

REGULATIONS GOVERNING THE USE OF THE CERTIFICATION
MARK FOR GEOGRAPHICAL INDICATION OF
KANDY TEA

1. Introduction

(a) Sri Lanka Tea Board

The Sri Lanka Tea Board (hereinafter called SLTB) is a body incorporated under the provisions of Sri Lanka Tea Board Law No.14 of 1975 of the Parliament of Sri Lanka for the purpose of administering, controlling and regulating the tea industry in Sri Lanka. The SLTB is empowered to take measures to regulate the tea cultivation, manufacture, sale, export, import and marketing of tea as provided for in the Tea Control Act No.51 of 1957, Tea (Tax and Control of Export) Act No.16 of 1959 and Sri Lanka Tea Board Law No.14 of 1975.

(b) The Board of Directors of SLTB consists of a Chairman, and other members who have knowledge and experience in different aspects of the tea industry with special reference to planting, research, manufacture, marketing, sale, export etc. appointed by the Honourable Minister under whose purview the subject of Plantation Industries, falls.

(c) Tea from Kandy Agro-climatic region of Sri Lanka

Sri Lanka (formerly Ceylon) is an island of 65,610 sq.km., located between 5° 55'- 9° 51' North of the Equator, ascending from sea level to approximately 2400 meters. The average temperature in the country varies from around 28° C in low lands to around 15° C in the high elevation. The first commercial tea plantation was established in Sri Lanka in 1867 and tea is grown in three different elevations from sea level as Low grown Ceylon Tea, Medium grown Ceylon Tea and High grown Ceylon Tea.

The Kandy Agro-climatic region, falls under the medium grown elevation and is situated in the Central mountains covering mainly Kandy and Matale Administrative Districts of Sri Lanka (Maps enclosed). Since 1867, tea has been cultivated and grown in the tea gardens and manufactured in tea factories geographically located in the Kandy Agro-climatic region, from around 2000-4000 feet (660-1300 meters) above sea level. The range of hills which covers

Kandy Agro-climatic region and its sub regions extend from Kandy, the ancient capital of Sri Lanka to Kotmale, Gampola, Nawalapitiya and Pussellawa areas.

(d) The plantations in Kandy Agro-climatic region experience weather patterns associated with mild winds that pass through the mountain terrain. Teas produced in this region are notable for full body and strength. Kandy tea is predominantly hand picked by experienced workers who select only the tender-most leaves and bud. Kandy tea enjoys both domestic and international reputation for unique quality and strong character that is associated with its production in the region.

2. **Definition of Kandy Tea**

Kandy Tea means:-

- (a) Teas cultivated and grown in the tea gardens and manufactured in tea factories in the Kandy Agro-climatic regions and its sub regions of Sri Lanka, listed in the Annex I.
- (b) Teas cultivated and grown in any of the tea gardens and manufactured in tea factories located in the Kandy Agro-climatic region and sub regions of Sri Lanka, listed in Annex II, which have been registered with SLTB in accordance with provisions of Tea Control Act No.51 of 1957, Tea (Tax and Control of Export) Act No.16 of 1959 and Sri Lanka Tea Board Law No.14 of 1975 of Sri Lanka, and updated periodically by the SLTB.
- (c) Teas produced with tender leaves of selected cultivars of species *Camellia Sinensis*, nurtured by the edaphic Agro-climatic conditions. Besides, the unique manufacturing practices developed in the tea estates and factories in the Kandy Agro-climatic region of Sri Lanka produces flavoured, strong, thick, coloured tea which has earned the recognition of discerning tea consumers around the world. Experienced Tea Tasters are able to evaluate the organoleptic characteristics of the tea cultivated, grown and produced in Kandy Agro-climatic region in Sri Lanka, particularly in relation to aroma, taste, colour, flavour, liquor and infusion.

3. Kandy Tea as a Geographical Indication

Thus, Kandy Tea, which possesses a specific and unique quality, has over the years acquired a distinct identification and reputation as a range of teas of a special quality and taste emanating from the territory of Kandy Agro-climatic region in Sri Lanka and essentially attributable to its geographical origin and unique manufacturing practices.

4. Ownership of Certification Mark of Kandy Tea

- (a) The SLTB being the apex Government Institution responsible for supervision, administration and development of the Tea Industry in Sri Lanka, duly owns and holds the right to register the Geographical Indication of Kandy Tea as a Certification Mark and Collective Mark.
- (b) Being the owner of the Certification Mark of Kandy Tea, Sri Lanka Tea Board has the sole control over the cultivation, manufacture and export of Kandy Tea and is the Authority for monitoring and certifying the legitimacy and quality of Kandy Tea sold in Sri Lanka and exported from Sri Lanka for issue of permission to use the Certification Mark.
- (c) The Certification Mark of Kandy Tea is the absolute property of the Owner and shall not be used by any person without the written authorization of the Owner. The power of granting and terminating the authorization or license to use and employ the Certification Mark is vested absolutely in the Owner. The decision to grant non-exclusive permission and/or cancel same is dependent solely upon conformity with the criteria/guidelines and conditions set forth herein.

5. Licensing Scheme

The registration of the Certification Mark of Kandy Tea is introduced to ensure that quality and reputation of Kandy Tea is duly maintained in Sri Lanka & Abroad. The use of the Kandy Tea Certification Mark guarantees that teas sold under the Certification Mark are produced in the Kandy Agro-climatic district of Sri Lanka and meet the quality parameters and standards laid down by the SLTB under this regulation.

This regulation and license scheme will provide the SLTB the necessary information and supervision over the use of Certification Mark on Kandy Tea. A license to use the Kandy Tea Certification Mark will be granted without discrimination to any person who applies for same, provided, the applicant meets the required criteria.

6. Use of Kandy Tea Certification Mark

- 6.1 An application Form as per Annex III be made to Sri Lanka Tea Board to determine as to whether such person is eligible to be registered as an authorized user.
- 6.2 Signing of an appropriate License Agreement with the Owner or obtaining a letter of Authority in accordance with this Regulation. No person shall market teas using the Kandy Tea Certification Mark except under the authority of a letter of approval and/or certificate issued by the Owner.
- 6.3 The SLTB shall decide on a suitable License Fee for usage of the Kandy Tea Certification Mark, which may be revised periodically. The appropriate License Fee is payable by the Licensee within the given period.
- 6.4 Every Licensee will be issued a License Number which shall be printed on all retail packages along with the statement “*Kandy Tea -Registered Certification Mark/Geographical Indication of Sri Lanka Tea Board*”. This statement may be printed on a suitable place of the pack.

- 6.5 A completed application form shall be forwarded in respect of each retail package design and be accompanied with a tea sample.
- 6.6 The Kandy Tea Certification Mark shall be depicted as in the Annex IV. The Certification Mark shall be used only in relation to such teas that satisfy the unique quality and characters of Kandy Tea as described in the Regulation. The licensee may decide upon the manner in which the Certification Mark may be represented including colour, size and lettering etc. However, the Owner shall have the right to object to the manner of such representation if it is of the opinion that the manner of such representation is unsuitable. The decision of the Owner in this regard shall be final and conclusive and shall not be questioned other than as provided for in clause 10 herein.
- 6.7 These rules shall apply to natural or legal persons who are tea producers, manufactures, exporters, packers and dealers desirous of using the Kandy Tea Certification Mark on consumer packages of tea, less than 03 Kg in weight put up for the purpose of retail sale in domestic or foreign markets.
- 6.8 Only retail packages containing Pure Kandy Tea will be eligible to use the Certification Mark. The packages may contain blends of Kandy Tea produced in more than one tea garden/estate in Kandy Agro-climatic region in Sri Lanka listed in Annex II. The Certification Mark shall not be used on tea packages of Kandy Tea blended/mixed with other regional teas of Sri Lanka and also with teas of other origins. If Kandy Tea is one of the components of a tea blend/mixture that includes some portion of other regional teas of Sri Lanka or other origin teas that does not conform to characteristics or quality parameters defined in Article 2 of this regulation, the tea blend/mixture should not be named or referred to as Kandy Tea and the word 'Kandy' may only be used and must be used on the packaging to accurately set forth the proportion of Kandy Tea in the tea blend/mixture (eg: in a list of ingredients). In such cases, the term 'Kandy' must appear in a font, design and size that does not misrepresent to the consumer, the content and origin of the tea blend/mixture.

- 6.9 The approval of the Owner for the design of the Certification Mark on each package shall be obtained before printing of that package commences. The package design shall not be changed thereafter. If the Licensee desires to change the package design a fresh application should be submitted.
- 6.10 Any person who wishes to use the Kandy Tea Certification Mark on tags attached to Tea Bags, shall also print the Certification Mark on the retail package, subject to the above.
- 6.11 The License is not assignable or transferable.
- 6.12 No person engaged in any registered trading activity in tea to whom a letter of approval and/or certificate is issued to use the Kandy Tea Certification Mark under this regulation shall export or market locally, tea of a quality different from the original sample unless prior approval has been obtained from the owner for a change of content. The SLTB at it's discretion may require a fresh application to be lodged.
- 6.13 Every person who engages in any approved undertaking using the Certification Mark shall comply with such directions and requirements as may be issued by the Owner periodically and shall maintain such records as required.
- 6.14 Every Trader who uses the Kandy Tea Certification Mark shall ensure that:
- I The Certification Mark shall be of a size which is proportionate to the package/ container.
 - II The Certification Mark is applied in such a manner as it may be easily and clearly visible to consumers/purchasers as a distinct mark of the relevant package/ container.

III That it does not contain any material that would cause prejudice or harm to the Owner and/or the Certification Mark and to its reputation and goodwill.

6.15 An authorized user or Licensee and/or its agents, servants and/or otherwise shall not use or seek to register either in Sri Lanka or else where in the world the Kandy Tea Certification Mark as a Trade Mark, or Trade Name or Device or Symbol or as part of a Trade Mark or Trade Name or Device or Symbol for the goods or services of the said user. Any package design sought to be registered in its entirety shall omit the Certification Mark irrespective of whether the applicant is a Licensee or not.

7. Register of Authorized Users

The owner shall keep at its registered office at No.574, Galle Road, Colombo 3; Sri Lanka, a Register where names, addresses and other details of authorized users of Certification Mark will be entered.

If all conditions in this regulation are fulfilled the authorized users of Certification Mark shall become effective as of the date of submission of the application and shall be recorded in the Register.

8. Monitoring of Certification Mark Scheme

To ensure the proper use and integrity of the supply chain and quality of Kandy Tea, the Owner shall monitor the unique production and manufacturing practices in any tea plantation, tea factory or tea packing plant to satisfy itself that all parameters laid down by the Owner are being adhered to and complied with. All Licensees shall submit to the Owner a report on production, sale and export of Kandy Tea in the form of Annex V for a calendar year period. The owner shall be entitled to inspect any premises where Kandy Tea is produced, marketed or exported etc. prior to and after granting of approval, with reasonable notice or if thought fit without notice to applicants and Licensees.

For the purpose of monitoring the legitimacy and quality of Kandy Tea sold in Sri Lanka and exported from Sri Lanka the Owner may request the Licensee to submit samples of tea for inspection. Licensee shall submit any samples requested within one week or an earlier period of receipt of such request from the owner.

9. Breach of Contract/ License

- 9.1 If a Licensee, uses the Kandy Tea Certification Mark in an unauthorized, misleading or deceptive manner or in any manner that defame or bring disrepute to the Owner or the Certification Mark or is convicted of any offence leading to discredit the Licensee's reputation as a trader, or is declared bankrupt or goes in to liquidation, or has sought, either by itself or through it's Servants or Agents to register the Certification Mark or a mark similar to or deceptively similar to the Certification Mark either in Sri Lanka or overseas and/or is found to have indulged in acts of unfair competition and/or infringement and/or passing off, the Owner may terminate the License forthwith.
- 9.2 If a person to whom a letter of approval and/or certificate is issued to use the Certification Mark contravenes or fails to comply with any of these rules or conditions, the SLTB may withdraw/terminate such approval without prior notice and at it's absolute discretion that shall not be questioned other than as provided in Clause 10.
- 9.3 If the Owner terminates the License, the former Licensee shall not use the Certification Mark either by it's self or it's servants or agents either directly or indirectly for any purpose, whatsoever or howsoever.
- 9.4 Except as set forth herein, the Owner may not terminate a License during it's validity period.
- 9.5 Infringement or falsification or any act of unfair competition or passing off of the Kandy Tea Certification Mark is an offence under the Intellectual Property Act No.36 of 2003.

10. Dispute Settlement

In the event of the issue of permission being refused or License being terminated by the Owner, the person concerned shall, within Thirty Days of such refusal or termination have the right to appeal against such refusal or cancellation to the Secretary of the Ministry under whose purview the subject of Plantation Industries falls provided that he/she at the same time gives notice to the Owner. The Secretary of the Ministry shall inquire into the dispute and his/her decision shall be final and conclusive and binding on the Owner and the applicant/licensee concerned and shall not call in question such decision.

11. Delegation of power

The Owner may authorize such persons as deemed appropriate by it to inspect the cultivation, manufacture, packing and sale of Kandy Tea in Sri Lanka and Abroad to act as an Agent for issue and termination of permission or license for use of the Kandy Tea Certification Mark. Such persons may include, for example, expert tea tasters or such other persons or bodies deemed competent under the relevant laws in force in Sri Lanka from time to time.

12. Amendments to the Regulation

The Owner shall have the power and authority to amend, change, alter, repeal or cancel of any or all of the regulations from time to time without prior notice to the authorized users of Certification Mark.

13. Notices

Any notice given by the Owner to registered users or the user to Owner shall be deemed

to have been duly given if forwarded through registered post to the respective addresses given by the two parties.

14. **General Definitions**

For the purpose of this regulation, unless the context otherwise requires, the following definitions shall apply;

- (a) **Owner** means the Sri Lanka Tea Board, presently at No.574, Galle Road, Colombo 3, Sri Lanka.
- (b) **Certification Mark** means the Certification Mark for Geographical Indication of Kandy Tea.
- (c) **Person** shall include any person or group of persons, company, body or association, whether incorporated or not, engaged in cultivation, manufacture, trade, sale and export of tea.
- (d) **License** means a letter of authority or certificate of use issued by the Owner in accordance with these Regulations.
- (e) **Licensee** means any person with a letter of authority issued by the owner for use of the certification mark.
- (f) **Retail Tea Package** means tea in tea packets, tea bags, cartons, canisters or in any other form of retail container of not more than 03 Kg packaged for the purpose of retail sale locally or abroad under the Certification Mark.
- (g) **Register** means the Register of License Users of the Certification Mark maintained by the Owner.

Date

Chairman
SRI LANKA TEA BOARD
574, Galle Road, Colombo 3
Sri Lanka

SRI LANKA TEA BOARD

Protection and Administration of use of Certification Mark
for Geographical Indication of
Kandy Tea

Procedure to be followed:

1. Filing of Application form – as per Annex III.
(With Sri Lanka Tea Board and payment of user fee)
2. Signing of an appropriate License Agreement with the Owner or obtaining a letter of Authority or Certificate from the Owner in accordance with the Regulation.
3. Issue of License Number to the Applicant. This user number is to be printed on all packs along with the statement “*Kandy Tea -Registered Certification Mark/Geographical Indication of Sri Lanka Tea Board*”. This statement may be printed on a suitable place of the pack.
4. Filing of Annual Declaration form as per Annex V.

Certification mark of Kandy Tea

Specimen Application Form
(To be printed on the letterhead of the applicant)

I/We, a registered tea producer/manufacturer/exporter/trader in Sri Lanka wish to enter into a License Agreement with Sri Lanka Tea Board for use of Kandy Tea Certification Mark under registration number _____ in Class 30 for the product of tea.

1. Name of Applicant -
2. Status of the organization – company/partnership/individual etc. -
3. Description of Applicant - Producer/ manufacturer/ packer/importer/
exporter/ distributor/ trader etc. in tea
4. Address -
5. Telephone, fax and email address -
6. Company Registration Number and Date of Establishment -
7. SLTB Registration Number (if applicable) -
8. Membership in any Trade Association/Chamber -

I / We do hereby agree to abide/comply with the regulations for use of Kandy Tea Certification Mark and also to pay the annual License fee.

We do hereby certify that the aforesaid information is true and correct.

Name of the Authorized person -

Signature -

Place -

Date -

