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SPECIAL ISSUE

Kenya Gazette Supplement No. 3 (Nairobi City County Bills No. 3)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NAIROBI CITY COUNTY BILLS, 2022

NAIROBI, 21st February, 2022

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**THE NAIROBI CITY COUNTY FOOD SAFETY AND
FORTIFICATION BILL, 2022**

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**THE NAIROBI CITY COUNTY FOOD SAFETY AND
FORTIFICATION BILL, 2022**

A Bill for

AN ACT of the Nairobi City County Assembly to provide for the organization, application and enforcement of food safety for undertakings that are licensed to sell food to the public; to establish the Nairobi County food safety and fortification committee; to promote the achievement of the highest attainable standard of food of acceptable quality and for connected purposes

ENACTED by the Nairobi City County Assembly, as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Nairobi City County Food Safety and Fortification Act, 2022 and shall come into force on such date as assented to by the Governor.

Interpretation

2. In this Act, unless the context otherwise requires—

“Article” includes—

- (a) any food or device, and any labelling or advertising materials in respect thereof;
- (b) anything used for the preparation, preservation, packing or storing of any food or device;
- (c) premix or supplements.

“Authorized officer” means a Medical Officer of Health, a Public Health Officer/Technician, and—

- (a) for the purpose of execution or warrants, arrests and service of summons, seizure and bonds under this act county inspectorate and/or police officer;
- (b) for purposes of samples analysis, a public analyst;
- (c) for the safety of food s of animal origin it includes a veterinary officer;

“Committee” means Nairobi City County Food Safety and Fortification Committee under this Act;

“Constitution” means the Constitution of Kenya, 2010;

“County” means, the Nairobi City County;

“Deception” means sells or advertises any article in a manner that is false, misleading or deceptive as regards to its character, nature, value, substance, quality, composition, merit or safety and includes fraud;

“Disposal” means removal and destruction of food articles that do not comply with the provision of this Act;

“Device” means any equipment, instrument, apparatus or contrivance, including components, parts and accessories thereof, manufactured, sold or represented for use in food safety and quality and may include technology;

“Donation” means a gift given by physical or legal persons, typically for charitable purposes and/or to benefit a cause;

“Food” has the meaning assigned in Section 2, Cap. 254, and shall include food supplements and fortificants;

“Food safety” means the practice that preserves the quality of food to prevent contamination and food-borne illnesses;

“Food fortification” means the practice of deliberately increasing the content of an essential micronutrient in a food, so as to improve the nutritional quality of the food supply and to provide a public health benefit with minimal risk to health;

“Food analysis” means analytical procedures for characterizing the properties of food and their constituents;

“Fortification Standardization Logo” means a mark which show that the food article is fortified and approved by KEBs;

“Fortification standards” Prescribed KEBs standards for fortified foods;

“Insanitary conditions” means such conditions or circumstances as might contaminate food article, with dirt or filth or might render the same injurious or dangerous to health;

“Label” means tag, brand or mark, or pictorial, printed, stenciled, embossed or impressed on, displayed in connection with or accompanying any article;

“Label declaration” means includes any written, printed or graphic matter that is present on the label;

“Mandatory fortified foods” means maize or corn flour, wheat flour, fats and oils, salt or any other food that will be placed under mandatory fortification under this Act;

“Micronutrient” a chemical substance, such as a vitamin or mineral, that is essential in minute amounts for the proper growth and metabolism of a human being;

“Premix” a blend of fortificants and diluents formulated to provide specified and determinable amounts of micronutrients;

“Package” includes anything in which any food, food product or device is wholly or partly placed or packed;

“Premises” means any building or tent or other structure, permanent or temporary, the land on which it is situated, and any adjoining land used in connection with; any vehicle, conveyance or vessel; and any place, including a street, open space, or place of public resort, used in the sale of food articles;

“Preparation” includes a set of practices involved in acquiring raw ingredients and transforming them into something that can be consumed;

“Production” means preparing food, in which raw materials are converted into ready-made food products for human use either in the home or in the food processing industries;

“Public analyst” means a person appointed by the cabinet secretary, or by county government with the approval of the cabinet secretary, to act as a public analyst for the purposes of this Act;

“Public Health Officer” means a person trained, licensed and appointed by the county government to work as a Public Health Officer and includes a Public Health Technician;

“Sell” includes offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale or exchange, dispose of for any consideration whatsoever, or transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid; and may include donation;

“Sample” means a small part of a food article, intended to show the quality, safety, or nature of the whole lot or batch;

“Sampling” means the operations designed to select a portion of a food article, for a defined purpose;

“Owner” includes any person, receiving the rent or profits of any lands or premises from any tenant or occupier therefore or who would receive such rent or profits if such land or premises were let whether on his own account or as an agent for any person, entitled thereto or interested therein; the term includes any lessee or licensee from the government and any superintendent, overseer or manager of such lessee or licensee residing on the holding and includes body corporates;

“Unwholesome” means any article, which is not of safety, nature, substance or quality demanded by this Act;

“Waste” for the purpose of this Act is any food, part of or by product which is discarded after primary use, defective and of no use and includes non-compliant food articles and devices;

“Waste generator” means anyone or any process whose activities produce food waste or who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of such food waste.

Object and Guiding Principles

3. (1) The objects of this Act are to—
- (a) provide for safe production, storage, distribution, consumption of food articles and enabling environment for food safety and quality;
 - (b) strengthen regulatory monitoring for compliance on food safety and fortification;
 - (c) provide a framework for enforcement and compliance in food safety and quality;
 - (d) provide for the protection of the public against sale of unwholesome food, fraud and any other malpractices in the manufacture, sale, distribution, consumption or use of food;
 - (e) strengthen regulatory monitoring for enforcement and compliance on food safety and fortification;
 - (f) promote Information, Education and Communication on food safety.
- (2) Application of the Act.

This Act shall apply to all persons and/or entities in Nairobi and is binding upon the County Government, its organs, entities, and agents in the performance of their functions.

PART II—ADMINISTRATION AND COORDINATION OF FOOD SAFETY AND FORTIFICATION

Establishment of the Food Safety and fortification Committee and its functions

4. (1) There is established the County Food Safety and Fortification Committee, which shall be an unincorporated advisory committee.

- (2) The Committee shall be composed of—
- (a) three (3) representatives from County Health Services;
 - (b) a representative from Environment and Natural resources;

- (c) a representative from Education;
- (d) a representative from Trade Affairs;
- (e) a representative from Agriculture and Veterinary services;
- (f) a representative nominated by the academia and research institutions;
- (g) two (2) representatives nominated by the civil society and private sector stakeholder bodies in the County;
- (h) a representative nominated by the consumer organizations; and
- (i) a representative nominated by the Business community.

(3) The members shall elect a chairperson from amongst themselves who shall serve for the duration of the term of the committee unless removed by members or through resignation.

(4) The health department shall be the secretariat.

(5) Functions of the committee will include provision of coordination to—

- (a) formulate of Food Safety Policy and Supportive Legal Framework;
- (b) implement food control activities including food testing and analysis, Surveillance, inspection and enforcement;
- (c) develop and utilize a transparent decision-making process based on scientific evidence on issues related to food safety and fortification;
- (d) promote wide ownership of the County Food Safety System among stakeholders;
- (e) provide a platform for consumer sensitization on Food Safety issues;
- (f) promote participatory Capacity building for an effective County Food Safety System;
- (g) perform their incidental or related functions that is necessary in the achievement of the objectives of this Act.

Functions of the Director responsible for Public health

5. (1) The officer responsible for Health in connection with the administration of this Act shall—

- (a) promote national standards for food safety and fortification within the county and to ensure compliance with this Act;
- (b) coordinate multi-sectoral stakeholders aimed at food safety and fortification compliance;
- (c) to the extent that may be lawful, necessary or practicable cooperate and coordinate with national actors consistent with the objects of this Act;
- (d) issue licenses or permits for food safety and fortification under this Act;
- (e) provide secretariat to multi-sectoral coordination committee on food safety and fortification;
- (f) make regulations under this Act; and
- (h) perform such other functions as may be deemed incidental to any other above.

Functions of an authorized officer

6. (1) The authorized officer, in connection with the administration of this Act, shall—

- (a) monitor and evaluate food safety and fortification compliance;
- (b) facilitate issuance of licenses or permits for food safety and fortification;
- (c) undertake sampling and analysis of food articles for food safety and fortification;
- (d) inspection and investigation for compliance for non- in accordance with this Act; and
- (e) perform such other functions as may be provided by this Act.

**PART III—FOOD SAFETY AND FORTIFICATION
REQUIREMENT, PROHIBITION AND PENALTIES****Production of food**

7. (1) It shall be the duty of the person who owns, operates or is in charge of food production to ensure that—

- (a) such operations are conducted under clean and sanitary conditions;

- (b) the right technical and infrastructural capacity is maintained; and
 - (c) production of mandatory fortified food articles complies with the standards prescribed in this Act.
- (2) Any person who contravenes this section commits an offence.

Sale of unwholesome food prohibited

8. (1) No person shall sell unwholesome food articles.
- (2) Any person who contravenes this section commits an offence.

Premises not to be used unless licensed

9. (1) No person shall sell, prepare, package, store, distribute or display any food for sale in—

- (a) a food premise or;
- (b) a public park, market, or a public events;
- (c) in a food truck, mobile carts or caravans, water bowser, or any other conveyance;
- (d) streets, roads and alley;
- (e) water selling points, commercial boreholes;
- (f) food vending machines;
- (g) unless licensed under this Act.

(2) Where licensed under 10(1) above, such licenses shall be caused to be displayed on a conspicuous part of the premises.

(3) Any person who contravenes the requirements of this section shall be guilty of an offence.

Health measures to be taken in a food plant including Medical examination of food handlers

10. (1) Every person who owns, operates or is in charge of a food plant shall take all measures and precautions to ensure that—

- (a) thorough medical examination is carried out in a Government medical institution by a medical officer of health on all employees prior to their employment and at regular intervals of not more than six months;

- (b) no person suffering from any disease in a communicable form shall be allowed in a food plant.
- (2) Any person (food handler) who contravenes the provisions of this subsection shall be guilty of an offense and shall be liable on conviction to a fine not exceeding Kenya shillings fifty thousand or six months imprisonment or both.
- (3) Any operator or owner of a food premise who employs or engages food handlers who do not have valid food handler's medical certificate commit an offense—
 - (a) in case of a first offender, to a fine not exceeding two hundred thousand Kenya Shillings or imprisonment to a term not exceeding 12 months or to both such fine and imprisonment;
 - (b) in case of a Subsequent offender, to a fine not more than five hundred thousand Kenya Shillings or imprisonment of a term not exceeding 24 months or to both such fine and imprisonment.

Deception

11. Any person, who labels, packages, treats, processes, sells or advertises any food in contravention of this act or any of its regulations or in a manner that is false, misleading or deceptive shall be guilty of an offence.

Standards of foods

12. Any person who contravenes a standard that has been prescribed for any food article under this Act, shall be guilty of an offense.

Preparation of food under insanitary conditions

13. Any person who sells, prepares, packages, conveys, stores or displays for sale any food under insanitary conditions shall be guilty of an offence.

Prohibition on sale of expired goods

- 14. (1) No person shall sell expired food articles.
- (2) Any person who contravenes the requirements of this section shall be guilty of an offense and punishable—
 - (a) in the case of a first offence, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment;
 - (b) in the case of a subsequent offence, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

Label on food article

15. (1) All nutritional information appearing on a label of any food article as per this Act; shall—

- (a) be clearly and prominently displayed on the label;
- (b) be Readily discernible to the purchaser or consumer;
- (c) be in English, Kiswahili or both;
- (d) bear batch/lot number;
- (e) bear a physical address manufacturer, importer or packer; and
- (f) label declaration to appear on both inner and outer packaging.

(2) For the purposes of this Act, the expiry date shall include date, month and year of expiry.

(3) All mandatory fortified foods shall bear the fortification logo mark and/or bear the word 'fortified'.

(4) Any person who marks any article or takes any other action so as to make labelling of food article not easily visible or obliterates alteration commits an offence.

(5) Any person who contravenes this section shall be guilty of an offense.

Prohibition of Sale of Unfortified Foods

16. (1) No person shall sell, display or advertise mandatory fortified foods without including the fortification standardization logo mark or bearing the word "fortified".

(2) Any person who contravenes the requirements of this section shall be guilty of an offense and punishable—

- (a) first offender a fine not more than 50,000 Kenya Shillings for retailers; 1,000,000 Kenya shillings for wholesalers, and 2,000,000 shillings for producers or imprisonment of a term not exceeding 12 months or both;
- (b) subsequent offenders a fine not more than 100,000 Kenya Shillings for retailers; 2,000,000 Kenya shillings for wholesalers, 4,000,000 shillings for producers or imprisonment of a term not exceeding 24 months or both.

Imported fortified foods

17. (1) No person shall bring into the county mandatory fortified foods unless they comply with the prescribed specifications.

(2) Any person who contravenes the requirements of this section shall be guilty of an offense and punishable—

- (a) first offender a fine not more than 1,000,000 Kenya Shillings per food item or imprisonment of a term not exceeding 12 months or both;
- (b) subsequent offender a fine not more than 2,000,000 Kenya Shillings or imprisonment of a term not exceeding 24 months or both.

Powers of authorized officers to detain, seize articles

18. (1) an authorized officer under this Act shall have the powers to—

- (a) at all reasonable hours to enter any premises used for the production, preparation, processing, storage, sale or distribution of food for the purpose of ascertaining whether there is any evidence of any contravention of the requirements made under this Act;
- (b) to inspect and examine, seize or remove for the purpose of examination any article of food in any premise or place where such food is sold, prepared, processed, packaged, stored, or displayed;
- (c) where he or she has sufficient information and has reason to believe that any food article(s) is unfit for human consumption, to order it to be treated, disposed of, or destroyed;
- (d) prevent the sale or distribution where it is found, or there is reason to believe, that such food is unfit for human consumption;
- (e) supervise the destruction of unwholesome and expired food articles;
- (f) take any other step that he may deem expedite in the circumstances to promote the objectives of this Act.

(2) An authorized officer shall take the necessary action and issue necessary orders or guidance to the owner, operator or person in charge of food premises.

(3) An authorized officer may order the destruction of goods seized under this act, if the following conditions are satisfied—

- (a) testing indicates that the goods do not meet the prescribed Kenyan Standard; and

(b) in a dangerous state or injurious to health.

(4) The authorized officer may require the owner to pay the costs of the destruction of the goods including the costs of transportation and storage before destruction.

Conditional release of seized articles

19. (1) An authorized officer may order a conditional release of goods to a manufacturer, importer, possessor, dealer or seller or his agent when the testing of the samples of goods determine they comply with this Act.

(2) Where the goods fail to comply with the relevant Kenya Standard, they shall be destroyed in accordance with this Act.

(3) Any person who removes, sells, uses, disposes of, re-exports, damages, wastes, or destroys seized articles before the release of the results shall be guilty of an offence.

Obstruction of authorized officers

20. (1) Any person who—

(a) fails to give or refuses access to any authorized officer under this Act if he requests entrance on any premises, or obstructs or hinders him in the execution of his duties under this Act, or who fails or refuses to give information that he may lawfully be required to be given to such officer, or who gives to such officer false or misleading information knowing it to be false or misleading; or

(b) uses force or violence against, intimidates, impedes or attempts to obstruct or to impede an authorized officer in the performance of his or her functions under this Act; or

(c) gives, procures, offers or promises any bribe, recompense or reward to influence any authorized officer in the performance of his or her functions under this Act commits an offence.

(2) Any person who contravenes the requirements of this section shall be guilty of an offense and punishable—

(a) first offender a fine not more than 200,000 Kenya Shillings or imprisonment of a term not exceeding 6 months or both;

(b) subsequent offender a fine not more than 500,000 Kenya Shillings or imprisonment of a term not exceeding twelve months or both.

Notice to clean, reconstruct or repair food plant

21. (1) Where any food plant, by reason of its situation, construction or disrepair, is in such a condition that any food in the premises may be exposed to contamination or deterioration or become dirty, an authorized officer may serve a notice in writing on the person who owns or operates the food plant requiring him—

- (a) to clean, reconstruct or repair the premises in the specified manner and period; or
- (b) not to use the plant until the conditions stated in such notice have been fulfilled.

(2) It shall be sufficient compliance with a notice served under this regulation if the person on whom such notice is served ceases to use the premises as a food plant.

(3) Any person who contravenes the provisions of this section, shall be guilty of an offence and liable—

- (a) in the case of a first offence, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment; and
- (b) in the case of a second or subsequent offence, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

Penalties

22. (1) A person who is guilty of an offence under this Act for where no special penalty is provided shall be liable—

- (a) in the case of a first offence, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment;
- (b) in the case of a subsequent offence, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

Establishment of a County Food Safety and Nutrition Laboratory

23. (1) There shall be a County food safety and Nutrition laboratory established under this Act. The Laboratory shall be established within one (1) year from the coming into force of this Act.

(2) The County Government shall ensure that the laboratory is adequately resourced and manned to enable it perform at an optimum level.

Procedure for taking samples and form of certificate of analysis

24. (1) Where an authorized officer takes a sample pursuant to section 30 of the Act, he shall notify the owner thereof or the person from whom the sample was obtained of his intention to submit the sample to the public analyst for analysis or examination.

(2) Where, in his opinion, division of the procured quantity of the sample would not interfere with the analysis or examination he shall—

- (a) divide the quantity into two parts;
- (b) identify the two parts as the owner's portion and the sample and where only one part bears the label, that part shall be identified as the sample;
- (c) seal each part in such a manner that it cannot be opened without breaking the seal; and
- (d) deliver the part identified as the owner's portion to the owner or the person from whom the sample was obtained and forward the sample to the public analyst for analysis or examination.

(3) Where, in his opinion, division of the procured quantity of the sample would interfere with analysis or examination he shall—

- (a) identify the entire quantity as the sample;
- (b) seal the sample in such manner that it cannot be opened without breaking the seal; and
- (c) forward the sample to the public analyst for analysis or examination.

Certificates of analysis and presumptions

25. In any proceedings under this Act a certificate of analysis purporting to be signed by a public analyst shall be accepted as prima facie evidence of the facts stated therein.

PART VI—MISCELLANEOUS PROVISIONS

Liability

26. (1) An authorized officer shall not be liable for any actions taken while executing his duties under this Act.

Prosecution

27. (1) An authorized officer may take out for an offence under this Act or the regulations before any magistrate having jurisdiction in the place proceedings where any article sold was actually delivered to the purchaser or where the sample was taken.

(2) In any proceedings under this Act, the contents of any container appearing to be intact and in the original state of packing by the manufacturer thereof shall be deemed, unless the contrary is proved, to be an article of the description specified on the label.

(3) If a body corporate commits an offence against this Act, the director or other person concerned in the management of the body corporate is also guilty of an offence.

(4) The County Government shall in consultation with the Judiciary, promote access to justice through provision of special or additional courts with special jurisdiction on Food Safety and Fortification matters.

Saving of Cap. 242 and 254

28. (1) The provisions of this Act shall be in addition to and not in derogation of the provisions of the Public Health Act (Cap. 242) and the Food, Drugs and Chemical Substances Act (Cap. 254).

MEMORANDUM OF OBJECTS AND REASONS

There is a growing concern in Kenya on the safety of foods. The high levels of aflatoxins detected from various flour brands consumed locally, particularly maize flour brands and recent cholera outbreaks are among the growing public health concerns on the safety of foods in Kenya. In Nairobi County alone, has an estimated 250,000 food handlers who are involved in preparation and sale of food in an estimated 34,500 food outlets in the City without proper regulations and outdated bylaws. Besides, there is mushrooming food hawking and other unlawful sale of food articles in the public.

The other public health concern in Kenya is micronutrient malnutrition especially for women and children. The Government of Kenya adopted, food fortification is a key and cost-effective health intervention to alleviate micronutrient deficiencies. Despite the long period of implementation of the mandatory food fortification in Kenya, the level of compliance to the national food fortification standards for most of the food vehicles has been below fifty percent. The most common deficiencies among the Kenyan population are those of iron, folate, zinc, iodine and vitamin A. Micronutrient deficiencies, particularly those of vitamin A, iron and iodine are mainly caused by lack of food fortification. It is estimated that vitamin A deficiencies affects up to 61.2% children and 29.6% mothers, while iron and iodine deficiencies affect nearly 60% and 16% of the population respectively. These deficiencies result in stunted growth, blindness, reduced human capacity to work, high maternal mortality, miscarriages and still-births among other and have huge social costs and economic losses to the population. There is need for continuous to assessment of coverage and utilization of fortified foods.

Food safety and fortification must, be controlled through the development and enforcement of appropriate legislation. The Nairobi City County food safety and fortification Bill is drafted in the context of NCCG unequivocal commitment towards attaining the highest standards of food of acceptable quality and for connected purposes.

Structure of Prototype Bill

The Bill is structured as follows

PART 1—deals with the title and object of the Act. The key objective of the Act is to provide for the organization, application and enforcement of food safety for undertakings that are licensed to sell food to the public; to establish the Nairobi County food safety and fortification committee; to promote the achievement of the highest attainable standard of food of acceptable quality and for connected purposes.

PART 2—establishes an institutional framework for administration and coordination of the Bill.

The Food Safety and fortification Committee is established whose functions shall include oversight and coordination of the implementation of food control activities, regulatory monitoring, demand creation, capacity building and stakeholder engagements.

The Bill also establishes Functions of the officer responsible for health whose objective is to ensure a coordinated, efficient, effective and consultative approach to ensure compliance with this Bill including making of regulations.

PART 3—prescribes requirements, prohibition and penalties in respect of the provision of food safety and fortification. It specifies the requirements for production of food, including the premises for food production, food handlers and labelling of food articles. This section further establishes the Powers of authorized officer in the administration of this Bill in monitoring and evaluation of food safety and fortification compliance, issuance of licenses or permits for food safety and fortification, sampling and analysis of food articles a well as Inspection and investigation for compliance. This Part also defines for standards for operating food plants, food laboratory and issuance, harmonization and coordination of the implementation of food control activities and food certificates.

PART IV—contains miscellaneous provisions.

The enactment of the Bill will occasion additional expenditure of public funds which will be provided for through the annual estimates.

Dated the 13th March, 2022

PETER M. WARUTERE,
Chairperson, Health Committee.

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PART VII—SCHEDULES AND ANNEXES

ANNEX 1

1. Mandatory fortified foods

It is mandatory under Cap 254 Regulation 62 that requires the following to be fortified with vitamins and minerals;

- (a) Specification for milled maize [Corn] Products – KS EAS 768;
- (b) Specification for wheat flour - KS EAS 767;
- (c) Specification for edible vegetable fats and oils – KS EAS 769;
- (d) Table Salts – standards for table salt.

2. Prepackaged fortified foods

Two primary standards are applicable for prepackaged food as follows.

- (a) Labelling of prepackaged food - KS EAS 38.KSEAS 804, KSEAS 805.
- (b) Guidelines for health and nutrition claim – KS CAC/ GL 23

3. Mark of Standardization and Trademark

The Trademark on the Fortification Standardization Logo shall be “Kuboresha Afya”.

**THE FOOD FORTIFICATION
STANDARDIZATION LOGO**



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4. Conditions for a product to be granted the permit to use the logo (Source: MOU between KEBS and MoPHS)

The right to grant permit is vested to KEBS. A product shall be granted permit to use the logo when it meets the criteria below:

- (a) an application for the use of the logo is made to KEBS accompanied by a fee to offset the costs of analysis as determined by KEBS. Where the initiative is funded by other organization rather than the applicant, the process of certification shall start upon receipt of the said fee. The fee may be waived on advice of KEBS management.
- (b) The product is in compliance with the provisions of the Food, Drug and Chemical Substances Act, Chapter 254, any other technical regulations in force and all parameters of the relevant Kenya Standard including the fortification requirements and has either the Standardization Mark (SM), Diamond Mark (DM) or International Standardization Mark (ISM) in the case of an import or the application for either of this mark is being considered.
- (c) The entire process of certification as documented by KEBS.

The criteria above (a, b and c) shall apply to all renewals

5. Declaration

No person shall sell, display or advertise any fortified food without declaration. The declaration applied to a fortified food shall carry—

- (a) statement or information that is required by the regulation under this act;
- (b) appear on the label of the fortified food and shall be in English and/ or Kiswahili;
- (c) in close proximity to the common name, a correct declaration of the net contents in terms of micronutrients added;

6. Guidelines for monitoring and sampling of fortified foods

The county shall develop monitoring and sampling plans to enhance compliance of fortified foods.

(i) Legal Notice No. 157 of 2015

24th July, 2015

LEGAL NOTICE No. 157

THE FOOD, DRUGS AND CHEMICAL SUBSTANCES ACT (Cap. 254)

IN EXERCISE of the powers conferred by section 28 of the Food, Drugs and Chemical Substances Act, the Cabinet Secretary for Health makes the following Regulations—

THE FOOD, DRUGS AND CHEMICAL SUBSTANCES (FOOD LABELLING, ADDITIVES AND STANDARDS) (AMENDMENT) (No. 2) REGULATIONS, 2015.

These Regulations may be cited as the Food, Drugs and Chemical Substances (Food Labeling Additives and Standards) (Amendment) (No. 2) Regulations, 2015.

Sub-leg.

(1) The Food, Drugs and Chemical Substances (Food Labeling, Additives and Standards) Regulations (in these Regulations referred to as "the principal Regulations") are amended in regulation by deleting paragraph (2) and substituting therefore the following new paragraph—

Packaged wheat flour shall be fortified and conform to the flour fortification requirements specified in the Kenya Standard for fortified wheat flour KS EAS 767.

(1) The principal Regulations are amended in regulation 253 by deleting paragraph (2) and substituting therefore the following new paragraph—

Packaged dry milled maize products shall be fortified and conform to the flour fortification requirements specified in the Kenya Standard for fortified milled maize products KS EAS 768.

The principal Regulations are amended in regulation 258 by deleting paragraph (2) and substituting therefor the following new paragraph—

Vegetable fats and oils shall be fortified with vitamin A in accordance with Kenya Standard for fortified fats and oils KS EAS 769.

The principal Regulations are amended by deleting regulation 319.
Dated 7th July, 2015.

JAMES MACHARIA,

Cabinet Secretary for Health.