposes of this Act.		Controlled goods
3. In accordance with section 4 of the Act, every factory engaged in any of the activities specified in the second column of the First Schedule is, subject to regulation 4, required to be registered under the Act.		Prescribed Factories
4. (1) The Act shall not apply to manufacture in “Jua Kali sheds” throughout Kenya.		Areas of Application & exemptions
(2) The Act shall apply to the controlled products specified in First schedule only in the area specified in the Second Schedule.		
5. The industrial register shall be maintained by the Registrar in the form in the Third Schedule.		Register of Factories
6. (1) The registrable particulars in respect of a prescribed factory shall be submitted to the Registrar in the original of form <u>IND/RI/2002</u> in the Fourth Schedule at the first registration of a prescribed factory and thereafter & registration within twenty-eight days after each anniversary of the first registration		Registrable Particulars
(2) A fee of one hundred shillings shall be paid with every submission of Form IND/RI/1/91 and the money shall be paid by crossed cheque or cash to the Registrar of Industries who shall issue an official receipt thereof.		Fees
(3) For the first registration of a prescribed factory existing at the commencement of these Regulations the registrable particulars shall be submitted within twenty-eight days of the commencement.		
(4) Failure to comply with this regulation may lead to deregistration of the factory concerned.		
(5) No prescribed factory shall be eligible for registration unless the owner has provided all the registrable particulars in Form IND/RI/1/91 in the Fourth Schedule.		
7. For the purposes of section 11 of the Act Form IND/RI/1/91 in the Fourth Schedule submitted under regulation 6 shall be the annual return		Returns
8. The Registrar shall issue a certificate in the form in the Fifth Schedule in respect of every registered factory.		Certificate of Registration
9. Applications for registration or any other purposes under the Act may be addressed or delivered to the Registrar of Industries, Industrial Registration Division, P.O. Box 30418 Nairobi.		Registration of centers.

FIRST SCHEDULE

FACTORIES TO BE REGISTERED

I.S.I.C - International Standard Industrial Classification

NO.	I.S.I.C CODE	I.S.I.C DESCRIPTION
AGRO – INDUSTRIES		
1	3111	Slaughtering, preparing and preserving of meat
2	3112	Manufacture of dairy products
3	3113	Canning and preserving of fruits and vegetables
4	3114	Canning, preserving and processing of fish
5	3115	Manufacture of vegetables and animal oils and fats
6	3116	Grain mill products
7	3117	Manufacture of bakery products
8	3118	Sugar factories and refineries
9	3119	Manufacture of cocoa chocolate and sugar confectionary
10	3121	Manufacture of of food products NEC
11	3122	Manufacture of prepared animal feeds
12	3131	Distilling, rectifying and blending of spirits
13	3133	Malt liquors and malt
14	3134	Soft drinks and carbonated water industries
15	3140	Tobacco manufacture
16	3211	Spinning, weaving and finishing textiles
17	3212	Manufacture of made-up textile goods except weaving apparel
18	3213	Knitting mills
19	3215	Cordage rope and twine industries
20	3216	Cotton ginneries
21	3219	Manufacture of textiles NEC
22	3220	Manufacture of wearing apparel except footwear
23	3231	Tanneries and leather finishing
24	3233	Manufacture of leather products except footwear and wearing apparel
25	3240	Manufacture of footwear
26	3311	Sawmills, planning and other wood mills
27	3312	Manufacture of wooden containers and carvings
28	3319	Manufacture of wood and cork products NEC
29	3320	Manufacture of furniture and fixtures except primarily of metal
30	3411	Manufacture of pulp and paperboard
31	3419	Manufacture of pulp: paper and paperboard articles
32	3420	Printing, publishing and allied industries

CHEMICAL AND MINING AND QUARRYING INDUSTRIES		
1	3511	Manufacture of basic industrial chemical excluding fertilizer
2	3512	Pyrethrum extraction
3	3513	Wattle bark extraction
4	3514	Manufacture of fertilizer and pesticides
5	3521	Manufacture of paints, varnishes and lacquers
6	3522	Manufacture of drugs and medicine
7	3523	Manufacture of soap, perfumes, cosmetics and other preparations
8	3529	Manufacture of chemical products NEC
9	3530	Petroleum refineries
10	3550	Manufacture of rubber products
11	3560	Manufacture of plastic products
12	3610	Manufacture of pottery, china and earthenware
13	3620	Manufacture of glass and glass products
14	3691	Manufacture of structural clay products
15	3692	Manufacture of cement, lime and plaster
16	3699	Manufacture of non-metallic products NEC
17	2302	Non-Ferrous mining
18	2901	Stone quarrying, clay and sand pits
19	2902	Chemical and fertilizer mineral mining
20	2903	Salt mining
21	2909	Mining and quarrying NEC
METALS, ENGINEERING AND CONSTRUCTION INDUSTRIES		
1	3700	Basic metal industries
2	3811	Manufacture of cutlery, hand tools and general hardware
3	3812	Manufacture of furniture and fixtures primarily of metal
4	3813	Manufacture of structural metal products
5	3819	Manufacture of fabricated metal products except machinery and equipment
6	3820	Manufacture of machinery except electrical
7	3830	Manufacture of electrical machinery, apparatus, appliances and supplies
8	3841	Ship building and repairing
9	3842	Manufacture of railroad equipment
10	3843	Manufacture and assembly of motor vehicles
11	3844	Manufacture and assembly of motor-cycles and cycles
12	3845	Manufacture of aircraft and repair
13	3850	Manufacture of professional and scientific equipment and optical goods
14	3900	Other manufacturing industries
15	4101	Electricity
16	5105	Borehole drilling
17	5201	Construction of buildings
18	5202	All other construction
19	5101	Drilling

SECOND SCHEDULE**AREAS OF APPLICATION OF THE ACT****PHASE I**

1. The Nairobi Area
2. Thika Municipality
3. The Township of Mavoko (also known as Athi River).

PHASE II

1. The entire Coast Province (registration between 30th January and 28th February 1989)
2. The entire Central Province (registration between 30th January and 28th February 1989)
2. The entire Eastern Province (registration between 30th January and 28th February, 1989).
3. The entire North-Eastern Province (registration between 30th January and 28th February 1989)
4. The entire Rift Valley Province (registration between 1st and 31st March, 1989)
5. The entire Western Province (registration between 1st and 30th April, 1989)
6. The entire Nyanza Province (registration between 1st and 30th April, 1989)

THIRD SCHEDULE

**REGISTER OF INDUSTRIES
PARTICULARS**

i.	Name and address of Industry	iv.	Location (Town and Street name)
ii.	Names and address of individual owners of the factory	v.	Ownership:
(a)	..... .....		(a) Percentage Local
(b)	..... .....		(b) Percentage Foreign
(c)	..... .....	vi.	Registration Number
(d)	..... .....	vii.	ISIC Number
(iii)	Telephone Number	viii.	Date of Registration