

LEGAL NOTICE NO . . . . .

**THE FOREST ACT**  
**(No. 7 of 2005)**

**IN EXERCISE** of the powers conferred under section 59 of the Forest Act, 2005, the cabinet secretary for environment water and natural resources makes the following Rules-

**THE FOREST (CHARCOAL) REGULATIONS, 2015**

**PART I-PRELIMINARY**

Citation.                   **1.** These Regulations may be cited as the Forests (Charcoal) Regulations, 2015

Application.               **2.** These Regulations shall be in addition to any other written law relating to forestry and sustainable charcoal production, transportation and trading, for the time being in force.

Interpretation.           **3.** In these Regulations, unless the context otherwise requires –

No. 7 of 2005               “Act” means the Forests Act, No. 7 of 2005;

                                  “*charcoal*” means wood fuel product derived from carbonization of wood or other plant materials;

                                  “*Competent authority*” refers to the Kenya Forest Service ; or County Department responsible for forestry

                                  “*export/import*” means commercial trade in charcoal with a natural or legal person outside the territory of Kenya;

                                  “*Service*” means the Kenya Forest Service established under the Act.

                                  “*sustainable use*” has the meaning assigned to it under the Act;

                                  “*Charcoal producer association*” is group of local persons who have registered as an association established to engage in charcoal production and trading.

                                  “*Charcoal dealer/trader/vender*” is a person who legally sells or buys the charcoal within the defined boundaries.

“Commercial charcoal production” production of charcoal for sale

Competent authority.

**4.** (1) County Department responsible for forestry shall be the competent authority responsible for;

- i) The issuance of licences for the production and trading of charcoal.
- (ii) Monitor the charcoal production areas
- iii) Create awareness in charcoal production technology and trading

(2) No licensing authority established under, any other written law, shall issue a trading permit or licence for the undertaking of any activity relating to commercial charcoal trade unless the applicant has produced to the licensing authority a licence for charcoal production or transportation, issued by the County Department responsible for forestry under these Regulations.

Establishment of associations/firms

**5.** (1) All the commercial charcoal producers shall organize themselves and form charcoal producer associations/firms in the manner set out in the First Schedule.

(2) The office of Attorney General shall register and issue a registration certificate to commercial charcoal associations or firms formed under paragraph (1).

(3) An association/firm registered under paragraph (2) shall–

- (a) facilitate sustainable production of charcoal by her members;
- (b) ensure that its members implement the reforestation conservation plans;
- (c) develop and implement a Code of Practice for the purposes of self regulation;
- (d) assist the authorities in enforcing the provisions of the Act relating to sustainable charcoal production and trading;

(e) Perform any other thing that is necessary for sustainable charcoal production and transportation; and

f) Create awareness on charcoal production to its members

Establishment of licencing committee

**6.** (1) Every County forest conservation committee shall from its membership establish a licencing sub-committee.

(2) Notwithstanding paragraph (1), the County Department responsible for forestry may, on the recommendation of County forest conservation committee, establish any other licensing sub-committee in any part of a county as it considers appropriate.

(3) A licensing sub-committee established under paragraph (1) or (2) shall -

- (a) consider and recommend applications for the issuance, of charcoal producers' licence;
- (b) assess and approve plans and structures of intended charcoal production;
- (c) recommend for the suspension or revocation of a charcoal producers' licence; and
- (d) Perform such other functions as may be delegated by the Committee that may be necessary or expedient for the licensing of sustainable charcoal production, transportation and trade.

(4) Every Committee shall maintain a register of all charcoal producers licensed under these Regulations and their activities within their jurisdiction

Requirement for a licence

7. (1) No person shall undertake or engage in any activity relating to commercial charcoal production, transportation and trade without a valid licence, issued by the County forest conservation committee under these Regulations.

(2) A person/firm/association that wishes to obtain a licence to undertake or engage in any activity relating to commercial charcoal production and trading shall –

- (a) make an application to the county forest conservation committee in Form 1 set out in the Second Schedule;
- (b) pay the prescribed fee; and
- (c) provide such other information that the county forest conservation committee may require.

(3) Upon the receipt of an application, the licensing sub-committee may-

- (a) consider the application; or
  - (b) require the applicant to submit a declaration or provide such additional information as it may consider necessary for the determination of the application.
- (4) The licensing sub-committee shall, when determining an application consider-
- (a) the document submitted by the applicant in support of the application including, among others, the registration certificate of the association/firm, its constitution/articles of association and the list of members/directors, EIA Certificate, Occupational Health and Safety certificate;
  - (b) the place or places where charcoal is to be produced;
  - (c) designated charcoal collection points;
  - (d) the consent from the land owner(s), or authorized person(s), of the land where charcoal is to be produced in Form 3 as set out in the Second Schedule;
  - (e) tree species, number of trees and estimated volume of charcoal to be produced ;
  - (f) Efficiency of production technology to be used as may be prescribed under these Regulations or any other written law, in particular, the Energy Act; Tree harvesting for charcoal production to be done sustainably
  - (h) the afforestation/ reforestation or conservation plan for the area where trees will be managed for charcoal production.
    - i) Environmental Impact Assessment Report

(5) After considering an application and all the matters relevant to it, the licensing sub-committee may make a recommendation to grant or not to grant the licence.

(6) Upon receipt of the recommendations from the licensing sub-committee, the County Forest Conservation Committee may, recommend to the County department responsible for forestry, grant or refuse to grant

the licence, or grant the application subject to such conditions as the County department responsible for forestry may deem expedient..

(7) The County department responsible for forestry shall, on recommendation of the relevant Committee, where it considers it expedient for ensuring sustainable charcoal production, may at any time vary the conditions of a licence.

(8) Any person aggrieved by the decision of the County department responsible for forestry to refuse to grant a licence may, within thirty days of communication to him/her of such refusal, appeal to the National Environment Tribunal established under the Environmental Management and Coordination Act, 1999.

No. 9 of 1999.

Licence.

**8.** (1) A licence issued under these Regulations, unless earlier revoked, shall be valid for the period specified in the licence and where no such period is specified, the licence shall expire on the 31<sup>st</sup> December of the year in which it is issued.

(2) A licence issued under these Regulations is not transferable.

Exemption.

**9.** (1) Notwithstanding regulation 7 and 8, a person who wishes to produce charcoal on his own land for his own consumption, shall not require a licence but produce not more than 3 bags per month

(2) Notwithstanding paragraph (1), person who wishes to produce charcoal for commercial purposes on his own land, shall be required to obtain a licence.

Renewal of licence.

**10.** An application for the renewal of a licence shall be made at least one month before the expiry date of the existing licence.

Revocation, suspension or cancellation of licence

**11.** (1) The County department responsible for forestry may suspend, cancel or revoke a licence issued under these Regulations where the holder of a licence contravenes the conditions of the licence.

(2) The County department responsible for forestry shall, upon its intention to suspend or revoke the licence under paragraph (1), notify the concerned party accordingly and give a fourteen days notice of revocation or cancellation thereof if the concerned party fail to fulfill such conditions as may be specified in the notice.

(3) The County department responsible for forestry may suspend or cancel a licence for charcoal production upon expiry of the notice

period prescribed under paragraph (2) of this regulation.

(4) Whenever a licence issued is suspended or revoked, the licensee shall cease operations of the charcoal production that is the subject of the licence until the suspension is lifted or a new licence is issued by the County department responsible for forestry

Prohibition relating to licences

**12.** (1) A person shall not–

- (a) unlawfully alter or endorse a licence issued to him or to any other person;
- (b) engage in commercial charcoal production on the basis of a licence issued to another person; or
- (c) having been disqualified from holding a licence under the Act, apply for a licence without disclosing to the licensing sub-committee the disqualification.

(2) Any person who contravenes the provisions of this regulation commits an offence.

Request to provide data.

**13.** A licensee issued shall, upon receiving a written request from the County department responsible for forestry, provide such data relating to charcoal production as County department responsible for forestry may specify in the request

Charcoal movement permit.

**14.** (1) No person shall, move charcoal or charcoal products from one place to another unless that person–

- (a) is in possession of a valid charcoal movement permit issued under these Regulations and is operating in conformity with the terms and conditions of such permit; and
- (b) has a certificate of origin for the charcoal (form 8) the subject of the charcoal movement permit duly signed by the relevant association or person from whom charcoal is to be obtained; and
- (c) has a receipt from the trader.

(2) A person who wishes to obtain a charcoal permit shall make an application to the County department responsible for forestry in the prescribed form.

(3) The County department responsible for forestry shall upon

approving an application under paragraph (1) shall issue a charcoal movement permit in Form 4 set out in the Second Schedule, upon payment of the prescribed fee.

(4) The County department responsible for forestry may specify, in the charcoal movement permit, specify the vehicle or vessel that may be used to transport charcoal or charcoal products.

(5) A charcoal movement permit shall not be transferable.

(6) Any person who contravenes the provisions of this regulation commits an offence.

Record keeping.

**15.** (1) A person engaged in wholesale or retail trade in charcoal shall keep a record of the source(s) of charcoal and copies of the certificates of origin and the movement permits.

(2) No person or association shall engage in trade in charcoal with unlicensed charcoal producers.

(3) A forest officer may at any time inspect the premises in which wholesale or retail trade in charcoal is being undertaken to inspect the records.

(4) Any person who contravenes the provisions of this regulation commits an offence.

Protection of endangered and threatened plant species

**16.** (1) No person shall produce charcoal from endangered, threatened and protected plant species.

(2) The cabinet secretary on the advice of KEFRI shall publish, in the Gazette, a list of endangered, threatened and protected plant species.

(3) Any person who contravenes paragraph (1) commits an offence.

Export permit

**17.** (1) No person or association shall export charcoal or charcoal products, from Kenya, unless that person has obtained an export permit from the Service.

(2) A person who wishes to obtain an export permit under this regulation shall make an application in Form 5 set out in the Second Schedule to the Director and provide a proper description of the source of charcoal.

(3) The service shall, upon approving an application, issue an export permit in Form 6 set out in the Second schedule upon the payment of the prescribed fee.

(4) The service shall, before granting an export permit, consider the local supply and demand situation of charcoal with reference to the records.

(5) A permit and safety certificate shall-

(a) be surrendered to the customs officer at the port of export or where such export permit and safety are required by the importer, the said export permit and safety certificate shall be endorsed at the port of export; and

(b) expire either on the date specified thereon or when the consignment is shipped or whichever occurs first.

(6) Any person who contravenes the provisions of this regulation shall be guilty of an offence.

Import Permit

18. (1) No person or association shall import into Kenya charcoal or charcoal products unless he has obtained an import permit issued by the service

(2) A person who wishes to obtain a permit under this Regulation shall make an application in Form 4 set out in the Second Schedule and provide a proper description of the source of charcoal and submit the application to the service.

(3) The service shall consider applications submitted under paragraph (2) and forward the applications together with its recommendation, taking into account the supply and demand situation, to the Executive Director

(4) The Executive Director shall, upon approving an application, issue an import permit in Form 6 set out in the Second Schedule, subject to payment of the prescribed fee.

(5) Any person who contravenes the provisions of this regulation commits an offence.

Inspections.

**19.** (1) A forest officer shall carry out inspections at the premises of charcoal production and trade licensees-



- (a) regularly;
- (b) when non-compliance is suspected; and
- (c) when it is required for the purpose of licence or permit.

(2) A licensee shall produce a licence or permit issued under these Regulations to forest officer, on demand.

(3) Whenever practicable, a forest officer shall carry out an inspection without giving prior notice.

General penalty

20. Any person who contravenes the provisions of these Regulations for which no specific penalty is provided shall be guilty of an offence.

Effect of conviction.

21. (1) Notwithstanding any other penalty prescribed under these Regulations, the County department responsible for forestry may revoke the licence or permit of any person who is convicted of an offence under these Regulation.

(2) Any person convicted of an offence under these Regulations shall, unless the County department responsible for forestry in writing otherwise directs, stand disqualified from holding a licence or permit related to the provisions under which he has been convicted, for a period of one year from the time of conviction.

(3) The holder of any licence or permit which is cancelled pursuant to paragraph (1) of this Regulation shall, within fourteen days from the date of conviction surrender the licence or permit to the County department responsible for forestry

## **FIRST SCHEDULE**

### INFORMATION ON CHARCOAL PRODUCER ASSOCIATIONS

(r. 5)

1. Every county shall encourage individuals or groups involved in charcoal production to form associations.
2. The purpose for which the associations are established is to reduce licensing bureaucracy and make the licensing more affordable.
3. Each association/firm shall keep-
  - (a) list of members of the association and their addresses;
  - (b) list of current/interim officials
  - (c) its Constitution and Code of Practice for the association;
  - (d) a list of the places where the association members operate from.
  - (e) a record of the activities of the association relating to charcoal production, trade and progress in implementation of conservation
  - (f) information relating to the ownership of the land and the activities on the land in regard to charcoal production;
  - (g) records of the technology the association members use in charcoal production and the extent to which they have complied with the requirements under the Act or Regulations or any other written law, including among others, the Energy Act; and
  - (h) annual financial and operational records
  - i) monitoring and evaluation reports of CPA activities



PART E: FOR OFFICIAL USE ONLY

Approved/Not Approved.....

Comments.....

Officer.....signature.....Date.....

Fees paid in words.....In figures. ....Date of issue.....

.....  
County Forest Conservation  
Committee

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**FORM 2**

**(r. 7(4))**

*FORESTS ACT, 2005*

**PART A: CONSENT HOLDER**

- A1. Consent holders' Name .....Reg.Cert/ ID .No...
- A2. PIN No.....
- A3. Full Address.....

**PART B: CONSENT GRANTOR**

- B1: Name of the land owner or authorized person.....
- B2: Locality (LR. No.).....
- B3: PIN No. ....
- B4: Full Address.....

**PART C: DECLARATION BY LAND OWNER/AUTHORIZED PERSON**

I hereby give the association/firm named above consent to produce charcoal on my parcel of land using indigenous/farm forestry wood resources in accordance with the provisions of the Forests Act, 2005, the Forests (charcoal) Regulations made thereunder and the following conditions:

.....  
.....

Given under my hand

.....	.....	.....
<i>Name</i>	<i>Land Owner/Authorized Person</i>	<i>Signature</i>

On behalf of	firm .....	.....
	<i>Association/Company name and seal</i>	<i>Date</i>

**PART D: FOR OFFICIAL USE ONLY**

Approved/Not Approved.....  
 Comments.....  
 Officer .....Signature.....Date.....

.....  
County Forest Conservation  
Committee

**FORM 3**

**(r. 14(3))**

**CHARCOAL/CHARCOAL PRODUCTS MOVEMENT PERMIT**

1. County ..... sub-county ..... Ward .....

Name ..... of (address) .....

Nationality ..... Reg No/ID No/Passport No .....

is hereby authorized to transport charcoal/charcoal products named herein below:

CHARCOAL/CHARCOAL PRODUCTS	Weight

FROM		TO	
County	Place	County	Place

Reasons for movement .....

Date of Transportation ..... Date of expiry .....

Official Receipt No. ....

Name of Issuing Forest Officer ..... Designation ..... Signature ....

Name of forest officer supervising loading at collection point ..... Designation ... Signature ..... Date ...

Fees paid in words ..... In figures. .... Date of issue .....

.....  
County Forest Conservation  
Committee

*Contingent to any conditions as may be specified:*

- (a) The charcoal movement permit is not transferable.
- (b) Transport of charcoal shall take place between 6 a.m and 6 p.m.

**FORM 4**

**(r.16, 17)**

*FORESTS ACT, 2005*

**APPLICATION FOR CHARCOAL IMPORT/EXPORT PERMIT**

**PART A: DETAILS OF THE APPLICANT**

- A1. Name of Applicant (Person/Association/firm) /Firm).....
- A2. Reg No/ Cert No/ ID No.....
- A3. PIN No.....
- A4. Full Address.....
- A5. Business Location: Name of Building/Place.....  
LR No. .... Street/Road.....  
Town..... County.....

**PART B: BUSINESS DETAILS**

- B1: Other than the business for which this application is made, are you involved in any other trade in the forestry industry? YES/NO.....
- B2: If answer to B1 above is in the affirmative, specify nature or type of business(es).....

Charcoal/Charcoal Products	Quantity	Value

- B4: Name and Address of Consignee/Supplier.....

**PART C: SAFETY REQUIREMENTS**

- C1: Does the charcoal/Charcoal products for export/import meet the safety standards? YES/NO...
- C2: Is the charcoal/Charcoal products free from fire and safe for transportation?
- C3: If answer to C1 and C2 is in the affirmative, specify measures taken to render the charcoal/Charcoal products free from fire and other hazards.....

**PART D: DECLARATION BY APPLICANT(S)**

I/We declare that the particulars and information supplied by me/us herein are true, accurate and correct in every respect. I/We understand clearly that discovery of any false information provided by me/us will render this application invalid.

Signature..... Date.....  
Name (of signatory).....  
Position (in business).....

**PART E: FOR OFFICIAL USE ONLY**

Approved/Not Approved.....  
Comments.....  
Officer .....signature.....Date.....

Fees paid in words.....In figures. ....Date of issue.....

.....  
*Director*  
*Kenya Forest Service*

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**CHARCOAL/CHARCOAL PRODUCTS IMPORT/EXPORT PERMIT AND COMPLIANCE WITH CHARCOAL SAFETY REQUIREMENTS**

To: The Collector of Customs  
Kenya Revenue Authority  
.....  
(Port/Airport of export)

This is to confirm that (Name).....of (address).....

has been authorized to Import/Export Charcoal/Charcoal Products mentioned herein below to/from (country).....

Charcoal/Charcoal Products	Quantity	Value

Name and address of consignee.....

The validity of this permit expires on the date specified or immediately on shipment of the consignment whichever of the two occurs earlier.

Fees paid in words.....In figures.....Date of issue.....

.....  
*Director*  
*Kenya Forest Service*

Form 7: Certificate of Origin

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Made on the,,,,,,,,,,,,,,,,,,,,,,,,,,,,, day of .....2015

CABINET SECRETARY  
MINISTRY OF WATER, ENVIRONMENT AND NATURAL RESOURCES