



**MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND  
COOPERATIVES**

**REGULATORY IMPACT STATEMENT**

**THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE)  
REGULATIONS, 2020**

**NOVEMBER, 2020**

## **1. Introduction**

Regulatory impact assessment (RIA) involves a range of methods aimed at systematically assessing the negative and positive impacts of proposed and existing regulations. The Statutory Instruments Act, No. 23 of 2013, provides that if a proposed statutory instrument (and the Regulations are a statutory instrument) is likely to impose significant costs on the community or a part of the community, the regulation-making authority shall, prior to making the statutory instrument, prepare a regulatory impact statement about the instrument.

RIA is an important instrument for improving the quality of regulations and good governance, by ensuring more coherent and transparent policies, and making regulation more effective and efficient. Through RIA, an analysis of proposed regulations is done, and by comparing different options, RIA is a methodological framework and an administrative procedure for better-informed policy-making and legislative enactments. It thereby improves the transparency of governmental decision-making and also increases the quality of political debate.

The Ministry has undertaken an impact assessment of the proposed Regulations in addition to carrying out extensive consultations with stakeholders. This Statement is therefore made to fulfill the requirement of section 6 of the Statutory Instruments Act.

## **2. Purpose and Objects of the Regulations**

The purpose or object of the Dairy Industry (Pricing of Dairy Produce) Regulations, 2020 is to provide for the determination of the minimum milk prices by the Cabinet Secretary in consultation with the Board. Specifically, the Regulations provide for—

- 2.1 The protection of the farmers' investment by setting minimum prices for the milk;
- 2.2 Pricing based on the quality of milk, cost of production, transport costs and chilling costs to determine the minimum price;
- 2.3 A purchaser of milk, whether or not for bulking for further processing or sale, to pay the primary producer the price determined by the Cabinet Secretary on the advice of the Board, as per the Regulations.
- 2.4 Purchasers of milk being required to maintain records of the rate they pay to primary producers and such records may be inspected by a compliance officer at any time. It is an offence to obstruct a compliance officer in enforcing this obligation.
- 2.5 Offences relating to obstruction of an inspector who enforces the Regulations, and for contravening the Regulations generally (e.g. buying below the minimum price set);
- 2.6 Revocation of the Dairy Industry (Prices of Dairy Produces) Regulations.

## **3. IMPACT STATEMENT**

The Ministry carried out a comprehensive regulatory impact assessment and the findings work in favour of promulgating the Regulations. The assessment considered the likely impact of the Regulations on the fundamental rights of the people, the impact on the economy and

the public sector, economic impact on individuals and environmental considerations. The summary of the key findings are as follows:

### 3.1 **Impact on Fundamental Rights and Freedom**

- a) The Regulations are not expected to have a negative impact on fundamental rights or freedoms of persons or institutions that are subject to the Regulations.
- b) The Regulations are meant to protect the farmer and guarantee minimum return on investment.
- c) The Regulations do not have negative impact on the environment or environmental rights of the people.

### 3.2 **Impact on the Private Sector**

- a) It is anticipated that the Regulations would positively impact on the private sector by increasing productivity upon better harnessing of resources toward milk production and processing;
- b) The Regulations would reduce the oligopolistic nature of the industry by fairly determining the minimum price for dairy produce;
- c) The Regulations will lead to a more vibrant dairy industry, with the attendant increase in economic activities of the dairy farmers, the processors and other actors in the industry. It is expected that if the Regulations are enforced, they would result in economic and social empowerment of the people.
- d) Despite these benefits, the Regulations in effect interfere with the liberalized market by introducing price controls, but the overall advantage is in favour of the industry. It is not unusual for the Government to control prices in key commodities, which has been successfully applied in the petroleum industry.

### 3.3 **Impact on the Public Sector**

- a) The Regulations would make competition more evenly balanced in the dairy industry in terms of pricing and this reduces the differences that usually lead to unfair economic returns to the small farmer;
- b) There is not expected any negative impact on the public sector.

## 4. **Other Practicable Options to Regulation**

Regulation is not the only means of realizing a policy objectives. There are alternatives which are handy in dealing with certain aspects of the dairy industry. Amongst the options that were considered are:

- a) Maintaining the *status quo*: not to introduce any regulation, but operate without any regulation on prices.
- b) Policy guidelines: the Government ensures that policies decided by the Government are communicated to the persons to apply them, e.g. dairy farmers, distributors, importers and processors;

- c) Using market instruments, e.g. competition may be used to create demand or to moderate prices, or even to discourage certain practices.
- d) Use of fiscal instruments: taxation may be used, for example to deter certain farming practices by making it more costly to carry out a harmful practice; to reduce the cost of production by emanating or zero-rating taxes on dairy inputs; to raise taxes on imported dairy products to discourage importation of dairy products, etc.

The options were considered and it was found necessary that the dairy industry needed regulations immediately but the various options would be used to bolster the implementation of the Regulations as much as possible. Taxation is not sufficient to deal with prices. For example, heavy taxation of imports cannot guarantee that the domestic dairy products would have competitive prices and that there will be no exploitation of those with weak bargaining power.

Guidelines only amount to recommendations and cannot assure the competitiveness of the prices.

The ideal option would have been to let the market forces to determine the prices of milk produce. But this has not worked due to the oligopolistic dairy industry and other factors that have made it difficult for the market to determine the process. The end result is that a farmer is not assured of a decent return on the investment.

## **5. Conclusion**

The Ministry conclude that the proposed Regulations are an improvement to the current legal framework for registration and licensing regime and will promote and improve the dairy industry for the benefit of the farmer, the operator and the general public. Promulgating the Regulations is the only viable option to assure the farmer of stable prices for the dairy produce..

## **6. Recommendation**

It is recommended that the Dairy Industry (Pricing of Dairy Produce) Regulations, 2020 be gazetted.