

# LEGAL NOTICE NO. .....

# THE FOREST CONSERVATION AND MANAGEMENT ACT (No. 34 of 2016)

**IN EXERCISE** of the powers conferred by section 71(1) of the Forest Conservation and Management Act, 2016 the Cabinet Secretary for Environment and Forestry on the recommendation of the Board, makes the following Regulations—

# THE FOREST CONSERVATION AND MANAGEMENT (GUMS AND RESINS) REGULATIONS, 2023

#### PART I —PRELIMINARY

Citation.

1. These Regulations may be cited as the Forest Conservation and Management (Gums and Resins) Regulations, 2023.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

"Act" means the Forest Conservation and Management Act, 2016;

"gums" means dried exudate from the stems and branches of trees or shrubs including Gum Arabic (from Acacia *senegal* or Acacia *seyal* tree species;

"operators" shall include gums and resins harvesters, producers, transporters and traders;

"producers" includes collectors, harvesters and processors of gums and resins; and

"resins" means resinous exudates obtained from the stems and branches of trees including myrrh (from Commiphora myhrra), frankincense (Boswelia species), opoponax and hagar (Commiphora holtziana), and pine resin (Pinus radiata, P. eliotii and P. caribbea).

Scope of application.

- 3. These Regulations shall apply to —
- (a) production, harvesting, and collection of gums and resins from—
- (i) public forest;

- (ii) community forest;
- (iii) private forest;
- (iv) trees on public land;
- (v) trees on private land; or
- (vi) trees on community land; and
- (b) transportation, processing, and trading of gums and resins in Kenya.

Objects and purpose of these Regulations.

**4.** The object and purpose of these Regulations is to develop, promote and maintain a sustainable value chain on gums and resins to improve livelihoods of communities.

# PART II—HARVESTING AND COLLECTION OF GUMS AND RESINS

Restriction on production.

- 5. (1) No person shall engage in gums and resins harvesting and collecting activities except in accordance with the Act and these Regulations.
  - (2) No person shall harvest or collect gums and resins in —
  - (a) a community forest or trees on community land unless they are a member of an association licensed under these Regulations;
  - (b) a private forest or trees on private land without a valid permit from the respective county government; or
  - (c) a public forest or trees in public land unless they are a member of an association licensed under these Regulations.

Private forest and trees on private land.

- **6.** (1) A person engaged in harvesting, collecting and processing gums and resins on private forest and trees on private land for trade purposes shall apply for a permit from the respective county government.
- (2) An application to the county governments under sub regulation (1) shall be made in the form and manner provided in the respective county legislation.

Community forest or trees on community land

7. A person shall not engage in the harvesting and collection of gums and resins on a community forest or trees on community land under

these Regulations unless that person is a member of an association licensed by the respective county government.

Establishment of gums and resins association

- **8.** (1) Any person engaged in the harvesting, collection and processing of gums and resins in community forest and tress on community land, public forest shall join a duly registered gums and resins associations in that community or form and duly register a gums and resins associations for purposes of sustainable management of gums and resins.
- (2) The associations formed under sub regulation (1) shall be registered under the Societies Act or in accordance with any other relevant law relating to registration of entities.
- (3) The association or entity registered under sub regulation (2) shall—
  - (a) develop and implement a code of practice for purposes of self-regulation;
  - (b) assist the Service and the county governments in enforcing the provisions of these Regulations;
  - (c) promote sustainable harvesting practices of gums and resins;
  - (d) enforce quality standards in sorting and grading of gums and resins; and
  - (e) perform any other function necessary for the sustainable production of gums and resins.

Application for production licence.

- **9.** (1) Upon registration under regulation 8 the gums and resins the producer association shall apply to the respective county government for a harvesting and collecting licence with respect to gums and resins production in community forests, trees on community land.
- (2) An application to the county governments under sub regulation (1) shall be made in the form and manner provided in the respective county legislation.

Public forests and tress in public land.

10. (1) A person engaged in harvesting and collection of gums and resins in a public forest shall be a member of an association licensed by the respective county government.

- (2) Upon registration under regulation the gums and resins the producer association shall apply to the Service for a harvesting and collecting licence with respect to gums and resins production in public forests and trees on public land.
- (3) An application to the Service under sub regulation (2) shall be in Form A set out in the Schedule.

Consideration and determination of the licence application

- **11.** (1) When determining an application for a harvesting and production licence, the respective county government and the Service shall consider—
  - (a) the statutory documents such as the registration certificate, constitution, list and address of members, and code of practice and a proposed conservation and management plan of the trees as deemed appropriate;
  - (b) the existing management plans of that area under consideration; and
  - (c) such other information as the County Government and Service may require.
- (2) Upon consideration of the application for a harvesting and production licence—
  - (a) the respective county government shall issue a production licence to a successful applicant in the manner and form specified in county legislation; and
  - (b) the Service shall issue a production licence to a successful applicant in form B set out in the Schedule.

Designated collection centres.

- 12. (1) Every association shall designate and operate a collection center for the purposes of collection, sorting, grading, packing, storage and trading of gums and resins.
- (2) The collection center designated under sub regulation (1) shall comply with the relevant law on production and trading of gums and resins.
- (2) The association shall maintain records of the operations of the designated collection centres.

Registers of an association

13. Every association shall maintain a register of all the members

# PART III— PROCESSING AND TRANSPORTATION OF GUMS AND RESINS

Processing of gums and resins

**14.** The processing of gums and resins under these Regulations shall be in accordance with the best international practices and standards.

Weighing and packaging

**15.** Gums and resins processed under these Regulations shall be packaged and transported in bags not exceeding fifty kilograms.

Restriction on gums and resins transportation.

- **16.** (1) No person shall transport gums and resins exceeding fifty kilograms without a valid movement permit issued by the respective county government and a certificate of origin issued by the respective producer association.
  - (2) A person who contravenes this regulation commits an offence.

Intra-county movement permit

- **17.**(1) The County Government shall approve and issue a movement permit for transportation of gums and resins within the respective county government, on conditions that the applicant—
  - (a) has paid such fee as may be specified the county government; and
  - (b) has a copy certificate of origin for the gums and resins, the subject of the movement permit duly signed by the relevant producer association.
- (2) The county governments shall issue movement permits in a manner and form set out in county legislation.

Inter-county movement permit

- **18.** (1) The Service shall approve and issue a movement permit for transportation of gums and resins across counties, on conditions that the applicant—
  - (a) has paid such fee as may be specified by the Service; and
  - (b) has a copy of the certificate of origin for the gums and resins duly signed by the relevant producer association from whom is to be obtained.

(2) The Service shall issue movement permits in form C set out in the Schedule.

#### PART IV—TRADE OF GUMS AND RESINS

Restriction on trade of gums and resins.

- **19.** (1) No person shall not trade in gums and resins products without a valid trade licence.
- (2) The trade license in sub regulation (1) shall be issued by the respective county government in the form and manner specified in county legislation.

Importation and exportation of gums and resins .

- **20.** (1) The Service shall be the competent authority for issuance of gums and resins import and export permits.
- (2) No person shall import gums and resins from any country into the Republic of Kenya, without a valid gums and resins import permit.
- (3)Any person who wishes to obtain a gums and resins import permit shall-
  - (a) make an application to the Service in Form D set out in the Schedule:
  - (b) obtain a permit from the country of origin;
  - (c) obtain the requisite Kenya Revenue Authority/ customs documents;
  - (d) obtain a phytosanitary clearance certificate from KEPHIS;
  - (e) obtain a clearance certificate from the Kenya Bureau of Standards at the point of entry;
  - (f) provide such documents in support of the application as may be required by the Service; and
  - (g) pay the fee specified by the Service.
- (4) In determining an application for an import permit the Service shall take into account the information provided by the applicant, the supply and demand situation of gums and resins in Kenya as the Service may deem necessary for the sustainable management of the gums and resins industry in Kenya.

- (5) The Service shall, upon approving an application, issue an import permit in Form E set out in the Schedule.
- (6) A holder of a permit under this regulation shall obtain other relevant documents and licences in accordance with the laws relating to importation and exportation of goods.

Enhancing enforcement and compliance

- 21. (1) A forest officer shall regularly undertake surveillance and inspections to ensure that producers, transporters, traders, importers and exporters of gums and resins, adhere and comply with the provisions of these Regulations and any other relevant laws.
- (2) The county governments may employ forest officers including professional, technical or rangers' cadres, to enhance capacities to effectively monitor the production, transportation and trade of gums and resins in accordance with the provisions of these Regulations.

#### PART —MISCELLANEOUS PROVISIONS

Harvesting procedures

22. The harvesting procedures for gums and resins shall be as set out in the Second Schedule.

Obligations of service and County Government

- 23. (1) The Service and County Government may provide technical advice to producer associations in the harvesting, collection, production and trade of gums and resins.
  - (2) The county government may support gums and resins producer associations in the development of management plans for the sustainable production of gums and resins.

Power to vary conditions of a license or permit

**24.** The county government and the Service may, where it considers it expedient for ensuring sustainable gums and resins trade, at any time vary the conditions of a license or permit.

Revocation, suspension or cancellation of license or permit.

- 25. (1) The Service or the county government may suspend or revoke a licence or permit issued under these Regulations where the holder contravenes the conditions of the licence or permit.
- (2) The Service or the county government shall, upon its intention to suspend or revoke the licence or permit under sub regulation (1), notify the concerned party accordingly and give a fourteen (14) days' notice to the licensee to respond.

- (3) The notice shall contain particulars of the breach complained of and may require the licensee to comply with certain conditions within the specified time.
- (4) The Service or the county government may at the expiry of the notice period or upon considering representations of the licensee, revoke or suspend the licence.
- (5) The county governments shall consult the Service in the course of consideration and determination of the applications and issuance of licences.

Prohibitions relating to licences.

#### **26.** (1) A person shall not—

- (a) unlawfully alter, endorse or transfer a licence issued to him or to any other person;
- (b) engage in gums and resins trade on the basis of a licence issued to another person; or
- (c) hold a licence having been disqualified under these Regulations and shall not apply for a licence without disclosing to the licensing body of the disqualification.
- (2) Any person who contravenes the provisions of these Regulations commits an offence.
- (3) Notwithstanding any other penalty prescribed under these rules, the Service or relevant county government may revoke the licence or permit of any person who is convicted of an offence under these Regulations.
- (4) Any person convicted of an offence under these Regulations shall be disqualified from holding a licence or permit related to the provisions under which the person has been convicted, for a period of one year from the time of conviction.

Register.

**27.** The Service and the respective County Government, as the case may be, shall maintain a register of all licences and permits issued in accordance with these Regulations.

Other offences.

**28.** A person who—

- (a) commits a breach of, or fails to comply with the provisions of these Regulations or the Act;
- (b) commits a breach of, or fails to comply with any of the terms or conditions of a licence issued to him or her under this Act;
- (c) fails to comply with a lawful requirement or demand made or given by a forest officer; or
- (d) obstructs a person in the execution of his or her powers or duties under these Regulation and the Act,

commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

General penalty.

**29.** Any person who contravenes any provision of these Regulations for which no specific penalty is provided, commits an offence is liable to the penalty provided under section 67 of the Act.

Fees.

- **30.** (1) The licence fees shall be payable to the county government.
- (2) All gums and resins collected shall be subject to a fee or royalty fixed from time to time and chargeable by the county government.

Record keeping.

**31.** The Service may require the producer associations or individual traders and, exporters to provide information on production and trade of gums and resins.

Research and development.

- **32.** (1) The Service shall collaborate with individuals, private and public institutions to—
  - (a) identify gums and resins research needs relating to production, harvesting, utilization, quality control, product development, marketing and related functions;
    - (b) apply research findings in the gums and resins value chain; and
    - (c) establish *ex-situ* and *in-situ* conservation of the gums and resins gene bank.

# FIRST SCHEDULE

(r. 10(2))

FOR	M 1A					
Appl	ication Reference No					
	LICATION FOR A LICEN M PUBLIC FORESTS	NCE FOR PRODUCTION	N OF GUMS AND RESINS			
PAR	T A: DETAILS OF APPLIC	CANT				
A1.	Name of Licensee (Associa					
A2.	tration Certificate No PIN No	Telephone				
PAR	T B: DETAILS OF CURRE	ENT LICENCE (WHERE A	APPLICABLE)			
B1: B2:						
PAR	T C: MATERIAL CON	SIDERATIONS				
C1:	1 0	s and resins are to be harvesto	ed and			
C2.	Designated gums and resins storage facilities to be used					
PAR	T D: DECLARATION BY A	APPLICANT				
and b		ms and resins licence may be	rue to the best of my knowledge suspended, varied, revoked or vrong or incomplete.			
•••••	 Name	Position	Signature			
On be	ehalf of					
Assoc	ciation/Person's name and sec	al	Date			
PAR	T E: FOR OFFICIAL USE	ONLY				
	mmended/Not Recommended	l				

Offi	icersign	natureDate
		Forest Conservation Committee
		Kenya Forest Service
	107	
Offi	icersigi	natureDate
Fees	s paid in wordsIn figure	esDate of issue
		Chief Conservstor
		Kenya Forest Service
ΕΛΙ	DM D	(n. 11(2))
rui	RM B	(r. 11(2))
LIC	CENCE FOR PRODUCTION OF G	n and Management Act, 2016  UMS AND RESINS FROM PUBLIC FORESTS DBY THE SERVICE
1.	Name of Association	
2.		
3.		
4.		Telephone
5:	Location of association	
	Conservancy	. County
	Sub-county	
	Village	
	· mage	
	•	to engage in sustainable gums and resins production forest Conservation and Management Act, 2016 and
the I	Forests (Gums and Resins) Rules 2018	B and contingent to conditions specified hereunder:
Fees	s paid (in words)	

(in figures)
Date of issue
This certificate is valid for one (1) year and is not transferable without authority of the Chief Conservator of Forests
Chief Conservator of Forests Kenya Forest Service

# HARVESTING PROCEDURES

(r. 22)

SECOND SCHEDULE

This Schedule provide guidance for assessing the harvesting and management of *Acacia* senegal var. kerensis. The following performance indicators and verifiers have been suggested for assessing the harvesting and management of *Acacia Senegal* var. kerensis:

# 1. Tree/Species selection

Var. *kerensis* grows as a single or several-stemmed shrub with lateral branches from near the base. Where it is multi-stemmed, each stem is treated as a separate tree.

# 3. Diameter and/or age

The trees to be tapped should be at least 3 years (trees from seedlings grown in plantations) and 4-5 years (trees obtained from direct seeding) and a minimum basal diameter of 5 cm for trees in the wild.

- **2. Tapping period/Seasonality**: December-March, June September when trees shed off leaves.
- 3. **Tapping Intensity:** Make 1-2 wounds per branch on up to 2-3 branches per tree per season depending on number of branches (not exceeding 30% of the branches per season) size and age of the tree. Documentation of harvest frequency should be made

#### 4. Quantity

The amount of gum Arabic obtained per production site and from various trees to be documented and monitored to ensure that the amount extracted does not exceed stipulated levels/ ha.

#### 5. Number of trees to be tapped

The percentage of individual trees harvested from the entire population will allow for the retention of mature, reproducing individuals (as mother plus trees).

•The portion of mature, reproducing individuals to retain and the number of individual trees harvested per year should be 50 % of the bush percentage and population based on stocking density (about 50 -338 trees/ha).

#### 6. Genetic diversity and population structure

A minimum number of mature, reproducing individuals and the population will reflect natural diversity in composition and structure.

- Structural and genetic diversity is to be specified by KFS/KEFRI.
- Structural and genetic diversity is to be maintained.

## 7. Harvest/Tapping techniques

Tapping techniques are applied according to defined best management practices as detailed below so as not to damage the trees, and post harvest handling and cleaning practices to be optimized to produce a superior quality product.

- Harvesting to be done manually by labor-intensive traditional methods of tapping.
- During tapping, 1-2 branches to be treated in a similar manner at one tapping.
- In the subsequent years, other branches or the reverse side of the previously treated branches are tapped.
- A very thin layer 2mm deep and 4-8mm wide is shaved off, external layer of the bark starting at 0.5m from the base of the stem using a hand tool 'Sonke'. Once the 1<sup>st</sup> tapping is done, the 2<sup>nd</sup> tapping to take place after 30-40 days and involves a moderate widening of the initial wound cut during the 1<sup>st</sup> tapping. The tapping process to continue for three to four months until the wound has reached 4cm width. The oozing exudate to be left for 2-3 weeks when it will be dry and ready for collection.
- The tears to be picked by hand and placed in an open basket.
- Avoid knocking the tears to the ground where they can pick up dirt.
- Use of plastic sacks must be avoided as they increase the risk of moisture retention and mold formation.

It is important to note the following:

- Do not fell or destroy plants during tapping.
- •Tap only trees that are 5 cm and above in basal diameter
- Do not over tap a tree or branch. Follow carefully the specified tapping techniques and do not exceed the specified widths and depths.
- Adopt selective harvesting/tapping of gum arabic to ensure sustainable supply of the gum. Divide each tapping area into four units (Table 1) as shown below.

# 1. Proposed harvesting plan for Acacia senegal

Year	1	2	3	4	5
Gum arabic Productionha <sup>-1</sup>	X	X	X	X	X
(Kg)					
Blocks being harvested	1&4	2&3	1&4	2&3	1&4

#### 8. Growth and regeneration rates

- Monitor growth and regeneration rates of trees regularly and bi-annually using a well-designed inventory system that is appropriate to the complexity, scale and intensity of the management system
- (Table 2).

Table 2: Template for monitoring growth and regeneration rates rate

Tree No	Tree Height (m)	D30(cm)	DBH (cm)
1			
2			
3			

The number of mature and juvenile trees will be assessed in a plot of 20m by 20m

- The data (class distribution) should include juvenile trees. The proportion of juvenile trees (with diameter < 5 cm) should be at least 30 % or more. If over time seedling or sapling densities significantly decline, harvest adjustments are to be made by:
  - a) Limiting the total area from which the resource can be harvested;
  - b) Regulating the number of seeds being harvested; and/or
  - c) Enrichment planting of harvested species.
  - d) Regulating the number or size of the plants being harvested;

## 9. Visual appraisal of health and vigor

- Regular visual appraisals of the behavior and condition of harvestable plants/trees to be conducted pre- and post-harvest.
- Visual observations of the tapped trees to be done and recorded periodically (at the start of tapping and bi-annually) to ascertain that over a period of 5-10 years, harvestable plants/trees do not display loss of vigor, disease, aborted fruit/leaves or stunted growth.
- If harvested individuals display a weakened condition, harvest volumes to be reduced to allow for Individual and population recovery.

#### 10. Wildlife /dispersers

Periodic assessments to be conducted in order to evaluate populations of animals that disperse seeds

- Within the harvest area, populations of animals that disperse seeds remain stable.
- If populations of animals that disperse seeds decline, harvest adjustments are made in the frequency, quantity, seasonality and techniques of the harvest

#### B. Sustainable harvesting of gum Hagar from Commiphora holtziana

Hagar is an oily resin exudate from the stems of *Commiphora holtziana*. It oozes out and hardens to form lumps of various sizes and shapes with variable colour from yellow to dark brown or black. Locally, Hagar is used as an Acaricide against ticks, snake bites, scorpions, foot rot, mange and other livestock ailments. Commercially, it is a well- established herbal medicine and essential oil in cosmetics.

This Part provides guidance for assessing the harvesting and management of *Commiphora holtziana*. The following performance indicators and verifiers have been suggested for assessing the harvesting and management of *Commiphora holtziana*:

### 1. Tree/Species selection

Where it is multi-stemmed, each stem is treated as a separate tree.

#### 3. Diameter and/or age

The trees to be tapped should be at least 10 cm in diameter.

- **2. Tapping period/Seasonality**: December-March, June September when trees shed off their leaves.
- 3. **Tapping Intensity:** Make 3-4 tapping spots on each side of the tree (depending on tree size)(not exceeding 30% of the branches per season)

Documentation of harvest frequency to be made

#### 4. Quantity

The amount of gum arabic obtained per production site and from various trees to be documented and monitored to ensure that the amount extracted does not exceed stipulated levels/ ha.

#### 5. Number of trees to be tapped

The percentage of individual trees harvested from the entire population will allow for the retention of mature, reproducing individuals (as mother plus trees).

- •The portion of mature, reproducing individuals to retain is to be specified.
- •The number of individual trees harvested per year to be pre agreed and should be 50 % of the population based on stocking density (about 75-150 trees/ha).

#### 6. Genetic diversity and population structure

A minimum number of mature, reproducing individuals and the population will reflect natural diversity in composition and structure.

- Structural and genetic diversity is to be specified.
- Structural and genetic diversity is to be maintained.

#### 7. Harvest/Tapping techniques

- Tapping techniques are applied according to defined best management practices so as not to damage the trees, and post-harvest handling and cleaning practices to be optimized to produce a superior quality product.
- Harvesting to be done manually by labor-intensive traditional methods of tapping. During tapping, selected branches are wounded in a similar manner at one tapping. In the subsequent years, other branches or the reverse side of the previously treated branches are tapped.
- Tapping is carried out shortly after the rains when the trees begin to shed off the leaves. Tapping and collection of Hagar is carried out following a specific pattern around mid-September up to the end of the dry season, usually June.

# • Tapping:

- ✓ Slightly shave the external layer of the bark and form a circular wound of about 1–2 cm high, 1–1.5 cm wide and 0.5–1.0 cm deep. Make 3-4 tapping spots on each side of the tree (depending on tree size), starting at about 0.5 m from the base of the stem.
- Repeat tapping every 15–20 days after the first tapping.
- During the subsequent tapping cycles, older wounds are refreshed and the blaze is moderately widened by removing more bark from the upper edges of the former wound and by carving down 2 cm of the lower edge.
- Continue tapping until the onset of the rainy season. Thus, a tree is tapped 8–12 times a year, and at the end of the production year each wound may attain a width of about 10 cm or more.
- Pick the tears by hand from the stems and branches where they have formed.
- Do not knock to the ground where they can pick up dirt. They are placed in an open basket carried by the collector (the use of plastic sacks is discouraged as they increase the risk of moisture retention and mould formation).

It is important to note the following-

- Do not fell or destroy plants during tapping.
- •Tap only trees that are 5 cm and above in basal diameter.
- Do not over tap a tree or branch.
- Follow carefully the specified tapping techniques and do not exceed the specified widths and depths.
- Adopt selective harvesting/tapping of gum arabic to ensure sustainable supply of the gum. Divide each tapping area into four units (Table 1).

Proposed harvesting plan for Commiphora holtziana

Year	1	2	3	4	5
Hagar Productionha <sup>-1</sup> (Kg)	X	X	X	X	X
Blocks being harvested	1&4	2&3	1&4	2&3	1&4

#### 8. Growth and regeneration rates

- Monitor growth and regeneration rates of trees regularly and bi-annually using a well-designed inventory system that is appropriate to the complexity, scale and intensity of the management system.
- The data (class distribution) should include juvenile trees. The proportion of juvenile trees (with diameter< 10 cm) should be at least 30 % or more. If over time seedling or sapling densities significantly decline, harvest adjustments are to be made by
  - a) Limiting the total area from which the resource can be harvested;
  - b) Regulating the number of seeds being harvested; and
  - c) Enrichment planting of harvested species.
  - d) Regulating the number or size of the plants being harvested.

#### 9. Visual appraisal of health and vigor

- Regular visual appraisals of the behavior and condition of harvestable plants/trees to be conducted pre- and post-harvest.
- Visual observations of the tapped trees to be done and recorded periodically (at the start of tapping and bi-annually) to ascertain that over a period of 5-10 years, harvestable plants/trees do not display loss of vigor, disease, aborted fruit/leaves or stunted growth.

•	If harvested individuals display a weakened condition, harvest volumes to be reduced
	to allow for Individual and population recovery.

# 10. Wildlife /dispersers

Periodic assessments to be conducted in order to evaluate populations of animals that disperse seeds—

- Within the harvest area, populations of animals that disperse seeds remain stable.
- If populations of animals that disperse seeds decline, harvest adjustments are made in the frequency, quantity, seasonality and techniques of the harvest.

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SOIPAN TUYA,

Cabinet Secretary for Environment, Climate Change and Forestry.