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DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

REPORT ON:

THE COFFEE BILL (SENATE BILL NO. 10 OF 2023)

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 07 AUG 2024	DAY: WED
TABLED BY: CLERK-GAT	Hon. (Dr.) John Mutunga, MP Chairperson, Departmental Committee on Agriculture & Livestock Inzopi Mwale

CLERKS CHAMBERS

DIRECTORATE OF DEPARTMENTAL COMMITTEES

PARLIAMENT BUILDINGS

NAIROBI

AUGUST 2024

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LIST OF ABBREVIATIONS AND ACRONYMS

NA	-	National Assembly
DDC	-	Directorate of Departmental Committees
A & L	-	Agriculture and Livestock
KAM	-	Kenya Association of Manufacturers
CMA	-	Capital Markets Authority
NCE	-	Nairobi Coffee Exchange
PhD	-	Doctor of Philosophy
MP	-	Member of Parliament
UDA	-	United Democratic Alliance
CBS	-	Chief of the Burning Spear
ODM	-	Orange Democratic Movement
DAP-K	-	Democratic Alliance Party of Kenya
NOPEU	-	National Ordinary People Empowerment Union
CPA	-	Certified Public Accountant
KPCU	-	Kenya Planters Cooperative Union
CMB	-	Coffee Marketing Board
CBK	-	Coffee Board of Kenya
AFA	-	Agriculture and Food Authority
CRF	-	Coffee Research Foundation
KALRO	-	Kenya Agricultural and Livestock Research Organisation
KARI	-	Kenya Agricultural Research Institute
UCDA	-	Uganda Coffee Development Authority
CoG	-	Council of Governors
KEPROBA	-	Kenya Export Promotion and Branding Agency
DSS	-	Direct Settlement System
KEBS	-	Kenya Bureau of Standards
CEO	-	Chief Executive Officer
MOALD	-	Ministry of Agriculture and Livestock Development
REF	-	Reference

LIST OF ANNEXURES

1. Report adoption Schedule
2. Minutes
 - a) Minutes of the 37th Sitting;
 - b) Minutes of the 36th Sitting;
 - c) Minutes of the 35th Sitting;
 - d) Minutes of the 34th Sitting; and
 - e) Minutes of the 27th Sitting
3. Copy of the Coffee Bill (Senate Bill No. 10 of 2023)
4. Copy of the newspaper advertisement on public participation
5. Letter inviting stakeholders for meetings with the Committee
6. Witness attendance schedule for the stakeholder engagement meeting
7. Stakeholder submissions
 - a) Nairobi Coffee Exchange;
 - b) Capital Markets Authority;
 - c) Mr. Caleb Kipkirui Yegon;
 - d) Council of Governors;
 - e) Kenya Association of Manufacturers;
 - f) Ministry of Agriculture and Livestock Development;
 - g) Kenya Export Promotion and Branding Agency; and
 - h) The Coffee Reforms Steering Committee.

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Agriculture and Livestock on its consideration of the Coffee Bill (*Senate Bill No. 10 of 2023*) which was published in the *Kenya Gazette Supplement* No. 26 of 10th March 2023 and passed by the Senate with amendments on 21st March 2025. The Bill went through the First Reading on 16th April 2024 and was thereafter referred to the Departmental Committee on Agriculture and Livestock for consideration and reporting to the House pursuant to the provision of Standing Order 127(1).

The Bill has one hundred and seven (107) clauses and seeks to provide for the establishment of the Coffee Board of Kenya and the Coffee Research and Training Institute; the roles of the national and county governments; the regulation, development and promotion of the coffee industry.

Following placement of advertisements in the print media on Tuesday, 29th April 2024 requesting members of the public and relevant stakeholders to submit their views on the Bill pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee received memoranda from six (6) stakeholders.

The Committee also invited stakeholders vide letter REF: NA/DDC/A&L/2024/032 dated 27th May 2024 for a stakeholders' engagement meeting on the Bill which was held in Committee Room 26, Fifth Floor, Bunge Tower, Parliament Buildings on Tuesday, 4th June 2024 with two (2) stakeholders making oral presentations before the Committee.

Most stakeholders supported enactment of the Coffee Bill, 2023 because it will provide a legal framework which will enable the sector to be more profitable in the country. They observed that the Coffee Board of Kenya will increase efficiency in the sector due to reduced bureaucracies and expedited processes; improve farmer income through fair pricing, better market access and improved farming techniques; and enhanced global competitiveness because of improved quality and innovation.

The stakeholders proposed amendments that will ensure that there is no overlap of mandates between the Coffee Board of Kenya and other regulatory bodies; provide incentives like introduction of tax holidays and reduced corporate tax rates for new coffee processing and manufacturing business for the first five years to encourage growth of the sector; facilitate development of infrastructure like roads and utilities in coffee growing areas; and put in place a fund to support research and development in coffee production and processing technologies.

In considering the Bill, the Committee observed that the Bill, if enacted will improve the coffee industry because the institutional frameworks created by the Bill do not have any other functions besides coffee. Further, the funds for coffee and its operations are assured and they are not shared with other crops.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee also thanks the Coffee Reforms Steering Committee, the Ministry of Agriculture and Livestock Development, the Council of Governors, the Kenya Association of Manufacturers (KAM), the Nairobi Coffee Exchange (NCE), the Capital Markets Authority (CMA), the Kenya Export Promotion and Branding Agency and Mr. Caleb Yegon for their comments on the Bill that were submitted through their memoranda.

Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Agriculture and Livestock and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Coffee Bill (*Senate Bill No. 10 of 2023*).

It is my pleasure to report that the Committee has considered the Coffee Bill (*Senate Bill No. 10 of 2023*) and has the honour to report back to the National Assembly with the recommendation that the Bill be **approved with amendments as reported by the Committee.**

Hon. (Dr.) John K. Mutunga, PhD, M.P.
Chairperson, Departmental Committee on Agriculture and Livestock

CHAPTER ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Agriculture and Livestock is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
- iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. ***To study and review all the legislation referred to it;***
- v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
- viii. *To examine treaties, agreements, and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, agriculture, livestock, food production and marketing.
3. In executing its mandate, the Committee oversees the Ministry of Agriculture and Livestock Development.

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Agriculture and Livestock was constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson

Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP
Tigania West Constituency

UDA Party

Vice-Chairperson

Hon. Brighton Leonard Yegon, MP
Konoin Constituency

UDA Party

Hon. Sabina Wanjiru Chege, CBS, MP
Nominated Member

Jubilee Party

Hon. Ferdinand Kevin Wanyonyi, MP
Kwanza Constituency

Ford Kenya Party

Hon. Geoffrey Makokha Odanga, MP
Matayos Constituency

ODM Party

Hon. Justice Kipsang Kemei, MP
Sigowet/Soin Constituency

UDA Party

Hon. Jared Odoyo Okelo, MP
Nyando Constituency

ODM Party

Hon. Lawrence Mpuru Aburi, MP
Tigania East Constituency

NOPEU Party

Hon. David Kiplagat, MP
Soi Constituency

UDA Party

Hon. Gabriel Gathuka Kagombe, MP
Gatundu South Constituency

UDA Party

Hon. Monicah Muthoni Marubu, MP
Lamu County

Independent Member

Hon. Pamela Njoki Njeru, MP
Embu County

UDA Party

Hon. Patrick Kibagendi Osero, MP
Borabu Constituency

ODM Party

Hon. Peter Kalerwa Salasya, MP
Mumias East Constituency

DAP-K Party

Hon. Yussuf Mohamed Farah, MP
Wajir West Constituency

ODM Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

Ms. Laureen Omusa Wesonga
Clerk Assistant I/Head of Secretariat

Mr. Victor K. Kilimo
Clerk Assistant III

Mr. David Ng'eno
Principal Research Officer II

CPA. Robert Ng'etich
Fiscal Analyst II

Ms. Zainabu Sora
Serjeant-at-Arms II

Mr. Erastus Lotuk
Public Relations Officer III

Ms. Diana Chepkemoi
Audio Assistant

Ms. Brigitta Mati
Legal Counsel I

Mr. Gerald Kadede
Legal Counsel II

Mr. Muhumed Shillow
Research Officer III

Ms. Edith Chepngeno
Media Relations Officer III

CHAPTER TWO

2 BACKGROUND OF THE COFFEE INDUSTRY IN KENYA

2.1 INTRODUCTION

6. Kenya Coffee Auction was founded in 1934 as a means of marketing Kenyan coffee, and the Coffee Board's liquoring division was established in 1935 to enhance coffee grading and selling. In September 1935, the first coffee auction was launched.
7. Twenty-eight years later, the Nairobi Coffee Exchange, a government-regulated non-profit organization, traded the first bag of coffee on 12th February 1963. It remained the sole coffee marketer until 2006 when direct sales were introduced. Today, it remains the auction centre for Kenyan coffee, trading about 85% of coffee sold.
8. The Kenya Planters Cooperative Union (KPCU) was formed in 1937, supporting the small-scale coffee growers including Kenyans, who the colonial Board previously banned from owning or benefitting from coffee farms until 1934.
9. The Coffee Marketing Board (CMB) was established under Coffee Marketing Ordinance No. 6 of 1946, and it began operating fully on July 1, 1947. Its duties included central warehousing, coffee sales at central auctions, liquoring, and financing.
10. The Coffee Industry Ordinance and the Coffee Marketing Ordinance were merged into the Coffee Ordinance Cap. 333 by Ordinance No. 26 of 1960. On 5th July 1960, the Coffee Board of Kenya (CBK) and CMB were established under the Coffee Ordinance, Cap. 333.
11. Act 13 of 1971 abolished the CMB and combined the marketing of coffee with the CBK's regulatory responsibilities. From then, CBK was in charge of the sector until July 2001, when a new Coffee Act 2001 was passed, providing additional responsibilities for CBK as an industry regulator.
12. The Agriculture and Food Authority Act, 2013 gave provision for the establishment of the Agriculture and Food Authority (AFA), turning many crop boards into directorates under the Authority, the Coffee Board of Kenya (CBK) included.
13. The Capital Markets Authority (CMA) Act was amended in 2016, giving the CMA the authority to regulate spot commodity markets such as the Nairobi Coffee Exchange (NCE). CMA has been overseeing the NCE under the Capital Markets (Coffee Exchange) Regulations, 2020.
14. A New Kenya Planters Cooperative Union was incorporated in 2019 after the then President, Uhuru Kenyatta dissolved the KPCU which had hitherto offered milling and marketing for cooperative societies and coffee estates. The New KPCU Board was given the mandate to manage and administer the Coffee Cherry Advance Revolving Fund together with the Coffee Farm Input Subsidy Program.
15. On the recommendation of the Taskforce on Coffee reforms (2021), the President issued Executive Order No. 2 of 2021 to delink the Coffee Directorate from AFA, which gave birth to this Bill.
16. The Coffee Research Foundation (CRF) Ruiru was established in 1964 under the Company's Act (Cap 486) and has since 2014 been one of the institutes under KALRO.

17. In 2022, the National Assembly annulled the Coffee (General) Regulations in entirety in line with the Committee on Delegated Legislations' recommendation. This was because of the observation that amendments were made without public participation, stakeholder consultations and regulatory impact assessment.

2.2 CURRENT POLICY AND LEGAL FRAMEWORKS OF THE INDUSTRY

18. The National Coffee Policy aims to guide and regulate the activities of stakeholders along the value chain, for development and growth. Key legislations governing the coffee sub-sector are the Crops Act, AFA Act, Cooperative Societies Act, and KALRO Act.
19. The Capital Markets Authority (CMA) Act was amended in 2016, giving the CMA the authority to regulate spot commodity markets such as the Nairobi Coffee Exchange (NCE). CMA has been overseeing the NCE under the Capital Markets (Coffee Exchange) Regulations, 2020.
20. The Warehouse Receipt System Act 2019 provides for the warehousing of agricultural goods in government warehouse facilities.
21. The Coffee Cherry Advance Revolving Fund was established under Section 3 of the Public Finance Management (Coffee Cherry Advance Revolving Fund) Regulations, 2019. The purpose of the Fund is to provide an affordable, sustainable, and accessible cherry advance to smallholder coffee growers.

2.3 SITUATIONAL ANALYSIS

22. Coffee was first planted in Kenya at Bura in Taita Hills in 1893 and thereafter, grown in Kibwezi, under irrigation in 1900, and in Kikuyu in 1904. Currently, coffee is grown in thirty-three (33) Counties in Kenya, and the sector contributes to the livelihoods of over 800,000 smallholder growers and 4,000 coffee estates.
23. It was the leading export commodity in the 1980s but has since fallen to the third position after tea and horticulture. Following the collapse of the International Coffee Agreement in 1989, price stabilization was replaced by a liberal market whose coffee pricing is determined by market forces.
24. Coffee farmers have faced complex challenges that gradually reduced their production levels. Key among them are low earnings from coffee despite its top quality, delayed payments, mismanagement and inefficiencies in cooperatives, high cost of production, and lack of direct access to the NCE trading floor.
25. While Kenya lags behind Ethiopia and Uganda in coffee productivity, the smallholder farmers who account for 70% of Kenyan coffee suffer poorer productivity and higher cost of production as compared to their coffee estates counterparts mainly because of governance issues in cooperatives and inefficiency in cherry processing which burdens smallholder farmers with higher processing costs compared to coffee estates.
26. Additionally, most smallholder farmers sign contracts without understanding the contents giving marketing agents the leverage to exploit them due to the agents' central role in coffee marketing and receiving coffee proceeds on behalf of farmers. These challenges have led to dwindling coffee production despite an increase in the area under coffee farming over the years. Coffee productivity is now estimated at 2 Kgs of cherries per coffee tree per year for smallholder farmers and 4 Kgs of cherries per coffee tree per year for coffee estates.

27. On value addition, the existing wet mill processing capacity is at 30% utilization while the licensed dry milling capacity operates at 13% utilization. About 95% of Kenya's coffee is exported in green bean form and 5% is consumed locally; meaning the export of final coffee products is non-existent. Hence, there is a huge potential for increasing the country's value addition in the subsector.
28. Although the government set up a Cherry Advance Revolving Fund, effected through the Coffee (General) Regulations, 2019, and transferred the regulation of Nairobi Coffee Exchange to the Capital Markets Authority who now license coffee brokers; these measures have not been able to turn around the sub-sector.
29. On the research front, agricultural research is underfunded and dependent on foreign funding who direct the research agenda according to their interest. Recently, the Coffee Research Institute (CRI) was rendered dysfunctional due to lack of funding and other supportive services, which created deep-seated challenges in the coffee value chain. Several factors have been linked to the challenges including: Abolition of 2% Coffee Research Levy in 2016 that provided 50% funding on discriminatory grounds; technological obsolescence; and understaffing, lack of knowledge management, and succession planning.

2.4 COMPARATIVE ANALYSIS

30. In **Uganda**, The National Coffee Act of 2021 has enhanced the functions of the Uganda Coffee Development Authority (UCDA) to regulate, promote, and oversee the coffee industry. The Act also provides for licensing, coffee research, coffee inspectors, coffee extension officers, a national register of coffee farmers, coffee nurseries, registration of coffee organizations, cooperatives, value chain actors, processing factories, and a coffee auction system as an alternative to direct sales. According to its annual report, UCDA provides input and seedlings to coffee farmers, support to the National Coffee Research Institute in conducting coffee research, popularization coffee growing, promoting value-addition, publishing daily and monthly coffee prices online, and dissemination market information.
31. **Brazil** is the world's largest coffee producer (about a third of production) and has a large domestic coffee consumption. Farms are large-scale plantations and mechanized as opposed to Kenya where more than 95% of farmers are smallholders. The Agronomic Institute of Campinas (IAC), one of the oldest agricultural research institutions in the world, has a notable impact on the growth of coffee in Brazil. The Institute has produced thousands of plant varieties that represent hundreds of different species.
32. **Ethiopia** is the leading coffee producer in Africa. The Ethiopian Coffee and Tea Development and Marketing Authority regulates the coffee industry, implements decrees, provides extension support programs at the regional level, and sources for coffee markets. The Ethiopian Commodity Exchange Authority, which regulates the Ethiopian Commodity Exchange, facilitates the auction of coffee by providing exchange market information and issuing warehouse receipts to coffee suppliers. Ethiopian coffee also faces various challenges, including low productivity and price volatility.

CHAPTER THREE

3 OVERVIEWS OF THE COFFEE BILL, 2023 (SENATE BILL NO. 10 OF 2023)

3.1 INTRODUCTION

33. The AFA Act, 2013 repealed various laws on the regulation and promotion of crops while the Crops Act, 2013 consolidated various statutes for scheduled crops. The two Acts gave AFA full authority over the regulation, development, and promotion of scheduled crops including coffee.

34. The objectives of the Bill are to:

- a) promote a globally competitive coffee industry;
- b) provide a framework for the registration and licensing of various players within the coffee sector;
- c) delineate the roles of the National and County Governments in the regulation, development, and promotion of the coffee sector;
- d) promote the vertical integration of the coffee value chain at the production level to achieve economies of scale and manage risk;
- e) promote evidence-based coffee research and the delivery of extension services for the development of the coffee sector;
- f) provide a framework for the establishment of a coffee development levy, sustainable funding of the coffee sector, and a mechanism to resolve disputes within the coffee sector.

3.2 REVIEW OF THE BILL

The Bill has one hundred and seven (107) clauses and has the following provisions:

35. The principal object of the Bill is to provide for the development and regulation of the coffee industry in Kenya. The Bill proposes to reorganize the coffee industry by transitioning the regulatory and commercial roles currently undertaken by the Agriculture and Food Authority to the Coffee Board of Kenya.

36. The Bill further seeks to transition the research of coffee currently undertaken by the Coffee Research Institute under the Kenya Agricultural and Livestock Research Organisation to the Coffee Research Institute.

Part I: Preliminary

37. **Clauses 1 to 3** of the Bill provide for preliminary provisions, that is the short title, interpretation of terms as used in the bill and objects of the Bill.

Part II: The Coffee Board of Kenya

38. **Clauses 4 to 10** of the Bill establish the Coffee Board of Kenya as a body corporate with perpetual succession and a common seal capable of suing and being sued with its headquarters in Nairobi City, powers of the Board and the management of the Board vested in a Board of Directors, the qualifications for appointment as a director, term of office and vacation from office.

39. **Clauses 11 to 22** of the Bill provide for the functions of the Board, committees of the Board and powers of the Board to delegate functions as well as remuneration of the directors. It also provides for appointment of the chief executive officer, their functions and removal from office.

Part III: Role of County Governments

40. Clauses 23 to 25 of the Bill provides for the role of county governments, enactment of county specific legislations by the county governments, and licensing of coffee operators by the respective county governments.

Part IV: Regulatory Provisions

41. Clauses 26 and 27 of the Bill provide for the regulation of production and processing of coffee by the Board and county governments, registration of a coffee grower, nursery operator, grower miller, commercial miller, coffee roaster, coffee association or coffee estate.

42. Clauses 28 to 35 of the Bill provide for the procedure for licensing in accordance with the Second Schedule to the Bill, licenses issued by the Capital Markets Authority, requirements for certificates, licenses, and permits and the obligations of such license holders under the Act.

43. Clauses 36 to 38 of the Bill provide for submission of return to the relevant licensing authority, movement permits for moving coffee, forms, and durations of licenses issued under the Act, cancellation of a license or permits. Submission of reports to the Board by the County Executive Committee Members and appeals to the Disputes Resolutions Committee established in the Bill.

Part V: Production and Processing

44. Clauses 39 to 45 of the Bill provide for coffee production, importation of coffee planting materials, analysis, availability, and provision of farm inputs, notification by cooperative society to the county government of all coffee trees planted, uprooted, or change of farm details. Certification of Kenyan coffee, requirements relating to coffee processing, traceability, and disclosure to the Board and respective county governments.

45. Clauses 46 to 48 of the Bill provide for resolutions by cooperative societies or coffee unions in the general or special meetings, contracts for milling services, and bulking of coffee to attain millable quantities.

Part VI: Coffee Trading and Marketing

46. Clauses 49 to 54 of the Bill contain provisions on coffee trading, international and local direct sale of coffee, licensing of trading exchange office by the Capital Markets Authority, management of exchange and settlement of coffee sales proceeds, sales catalogue, and storage of coffee in licensed warehouses.

47. Clauses 55 to 59 of the Bill provide for sale of coffee in an international exchange, coffee trading license, export and import of coffee, prohibition against blending and anti-competitive practices.

Part VII: Quality Assurance

48. Clauses 60 to 62 of the Bill provide for the Board and the county governments to ensure quality assurance of the coffee industry, conduct inspection by appointing inspectors, and ensure that coffee imports conform to standards prescribed by law.

Part VIII: Financial Provisions

49. Clauses 63 to 68 of the Bill provide for funds of the Board, coffee development levy, annual estimates of the Board, accounts and audit, annual reports, publication, and the financial year of the Board.

Part IX: Coffee Research and Training Institute of Kenya

50. Clauses 69 to 74 of the Bill establish the Coffee research and Training Institute and provide for its headquarters in Kiambu County, provide for powers of the Institute, members of the Council of the Institute, terms of appointment of the members, and their vacation of office.
51. Clauses 75 to 78 of the Bill provide for the functions of the Institute, powers to co-opt persons with knowledge and skills to the Council, and conduct of business of the Council.
52. Clauses 79 to 84 of the Bill provide for the appointment of the chief executive officer of the Institute and their removal, staff of the Institute, their protection for personal liability, common seal of the Institute, and the signing authority.

Part X: Financial Provisions of the Institute

53. Clauses 85 to 91 of the Bill provide for the funds of the Institute, powers of the Institute to raise or borrow money and invest, annual estimates, accounts and audits, annual reports, publication, and the financial year of the Institute.

Part XI— Miscellaneous Provisions

54. Clauses 92 to 95 of the Bill provide for the Dispute Resolution Committee, automation of services by the Board, county governments and a licensed exchange, procedure for request for information, and limitation of the right to access information.
55. Clauses 96 to 99 of the Bill provide for the dissemination of market information, penalties, exemptions, and the power of the Cabinet Secretary to make regulations.

Part XII: Transitional Provisions

56. Clauses 100 to 107 of the Bill provide for the transition of assets and obligations under the Agriculture and Food Authority with respect to the coffee sector, legal proceedings and reference to written laws, staff of the coffee directorate under AFA, interpretation of appointed day as the day the Act comes into force and consequential amendments to the Crops Act.
57. **First Schedule:** Contains provisions relating to the conduct of business and affairs of the Board of Directors.
58. **Second Schedule:** Contains provisions relating to License, Permit or Certificate.

CHAPTER FOUR

4 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

59. Following the call for memoranda from the public through the placement of adverts in the print media on 29th April 2024 and vide a letter REF: NA/DDC/A&L/2024/032 dated 4th June 2024 inviting stakeholders for a meeting, the Committee received memoranda from the following stakeholders:

- i. Nairobi Coffee Exchange (NCE);
- ii. Capital Markets Authority (CMA);
- iii. Mr. Caleb Kipkirui Yegon;
- iv. Council of Governors (CoG);
- v. Kenya Association of Manufactures (KAM);
- vi. Ministry of Agriculture and Livestock Development;
- vii. Kenya Export Promotion and Branding Agency (KEPROBA); and
- viii. The Coffee Reforms Steering Committee.

60. The stakeholders submitted as follows:

4.1 NAIROBI COFFEE EXCHANGE (NCE)

In their letter, dated 8th May 2024, Ms. Lisper Ndung'u, Chief Executive Officer, Nairobi Coffee Exchange proposed the following amendments to the Coffee Bill, 2023:

Clause 2

61. Amend the clause by deleting definition of the word "*auction*" because it is redundant as there is no longer an auction but an exchange regulated by CMA.

Committee's Observation/Recommendation

Their proposal was rejected by the Committee because the word auction has been used in the Bill and it is therefore important for it to be defined.

62. Amend by defining "*buyer*" as, "*a person purchasing Kenyan coffee from the Exchange or direct sales through a licensed broker or agent*". This is to liberalise the buyer's market provided they deal through a licensed broker or agent.

Committee's Observation/Recommendation

This proposal was rejected by the Committee because formal trading is usually done by an incorporated company.

63. Define "*coffee dealer*" as, "*a person licensed by CMA to represent growers in direct sales*". This is to harmonize regulation of the trade aspects in to one authority for seamless oversight.

Committee's Observation/Recommendation

Everyone taking part in the coffee business is a coffee dealer. The Bill assigns various aspects of coffee dealership to different licensing authorities i.e. the Board, CMA and county governments. This proposal was therefore not adopted by the Committee.

64. Define "direct sale" as, "a contractual arrangement between a grower, a cooperative society, society, union grower, miller, estate or an association of coffee growers and an overseas buyer or local roaster for the sale of own clean coffee based on mutual accepted terms and conditions enforceable in law and includes settlement of the resultant coffee sales proceeds through the direct settlement system on boarded by a coffee exchange". This is because use of the phrase includes settlement of sales proceeds through the Direct Settlement System on boarded by a coffee exchange may create interpretation ambiguity

Committee's Observation/Recommendation

This proposal was adopted by the Committee because it covers a wider scope.

65. Amend by defining "Direct Settlement System" to have the meaning assigned to it by the Capital Markets (Coffee Exchange) Regulations, 2019 to avoid ambiguity.

Committee's Observation/Recommendation

Unlike acts of Parliament, regulations are in force for a period of five years. It is therefore important for the definition to be contained in an Act. The definition provided in the Capital Markets (Coffee Exchange) Regulations, 2019 is similar to that provided in the Bill. It is for the above reasons that their proposal was not adopted by the Committee.

66. Define "small holder" to mean "a grower cultivating coffee otherwise than in an estate" because the definition in the Bill may lead to ambiguity as to status of estate growers who do not possess a pulping station.

Committee's Observations/Recommendation

The Bill defines estate as an area of land or group of parcels of land under coffee being not less than five acres in size in aggregate or land under coffee which has been issued with a pulping station license. An estate grower must therefore possess a pulping station. This proposal was not adopted by the Committee.

Clause 3

67. Amend the clause by deleting paragraph 3 (b) and substituting as follows, "regulate the agricultural aspects of the coffee sector" to specify the extend of the regulatory aspects of the Board.

Committee's Observations/Recommendation

The Coffee Board of Kenya is responsible for regulating all aspects of the coffee sector. It therefore doesn't make sense for the Board to be limited to regulating agricultural aspects only. Their proposal was therefore rejected by the Committee.

Clause 11

68. Amend the clause by deleting paragraph 11 (1) (c) to allow for trade and commercial aspects of coffee to be regulated by the CMA to allow for seamless rectification of potential market abuse by central regulatory body.

Committee's Observation/Recommendation

The Second Schedule to the Bill outlines the licenses to be issued by the CBK, CMA and county governments. It is therefore necessary for them to consider applications for the issuance of permits and licenses under their mandate. It is for the above reasons that their proposal was not adopted by the Committee.

69. Amend the clause by deleting paragraph 11 (1) (k) to allow for trade and commercial aspects of coffee to be regulated by the CMA to allow for seamless rectification of potential market abuse by central regulatory body.

Committee's Observation/Recommendation

The Second Schedule to the Bill outlines the licenses to be issued by the CBK, CMA and county governments. As a regulator of the coffee sector, CBK should maintain the register of coffee dealers. This proposal was therefore not adopted by the Committee.

Clause 28

70. Amend the clause by deleting sub-clause 28 (10) to liberate the buyer's market by doing away with buyers' licenses but instead require direct sales agents to maintain KYC documents of buyers.

Committee's Observation/Recommendation

There should be a register of coffee traders in the country hence the need for registration. The Committee did not adopt their proposal.

Clause 29

71. Amend by inserting the following new paragraph 29 (c), "*an agent license authorizing a person to act as an intermediary in a direct sale*" to centralise regulation of trade aspects of coffee.

Committee's Observation/Recommendation

The Committee adopted the proposal and provided that the CMA licenses Coffee Marketing Agents in the Second Schedule to the Bill.

Clause 30

72. Amend the clause by deleting sub-clause 30 (1) and substituting as follows, "*A person shall not operate as a cupping laboratory liquorer, coffee importer or warehouse operator unless the person is licensed or issued a registration certificate or a permit by the Board upon satisfaction of the prescribed conditions*". This will liberalise the buyers' space and for purposes of centralizing the regulation of trade aspects of coffee.

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

73. Amend the clause by deleting sub-clause 30 (2) and substituting as follows, "*a person shall not conduct the business of a coffee exchange, agent or offer brokerage services at the exchange unless that person is licensed by the Authority in accordance with the provisions of the Capital Markets Act*" This will centralise the regulation of trade aspects of coffee"

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 51

74. Amend the Bill by deleting the Clause because it leads to duplication and potential ambiguity since CMA regulations already prescribe roles of an Exchange.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is important to have the provisions in the Bill.

Clause 55

75. Amend the clause by deleting sub-clause 55 (1) and substituting as follows, "*A grower or an agent representing the grower may offer coffee for sale in the prescribed manner, in an international exchange and may for this purpose enter into a written contract for future sales*". This will ensure that the base prices or transactions are anchored on the local price discovery mechanism which usually has a premium above the international markets as compared to using reserve prices at the local exchange to ensure competitive prices and fair returns to the growers.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 56

76. Amend the Bill by deleting the clause and substituting as follows, "*The Capital Markets Authority may, for the purpose of trading in the international coffee market and auction: a) Issue a coffee trading license to a grower or a buyer; and b) In collaboration with the Cabinet Secretary for trade, issue trade insurance to a cooperative society to indemnify it from any risk on any coffee exported in an international market or auction*". To centralise the regulation of trade aspects of coffee under the CMA.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because trade aspects of coffee are provided in other legislations.

Clause 63

77. Amend the clause by deleting paragraph 63 (g) and substituting as follows, "*finer imposed under this Act*". To avoid ambiguity between counties and the Board as to the body entitled to collect fines under the Bill.

Committee's Observation/Recommendation

Fines are usually collected by judicial bodies and cannot therefore form part of the Board's funds. The Committee did not adopt this proposal.

Clause 64

78. Amend paragraph 64 (2) (c) by defining what Commodities Fund is to develop and introduce provisions on operationalization of the Fund.

Committee's Observation/Recommendation

The Commodities Fund is already defined under the Crops Act, 2013. It is therefore not necessary to define it in this Bill. Their proposal was not adopted by the Committee.

Clause 99

79. Amend the clause by deleting paragraph 99 (2) (1) because the Direct Settlement System (DSS) is regulated by the CMA.

Committee's Observation/Recommendation

It is important to have regulations on the operationalisation of the DSS to give guidelines on the same. In making regulations, the Cabinet Secretary will consult the licensing authorities so CMA's views on the same will be taken into consideration. This proposal was not adopted by the Committee.

Second Schedule

80. Delete the "*coffee buyer's licence*" for liberalization of the market.

Committee's Observation/Recommendation

This proposal was not adopted because it is important for coffee buyers to be licensed.

81. Assign CMA as the issuing Authority of the "*coffee trading licence*" to centralise regulation of trade aspects of coffee under CMA.

Committee's Observation/Recommendation

CMA is the licensing authority that is best placed to issue the coffee trading license. The proposal was adopted by the Committee.

82. Assign CMA as the issuing Authority of the “*agent’s license*” to specify that CMA would license agents.

Committee’s Observation/Recommendation

CMA is the licensing authority that is best placed to issue the agent’s license. The proposal was adopted by the Committee.

83. Introduction of more stringent provisions and specificity on the quality of bags used by millers.

Committee’s Observation/Recommendation

This proposal was not adopted because it is not necessary.

84. Introduce stiffer penalties for warehouses that fail to issue warrants and procedure for raising complains on the same.

Committee’s Observation/Recommendation

This proposal was not adopted because the penalties provided are adequate.

4.2 CAPITAL MARKETS AUTHORITY (CMA)

85. In a meeting with the Committee held on Tuesday, 4th June 2024, FCPA Wyckliffe Shamiah, Chief Executive Officer, Capital Markets Authority proposed the following amendments to the Bill:

Clause 2

86. Amend definition of the “clearing house” by deleting the word “*Authority*” and substituting with the words “*the Capital Markets Authority*” because the word “*Authority*” has not been defined in the Bill.

Committee’s Observation/Recommendation

The proposal was adopted by the Committee because it is important to specify the authority that is being referred to.

87. Delete definition of “*coffee dealer*”.

Committee’s Observation/Recommendation

A coffee dealer is a person dealing in coffee. It is therefore important for the term to be defined in the Bill. This proposal was not adopted by the Committee.

88. Include the words, “*Warehouse Receipt Council*” in the definition of “*Licensing Authority*”.

Committee's Observation/Recommendation

The Warehouse Receipt Council is represented by county governments hence no need to include them in the definition of licensing authority. The Committee did not adopt this proposal.

89. In defining "direct sales" delete the words "and includes settlement of coffee sales proceeds" and replace with the words "and settled".

Committee's Observation/Recommendation

This proposal was adopted by the Committee because it is broader than the one provided in the Bill.

Clause 7

90. Amend to include the representation of the Principal Secretary National Treasury to represent the interests of the Capital Markets Authority. This is especially important since one of the functions of the Board under section 11(a) is to regulate and promote the development of the Coffee industry where the Capital Markets Authority plays a key role.

Committee's Observation/Recommendation

It is important for the Principal Secretary for National Treasury or their representative to be in the membership of the Board. Their proposal was adopted by the Committee.

Clause 11

91. Amend paragraph 11 (b) to be specific that the licenses and permits to be issued are the ones to be issued by the Board.

Committee's Observation/Recommendation

The specific licences to be issued by the CBK, CMA and county governments are outlined in the Second Schedule to the Bill. There is therefore no need to restate them under this clause. This proposal was rejected by the Committee.

92. Amend paragraph 11 (m) by specifying that the surveillance and enforcement will only be on the persons that the Board has licensed or registered. Also provide that the surveillance will be done in collaboration with the relevant coffee subsector regulators who also have a mandate to inspect and carry out surveillance on their licences.

Committee's Observation/Recommendation

The Board is the regulator of the coffee industry in the country. It is therefore important for them to conduct surveillance to enforce compliance by all sector players. This proposal was not adopted by the Committee.

93. Amend by deleting paragraph 11 (o) because it is a function of the Capital Markets Authority.

Committee's Observation/Recommendation

The Board is the regulator of the coffee industry and as such, they have the responsibility of regulating all aspects of the sector including marketing and trading. This proposal was not adopted by the Committee.

94. Amend by deleting sub-clause 11 (2) and substituting it as follows, "*The Board of directors shall, in the performance of its functions under this Act, consult and collaborate with the Council of County Governors and the Capital Markets Authority*". The Authority is not represented in the Board and not mentioned as an agency for collaboration therefore locking them out.

Committee's Observation/Recommendation

It is important for the Board to consult and collaborate with the licensing authorities and other stakeholders in the coffee sector. Their proposal was therefore adopted by the Committee.

Clause 49

95. Amend the clause by deleting paragraph 49 (1) (c)

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because international exchange is one of the places where Kenya Coffee may be offered for sale.

96. Amend paragraph 49 (1) (d) to include the CMA

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is important to have the provision in the Bill.

Clause 51

97. Amend sub-clause 51 (1) to read as follows, "*The Capital Market Authority shall licence an exchange for the purposes of trading coffee in accordance with the CMA Act*".

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is not necessary to have it in the Bill.

98. Delete sub-clause 51 (2)

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is important to outline the role of an exchange in the Bill.

99. Amend paragraph 51 (2) (e) by stating the CS for the relevant ministry. The definition of Cabinet Secretary means the Cabinet Secretary Agriculture. This is problematic as the CS Agriculture is not the appropriate Cabinet secretary to prescribe the Capital Markets Authority to perform a function.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because paragraph 51 (2) (e) refers to the Cabinet Secretary for Trade.

Clause 55

100. Amend by deleting sub-clause 55 (4) because International Exchanges are under different regulatory frameworks of respective mother countries and Kenya cannot develop regulations for the same.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is necessary to have provisions on an international exchange in the Bill.

Clause 56

101. Amend the clause by reassigning the role of issuance of licence for international coffee trading to the Capital Markets Authority because it is a function of the Capital Markets Authority.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 92

102. Amend by including the Capital Markets Authority. The Capital Markets Authority being in charge of the licensing of the Coffee Exchange and Coffee Brokers and who has dispute resolution mechanisms under the Capital Markets Act is also not captured in this section. If the Bill is to be gazetted and becomes law, it would create confusion as to which body licensees of the Capital Markets Authority in the coffee subsector will have their disputes resolved.

Committee's Observation/Recommendation

The Bill provides that each licensing authority shall have an ad hoc Dispute Resolution Committee. CMA is one of the licensing authorities. This proposal was therefore not adopted by the Committee.

Clause 99

103. Amend by deleting paragraphs 99 (2) (h), (k) and (l) because they infringe on the mandate of the Capital Markets Authority

Committee's Observation/Recommendation

It is important for regulations to be put in place for the areas provided in the above paragraphs. This proposal was therefore not adopted by the Committee.

4.3 MR. CALEB KIPKIRUI YEGON

In his memorandum dated 8th May 2024, Mr. Caleb Kipkirui Yegon proposed the following amendments to the Bill:

Clause 7

104. Amend sub-clause 7 (1) by making the Board more representative by including farmers, cooperatives and private entities. To ensure fair representation of all stakeholders.

Committee's Observation/Recommendation

It is important for key stakeholders to be included in the board of directors of CBK. The following have been incorporated, representatives of: small holder coffee growers, large scale coffee growers, cooperatives, traders and coffee manufacturers. His proposal was adopted by the Committee.

Clause 25

105. Amend sub-clause 25 (1) to make it clear who will licence the commercial coffee millers. To eliminate ambiguity.

Committee's Observation/Recommendation

The Second Schedule to the Bill provides that commercial coffee millers shall be licensed by the CBK.

Clause 27

106. Amend sub-clause 27 (3) to eliminate ambiguity because the Bill does not expressly explain what happens to the registration of a farmer who lives at the border and their coffee farm extends to the next county.

Committee's Observation/Recommendation

This proposal was not adopted because farmers living on borders identify with one of the counties.

Clause 46

107. Amend paragraph 46 (b) to provide an explanation as to what happens to the terms of agreement between the two entities for clarity.

Committee's Observation/Recommendation

Details of the terms of agreement between cooperative societies and private brokerage firms can be provided in regulations.

Clause 60

108. Amend sub-clauses 60 (8) and (9) by creating a clear delineation of responsibilities between the Coffee Board and the Agriculture and Food Authority to avoid duplication of roles.

Committee's Observation/Recommendation

The Agriculture and Food Authority has not been referred in any of the two sub-clauses. This proposal was therefore not adopted by the Committee.

Clause 61

109. Amend the clause by creating a clear delineation of responsibilities between the Coffee Board and the AFA to avoid duplication of roles.

Committee's Observation/Recommendation

The Agriculture and Food Authority has not been referred in any of the two sub-clauses. This proposal was therefore not adopted by the Committee.

4.4 COUNCIL OF GOVERNORS (CoG)

110. In their memorandum, Ref. COG/6/48 Vol. 61 (65) dated 28th March 2024, the CoG stated that they were in support of the Coffee Bill, 2023 as passed by the Senate because it was aligned to the regulatory framework that was being implemented by county governments. The observed that Bill had mandated county governments to issue commercial milling licences and other licences and was also represented in the Board. The CoG implored the National Assembly to adopt and maintain the functional assignment between the two levels of government as provided in the Bill to ensure that county governments are able to effectively and efficiently implement the Act in the development and regulation of the coffee sector in Kenya.

4.5 KENYA ASSOCIATION OF MANUFACTURERS (KAM)

In a meeting with the Committee held on Tuesday, 4th June 2024, Ms. Ruth Lemlem, Manager, Legal Regulatory Affairs, Kenya Association of Manufacturers proposed the following amendments to the Bill:

Clause 7

111. Amend by inserting the following new paragraph 7 (1) (j) *“two persons nominated by the association of coffee manufacturers”*. For representation from the business and manufacturing sectors on the Board.

Committee’s Observation/Recommendation

Coffee manufacturers are key stakeholders in the coffee sector and should be represented in the CBK. The Committee adopted their proposal.

Clause 11

112. Amend the clause by inserting the following new paragraphs, *“(q) conduct regular consultations with coffee industry stakeholders to ensure policies are aligned with business needs; (r) Focus on marketing strategies that leverage digital platforms to reach a broader audience and boost coffee sales; and (s) Develop a centralized online registry to facilitate easy access to information for coffee dealers and growers”*. Additional functions of the Board for policy relevance, expanded reach and data integration.

Committee’s Observations/Recommendation

- 1) **The proposal to insert the new paragraph (q) was rejected by the Committee policies are a function of the ministries.**
 - 2) **The proposal to insert the new paragraph (r) was adopted by the Committee because digital platforms have high accessibility.**
 - 3) **The proposed new paragraph (s) was rejected by the Committee because it is provided under paragraph 11 (e) of the Bill.**
113. Insert the following new paragraph 11 (q), *“Establish a centralised and harmonised licensing system for the issuance and management of licenses within the coffee industry”*. To harmonise the licensing regime in the Bill and centralizing the issuance and management of the issuance of licences.

Committee’s Observation/Recommendation

The Second Schedule to the Bill outlines the licenses to be issued in the coffee sector by the CBK, CMA and the county governments. It is therefore not possible to harmonise issuance of the licences. This proposal was therefore rejected by the Committee.

Clause 23

114. Amend the paragraph 23 (1) (a) to provide for the development of a National Government Policy. The industry lacks the Coffee policy and Strategy.

Committee's Observation/Recommendation

Developing a National Government Policy on coffee is a function of the Ministry of Agriculture and not county governments. This proposal was therefore rejected by the Committee.

115. Amend the clause by deleting paragraph 23 (1) (c) because issuance of licences should be done centrally by the Board.

Committee's Observation/Recommendation

Most activities in the coffee sector take place in counties. It is therefore important that such counties issue permits and licences outlined in the Second Schedule to the Bill. This proposal was rejected by the Committee.

Clause 23

116. Amend sub-clause 23 (2) by limiting the power of the county executive committee member to impose levies and fees. Imposition of levies by county executive committee at county level shall mean different levies for similar licences across the counties which will be prohibitive to trade and shall impede the smooth and efficient flow of businesses in the coffee value chain.

Committee's Observation/Recommendation

County governments are licensing authorities in the Bill. To this end, they have to impose levies and fees in discharging this mandate.

Clause 24

117. Amend the clause by creating uniform guidelines by the CS to standardize the operations of the coffee industry. Without the guidance of the Cabinet Secretary, counties may enact different laws that impose different fees and levies. This will increase the cost of doing business in the country and significantly slow down the growth of the coffee sector.

Committee's Observation/Recommendation

The Committee observed that it is important for the CS and CBK to be consulted in the preparation of county legislation for uniformity and made the necessary amendments to the clause. This proposal was adopted by the Committee.

Clause 28

118. Amend the Bill by deleting the Clause because the licensing process should be centralized. Centralizing and digitizing the licensing process increases transparency, reducing opportunities for corruption and ensuring that the process is clear and predictable.

Committee's Observation/Recommendation

This proposal was rejected by the Committee because it is necessary to have different regulators for different aspects of the coffee sub-sector.

Clause 51

119. Proposed for more engagement with the industry to establish a more feasible payment system under sub-clause 51 (3). The Bill seeks to introduce the element of a central payment system. Prior to its roll out the same ought to be tested to establish its efficacy and reliability. This will ensure that the system will work seamlessly without any major hitches.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 64

120. They proposed that the re-introduction of the coffee development levy to be phased in sub-clause 64 (1). The clause reintroduces the levies that had been removed by the government; the implication is that the buyers will caution themselves by factoring in the levy in their buying price and take-home amount by the farmer continues to shrink.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is not possible to phase introduction of the Levy.

Second Schedule

121. Amend the Schedule by adding the Coffee Marketing Agents License because marketing is a core function of the industry and needs to be incorporated.

Committee's Observation/Recommendation

The Committee observed that it is important to have a Coffee Marketing Agent's Licence included in the list of licences to be issued by CMA because marketing is an important aspect of the coffee sector. This proposal was adopted by the Committee.

4.6 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

In their letter, Ref. MOALD/CS/ADM/13/6(16) dated 18th June 2024, the CS, Hon. Mithika Linturi, EGH proposed the following amendments to the Coffee Bill, 2023:

Clause 2

122. Amend definition of the word “*association*” for clarity on who can form an association.

Committee’s Observation/Recommendation

The Committee did not adopt this proposal because it is limiting on who can form an association.

123. Amend definition of the word “*Board*” by deleting “3” and replacing with “4” since the referencing is wrong.

Committee’s Observation/Recommendation

The CBK is established under section 4 and not section 3 as provided in the Bill. This proposal was adopted by the Committee.

124. Amend definition of the word “*broker*” by deleting the word “*sell*” and substituting with the word “*offer*” because coffee belongs to the farmer but the broker only offers it to buyers on behalf of the farmer.

Committee’s Observation/Recommendation

Goods and services are offered on an exchange. Their proposal was adopted by the Committee.

125. Amend definition of the word “*buni*” by removing the coma after the word “*buni*”. With the coma, the interpretation is ambiguous and unclear.

Committee’s Observation/Recommendation

This proposal was adopted by the Committee because it adds value to the definition.

126. Amend the clause by deleting definition of the term “*clearing house*” because it is not used anywhere in the Bill.

Committee’s Observation/Recommendation

The term “*clearing house*” has not been used in the Bill but has been used in the definition of terms. It is therefore important to have its definition in the Bill. This proposal was not adopted by the Committee.

127. Delete definition of the word “*clearing and settlement*” because it is not used anywhere in the Bill.

Committee’s Observation/Recommendation

Their proposal to delete the definition was adopted by the Committee because the term has not been used in the Bill.

128. Amend definition of the word “*coffee dealer*” by replacing the words “*Board, a county government or the authority*” with the words “*licensing authority*” to provide clarity.

Committee’s Observation/Recommendation

This proposal was adopted by the Committee because the words Board, county government and CMA are defined as licensing authorities.

129. Amend definition of “*coffee grower*” by deleting the words “*is linked to a licensed pulping station*” because there are other growers who use other alternative methods of processing.

Committee’s Observation/Recommendation

This proposal was adopted by the Committee because it is not a must for a coffee grower to be linked to a pulping station.

130. Amend the interpretation of “*coffee standards*” to read “*Kenya Coffee Standards formulated according to Standards Act*” because the interpretation is not clear.

Committee’s Observation/Recommendation

This proposal was adopted by the Committee.

131. Amend definition of “*direct sales*” by removing the words “*through the direct settlement system*” because it is not necessary for the grower payments to go through the DSS when there is a contract between the grower and overseas buyers.

Committee’s Observation/Recommendation

This proposal was not adopted by the Committee because direct sales must be paid through the direct settlement system.

132. Redefine the word “*small holder*” for clarity and avoid ambiguity.

Committee’s Observation/Recommendation

This proposal was adopted by the Committee and the word “*small holder*” defined as a person cultivating coffee in a small parcel of land or in small parcels of land who does not possess his own pulping station.

133. Define the term “*miller*” because it has been used in the Bill but it hasn’t been defined.

Committee’s Observation/Recommendation

The Committee adopted their proposal and defined “*miller*” as a person involved in the de-husking and grading of coffee.

134. Amend definition of “*primary processing*” as follows, “*the process of removal of pulp from cherry or drying of cherry in order to achieve parchment or buni*” because the definition does not cover all the primary processing methods.

Committee’s Observation/Recommendation

This proposal was not adopted because coffee does not go through primary processing to get ‘*buni*’.

135. Define the word “*roaster*” since it is not defined.

Committee’s Observation/Recommendation

The Committee adopted this proposal and defined “*roaster*” as a person who is in the business of turning green coffee beans into usable products.

136. Amend definition of “*sales catalogue*” by deleting the words “*in a commercial miller*” because a commercial miller has no role in the preparation of the catalogue.

Committee’s Observation/Recommendation

The Committee adopted the proposal because a commercial miller plays no role in the preparation of the catalogue.

137. Amend definition of “*secondary processing*” by deleting the words, “*roasting, grinding and packaging of clean coffee*” and insert the words “*and buni*” after the word “*parchment*”. Roasting, grinding and packaging of clean coffee are for manufacturing and not processing “*buni*” hulling is a secondary method processing.

Committee’s Observation/Recommendation

This proposal was adopted by the Committee.

Clause 3

138. Delete paragraph 3 (f) and substitute as follows, “*Promotion of coffee research and training for the development of the Coffee sector*”. It is ambiguous as the extension services is a devolved function.

Committee’s Observation/Recommendation

Extension services is a function of county governments and should therefore not be provided in this Bill. This proposal was adopted by the Committee.

Clause 7

139. Amend the clause by replacing the Principal Secretary for Trade with the Principal Secretary for Treasury, limiting the number to nine as guided by the Mwongozo Code, reducing the representatives of county governments from two to one and including a representative of traders.

Committee's Observation/Recommendation

The Committee observed that it is important for the National Treasury and coffee traders to be represented in the board of directors. The number of representatives of county governments was reduced to one to create room for the additional members of the Board. This proposal was adopted by the Committee.

Clause 8

140. Amend sub-clause 8 (1) by including the additional members of the Board to the list.

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 9

141. Amend the clause by including the additional members of the Board to the list.

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 10

142. Delete paragraph 10 (g) and substitute as follows, "if that person dies" because it is ambiguous.

Committee's Observation/Recommendation

The sentence is complete because it is a continuation of the first sentence under 10. This proposal was therefore not adopted by the Committee.

Clause 11

143. Amend paragraph 11 (1) (j) by deleting the words "*in collaboration with KEBS*" because the Coffee Board has autonomy to enforce without KEBS.

Committee's Observation/Recommendation

KEBS is mandated to develop standards of all products in the country. It is therefore important that they are involved in the development of standards in the coffee industry. This proposal was therefore not adopted by the Committee.

144. Amend the clause by deleting sub-clause 11 (2) and substituting as follows, "*The Board of directors shall, in the performance of its functions under this Act, respect the role of the two levels of government*". Consultation and collaboration depend on the respective roles of each government.

Committee's Observation/Recommendation

The Bill clearly outlines the roles of the Board and those of county governments. Consultation and collaboration between the two parties will ensure that each of the parties carries out their respective roles. This proposal was not adopted by the Committee.

Clause 14

145. Amend the Bill by deleting the clause and substituting it as follows, "*The members of the board of directors shall be paid such remuneration or allowances as the Salaries and Remunerations Commission determine*". Remunerations or allowances are determined by the Salaries and Remuneration Commission.

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

146. Introduce a new clause to provide for the Corporation Secretary to align the provision with the Mwongozo Code.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because the Chief Executive is the Secretary to the Board and therefore no need for a corporate secretary.

Clause 15

147. Amend sub-clause 15 (2) to make the qualifications of the CEO clear and to align with Mwongozo Code.

Committee's Observations/Recommendations

This proposal was adopted by the Committee. Paragraph 15 (2) (b) was amended to provide that the CEO should have at least ten years' knowledge and relevant experience and served in a senior management position for at least five years.

Clause 23

148. Amend the clause by deleting paragraph 23 (1) (f) and substituting as follows, "*inspect nurseries, pulping stations, warehouses and roasters located within their respective counties*".

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

149. Amend sub-clauses 23 (2) and (3) by centralising the role of setting levies to avoid abuse since county governments are semi-autonomous and for uniformity and to avoid exploitation of farmers.

Committee's Observation/Recommendation

The county governments shall consult with the Cabinet Secretary and Board to prescribe standards and guidelines for the setting of levies and fees by county governments. This will ensure that there is uniformity in the fees and levies across the coffee growing counties.

Clause 24

150. Amend the Bill by deleting the clause to avoid conflict with the National Legislation.

Committee's Observation/Recommendation

County governments play a role in the coffee sector. It is therefore important for them to put in place county specific legislation on the sector. This clause is therefore important as it outlines the areas of legislation by county governments.

Clause 25

151. Amend the Bill by moving clause 25 Part IV to come immediately before clause 28. To provide flow on the licensing functions.

Committee's Observations/Recommendation

The clause is well placed because it is talking about licensing of coffee operations by county governments. Part III of the Bill has provisions on the role of county governments. This proposal was therefore rejected.

Clause 26

152. Amend the Bill by deleting the clause because it is ambiguous.

Committee's Observation/Recommendation

This proposal was rejected because the provisions are important.

Clause 27

153. Amend the clause by deleting sub-clause 27 (8) and substituting it as follows, "*Each county government shall submit to the Board a copy of the register under sub-section (6) annually*". For real time capturing of data.

Committee's Observation/Recommendation

It is important to have timelines for the submission of the register to the Board. This proposal was adopted by the Committee.

Clause 28

154. Amend the clause by deleting sub-clauses 28 (4), (5), (6) and 7 because they are detailed and can be provided in regulations.

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 29

155. Amend the Bill by deleting the clause because it is provided for under the Capital Markets Act.

Committee's Observation/Recommendation

Licenses to be issued by CBK and county governments have been provided in the Bill. It is therefore necessary that those to be issued by CMA are also provided in the Bill. This proposal was rejected by the Committee.

Clause 30

156. Amend sub-clause 30 (1) to capture baristas because all coffee baristas should be registered by the Board.

Committee's Observation/Recommendation

This proposal was rejected because baristas are out of the scope of the Bill.

Clause 39

157. Amend the Bill by deleting the clause because it is adequately provided for in clause 75.

Committee's Observation/Recommendation

The Committee observed that the provisions of clause 39 (1) had been captured in detail under functions of the Institute in clause 75 of the Bill. This proposal was therefore rejected.

Clause 41

158. Amend the clause by deleting sub-clause 41(1) and substituting it as follows, "*The Board shall, in collaboration with the respective county executive committee member, undertake analysis of the farm inputs to ascertain compliance with the prescribed standards*" because it is a regulatory function of the Board.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because the Institute is best suited to carry out an analysis of farm inputs to confirm if they comply with the prescribed standards.

159. Amend the clause by deleting sub-clause 41 (2) since it is ambiguous.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it makes sense as drafted in the Bill.

160. Amend the clause by moving sub-clause 41 (3) to the functions of the Institute since it is ambiguous.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it makes sense as drafted in the Bill.

161. Amend the clause by deleting sub-clause 41 (4) because it is beyond the county capacity.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is a necessary provision.

Clause 43

162. Amend the clause by delete sub-clause 43 (2) and substituting as follows, "*A coffee grower, miller or any other player in the coffee value chain may seek certification by the respective certification body to ensure the quality of coffee, the quality of service and secure market confidence*" for clarity.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

163. Amend the clause by deleting sub-clause 43 (9) because certification is voluntary.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is a necessary provision.

Clause 44

164. Amend the Bill by deleting clause 44 and substituting as follows, "*The processing of coffee should be carried out at designated, standard approved facilities in accordance with the National Coffee standards and Industry Code of Practice*" because coffee standards are already in place.

Committee's Observation/Recommendation

This proposal was adopted because it is important to specify that the standards being applied are national coffee standards.

Clause 45

165. Amend paragraphs 45 (3) (d) and (e) to separate traceability and disclosure for clarity.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 46

166. Amend the clause by deleting paragraphs 46 (1) (a) and (b) since it is addressed in Cooperatives Bill hence to avoid conflict of interest.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because there is no harm in restating the provision in this Bill.

Clause 47

167. Amend the clause by moving sub-clause 47 (1) to clause 45 because it has been repeated.

Committee's Observation/Recommendation

This proposal was deleted because it is a repetition of clause 45. Their proposal was adopted by the Committee.

Clause 48

168. Amend the clause by moving sub-clauses 48 (1) to (8) to come after clause 45 as a continuation of milling services. To allow flow of milling activities.

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 49

169. Amend the clause by deleting paragraph 49 (1)(c) because it is ambiguous and covered under paragraph 49 (1)(a)

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 50

170. Amend the side note to read "*Direct Coffee Sales*" because the text refers to direct sales only.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because the marginal note provided in the Bill is sufficient.

171. Amend sub-clause 50 (2) to provide that the sample be submitted to the Board. In direct sales, there is no exchange involved.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

172. Amend the clause by deleting sub-clause 50 (3) and substituting it as follows, "*An exchange in which the sample is delivered under sub-clause (1) the Board shall within 14 days issue to the coffee grower a report on the quality and the price discovery in the prescribed form*". For direct sales the growers submit samples to the Board who is expected to issue report to the growers.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

173. Amend the clause by deleting sub-clause (4) and substituting it as follows, "*Despite the provisions of sub-clause (2) and (3), a contract for future sale shall not be subjected to price and grade discovery*" because direct sales do not involve exchange.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 51

174. Amend the clause by deleting sub-clause 51 (2) since the procedure to be followed is in the Capital Markets Authority Act.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because there is no harm in restating the provision.

Clause 53

175. Amend by deleting sub-clause 53 (1) and substituting as follows, "*A grower or a broker appointed by a grower, shall in the presence of a commercial miller and in consultation with an exchange, prepare a sales catalogue for coffee destined for sale at the exchange in a licensed warehouse in accordance with the Act*".

Catalogues are only prepared for coffee offered for sales at the exchange. Warehouse also store coffee for direct sales that does not required preparation for a catalogue.

Committee's Observation/Recommendation

This proposal was adopted by the Committee because catalogues are only prepared for coffee offered for sale at the exchange.

Clause 54

176. Amend the clause by deleting sub-clause 54 (6) and substituting it as follows, "*A person who operates a warehouse contrary to this Act commits an offence and is liable, on conviction, to a fine double the value of the coffee in the warehouse, or to imprisonment to a term not exceeding twelve months, or to both*" because the fine is not punitive enough and the term is very lenient.

Committee's Observation/Recommendation

This proposal was not adopted because the fines and penalties are provided in other legislations.

Clause 55

177. Amend the clause by deleting the word "*international*" in sub-clauses 55 (1) and (4) because reference to international market will subject the growers to a lot of information seeking which does not add value.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 56

178. Amend the clause by deleting clause 56 because it is a repetition of clause 27 and 28 of the Bill.

Committee's Observation/Recommendation

This proposal was not adopted because the clauses 27 and 28 have provisions on registration and licensing while clause 56 has provisions on the coffee trading license.

Clause 60

179. Amend sub-clause 60 (5) by deleting the words "*CEC*" and replacing with the words "*County Government*" because both the counties and CEC need to be involved.

Committee's Observation/Recommendation

This proposal was adopted because consultations at the national level are with county governments and not the county executive committee member.

180. Amend sub-clause 60 (8) by deleting the word “Board” and replacing with the word “County” because counties have better proximity and capacity to monitor.

Committee’s Observation/Recommendation

The clause was amended to include licensing authorities which include county governments.

181. Amend sub-clause 60 (9) by deleting the word “Institute” and replacing with the word “Board” because it is a compliance issue.

Committee’s Observation/Recommendation

This proposal was adopted by the Committee because the Institute is under the Board and therefore the Board is best suited to conduct the surveillance in collaboration with county governments.

Clause 61

182. Amend the clause by inserting the following new paragraph 61 (5), “for purposes of section (1), the Board may by regulations, prescribe the qualification of different categories and the powers of inspectors” because inspectors have to meet some basic qualifications.

Committee’s Observation/Recommendation

This proposal was adopted by the Committee and included in the list of areas for regulation under clause 99 (2).

Clause 64

183. Amend sub-clause 64 (1) by including the following remittance of the value of the Board, “(a) Coffee buyers (two per centum) through DSS; (b) Direct sales (two per centum); and (c) Coffee importers (ten per centum of CIF value)”. For clarity and inclusivity of the direct sales that do not pass through DSS.

Committee’s Observation/Recommendation

This proposal was adopted by the Committee because it adds value to the Bill.

184. Amend the clause by deleting paragraph 64 (2) (c) and substituting as follows, “Twenty per centum for price stabilisation which shall be managed by the Board” because the Board is better placed to manage the Price Stabilization Fund while Commodity is designed to provide credit to various farmers dealing in different crops.

Committee’s Observation/Recommendation

This proposal was not adopted by the Committee because it is not necessary to have funds set aside for price stabilisation.

Clause 72

185. Amend sub-clause 72 (1) to include a representative of the Board in the membership of the Council of the Institute.

Committee's Observation/Recommendation

This proposal was adopted by the Committee because the Board is the regulator of the coffee industry and should be represented in the membership of the Council of the Institute.

186. Amend paragraph 72 (1) (d) by deleting the word "KARI" and replacing with the word "KALRO" because KARI no longer exists.

Committee's Observation/Recommendation

KARI was replaced with KALRO, this proposal was adopted by the Committee.

187. Amend by deleting paragraph 72 (1) (g) and substituting it as follows, "*one person representing coffee traders nominated by the apex body representing coffee traders*".

Committee's Observation/Recommendation

Coffee traders are important stakeholders in the coffee industry and should be represented in the membership of the Council Institute. The proposal was adopted by the Committee.

Clause 75

188. Amend the clause by deleting paragraph 75 (1) (b) and substituting as follows, "prioritise areas for, and co-ordinate, coffee research including research in coffee pests and new coffee varieties" because pests include diseases and insects.

Committee's Observation/Recommendation

This proposal was rejected because pests and diseases are different.

Clause 101

189. Amend the clause by inserting the following new sub-clause, "*All property, except such property as the Cabinet Secretary may specify in writing, which immediately before the commencement of this Act, was vested in the government for the use of the Coffee Directorate of the Agriculture and Food Authority, shall, on the date of commencement of this Act, vest in the Board subject to all interests, liabilities, charges, obligations and trusts affecting that property*". To avoid any disputes of asset ownership when the Board comes into place.

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 102

190. Amend the clause by deleting sub-clause 102 (1) and substituting it as follows, “*Upon the commencement of this Act, a person who was a member of staff of the former Coffee Board of Kenya before the commencement of the Agriculture and Food Authority Act, 2013 and current staff of the Coffee Directorate not being under any notice of dismissal or resignation shall upon the commencement of this Act and subject to subsection (2) become a staff of the Board on same or improved terms and conditions of service*”. This is to ensure smooth transition to the Board by maintaining/retaining the personnel of the Board who are required for effective and efficient service delivery and to avoid any legal Suits.

Committee’s Observation/Recommendation

This proposal was not adopted by the Committee because the provision in the Bill is sufficient as is.

Clause 105

191. Amend the clause by introducing the following new sub-clause 105(3), “*The pension of staff under the Coffee Board of Kenya staff pension scheme of the Agriculture and Food Authority - Coffee Directorate and any other pension schemes of which current staff of the Coffee Directorate who are not members of the Coffee Board of Kenya staff pension scheme are members shall on the commencement of the Act vest in the Board*”. To ensure smooth transition and security of staff pension schemes.

Committee’s Observation/Recommendation

This proposal was not adopted by the Committee because the provision in the Bill is sufficient as is.

4.7 KENYA EXPORT PROMOTION AND BRANDING AGENCY (KEPROBA)

In their letter, Ref. KEPROBA/RI/1VOL 3 (15) dated 22nd September 2023 to the PS, State Department for Trade, Ms. Floice Mukabana, Ag. Chief Executive Officer, KEPROBA proposed the following amendments to the Bill:

Clause 64

192. Rename “*the Coffee Development Levy*” to “*the Coffee Development and Marketing Levy*” widen the coverage for use of the Fund.

Committee’s Observation/Recommendation

Marketing is an important aspect of the coffee sector. This proposal was adopted by the Committee.

193. Amend sub-clause 64 (2) by inserting the following new paragraph, “*zero-point two five percent to the Kenya Export and Promotion Agency (KEPROBA) for coffee promotion, marketing, and communication purposes*”.

Committee's Observation/Recommendation

Marketing is a function of the CBK, as such, fund have been allocated to the Board for marketing of the sector.

4.8 THE COFFEE REFORMS STEERING COMMITTEE

In their memorandum, the Coffee Reforms Steering Committee proposed the following amendments to the Bill:

Clause 2

194. Amend definition of "*coffee grower*" to include individual farmer to allow for DSS to settle directly to farmer's accounts.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because an individual farmer is already referred to in the definition.

Clause 11

195. Amend the clause by deleting paragraph 11 (p) because there is a risk of designing regulatory actions that result in personal gain rather than what is best for the industry.

Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is an important function of the Board.

Clause 23

196. Amend sub-clause 23 (1) by including Constitutional provision to remedy issues of double licensing at National and county level (conflict of laws).

Committee's Observation/Recommendation

The Second Schedule to the Bill clearly outlines the licenses to be issued by each licensing authority hence no possibility for conflict.

197. Amend sub-clause 105 (1) by inserting the following new paragraph, "*and shall undergo a skills audit to determine suitability for roles assigned*".

Committee's Observation/Recommendation

This proposal was adopted by the Committee because it is important to on-board persons that will add value to the activities of the Board.

CHAPTER FIVE

5 COMMITTEE OBSERVATIONS

Having considered the Bill, the Committee observed that enacting the Coffee Bill (*Senate Bill No. 10 of 2023*) into law will bring several potential benefits to the coffee industry, including:

198. The coffee law will help to regulate the coffee industry in Kenya as it will ensure that producers and manufacturers comply with established standards and guidelines. This will help in improving the quality of coffee products and ensure that consumers are protected from harmful or substandard products.
199. A clear legal framework for the coffee industry will make it easier for investors to understand the regulatory environment and make informed decisions about investing in the sector. This can lead to increased investment in coffee production and processing facilities, which will create jobs and drive economic growth.
200. The coffee Bill, 2022 has provisions that protect domestic coffee producers from unfair competition from foreign imports and middle men. This will help to support local coffee production and ensure that Kenya's coffee industry remains viable and sustainable.
201. The coffee industry is an important part of Kenya's agricultural sector, and promoting the growth and development of the industry can help to promote food security in the country. This is especially important given Kenya's dependence on imported coffee and other food products.
202. A well-regulated coffee industry will generate significant revenue for the Kenyan government through taxes and other fees. This revenue will be used to support important social programs and infrastructure projects.

CHAPTER SIX

6 COMMITTEE RECOMMENDATION

The Committee having reviewed the Coffee Bill (*Senate Bill No. 10 of 2023*) recommends that the House approves the Bill with amendments as proposed in the Schedule in Chapter Seven of this report.

CHAPTER SEVEN

7 SCHEDULE OF PROPOSED AMENDMENTS

The Committee proposed the following amendments to be considered by the House in the Committee Stage:

CLAUSE 2

203. **THAT**, the Bill is amended in Clause 2—

- (a) by deleting the definition of the word “*broker*” and substituting therefore the following new definition—

“broker” means a person cleared by the exchange and licensed by the Capital Markets Authority, who may be appointed by a grower or an association of growers in accordance with the Capital Markets Act, to offer their coffee on their behalf through the Exchange”;

Justification

Coffee belongs to farmers, brokers only offer it to buyers on behalf of the farmers but do not sell the coffee for the farmers.

- (b) by deleting the term “*clearing and settlement*”.

Justification

The term is in the definition but not used anywhere in the body of the Bill.

- (c) by deleting definition of the word “*coffee dealer*” and substituting therefore the following new definition—

“coffee dealer” means a person licensed by the Capital Markets Authority to represent growers in direct sales.”

Justification

To harmonize regulation of trade aspects into one Authority for seamless oversight.

- (d) by deleting the definition of the word “*coffee grower*” and substituting therefore the following new definition—

“coffee grower” a person who cultivates coffee in Kenya, and may for purposes of licensing, include a co-operative society, coffee union, association and estate.”

Justification

Pulping is one method of processing, we have other growers who use alternative methods of processing.

(e) by deleting the definition of the word “*sales catalogue*” and substituting therefore the following new definition—

“sales catalogue” means a standard document prepared by a grower or a broker appointed by a grower, and in consultation with an exchange, for sale of clean coffee at an exchange”;

Justification

The presence of a commercial miller is not necessary since they have no role in the preparation of a catalogue.

(f) by deleting definition of the word “*secondary processing*” and substituting therefore the following new definition—

“secondary processing” means parchment and buni de-husking, polishing, grading and may include grinding, and packaging of clean coffee beans”;

Justification

Buni is part of secondary processing but has not been captured in the definition.

(g) by deleting definition of the word “*small holder*” and substituting therefore the following new definition—

“small holder” means a grower cultivating coffee in otherwise than in an estate.”

Justification

The word grower has been defined in the Bill hence the right word to use.

(h) By inserting the following new definitions in their proper alphabetical sequence—

- i. *“Authority” means Capital Markets Authority”;*
- ii. *“Miller” means a involved in de-husking an possible grading of coffee and includes grading of clean coffee”;* and
- iii. *“Roaster” means a person who is in the business of turning green coffee into usable coffee products”;*

Justification

The terms have been used but not defined in the Bill

CLAUSE 3

204. **THAT**, Clause 3 of the Bill be amended—

(a) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) promote integration of the value chain actors for purposes of achieving economies of scale;”

Justification

To make the provision clear.

- (b) by deleting paragraph (g) sub-paragraph (i) and substituting therefor the following new sub-paragraph—

“(i) the establishment and management of coffee development levy”;

Justification

The objective of the Bill is not only to establish the coffee development fund but also to manage it.

- (c) by deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) promotion of coffee research and training for the development of the coffee sector;”

Justification

Extension service is a developed function. It is therefore ambiguous to have it as one of the objectives of the Bill.

CLAUSE 6

205. **THAT**, Clause 6 of the Bill be amended—

- (a) in subclause (1) by inserting the words “*or bank accounts*” immediately after the word “*account*” in paragraph (e).

Justification

To provide for the opening of more than one bank account by the Coffee Board of Kenya.

- (b) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) The Board may, if it considers necessary, associate with any body whose objects support the promotion of the coffee industry.”

Justification

For clarity

CLAUSE 7

206. **THAT**, Clause 7 of the Bill be amended—

- (a) by deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) two persons of the opposite gender, representing smallholder and large-scale coffee growers’ associations;”

- (b) by deleting paragraph (f) and substituting therefor the following new paragraph—

“(d) one person nominated by cooperative societies.”

- (c) by deleting paragraph (g) and substituting therefor the following new paragraph—

“(g) one person with knowledge of the coffee industry nominated by county governments;”

(d) by inserting the following new paragraphs immediately after paragraph (g)—

“(ga) *one person representing coffee millers;*
“(gb) *one person representing coffee traders;*”

(e) by inserting the following new paragraph immediately after paragraph (d)—

“(da) *the Principal Secretary responsible for National Treasury or a designated representative;*”

Justification

To ensure that all relevant stakeholders are represented in the Board.

(f) by deleting sub-clause (2) and inserting the following new subclause—

“(2) *The Cabinet Secretary shall observe the principle of gender balance when appointing the members under subsection (1) (e), (f), (g), (ga) and (gb) by notice in the Gazette.*”

Justification

To include the additional members of the Board in the list of those to be appointed by the Cabinet Secretary and to ensure that there is gender balance in the membership of the Board.

CLAUSE 8

207. **THAT**, Clause 8 of the Bill be amended—

(a) by deleting subclause (1) and inserting the following new subclause—

“(1) *A person is qualified for appointment as a member of the Board under section 7 (1) (a), (e), (f), (g), (ga) and (gb) if that person—*”

(b) deleting sub-paragraph (b) (ii) and inserting the following new sub-paragraph—

“*section 7 (1) (e), (f), (ga) and (gb).*”

Justification

To include the additional members of the Board in the list.

CLAUSE 9

208. **THAT**, Clause 9 of the Bill be amended by inserting the letter (ga) and (gb) immediately after the letter (g).

Justification

To include representatives of coffee millers and coffee traders in the list.

CLAUSE 11

209. **THAT**, Clause 11 of the Bill be amended—

(a) in subclause (1)—

- (i) by deleting paragraph (e) and substituting therefor the following new paragraph—
“(e) *collect, collate and maintain a data base and disseminate information and ensure ease of access on information on the coffee industry;*”

Justification

To provide for the ease of access of the information collected, collated and maintained by the Board.

- (ii) by deleting paragraph (f) and substituting therefor the following new paragraph—
“(f) *conduct national and international coffee market intelligence and surveys to facilitate market access and inform promotional and branding strategies including the application of the Kenya Coffee Mark of Origin;*”

Justification

To research is for market penetration and not just branding.

- (iii) by deleting paragraph (p) and substituting therefor the following new paragraph—
“(p) *source for market and market Kenyan coffee abroad;*”

Justification

To provide clarity to the sentence.

- (iv) by inserting the following new paragraph immediately after paragraph (p)—
“(pa) *adopt marketing strategies that leverage digital platforms to reach broader audience and boost coffee sales;*”

Justification

To access a bigger audience at a lower cost.

(b) in subclause (2) by deleting subclause (2) and substituting therefor the following new subclause—

“*The Board shall, in the performance of its functions under this Act, consult and collaborate with the relevant licensing authority and other industry players*”.

Justification

Licensing authorities are the Board, county governments and Capital Market Authority so this will broaden the consultation to all the licensing authorities and other relevant stakeholders in the coffee sector as opposed to limiting it to the Council of Governors only.

CLAUSE 12

210. **THAT**, Clause 12 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause—

“(2) The Board of directors may co-opt persons whose knowledge and skills are necessary for resolution of any pertinent matter under consideration by the committee or the Board to sit in the committee or the Board for performance of its function and exercise of its powers under this Act”.

Justification

To ensure that such persons are co-opted only when there is a matter under consideration by the Board or committees that need to be dispensed with and for a particular period and not co-opting persons to earn an income for unknown durations.

CLAUSE 14

211. **THAT**, Clause 14 of the Bill be deleted and substituting therefore the following new clause—

“The members of the Board of Directors shall be paid such remuneration as the Salaries and Remuneration Commission determine”.

Justification

Allowances are part of remuneration hence the deletion. Remuneration for state officers is determined by the Salaries and Remuneration Commission.

CLAUSE 15

212. **THAT**, Clause 15 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A person is qualified for appointment under subsection (1) if the person—
(a) holds a master’s degree in agriculture, business, law or any other relevant field from a university recognized in Kenya;
(b) has at least ten years’ knowledge and experience from a relevant field;
(a) has at least five years’ experience in a senior management position; and
(b) meets the requirements of Chapter Six of the Constitution”.

Justification

To ensure that the chief executive officer has a master’s degree and to align the other qualifications with the Mwongozo Code of Good Governance.

CLAUSE 23

213. **THAT**, Clause 23 of the Bill be amended—

(a) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A county government may impose levy and fees as may be necessary for the registration and issuance of licences in accordance with the respective county legislation and such standards as may be prescribed by the Cabinet Secretary under this Act.”

- (b) by deleting subclause (3) and substituting therefor the following new subclause—
“(3) *The Cabinet Secretary shall, in consultation with the Board and the respective county government prescribe standards and guidelines for the setting of levies and fees by the county government under subsection (2).*”

Justification

Consultations at the national level are with county governments and not the county executive committee member.

CLAUSE 24

214. **THAT**, the Bill be amended in Clause 24 by inserting the following new subclause immediately after paragraph (h)—

“(2) *The Cabinet Secretary shall, in consultation with the Board and county governments prescribe standards and guidelines to be adhered to while enacting specific county legislations.*”

Justification

For uniformity of legislation in county governments.

CLAUSE 25

215. **THAT**, Clause 25 be amended—

- (a) in subclause (2) deleting the words “*county executive committee member*” and substituting therefor the words “*county government.*”

Justification

Consultations at the national level are with county governments and not the county executive committee member.

- (b) by inserting the following new subclause immediately after subclause (3)—
“(4) *County governments shall maintain the necessary statistical information with respect to the coffee sector and avail such information to the Board where necessary for proper planning.*”

Justification

To ensure that counties maintain statistical information that can be availed to the Board for purposes of planning.

CLAUSE 26

216. **THAT**, Clause 26 of Bill be amended—

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph—
“(a) *promoting production and productivity;*”

Justification

Production and productivity go hand I hand.

- (b) by deleting subclause (2) and substituting therefore the following new subclause—
“*The county governments shall regularly share the necessary statistical information with respect to the coffee sector with the Board.*”

Justification

To provide for the sharing of statistical information to the Board by county governments.

CLAUSE 27

217. **THAT**, the Bill be amended in Clause 27 by inserting the word “*annually*” immediately after the phrase “*subsection (6)*” in subclause (8).

Justification

To provide that county governments submit copies of registers to the Board on an annually.

CLAUSE 28

218. **THAT**, Clause 28 of the Bill be amended—
(a) in subclause (2) by deleting paragraph (a);

Justification

Granting a licence or permit unconditionally implies that there are no conditions or legislations preceding the application for grant of such licences or permit, paragraphs (b) and (c) are sufficient.

- (b) by deleting subclauses 4;
(c) by deleting subclause 5;
(d) by deleting subclause 6; and
(e) by deleting subclause 7

Justification

The provisions are administrative and can be provided for in the regulations.

CLAUSE 30

219. **THAT**, the Bill be amended in Clause 30 by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A person shall not conduct the business of a coffee exchange, agent or offer brokerage services at the exchange unless that person is licensed by the Authority in accordance with the provisions of the Capital Markets Act”.

Justification

This is to centralise the regulation of trade aspects of coffee.

CLAUSE 32

220. **THAT**, the Bill be amended in Clause 32 by deleting the clause and word “*monthly*” and substituting therefor the word “*quarterly*”.

Justification

Submitting monthly returns to the licensing authority is too cumbersome and might not be practical thus the proposal that the returns are done on a quarterly basis.

CLAUSE 33

221. **THAT**, the Bill be amended in Clause 33 by deleting the words “*county executive committee member*” in subclause (5) and substituting therefor the words “*county government*”.

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

CLAUSE 37

222. **THAT**, Clause 37 of the Bill be amended—

(a) in subclause (1) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.

(b) By deleting subclause (2) and substituting therefor the following new subclause—
“(2) The Board shall submit to the respective county government a report on the registered and licensed dealers and other service providers within the respective county at the end of each month or within such timelines as may be agreed upon with the respective county government.”

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

CLAUSE 39

223. **THAT**, Clause 39 of the Bill be amended—

- (a) By deleting subclause (1);

Justification

The functions have been merged with the functions of the Institute under subclause 75(2).

- (b) in subclause (2) by deleting the words “*county executive member*” and substituting therefor the words “*county government*”.

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

- (c) by moving PART IX (Clauses 61 – 84) and PART X (85 – 91) to appear immediately before clause 39.

Justification

To enhance the flow of the provisions of the Bill. Establishment of the Coffee Research and Training Institute of Kenya should come before production and processing.

CLAUSE 40

224. **THAT**, the Bill in Clause 40 by deleting subclause (1) and substituting therefor the following new subclause—

“(1) A person shall not import coffee planting materials unless such a person has been registered and licensed by the Board.”

Justification

Registration alone is not sufficient for the licensing hence the need for clarity that import is upon registration and licensing for such imports.

CLAUSE 42

225. **THAT**, Clause 42 of the Bill be amended—

- (a) in subclause (3) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.

- (b) in subclause (4) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

CLAUSE 43

226. **THAT**, Clause 43 of the Bill be amended—

- (a) in subclause (3) by deleting the words “*county executive committee member*” in paragraph (d) and substituting therefor the words “*county government*”.
- (b) in subclause (5) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

CLAUSE 44

227. **THAT**, the Bill be amended in clause 44 by deleting the clause and substituting therefor the following new clause—

“44. The processing of coffee should be carried out at designated, standard approved facilities in accordance with established and approved Coffee Standards and Industry Code of Practice.”

Justification

To specify that the standards being applied are coffee standards and replacing national standards with established and approved standards since national standards conform to the international standards.

CLAUSE 45

228. **THAT**, the Bill be amended in Clause 45 by deleting the words “*take out*” in paragraph (b).

Justification

Different insurance covers might be needed to for different reasons hence the cover should not be restricted only comprehensive insurance cover.

CLAUSE 47

229. **THAT**, Clause 47 of the Bill be amended by deleting the clause;

Justification

It is a repetition of Clause 45.

CLAUSE 48

230. **THAT**, the Bill be amended in clause 48—

- (a) by deleting the words “*county executive committee member*” appearing in subclause (3) and substituting therefor the words “*county government*”; and

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

- (b) by moving clause 48 to come immediately after clause 45.

Justification

For flow of the Bill. Clause 48 should be a continuation of milling services.

CLAUSE 49

231. **THAT**, the Bill be amended in **Clause 49** in clause (1) by deleting paragraph (d) and substituting therefor the following new paragraph—

- “(d) *such other methods as the Cabinet Secretary in consultation with the relevant licensing authority ay prescribe*”.

Justification

To ensure consultation with all the relevant licensing authorities and not just the Board and counties.

CLAUSE 53

232. **THAT**, the Bill be amended in Clause 53 by deleting subclause (1) and substituting therefor the following new subclause—

- “(1) *A grower or a broker appointed by a grower, shall in the presence of a commercial miller and in consultation with an exchange, prepare a sales catalogue for coffee destined for sale at exchange in a licensed warehouse in accordance with the Act*”.

Justification

Catalogues are only prepared for coffee offered for sale at the exchange. Warehouse also store coffee for direct sale but does not require preparation of a catalogue.

CLAUSE 54

233. **THAT**, Clause 54 of the Bill be amended—

- (a) in subclause (2) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”; and

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

- (b) By deleting subclause (5) and substituting therefor the following new subclause—
“(5) *insure all coffee in the warehouse or under their custody against fire, theft and other insurable risks;*”

Justification

To provide clarity to the sentence

CLAUSE 57

234. **THAT**, Clause 57 of the Bill be amended—

- (a) in subclause (1) by inserting the words “*of quality analysis*” immediately after the word “*certificate*” in paragraph (a); and
(b) in subclause (2) by inserting the words “*of quality analysis*” immediately after the word “*certificate*” in paragraph (b).

Justification

To specify the certificate that one should possess.

CLAUSE 60

235. **THAT**, the Bill be amended in Clause 60—

- (a) by deleting subclause (1) and substituting therefor the following new subclause—
“(1) *The Board, in collaboration with the licencing authorities shall enforce of coffee industry standards along the value chain for purposes of quality assurance.*”

Justification

The Board to collaborate with the licencing authorities in enforcement of industry standards for quality assurance.

- (b) by deleting subclause (2) and substituting therefor the following new subclause—
“(2) *The Board, in consultation with the Kenya Institute of Curriculum Development and accredited universities may develop a training curriculum, conduct examinations and jointly issue certificates for coffee liquorers.*”

Justification

The Board to develop the curriculum for coffee liquorers in consultation with the Kenya Institute of Curriculum Development which is the body mandated to develop

curriculum for institutions of higher learning in the country, together with accredited universities.

- (c) by deleting subclause (5) and substituting therefor the following new subclause—
“(5) *The Board shall, in collaboration with the respective county governments establish cupping centers in the counties for purposes of conducting coffee quality analysis and capacity building.*”

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

- (d) by deleting subclause (7) and substituting therefore the following new subclause—
“(7) *The Board may sample coffee at any stage of the value chain to ascertain permissible maximum residual pesticide levels for compliance with set national and international standards.*”

Justification

We carry out sampling to ascertain permissible maximum residual pesticide levels to ascertain compliance with set standards and not just to ascertain pesticide residual level.

- (e) by deleting the words “*county executive committee member*” appearing in the opening statement in subclause (8) and substituting therefor the words “*county government*”.

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

- (f) by deleting subclause (9) and substituting therefor the following new subclause
“(9) *The Board shall in collaboration with the licencing authorities and other relevant bodies conduct periodic surveillance on the application of pesticide to ensure compliance with set standards and best practices.*”

Justification

Compliance is a function of the Board and surveillance is to be done in collaboration with the licensing authorities and not the county executive committee member.

CLAUSE 61

236. **THAT**, that Clause 61 of the Bill be amended in—

- (a) in subclause (1) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”; and
- (b) in subclause (2) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

CLAUSE 64

237. **THAT**, Clause 64 of the Bill be amended—

- (a) by deleting the marginal notes and substituting therefor the following new marginal note—
“*Coffee development and marketing levy*”;

Justification

To incorporate the marketing aspect which is a very important function of the Board funded by 15% of the levy.

- (b) in subclause (1) by deleting the words “*two per centum*” and substituting therefor the words “*two point five per centum*”;

Justification

To ensure that the levy collect can support the functions allocated to it.

- (c) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) The levy imposed under subsection (1) shall be apportioned as follows—

- (a) thirty-five per centum to the Institute;
- (b) twenty per centum to the Board for regulatory purposes;
- (c) fifteen per centum to the Board for marketing purposes; and
- (d) ten per centum to the counties growing areas on pro-rata basis as a conditional grant for coffee development.”

Justification

To ensure distribution of the levy in a fair and realistic manner in order of priority

CLAUSE 67

238. **THAT**, the Bill be amended in Clause 67 by deleting the words “*National Assembly and Senate*” in subclause (3) and substituting therefor the word “*Parliament*”.

Justification

Parliament means both the Senate and National Assembly.

CLAUSE 71

239. **THAT**, the Bill be amended in Clause 71 subclause (1) by deleting the words “*a bank account*” and substituting with the words “*bank accounts*” in paragraph (c).

Justification

Not to limit the institute to only one bank account

CLAUSE 72

240. **THAT**, Clause 72 of the Bill be amended—

(a) in subclause (1)—

- (i) by deleting paragraph (d) and substituting therefor the following new paragraph—
“*the Director General of Kenya Agricultural and Livestock Research Organization;*”

Justification

KARI no longer exists. It was replaced by KALRO.

- (ii) by deleting paragraph (g) and substituting therefor the following new paragraph—
“*(g) the chief executive office of the Board appointed in accordance with section 15;*”

Justification

To include the chief executive officer of the Coffee Board of Kenya in the membership of the council of the Institute.

- (iii) by inserting the following new paragraphs immediately after paragraph (g)—
“*(ga) one person representing the county governments;*
“*(gb) one person representing coffee traders nominated by the apex body representing coffee traders.*”

Justification

To include representation from county governments and coffee traders.

- (b) by deleting the word “*three*” and substituting therefor the word “*five*” in subclause (3);

Justification

To enhance the experience requirement of the chairperson in the coffee sector from three years to five years.

- (c) by inserting the following new subclause immediately after subclause (3)—
“(4) In making appointments under subclause (1), the appoint authority shall take into consideration the principle of gender balance.”

Justification

To comply with Article 27 of the Constitution.

CLAUSE 73

241. Amend the Bill by deleting Clause 73 and substituting therefor the following new clause—
“*The persons appointed under section 72 (1) (a), (e), (f), (g), (ga), (gb) and (h) shall serve for a term of four years renewable for one further term*”.

Justification

To include representatives of county governments and coffee traders in the list.

CLAUSE 74

242. THAT, the Bill be amended in Clause 74—

- (a) by inserting the word “*Council*” immediately before the word “*member*” appearing in the opening statement in clause 74;
- (b) by deleting the word “*his*” in paragraph (f) and substituting therefore the word “*the*”

Justification

To correct grammatical errors and to provide clarity.

CLAUSE 75

243. THAT, Bill be amended in Clause 75—

- (a) by deleting subclause (1) and substituting therefore the following new subclause—
(a) “*develop appropriate systems to promote balanced, diversified and sustainable coffee development and to optimise coffee production through adaptive and investigative research;*
(b) “*prioritise areas for, and co-ordinate, coffee research including research in coffee diseases and new coffee varieties;*
(c) “*facilitate the use of improved production technology and establish adequate feedback systems from agricultural producers in order to achieve and maintain national self-sufficiency and export capacities in agricultural products;*

- (d) advise the National and county governments on the resource requirements for coffee research;
- (e) develop curriculum and offer training on research, innovations and technology; and
- (f) disseminate, in collaboration with the Board, the Kenya Agricultural and Livestock Research Organisation established under the Kenya Agricultural and Livestock Research Organisation Act and other organizations, knowledge, information and application of research findings in relation to coffee.”

Justification

For proper sequencing of the activities.

- (b) in subclause (2)
 - (i) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanisation and technology options to improve coffee production and productivity and provide answers to foreseeable problems facing coffee;”

Justification

Productivity goes hand in hand with production.

- (ii) by deleting paragraph (m) and substituting therefor the following new paragraph—
“(m) provide a climate resilient coffee crop and coffee that is resistant to diseases and pests;”

Justification

For clarity because the paragraph as is in the Bill is ambiguous.

CLAUSE 76

244. **THAT**, the Bill be amended in Clause 76 by deleting the clause and substituting therefor the following new clause—

“76. The Council of the Institute may co-opt persons whose knowledge and skills are necessary for resolution of any pertinent matter under consideration by the council to sit in the council for performance of its function and exercise of its powers under this Act”.

Justification

To ensure that such persons are co-opted only when there is a matter under consideration by the Council that need to be dispensed with and for a particular period and not co-opting persons to earn an income for unknown durations.

CLAUSE 78

245. **THAT**, the Bill be amended by deleting the clause and substituting therefor the following new clause—

“78. The members of the Council of the Institute shall be paid such remuneration as the Salaries and Remuneration Commission shall determine.”

Justification

Allowances are part of remuneration hence the deletion. Remuneration for state officers is determined by the Salaries and Remuneration Commission.

CLAUSE 79

246. **THAT**, the Bill be amended in Clause 79 by deleting subclause (3) and substituting therefor the following new subclause—

“(3) A person is qualified for appointment under subsection (1) if the person—

- (a) is a citizen of Kenya;*
- (b) holds a PhD or its equivalent in a relevant field from a university recognised in Kenya;*
- (c) has at least ten years’ experience and knowledge in management;*
- (d) has at least five years’ experience in a position of senior management; and*
- (e) Meets the requirements of Chapter Six of the Constitution”.*

Justification

To aligned with the Mwongozo Code of Good Governance and introduce the requirement for a PhD since this a research institution.

CLAUSE 90

247. **THAT**, the Bill be amended in Clause 90 by deleting the word “seven” appearing immediately before the word “month” in subclause (1) and substituting therefor the word “three”.

Justification

To align with the standard practice for submission of annual reports after a financial year.

CLAUSE 93

248. **THAT**, Clause 93 be amended—

- (a) in subclause (1) by deleting the words “county executive committee member” and substituting therefor the words “county government”; and
- (b) in subclause (2) by deleting the words “county executive committee member” and substituting therefor the words “county government”.

Justification

The Bill being a national legislation, emphasis is on the county government and not the county executive committee member.

CLAUSE 94

249. **THAT**, Clause 94 be amended in paragraph (2) (b)—
by deleting the words “*three months*” and substituting therefor the words “*six months*”.

Justification

To equate the offence with the penalty.

CLAUSE 95

250. **THAT**, Clause 95 of the Bill be amended—

- (a) In subclause (4)—
 - (i) by deleting the words “*thirty thousand*” and substituting therefor the words “*fifty thousand*”; and
 - (ii) by deleting the words “*two years*” and substituting therefor the words “*six months*”

Justification

To equate the offence with the penalty.

CLAUSE 97

251. **THAT**, the Bill be amended in Clause 97 by inserting the words “*or whichever is higher*” immediately before the words “*or to both*”.

Justification

To equate the offence with the penalty.

CLAUSE 99

252. **THAT**, Clause 99 be amended—

- (a) In subclause (1)—
 - (i) by deleting the words “*Council of County Governors*” appearing in the opening statement and substituting therefor the words “*licensing authorities*”; and

Justification

To include all the licensing authorities in consultation by the Cabinet Secretary in making regulations.

(ii) by deleting paragraph (a);

Justification

Paragraph (a) gives unlimited powers in making regulations which is contrary to Article 94(6) of the Constitution which stipulates that regulations should be defined and the scope limited.

(b) in subclause (2) by inserting the following new paragraph immediately after paragraph (1)—
“(m) *qualifications for appointment and powers of inspectors*”.

Justification

To provide for the power to make regulations on qualification and appointment of inspectors.

CLAUSE 101

253. **THAT**, Clause 101 of the Bill—

(a) By deleting the marginal note and substituting therefor the following new marginal note—
“*Assets and liabilities*”

Justification

The clause refers to both assets and liabilities.

(b) be amended in Clause 101 by inserting the following new subclause—
“(2) *All property, except such property as the Cabinet Secretary may specify in writing, which immediately before the commencement of this Act, was vested in the government for the use of the Coffee Directorate of the Agriculture and Food Authority, shall, on the date of commencement of this Act, vest in the Board subject to all interests, liabilities, charges, obligations and trusts affecting that property.*”

Justification

To provide for a transition clause on the assets of the Board which is missing.

CLAUSE 104

254. **THAT**, Clause 104 of the Bill be amended—

by deleting the word “*Authority*” appearing immediately after the words “*made by the*” and substituting therefor the word “*Board*.”

Justification

Correcting the wrong referencing to the Authority instead of Board.

CLAUSE 105

255. **THAT**, Clause 105 of the Bill be amended by inserting the word “*and shall undergo a skills audit to determine suitability*” immediately after the words “*Cabinet Secretary*”.

Justification

To ensure that staff have relevant skills for the roles at the Board.


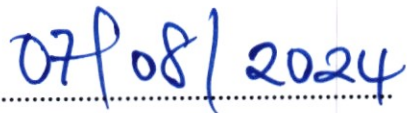
SECOND SCHEDULE

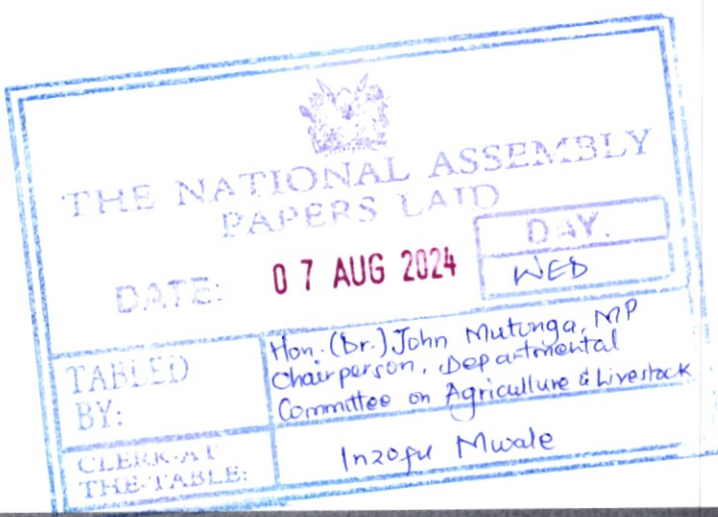
256. **THAT**, the Second Schedule to the Bill be amended—

- (a) in paragraphs 9, 10, and 11 by deleting the words “*county government*” and substituting therefor the words “*Board in consultation with the county government*”;
- (b) in paragraph 13 by inserting “*in consultation with the Board*” immediately after the words the words “*county government*”.
- (c) Insert new paragraph 18, “(18) *Coffee Marketing Agents License*” to be issued by CMA.
- (d) Inserting new paragraph 19, “(19) *Trading License*” to be issued by CMA.

Justifications

To align the license with the correct licencing authority and to include other licenses.

SIGNED.......... DATE..........
HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK



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**ANNEX ONE:
ADOPTION
SCHEDULE**



THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

ADOPTION SCHEDULE

We, the undersigned Honorable Members of the Departmental Committee on Agriculture and Livestock today, Monday, 5th August 2024 do hereby affix our signatures to this **Report on the Consideration of the Coffee Bill (Senate Bill No. 10 of 2023)** to affirm our approval and confirm its accuracy, validity and authenticity:

S/NO.	NAME	SIGNATURE
1.	HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, MP - CHAIRPERSON	
2.	HON. BRIGHTON LEONARD YEGON, MP - VICE- CHAIRPERSON	
3.	HON. SABINA WANJIRU CHEGE, CBS, MP	
4.	HON. FERDINAND KEVIN WANYONYI, MP	
5.	HON. GEOFFREY MAKOKHA ODANGA, MP	
6.	HON. JUSTICE KIPSANG KEMEI, MP	
7.	HON. JARED ODOYO OKELO, MP	
8.	HON. LAWRENCE MPURU ABURI, MP	
9.	HON. DAVID KIPLAGAT, MP	
10.	HON. GABRIEL GATHUKA KAGOMBE, MP	
11.	HON. MONICAH MUTHONI MARUBU, MP	
12.	HON. PAMELA NJOKI NJERU, MP	
13.	HON. PATRICK KIBAGENDI OSERO, MP	
14.	HON. PETER KALERWA SALASYA, MP	
15.	HON. YUSSUF MOHAMED FARAH, MP	

ANNEX TWO:
MINUTES OF THE
COMMITTEE'S
SITTINGS



THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 37TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD IN THE COMMITTEE ROOM ON 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON MONDAY, 5TH AUGUST 2024 AT 9.30 AM

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Justice Kipsang Kemei, MP | | |
| 5. Hon. Lawrence Mpuru Aburi, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Patrick Kibagendi Osero, MP | | |
| 8. Hon. Yussuf Mohamed Farah, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Geoffrey Makokha Odanga, MP
3. Hon. Jared Odoyo Okelo, MP
4. Hon. Gabriel Gathuka Kagombe, MP
5. Hon. Monicah Muthoni Marubu, MP
6. Hon. Pamela Njoki Njeru, MP
7. Hon. Peter Kalerwa Salasya, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|--------------------------|---|---------------------|
| 1. Ms. Lauren O. Wesonga | - | Clerk Assistant I |
| 2. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 3. Brigitta Mati | - | Legal Counsel I |
| 4. Mr. Gerald Kadede | - | Legal Counsel II |
| 5. Ms. Diana Chepkemoi | - | Audio Assistant |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes

4. Matters Arising
5. **Clause by Clause Consideration of the Coffee Bill (Senate Bill No. 10 of 2023)**
6. **Adoption of the Report on the Coffee Bill (Senate Bill No. 10 of 2023)**
7. Any other Business
8. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2024/167: PRELIMINARIES/ADOPTION OF THE AGENDA

The meeting was called to order at half past nine O'clock with prayer by the Chairperson.

The Committee adopted the Agenda of the meeting having been proposed by Hon. Lawrence Aburi, MP and seconded by Hon. Patrick Osero, MP.

MIN. NO. NA/A&L/2024/168: CONFIRMATION OF MINUTES

Minutes of the following Sittings were adopted as a true reflection of the proceedings:

1. 32nd Sitting having been proposed by David Kiplagat, MP and seconded by Hon. Sabina Chege, MP;
2. 33rd Sitting having been proposed by Hon. Justice Kemei, MP and seconded by Hon. David Kiplagat, MP
3. 34th Sitting having been proposed by Hon. Yussuf Farah, MP and seconded by Hon. Patrick Osero, MP
4. 35th Sitting having been proposed by Hon. Sabina Chege, MP and seconded by Hon. Yussuf Farah, MP; and
5. 36th Sitting having been proposed by Hon. Yussuf Farah, MP and seconded by Hon. Justice Kemei, MP.

MIN. NO. NA/A&L/2024/169: CLAUSE BY CLAUSE CONSIDERATION OF THE COFFEE BILL (SENATE BILL NO. 10 OF 2023)

The Committee deliberated and resolved as follows on the Bill:

1. Clause 60

- i. Amend sub-clause (1) to read as follows, "*The Board in consultation with the licensing authorities shall enforce coffee industry standards along the value chain for purposes of quality assurance*".

Justification

It is good practice that both licensing authorities (county governments and CMA) are consulted in the enforcement of the industry standards in the value chain.

- ii. Amend sub-clause (2) to read as follows, "*The Board, in consultation with accredited universities, the Kenya Institute of Curriculum Development and industry stakeholders may develop a training curriculum, conduct examinations and jointly issue certificates for coffee liquorers*".
- iii. Amend sub-clause (5) by deleting the words "*county executive committee member*" and substituting with the words "*county governments*".

Justification

Consultations at the national level are with county governments and not the county executive committee member.

- iv. Amend sub-clause (7) to read as follows, "*The Board may sample coffee at any stage of the value chain to ascertain permissible maximum residual pesticide levels for compliance with set national and international standards*".
- v. Amend sub-clause (8) by deleting the words "*county executive committee member*" and substituting with the words "*county government*".

Justification

Consultations at the national level are with county governments and not the county executive committee member.

- vi. Amend sub-clause (9) by deleting the word "*Institute*" and substituting with the word "*Board*".

Justification

The Board is mandated to ensure compliance with set standards and best practices.

2. Clause 61

- i. Amend sub-clause (1) to read as follows, "*The Board in collaboration with the respective county government shall, by notice in the Gazette, appoint inspectors for the enforcement of the provisions of this Act*".
- ii. Amend sub-clause (2) by deleting the words, "*county executive committee member*" and substituting with the words "*county governments*".

Justification

Consultations at the national level are with county governments and not the county executive committee member.

3. Clause 62: Agreed to

4. Clause 63: Agreed to

5. Clause 64

Amend the clause as follows:

- i. Rename the Levy to "*Coffee Development and Marketing Levy*".

Justification

Marketing is very crucial in the coffee sector hence the amendment.

- ii. Delete the words "*two per centum*" in sub-clause (1) and substitute with the words "*two point five per centum*".

Justification

To increase the rate of the Levy from two percent to two-point five percent.

- iii. Delete sub-clause (2) and substitute as follows, "*The levy imposed under subsection (1) shall be apportioned as follows: (a) Thirty-five per centum to the Institute; (b) twenty per centum to*

the Board for regulatory purposes; (c) twenty per centum for price stabilization which shall be managed by the Commodities Fund; (d) fifteen per centum to the Board for marketing purposes; and (e) ten per centum to the county growing areas on pro-rata basis as a conditional grant for coffee development".

Justification

To amend the apportionment of the Levy to different functions.

6. Clause 92: Agreed to

7. Clause 93

- i. Amend sub-clause (1) by deleting the words "*a licensed exchange and each county executive committee member*" and substituting with the words "*and the licensing authority*".
- ii. Amend sub-clause (2) by deleting the words "*county executive committee member*" and substituting with the words "*licensing authority*".

8. Clause 94: Agreed to

9. Clause 95

Amend sub-clause (4) by deleting the word "*thirty*" and substituting with the word "*fifty*" and deleting the words "*two years*" and substituting with the words "*six months*".

Justification

The penalty was not commensurate to the offence.

10. Clause 96: Agreed to

11. Clause 97: Agreed to

12. Clause 98: Agreed to

13. Clause 99

Amend the clause as follows:

- i. Delete the words "*Council of County Governors*" in sub-clause (1) and substitute with the word "*county governments*".
- ii. Delete paragraph (1) (a).
- iii. Insert the following new paragraph 2 (m) "*qualifications of different categories and powers of inspectors*".

14. Clause 100: Agreed to

15. Clause 101

- i. Amend the marginal note to read "assets and liabilities"

Justification

The clause refers to both assets and liabilities.

- ii. Amend the clause to read as follows, "*All property, except such property as the Cabinet Secretary may specify in writing, which immediately before the commencement of this Act, was*

vested in the government for the use of the Coffee Directorate of the Agriculture and Food Authority, shall, on the date of commencement of this Act, vest in the Board subject to all interests, liabilities, charges, obligations and trusts affecting the property”.

16. **Clause 102:** Agreed to

17. **Clause 103**

Amend sub-clause (2) by deleting the word “Act”.

Justification

To correct a typographical error.

18. **Clause 104**

Amend the clause by deleting the word “Authority” and substituting with the word “Board”.

19. **Clause 105**

Amend the clause by inserting the words “and shall undergo a skills audit to determine suitability for roles assigned.”

Justification

To ensure that staff have relevant skills for the roles at the Board.

20. **Clause 106:** Agreed to

21. **Clause 107:** Agreed to

22. **First Schedule:** Agreed to

23. **Second Schedule**

Amend the Schedule as follows:

- i. Warehouse licence to be issued by the Board
- ii. Grower’s milling licence to be issued by the Board
- iii. Coffee Marketing Agent’s Licence to be issued by CMA
- iv. Trading License to be issued by CMA

24. **Clause 2**

- i. Amend definition of “Board” as follows, “*the Coffee Board of Kenya established under section 4*”.
- ii. Amend definition of “broker” as follows, “*a person cleared by the exchange and licenced by the Capital Markets Authority, who may be appointed by a grower or an association of growers in accordance with the Capital Markets Act, to offer their coffee on their behalf through the Exchange*”.
- iii. Amend definition of “clearing house” by deleting the word “authority” and substituting with the words “*Capital Markets Authority*”.
- iv. Delete definition of the word “*clearing and settlement*”.
- v. Amend definition of “coffee dealer” as follows, “*a person registered by the licensing authority to deal in coffee as provided under this Act*”.

- vi. Amend definition of "coffee grower" as follows, "a person who cultivates coffee in Kenya, and may for purposes of licensing, include a co-operative society, coffee union, association and estate".
- vii. Amend definition of "coffee standards" as follows, "Kenya Coffee Standards formulated according to the Standards Act".
- viii. Amend definition of "direct sale" as follows, "a contractual arrangement between a grower, a co-operative society, society union, grower-miller, estate or an association of coffee growers and an overseas buyer or local roaster for the sale of own clean coffee based on mutually accepted terms and conditions enforceable in law and includes settlement of resultant coffee sales proceeds through the direct settlement system on boarded by a coffee exchange".
- ix. Amend definition of "sales catalogue" as follows, "a standard document prepared by a grower or a broker appointed by a grower, and in consultation with an exchange, for sale of clean coffee at an exchange".
- x. Amend definition of "secondary processing" as follows, "parchment de-husking of buni, polishing, grading and may include roasting, grinding and packaging of clean coffee beans".
- xi. Amend definition of "small holder" as follows, "a person cultivating coffee in a small parcel of land or in small parcels of land who does not possess his own pulping station".
- xii. Include definition of "miller" as "a person involved in the de-husking and grading of coffee".
- xiii. Include definition of "roaster" as "a person who is in the business of turning green coffee beans into usable products".

MIN. NO. NA/A&L/2023/170:

ADOPTION OF THE REPORT ON THE COFFEE BILL (SENATE BILL NO. 10 OF 2023)

The Report on the Coffee Bill (Senate Bill No. 10 of 2023) was adopted having been proposed by Hon. Sabina Chege, CBS, MP and seconded by Hon. David Kiplagat, MP.

MIN. NO. NA/A&L/2023/171:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at two minutes to one O'clock. The next meeting will be held on Tuesday, 6th August 2024 at ten O'clock.

SIGNED:  DATE: 06/08/2024

**HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK**



THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 36TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD IN THE COMMITTEE ROOM ON 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON FRIDAY, 2ND AUGUST 2024 AT 2.00 PM

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Justice Kipsang Kemei, MP | | |
| 4. Hon. Jared Odoyo Okelo, MP | | |
| 5. Hon. Monicah Muthoni Marubu, MP | | |
| 6. Hon. Yussuf Mohamed Farah, MP | | |

ABSENT WITH APOLOGY

1. Hon. Sabina Wanjiru Chege, CBS, MP
2. Hon. Ferdinand Kevin Wanyonyi, MP
3. Hon. Geoffrey Makokha Odanga, MP
4. Hon. Lawrence Mpuru Aburi, MP
5. Hon. David Kiplagat, MP
6. Hon. Gabriel Gathuka Kagombe, MP
7. Hon. Pamela Njoki Njeru, MP
8. Hon. Patrick Kibagendi Osero, MP
9. Hon. Peter Kalerwa Salasya, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|---------------------|
| 1. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 2. Brigitta Mati | - | Legal Counsel I |
| 3. Mr. Gerald Kadede | - | Legal Counsel II |
| 4. Ms. Diana Chepkemoi | - | Audio Assistant |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes
4. Matters Arising

5. **Clause by Clause Consideration of the Coffee Bill (Senate Bill No. 10 of 2023)**
6. Any other Business
7. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2024/163: PRELIMINARIES/ADOPTION OF THE AGENDA

The meeting was called to order at fifteen minutes past two O'clock with prayer by the Chairperson.

The Committee adopted the Agenda of the meeting having been proposed by Hon. Justice Kipsang Kemei, MP and seconded by Hon. Brighton Leonard Yegon, MP.

MIN. NO. NA/A&L/2024/164: CONFIRMATION OF MINUTES

This Agenda was deferred.

MIN. NO. NA/A&L/2024/165: CLAUSE BY CLAUSE CONSIDERATION OF THE COFFEE BILL (SENATE BILL NO. 10 OF 2023)

The Committee deliberated and resolved as follows on the Bill:

1. Clause 39

- i. Amend the clause by deleting sub-clause (1);

Justification

The functions have been merged with the functions of the Institute under clause 75(2)

- ii. Amend paragraph 39 (2) (b) by deleting the words "*county executive committee member*" and substituting with the words "*county government*".

Justification

The Bill being a national legislation, emphasis is on the county government and not the CEC.

- iii. Amend the Bill by moving PART IX (Clauses 61 to 84) and PART X (85 to 91) to appear immediately after clause 38.

Justification

To enhance the flow of the provisions of the Bill. Establishment of the Coffee Research and Training Institute of Kenya should come before production and processing.

2. Clause 40

Amend the clause by deleting sub-clause 40 (1) and substituting it as follows, "*(1) A person shall not import coffee planting materials unless such a person has been registered and licensed by the Board.*"

Justification

Registration alone is not sufficient for the licensing hence the need for clarity that import is upon registration and licensing for such imports.

3. Clause 42

- i. Amend sub-clause 42 (1) to read "*all co-operative societies comprising coffee growers shall keep and maintain a register of coffee growers.....*"

Justification

To bring on board and involve all cooperatives in the sector.

- ii. Amend sub-clause 42 (3) by deleting the words "*county executive committee member*" and substituting with the words "*county government*".
- iii. Amend sub-clause 42 (4) by deleting the words "*county executive committee member*" and substituting with the words "*county government*".

Justification

The Bill being a national legislation, emphasis is on the county government and not the CEC.

4. Clause 43

- i. Amend paragraph 43 (3) (d) by deleting the words "*county executive committee member*" and substituting with the words "*county government*".
- ii. Amend sub-clause 43 (5) by deleting the words "*county executive committee member*" and substituting with the words "*county government*".

Justification

The Bill being a national legislation, emphasis is on the county government and not the CEC.

- iii. Define the term "*certification scheme*"

Justification

The term has been used in the Bill but it has not been defined.

5. Clause 44

Delete the clause and substitute as follows, "*the processing of coffee should be carried out at designated, standard approved facilities in accordance with established and approved Coffee Standards and Industry Code of Practice.*"

Justification

To be specific that the standards being applied are coffee standards and replacing national standards with established and approved standards since national standards conform to the international standards

6. Clause 45

Amend paragraph 45 (3) (b) by deleting the words "*take out*".

Justification

Different insurance covers might be needed for different reasons hence the cover should not be restricted to only comprehensive insurance cover.

7. **Clause 46:** Agreed to.

8. **Clause 47**

Delete the clause.

Justification

It is a repetition of Clause 45

9. **Clause 48**

- i. Amend sub-clause 48 (3) by deleting the words "*county executive committee member*" and substituting with the words "*county government*".

Justification

The Bill being a national legislation, emphasis is on the county government and not the CEC.

- ii. Amend the Bill by moving clause 48 to come immediately after clause 45.

Justification

For flow of the Bill. Clause 48 should be a continuation of milling services.

10. **Clause 49**

Amend the clause by deleting paragraph 49 (1) (d) and substituting it as follows, "*(d) such other methods as the Cabinet Secretary in consultation with the relevant licensing authority ay prescribe*".

Justification

To ensure consultation with all the relevant licensing authorities and not just the Board and counties.

11. **Clause 50:** Agreed to

12. **Clause 51:** Agreed to

13. **Clause 52:** Agreed to

14. **Clause 53**

Amend the clause by deleting sub-clause 53 (1) and substituting it as follows, "*(1) A grower or a broker appointed by a grower, shall in the presence of a commercial miller and in consultation with an exchange, prepare a sales catalogue for coffee destined for sale at exchange in a licensed warehouse in accordance with the Act*".

Justification

Catalogues are only prepared for coffee offered for sale at the exchange. Warehouses also store coffee for direct sale but does not require preparation of a catalogue.

15. **Clause 54**

- i. Amend sub-clause 54 (2) by deleting the words "*county executive committee member*" and substituting therefor the words "*county government*"

Justification

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THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 35TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD IN THE COMMITTEE ROOM ON 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON FRIDAY, 2ND AUGUST 2024 AT 9.00 AM

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Justice Kipsang Kemei, MP | | |
| 5. Hon. Jared Oduyo Okelo, MP | | |
| 6. Hon. Monicah Muthoni Marubu, MP | | |
| 7. Hon. Yussuf Mohamed Farah, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Geoffrey Makokha Odanga, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. David Kiplagat, MP
5. Hon. Gabriel Gathuka Kagombe, MP
6. Hon. Pamela Njoki Njeru, MP
7. Hon. Patrick Kibagendi Osero, MP
8. Hon. Peter Kalerwa Salasya, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|--------------------------|---|---------------------|
| 1. Ms. Lauren O. Wesonga | - | Clerk Assistant I |
| 2. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 3. Brigitta Mati | - | Legal Counsel I |
| 4. Mr. Gerald Kadede | - | Legal Counsel II |
| 5. Ms. Diana Chepkemoi | - | Audio Assistant |
| 6. Ms. Rebecca Wanjiru | - | Legal Pupil |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda

3. Confirmation of Minutes
4. Matters Arising
5. **Clause by Clause Consideration of the Coffee Bill (Senate Bill No. 10 of 2023)**
6. Any other Business
7. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2024/159: PRELIMINARIES/ADOPTION OF THE AGENDA

The meeting was called to order at twenty-five minutes past nine O'clock with prayer by the Chairperson.

The Committee adopted the Agenda of the meeting having been proposed by Hon. Jared Okelo, MP and seconded by Hon. Monicah Marubu, MP

MIN. NO. NA/A&L/2024/160: CONFIRMATION OF MINUTES

This Agenda was deferred.

MIN. NO. NA/A&L/2024/161: CLAUSE BY CLAUSE CONSIDERATION OF THE PREVENTION OF THE COFFEE BILL (SENATE BILL NO. 10 OF 2023)

The Committee deliberated and resolved as follows on the Bill:

1. Clause 11

Amend the clause by deleting sub-clause 11 (2) and substituting it as follows, "*The Board shall, in the performance of its functions under this Act, consult and collaborate with the relevant licensing authority and other industry players*".

Justification

To include county governments, the Capital Markets Authority and other stakeholders in the coffee sector.

2. Clause 12

Amend sub-clause 12 (2) to provide that the co-opted persons shall have the necessary skills and serve for a specific period.

Justification

To put restriction on co-option of persons into committees.

3. Clause 13: Agreed to

4. Clause 14

Delete the clause and substitute with the following paragraph, "*The members of the Board of Directors shall be paid such remuneration as the Salaries and Remuneration Commission determine*".

Justification

Allowances are part of remuneration hence the deletion. Remuneration for state officers is determined by the Salaries and Remunerations Commission.

5. **Clause 15**

Amend the clause as follows:

- i. Insert the word "*masters*" between the words "*a*" and "*degree*" in paragraph 15 (2) (a)

Justification

To provide that the CEO should be a holder of a masters' degree.

- ii. Delete paragraph 15 (2) (b) and substitute it as follows, "*has at least ten years knowledge and relevant experience and served in a senior management position for at least five years*".

Justification

To align the experience with the Mwongozo Code of Good Governance.

6. **Clause 16:** Agreed to

7. **Clause 17:** Agreed to

8. **Clause 18:** Agreed to

9. **Clause 20:** Agreed to

10. **Clause 21:** Agreed to

11. **Clause 22:** Agreed to

12. **First Schedule:** Agreed to

13. **Clause 23**

Amend the clause as follows:

- i. Delete the words "*executive committee member*" in sub-clause 23 (2) and substitute with the word "*government*".
- ii. Delete sub-clause 23 (3) and substitute it as follows, "*The Cabinet Secretary shall, in consultation with the Board and the county governments prescribe standards and guidelines for the setting of levies and fees by county governments under subsection (2)*".

14. **Clause 24**

Amend the clause by inserting the following new sub-clause 24 (2), "*The Cabinet Secretary shall, in consultation with the Board and the county governments prescribe standards and guidelines for legislation by county governments under subsection (1)*".

Justification

For uniformity of legislation in the county governments.

15. **Clause 25**

- i. Amend by deleting the words, "*executive committee member*" in sub-clauses 25 (2) and (3) and substituting with the word "*government*".
- ii. Insert the following new sub-clause 25 (4), "*The county governments shall maintain the necessary statistical information with respect to the coffee sub-sector to be used by the Board for proper planning*".

16. **Clause 26**

Amend the clause as follows:

- i. Delete paragraph 26 (1) (a) and substitute as follows, "*promoting production and productivity*"
- ii. Delete paragraph 26 (2) and substitute as follows, "*The county governments shall regularly share the necessary statistical information with respect to the coffee sector with the Board*".

17. **Clause 27**

Amend by deleting sub-clause 27 (8) and substituting as follows, "*Each county government shall submit to the Board a copy of the register under subsection (6)*".

Justification

For real time sharing of data since the frequency of sharing is not captured in the Bill.

18. **Clause 28**

Amend the clause as follows:

- i. Renumber the paragraphs under sub-clause (1)

Justification

The first paragraph should be (a) and not (g).

- ii. Delete paragraph 28 (2) (a)

Justification

It is catered for under paragraph 28 (2) (a)

- iii. Delete sub-clauses 28 (4), (5), (6) and (7)

Justification

These should be provided in regulations.

19. **Clause 29:** Agreed to

20. **Clause 30:**

Amend the clause as follows:

- i. Deleting sub-clause 30 (1) and substituting it as follows, "*A person shall not operate as a cupping laboratory, liquorer, coffee importer or warehouse operator unless the person is licensed or issued a registration certificate or a permit by the Board upon satisfaction of the prescribed conditions*".

Justification

This is for the liberalization of the buyer space and centralizing the regulation of trade aspects of coffee.

- ii. Delete sub-clause 30 (2) and substitute as follows, "*A person shall not conduct the business of a coffee exchange, agent or offer brokerage services at the exchange unless that*

person is licensed by the Authority in accordance with provisions of the Capital Markets Act.

Justification

This is to centralise the regulation of trade aspects of coffee.

21. **Clause 2**

Amend definition of the word "*agent*" to provide that the Capital Markets Authority shall license the agent and the board will register them.

22. **Clause 31:** Agreed to

23. **Clause 32**

Amend the clause by deleting the word "*monthly*" and substituting with the word "*quarterly*".

Justification

It will be hectic for licence holders to submit returns to the relevant licensing authority on a monthly basis.

24. **Clause 33:** Agreed to

25. **Clause 34:** Agreed to

26. **Clause 35:** Agreed to

27. **Clause 36**

Amend by renumbering the paragraphs.

Justification

The numbering should start with (a) and not (i) as provided in the Bill.

28. **Clause 37**

Amend sub-clauses 37 (1) and (2) by deleting the words "*executive committee member*" and substituting with the word "*government*".

29. **Clause 38:** Agreed to

30. **Clause 39**

Delete the clause

Justification

The provisions have been taken care of under the functions of the Coffee Research and Training Institute of Kenya.

31. Insert clauses 69 to 91 immediately after clause 38.

Justification

The establishment of the Coffee Research and Training Institute of Kenya should come before production and processing.

32. **Clause 69:** Agreed to

33. **Clause 70:** Agreed to

34. **Clause 71**

Amend the clause by deleting the words "*a bank account*" and substituting with the word "*bank accounts*".

Justification

To provide that the Institute can operate more than one bank account.

35. **Clause 72**

Amend the clause as follows:

- i. Delete paragraph 72 (1) (d) and substitute as follows, "*the Director General of the Kenya Agricultural and Livestock Research Organisation*".

Justification

The Kenya Agricultural Research Institute (KARI) no longer exists. It was replaced with the Kenya Agricultural and Livestock Research Organisation (KALRO).

- ii. Delete paragraph 72 (1) (g) and substitute as follows, "*The Chief Executive Officer of the Coffee Board of Kenya*".

Justification

The Board is the regulator of the coffee industry and should therefore be represented in the membership of the Council of the Institute.

- iii. Include one person representing coffee traders nominated by the apex body representing coffee traders and one person nominated by county governments.

Justification

To have representatives of the coffee traders and county governments in the membership of the Council of the Institute.

- iv. Provide for the appointment of members of the Council of the Institute in sub-clause 72 (3) pursuant to the provisions of Article 27 of the Constitution and to include the nominees of the coffee traders and county governments in the list.

- v. Delete the word "*three*" in sub-clause 72 (3) and substitute with the word "*five*".

Justification

To increase the experience of the Chairperson of the Coffee Research and Training Institute of Kenya from three to five years.

36. **Clause 73**

Amend the clause by including the representative of coffee traders and county governments in the list.

37. **Clause 74**

Amend the clause as follows:

- i. Delete the narrative under clause 74 and substitute as follows, "*A person shall cease to be a council member of the Institute if that person-*"
- ii. Delete the word "*his*" in paragraph 74 (f) and substitute with the word "*the*".

Justification

To correct a grammatical error.

38. Clause 75

Amend the clause as follows:

- i. Sub-clause 75 (1) should be similar to the provisions of the Sugar Bill, 2022.
- ii. Insert the word "*productivity*" in paragraph 75 (2) (c) between the words "*production*" and "*and*".
- iii. Delete the word "*our*" in paragraph 75 (2) (f) and substitute with the word "*out*".
- iv. Delete paragraph 75 (2) (m) and substitute as follows, "*provide a climate resilient coffee crop and coffee that is resistant to diseases and pests*".

39. Clause 76

Delete the clause and substitute as follows, "*The Council of the Institute may co-opt such persons as specified in the regulations*".

Justification

The regulations will provide the skills and period for co-option in the Council of the Institute.

40. Clause 77: Agreed to

41. Clause 78

Delete the clause and substitute with the following paragraph, "*The members of the Council of the Institute shall be paid such remuneration as the Salaries and Remuneration Commission determine*".

Justification

Allowances are part of remuneration hence the deletion. Remuneration for state officers is determined by the Salaries and Remunerations Commission.

42. Clause 79

Amend the clause as follows:

- i. Delete paragraph 79 (3) (b)
- ii. Delete paragraph 79 (3) (c) and substitute as follows, "*holds a PhD in the relevant field from a university recognized in Kenya*".
- iii. Delete paragraph 79 (3) (d) and substitute as follows, "*has at least ten years knowledge and relevant experience and served in a senior management position for at least five years*".

43. Clause 80

Insert new paragraph 80 (e) to include violation of Chapter Six of the Constitution as a ground for removal of the Chief Executive Officer.

44. Clause 81: Agreed to

- 45. **Clause 82:** Agreed to
- 46. **Clause 83:** Agreed to
- 47. **Clause 84:** Agreed to
- 48. **Clause 85:** Agreed to
- 49. **Clause 86:** Agreed to
- 50. **Clause 87:** Agreed to
- 51. **Clause 88:** Agreed to
- 52. **Clause 89:** Agreed to

53. **Clause 90**

Amend sub-clause 90 (1) by deleting the word "seven" and substituting with the word "three"

Justification

This is the standard period that is provided for the submission of the annual report after a financial year.

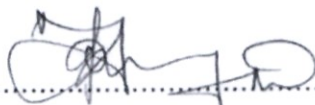
54. **Clause 91:** Agreed to

MIN. NO. NA/A&L/2023/162:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at one minute past one O'clock. The next meeting will be at two O'clock.

SIGNED:



DATE:

05/08/2024

HON. (DR.) JOHN KANYUTHIA MUTUNGA, PhD, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK



THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 34TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE AND LIVESTOCK HELD IN COMMITTEE ROOM 20, 3RD FLOOR,
BUNGE TOWER, PARLIAMENT BUILDINGS ON THURSDAY, 1ST AUGUST 2024
AT 11.30 AM

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Geoffrey Makokha Odanga, MP | | |
| 4. Hon. Justice Kipsang Kemei, MP | | |
| 5. Hon. Jared Odoyo Okelo, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Monicah Muthoni Marubu, MP | | |
| 8. Hon. Pamela Njoki Njeru, MP | | |
| 9. Hon. Patrick Kibagendi Osero, MP | | |
| 10. Hon. Peter Kalerwa Salasya, MP | | |
| 11. Hon. Yussuf Mohamed Farah, MP | | |

ABSENT WITH APOLOGY

1. Hon. Sabina Wanjiru Chege, CBS, MP
2. Hon. Ferdinand Kevin Wanyonyi, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Gabriel Gathuka Kagombe, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|---------------------|
| 1. Ms. Laureen O. Wesonga | - | Clerk Assistant I |
| 2. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 3. Brigitta Mati | - | Legal Counsel I |
| 4. Mr. Gerald Kadede | - | Legal Counsel II |
| 5. Ms. Diana Chepkemoi | - | Audio Assistant |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes

-
4. Matters Arising
 5. **Clause by Clause Consideration of the Coffee Bill (Senate Bill No. 10 of 2023)**
 6. Any other Business
 7. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2024/155: PRELIMINARIES/ADOPTION OF THE AGENDA

The meeting was called to order at twelve minutes to eleven O'clock with prayer by the Chairperson. The Chairperson reiterated the need for Members to attend Committee meetings in time and participate fully. He also urged Members to be present in the House whenever Committee business is being debated.

The Committee adopted the Agenda of the meeting having been proposed by Hon. Justice Kipsang Kemei, MP and seconded by Hon. Patrick Kibagendi Osero, MP

MIN. NO. NA/A&L/2024/156: CONFIRMATION OF MINUTES

This Agenda was deferred.

MIN. NO. NA/A&L/2024/157: CLAUSE BY CLAUSE CONSIDERATION OF THE PREVENTION OF THE COFFEE BILL (SENATE BILL NO. 10 OF 2023)

The Committee deliberated and resolved as follows on the Bill:

1. Clause 3

Amend the clause as follows:

- i. delete paragraph (e) and substitute it with the following new paragraph, "*promote integration of the value chain actors for purposes of achieving economies of scale and managing risk*".

Justification

To make the paragraph clear.

- ii. Delete paragraph (f) and substitute it with the following new paragraph, "*promotion of coffee research and training for the development of the coffee sector*".

Justification

The paragraph as provided in the Bill is ambiguous since extension service is a devolved function.

- iii. Delete paragraph (g) (i) and substitute it with the following new paragraph, "*the establishment and management of the coffee development levy*".

Justification

The objective of the Bill is not only to establish the coffee development fund but also to manage it.

2. **Clause 4:** Agreed to
3. **Clause 5:** Agreed to

4. Clause 6

Amend the clause as follows:

- i. Delete paragraph (e) and substitute it with the following new paragraph, "*operate bank accounts into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made*".

Justification

To provide for the opening of more than one bank account.

- ii. Delete clause (2) and substitute it as follows, "*The Board may, if it considers it necessary, associate with any body whose objects support promotion of the coffee industry*".

Justification

To make the clause clear.

5. Clause 7

Amend the clause as follows:

- i. Delete paragraph (e) and substitute with the following paragraph "*two persons of the opposite gender, representing smallholder and large-scale coffee growers' associations*";
- ii. Delete paragraph (f) and substitute with the following paragraph "*one person nominated by cooperative societies*";
- iii. Deleting the word "*two*" in paragraph (g) and substituting with the word "*one*".
- iv. Insert the following new paragraphs:
 - a) one person representing coffee millers;
 - b) one person representing coffee traders;
 - c) The Principal Secretary responsible for the National Treasury of a designated representative.

Justification

To ensure that all the relevant stakeholders are represented in the Board.

- v. Delete clause (2) and substitute it as follows, "*The Cabinet Secretary shall observe provisions of Article 27 of the Constitution when appointing the members under subsection (1) (e), (f), (ga) and (gb) by notice in the Gazette*".

Justification

To include the additional members of the Board in the list of those to be appointed by the Cabinet Secretary and to ensure that there is gender balance in the membership of the Board.

6. Clause 8

Amend by deleting sub-paragraph (b) (ii) and substituting as follows, "section 7(1) (e), (f), (ga) and (gb).

Justification

To include the representatives of coffee millers and traders in the list.

7. Clause 9

Amend by deleting the clause and substituting as follows, "*The persons appointed under section 7(1) (a), (e), (f), (g), (ga) and (gb) shall serve for a term of three years renewable for one further term*".

Justification

To include the representatives of coffee millers and traders in the list.

8. **Clause 10:** Agreed to

9. **Clause 11**

Amend the clause as follows:

- i. Delete paragraph (f) and substitute as follows, "*conduct national and international coffee market intelligence and surveys to facilitate market access and inform promotional and branding strategies including the application of the Kenya Coffee Mark of Origin*";

Justification

Market surveys are mainly done to promote the Kenyan coffee and increase its access to the market.

- ii. Insert the following new paragraph immediately after paragraph (p), "*(pa) adopt marketing strategies that leverage digital platforms to reach broader audience and boost coffee sales*";

Justification

This is to access a bigger audience at a lower cost.

MIN. NO. NA/A&L/2023/158:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at ten minutes to two O'clock. The next meeting will be held on Friday, 2nd August 2024 at nine O'clock.

SIGNED:



DATE:

05/08/2024

HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK



THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 27TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD IN COMMITTEE ROOM 26 ON 5TH FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS ON TUESDAY, 4TH JUNE 2024 AT 10.00 A.M.

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Ferdinand Kevin Wanyonyi, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Justice Kipsang Kemei, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Pamela Njoki Njeru, MP | | |
| 8. Hon. Patrick Kibagendi Osero, MP | | |
| 9. Hon. Peter Kalerwa Salasya, MP | | |

ABSENT WITH APOLOGY

1. Hon. Sabina Wanjiru Chege, CBS, MP
2. Hon. Jared Odoyo Okelo, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Gabriel Gathuka Kagombe, MP
5. Hon. Monicah Muthoni Marubu, MP
6. Hon. Yussuf Mohamed Farah, MP

IN ATTENDANCE

A. COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|-----------------------------|
| 1. Ms. Laureen O. Wesonga | - | Clerk Assistant I |
| 2. Ms. Brigitta Mati | - | Legal Counsel I |
| 3. Mr. Peter Wafula | - | Legal Counsel II |
| 4. Mr. Muhumed Shillow | - | Research Officer III |
| 5. Ms. Zainabu Sora | - | Serjeant-at-Arms II |
| 6. Ms. Edith Chepogeno | - | Media Relations Officer III |

7. Ms. Diana Chepkemoi - Audio Assistant

B. CAPITAL MARKETS AUTHORITY (CMA)

1. FCPA Wyckliffe Shamia - Chief Executive Officer
2. Mr. Jairus Muaka - Senior Manager, Policy and Legal
3. Mr. Mathew Mukisu - Senior Manager, Commodities
4. Ms. Josephine Kang'ong'a - Manager, Legal Framework

C. KENYA ASSOCIATION OF MANUFACTURERS

1. Ms. Ruth Lemlem - Manager, Legal Regulatory Affairs
2. Mr. Malcolm Mwangi - Legal Officer

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes
4. Matters Arising
5. **Stakeholder Engagement on the Coffee Bill (Senate Bill No. 10 of 2023)**
6. Any other Business
7. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2024/123: PRELIMINARIES/ADOPTION OF THE AGENDA

The meeting was called to order at twenty-eight minutes past ten O'clock with a word of prayer by the Chairperson.

Members deliberated and resolved to include adoption of the Report on the Consideration of Senate Amendments to the Food and Feed Safety Control Coordination Bill (National Assembly Bill No. 21 of 2023) and adoption of the Report on the Consideration of Senate Amendments to the Sugar Bill (National Assembly Bill No. 34 of 2022) as Agendas in the meeting.

The Agenda of the meeting was adopted with amendments having been proposed by Hon. Peter Salasya, MP and seconded by Hon. Patrick Osero, MP.

MIN. NO. NA/A&L/2024/124: CONFIRMATION OF MINUTES

Minutes of the following Sittings were confirmed as a true reflection of the proceedings:

1. 21st Sitting having been proposed by Hon. Geoffrey Odanga, MP and seconded by Hon. Justice Kemei, MP;
2. 22nd Sitting having been proposed by Hon. Pamela Njoki, MP and seconded by Hon. David Kiplagat, MP;
3. 23rd Sitting having been proposed by Hon. David Kiplagat, MP and seconded by Hon. Peter Salasya, MP;
4. 24th Sitting having been proposed by Hon. Justice Kemei and seconded by Hon Patrick Kibagendi, MP;

5. 25th Sitting having been proposed by Hon. Geoffrey Odanga, MP and seconded by Hon. Patrick Osero, MP; and
6. 26th Sitting having been proposed by Hon. Pamela Njeru, MP and seconded by Hon. David Kiplagat, MP.

MIN. NO. NA/A&L/2024/125:

**STAKEHOLDER ENGAGEMENT ON THE
COFFEE BILL (SENATE BILL NO. 10 OF 2023)**

The Chairperson requested everyone present in the meeting to introduce themselves before inviting the stakeholders to make their submissions on the Coffee Bill (Senate Bill No. 10 of 2023). The stakeholders submitted as follows:

Capital Markets Authority

FCCA Wyckliffe Shamiyah, the Chief Executive Officer for CMA proposed a number of changes to the Bill including: the addition of the PS to the National Treasury in the membership of the Board; amendments to clauses where there is an overlap between the mandate of the Board and that of CMA; among others.

Kenya Association of Manufacturers

Ms. Ruth Lemlem, Manager, Legal Regulatory Affairs informed the Committee that the Association was proposing tax holidays and reduced corporate tax rates for new coffee processing and manufacturing businesses for the first five years. They also proposed incentives for private investment in warehousing infrastructure like tax deductions on construction costs.

They also proposed facilitation of development of essential infrastructure such as roads and utilities in coffee-growing areas through public private partnerships. They further proposed establishment of fund to support research and development in coffee production and processing technologies, offering grants to businesses and research institutions.

Specific amendments proposed by the stakeholders will be discussed in detail in the Report.

DELIBERATIONS

To encourage manufacturing in the coffee sector, there should be a centralised tax regime in all counties, the tax regime in the country needs to be predictable.

The money collected through the Coffee Fund needs to be ring-fenced to ensure that it is used for the purpose set out in the Act.

KAM carries out monthly surveys and they have established that there has been a decline in manufacturing in the country, from 7.8% last year to 7.6% this year.

MIN. NO. NA/A&L/2024/126:

ADOPTION OF THE REPORT ON THE
SENATE AMENDMENTS TO THE FOOD
AND FEED SAFETY CONTROL
COORDINATION BILL (NATIONAL
ASSEMBLY BILL NO. 21 OF 2023)

The Committee considered and adopted the Report on the Senate Amendments to the Food and Feed Safety Control Coordination Bill (National Assembly Bill No. 21 of 2023) having been proposed by Hon. Patrick Osero, MP and seconded by Hon. Pamela Njeru, MP.

MIN. NO. NA/A&L/2024/127:

ADOPTION OF THE REPORT ON THE
SENATE AMENDMENTS TO THE SUGAR
BILL (NATIONAL ASSEMBLY BILL NO. 34
OF 2024)

The Committee considered and adopted the Report on the Senate Amendments to the Sugar Bill (National Assembly Bill No. 34 of 2024) having been proposed by Hon. Ferdinand Wanyonyi, MP and seconded by Hon. Pamela Njeru, MP.

MIN. NO. NA/A&L/2024/128:

ADJOURNMENT/DATE OF THE NEXT
MEETING

There being no other business, the meeting was adjourned at twelve minutes past noon. The next meeting will be held on Thursday, 6th June 2024 at ten O'clock.

SIGNED:



DATE:

18/07/2024

HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK

**ANNEX THREE:
COPY OF THE COFFEE
BILL (SENATE BILL NO.
10 OF 2023)**

The Coffee Bill, 2023



REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 10 of 2023)

THE COFFEE BILL, 2023



(A Bill published in the Kenya *Gazette* Supplement No. 26 of 10th March, 2023 and passed by the Senate, with amendments, on Thursday, 21st March, 2024.)

THE COFFEE BILL, 2023
ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.

PART II— THE COFFEE BOARD OF KENYA

- 3—Objects.
- 4—Establishment of the Board.
- 5—Headquarters.
- 6—Powers of the Board.
- 7—Board of directors.
- 8—Qualification for appointment.
- 9—Term of appointment.
- 10—Vacation of office.
- 11—Functions of the Board.
- 12—Committees of the board of directors.
- 13—Delegation by the board of directors.
- 14—Remuneration of members of the board of directors.
- 15— Chief Executive Officer.
- 16—Functions of the chief executive officer.
- 17—Removal of chief executive officer.
- 18—Staff of the Board.
- 19—Protection of members and staff from liability.
- 20—Common seal of the Board.
- 21—Signing Authority.
- 22—Conduct of business of the Board.

PART III—ROLE OF COUNTY GOVERNMENTS

- 23—Role of county governments.
- 24—Enactment of county specific legislation.
- 25—Licencing of coffee operations.

PART IV—REGULATORY PROVISIONS

- 26— Regulation of production and processing of coffee.
- 27— Registration.
- 28—Licensing.
- 29—Licences issued by the Authority.
- 30—Requirement for certificates, licences and permits.
- 31—Obligations of licence holders.
- 32—Returns.
- 33—Movement permits.
- 34—Form of licence, certificate or permit.
- 35—Duration of licence.
- 36—Cancellation of licence or permit.
- 37—Submission of reports.
- 38—Appeals.

PART V—PRODUCTION AND PROCESSING.

- 39—Coffee production.
- 40—Importation of coffee planting materials.
- 41—Farm inputs.
- 42—Notification after planting, uprooting coffee or change of details of farm or estate.
- 43—Certification of Kenyan coffee.
- 44—Requirement relating to coffee processing.
- 45—Requirement relating to coffee traceability and disclosures.
- 46—Resolution by a cooperative society or coffee union.
- 47— Milling services.
- 48—Bulking of coffee.

PART VI— COFFEE TRADING AND MARKETING.

- 49—Coffee trading.
 - 50—International and local direct coffee sales.
 - 51—Licensing and functions of Coffee Exchange.
-

The Coffee Bill, 2023

- 52—Management of an exchange and settlement of coffee sales proceeds.
- 53—Sales catalogue.
- 54—Coffee warehousing in designated warehouses.
- 55— Sale of Coffee in an international exchange.
- 56— Coffee trading licence.
- 57— Export and import of Coffee.
- 58—Prohibition against blending.
- 59—Anti- competitive practices.

PART VII— QUALITY ASSURANCE.

- 60—Quality assurance for the coffee industry.
- 61—Inspections.
- 62—Coffee imports to conform to standards.

PART VIII —FINANCIAL PROVISIONS

- 63—Funds of the Board.
- 64—Coffee development levy.
- 65—Annual Estimates.
- 66—Accounts and Audit.
- 67—Annual report and publication.
- 68—Financial year of the Board.

**PART IX—COFFEE RESEARCH AND TRAINING
INSTITUTE OF KENYA**

- 69—Establishment of the Institute.
- 70—Headquarters.
- 71—Powers of the Institute.
- 72—Membership of the Council of the Institute.
- 73—Term of appointment.
- 74—Vacation of office.
- 75—Functions of the Institute.
- 76—Power to co-opt.
- 77—Conduct of business of the Council of the Institute.

78—Remuneration of members of the Council of the Institute.

79—Chief executive officer of the Institute.

80—Removal of the chief executive officer of the
Institute.

81—Staff of the Institute.

82—Protection of members and staff from liability.

83—Common Seal of the Institute.

84—Signing Authority.

**PART X— FINANCIAL PROVISIONS OF THE
INSTITUTE**

85—Funds of the Institute.

86—Powers to raise or borrow money.

87—Power to invest.

88—Annual Estimates.

89—Accounts and Audit.

90—Annual report and publication.

91—Financial year of the Institute.

PART XI—MISCELLANEOUS PROVISIONS

92—Disputes Resolution Committee

93—Digitalization.

94—Request for information.

95—Limitation of the Right to access Information.

96—Dissemination of market information.

97—Penalties.

98—Exemptions.

99—Regulations.

100 —Rights and obligations.

101 —Assets.

102 —Legal Proceedings.

103 —Reference to written laws.

104 —Previous authorizations.

105 —Staff.

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106—Interpretation.

107—Consequential Amendments.

**FIRST SCHEDULE—CONDUCT OF BUSINESS
AND AFFAIRS OF THE
BOARD OF DIRECTORS**

**SECOND SCHEDULE—LICENCE, PERMIT
OR CERTIFICATE.**

THE COFFEE BILL, 2023

A Bill for

AN ACT of Parliament to provide for: the establishment of the Coffee Board of Kenya and the Coffee Research and Training Institute; the roles of the National and the county governments; the regulation, development and promotion of the coffee industry; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART 1—PRELIMINARY

1. This Act may be cited as the Coffee Act, 2023.

Short title.

2. In this Act—

Interpretation.

“agent” means a person registered by the Board who may be appointed by a grower for purposes of facilitation of overseas direct sales with regard to logistics;

“association” means a registered group comprised of smallholder growers, co-operative societies, societies, estates, unions, millers, buyers, roasters or brokers, licensed by a relevant licensing authority;

“auction” means the auction system under which clean coffee is offered for sale at a coffee exchange and includes the place at which, or a facility by means of which, whether electronic or otherwise, offers or invitations to sell, buy or exchange coffee contracts are regularly made on a centralized basis, but does not include—

(a) the office or facilities of a coffee buyer or service provider; or

(b) the office or facilities of a clearing house;

“Board” means the Coffee Board of Kenya established under section 3;

“broker” means a person cleared by an exchange and licensed by the Capital Markets Authority, who may be appointed by a grower or an association of growers in accordance with the Capital Markets Act, to sell their coffee on their behalf through an Exchange;

Cap. 485A.

“buni” means coffee dried in the fruit or cherry but does not include hulled buni, also referred to as clean

The Coffee Bill, 2023

coffee, heavy buni or light buni;

“buyer” means an incorporated company licensed by the Board to buy clean coffee at an exchange for export, local sale or value addition or to import clean coffee for secondary processing in Kenya;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to agriculture;

“clean coffee” means coffee bean or dried seed of the coffee plant separated from non-food tissues of the coffee fruit where the silver skin is reduced to the maximum possible extent;

“clearing house” means an entity approved by the Authority, and recognized as a clearing institution on behalf of a coffee exchange, providing the services of clearing and settlement of transactions and guaranteeing settlement on behalf of an exchange;

“clearing and settlement” means the procedure by which a clearing house acts as an intermediary between a buyer and seller for exchange traded transactions in order to reconcile orders between transacting parties and ensure the physical or financial settlement of the transaction;

“coffee” means the plant botanically known as *coffea* species (L.) and includes the fruit, whether on the plant or detached therefrom, the seed in form of either buni, parchment coffee, clean coffee, roasted beans or ground coffee;

“coffee dealer” means a person registered by the Board, a county government or the Authority to deal in coffee as provided under this Act;

“coffee grower” a person who cultivates coffee in Kenya, is linked to a licenced pulping station, and may for purposes of licensing, include a co-operative society, coffee union, association or estate;

“coffee milling” means mechanical hulling or de-husking of coffee and includes grading of clean coffee;

“coffee product” means any product, extract or substance obtained or derived from coffee by any treatment or process;

“coffee sales proceeds” means monetary consideration received at the direct settlement system in

exchange for clean coffee sold at an exchange or, where applicable, through direct sales;

"coffee standards" means the Kenya Coffee Standards issued by the Kenya Bureau of Standards;

"coffee warrant" means an instrument prepared by the warehouseman of which the person named therein, or the last endorsee thereof, shall for all purposes be deemed to be the owner of the coffee to which it relates;

"co-operative society" means a co-operative society registered under the Co-operative Societies Act; Cap 490

"Council" means the Council of the Institute as provided for under Section 72;

"county executive committee member" means the county executive committee member for the time being responsible for matters relating to agriculture;

"direct sale" means a contractual arrangement between a registered grower, coffee co-operative society, society, coffee union, grower-miller or coffee estate and an overseas buyer for the sale of own clean coffee based on mutually accepted terms and conditions enforceable in law and includes settlement of coffee sales proceeds through the direct settlement system on boarded by a coffee exchange;

"direct settlement system" means a banking facility provided by commercial banks regulated by the Central Bank of Kenya for clearing and settlement of coffee sales proceeds;

"estate" means an area of land or group of parcels of land under coffee not being less than five acres in size in aggregate or land under coffee which has been issued with a pulping station licence; Cap 486

"exchange" means a company incorporated under the Companies Act and licensed by the Capital Markets Authority as an exchange for trading in clean coffee;

"Institute" means the Coffee Research and Training Institute established under section 69.

"licensing authority" means the Board, the county government or the Capital Market Authority as the case may be;

"liquoring" means analysis of clean coffee to determine the attributes and quality of coffee for purposes

of trade;

“out-turn number” means an identifying number issued by a miller in respect of coffee delivered to a mill for purposes of traceability;

“primary processing” means the process of removal of coffee pulp from cherry, fermentation, washing and drying to the coffee standard moisture content to obtain parchment;

“prompt date” means a date specified in the sales catalogue, not being more than five working days from the date of the sale, for the payment of coffee sales proceeds by a buyer or a roaster;

“pulping station” means a specified place where primary coffee processing is undertaken;

“sales catalogue” means a standard document prepared by a grower or a broker appointed by a grower, in the presence of a commercial miller and in consultation with an exchange, for sale of clean coffee at an exchange;

“secondary processing” means parchment de-husking, polishing, grading and may include roasting, grinding and packaging of clean coffee beans;

“small holder” means a grower cultivating coffee in a small parcel of land or in small parcels of land who does not possess his own pulping station;

“sweepings” means the balance of coffee samples in an exchange sample room and spillages collected from millers’ milling activities for sale at an exchange, the proceeds of which are paid to the respective growers on pro-rata basis;

“warehouse” means a facility registered by the Board and licensed by a county government for the storage of coffee, and which is specifically designed to guarantee the quality and safety of the coffee;

“warehouse operator” means any person registered and licensed by the Board who owns, leases or is in charge of a warehouse where coffee is handled and stored for reward or profit;

3. The objects of this Act are to —

Objects.

(a) promote a globally competitive coffee industry;

- (b) regulate the coffee sector;
- (c) provide a framework for the registration and licensing of various players within the coffee sector;
- (d) delineate the roles of the National and County Governments in the regulation, development and promotion of the coffee sector;
- (e) promote the vertical integration of the coffee value chain at the production level for the purpose of achieving economies of scale and managing risk;
- (f) promote evidence based coffee research and the delivery of extension services for the development of the coffee sector;
- (g) provide a framework for –
 - (i) the establishment of a coffee development levy; and
 - (ii) the sustainable funding of the coffee sector; and
- (h) provide a mechanism for dispute resolution within the coffee sector.

PART II—THE COFFEE BOARD OF KENYA

4. (1) There is established the Coffee Board of Kenya. Establishment of Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

5. (1) The headquarters of the Board shall be in Headquarters.

Nairobi City County.

(2) The Board may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.

6. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

Powers of the Board.

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Board;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and
- (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.

(2) The Board may, if it considers it necessary, associate with a body or corporation designed to assist or promote the coffee industry.

7. (1) The management of the Board shall vest in a board of directors consisting of—

Board of directors.

- (a) a chairperson appointed by the President by notice in the Gazette;
- (b) the Principal Secretary responsible for agriculture or a designated representative;
- (c) the Principal Secretary for the time being responsible for trade or a designated representative;
- (d) the Principal Secretary for the time being responsible for cooperatives or a designated

representative;

- (e) two persons of the opposite gender, representing smallholder coffee growers nominated by the umbrella body for coffee cooperative societies’;
 - (f) one person nominated by the largest association of estate growers;
 - (g) two persons of the opposite gender with knowledge of the coffee industry nominated by the Council of County Governors; and
 - (h) a chief executive officer appointed under section 15 who shall be an ex-officio member of the Board.
- (2) The Cabinet Secretary shall appoint the members under subsection (1) (e), (f) and (g) by notice in the *Gazette*.

8. (1) A person is qualified for appointment as a member of the Board under section 7(1)(a), (e), (f) and (g) if that person—

Qualification for appointment.

- (a) is a citizen of Kenya;
- (b) holds, in the case of a person appointed under —
 - (i) section 7(1)(a) and (g) a degree from a university recognized in Kenya; and
 - (ii) section 7(1)(e) and (f) a certificate in secondary school education.;
- (c) has at least three years’ experience preferably in management in the coffee sector; and
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(2) A person is not qualified for appointment if that person—

- (a) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;
- (b) is a member of Parliament or county assembly; or
- (c) is adjudged bankrupt.

The Coffee Bill, 2023

9. The persons appointed under section 7(1) (a), (c), (f), (g) shall serve for a term of three years renewable for one further term. Term of appointment.

10. (1) A person ceases to be a member of the board of directors if that person— Vacation of office.

- (a) is absent from three consecutive meetings of the board without the permission of the chairperson;
- (b) becomes an officer, agent or member of staff of the board;
- (c) resigns in writing addressed, in the case of the chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;
- (e) is declared bankrupt;
- (f) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (g) dies.

11. (1) The Board shall—

Functions of the Board.

- (a) regulate and promote the development of the coffee industry;
- (b) consider applications for the issuance of permits and licences under the second schedule to this Act;
- (c) register coffee dealers as set out in the second schedule;
- (d) make recommendations to the Cabinet Secretary for, and oversee the implementation of strategies, funding models, plans and policy for the coffee sector;
- (e) collect, collate and maintain a data base and disseminate information on the coffee industry;
- (f) conduct national and international coffee market intelligence and surveys to inform promotional and branding strategies including the application of the Kenya Coffee Mark of Origin;
- (g) establish linkages with various government agencies, the Institute and other research

institutions for the development of the coffee industry;

- (h) develop and implement a framework for the capacity building of players in the coffee industry;
- (i) promote the development of regional appellations for Kenyan coffee;
- (j) develop and enforce the coffee industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards;
- (k) maintain and cause to be published an up to date register of coffee dealers ;
- (l) undertake technology transfer and provide technical assistance to county governments on matters relating to coffee;
- (m) conduct surveillance and enforce compliance with relevant policies, standards and legislation on the coffee sector;
- (n) co-ordinate inter-agency representation in international coffee fora to promote increased market share of Kenyan coffee;
- (o) regulate the marketing and trading of coffee;
- (p) source markets and market Kenyan coffee in the international market"; and
- (q) carry out such other functions as may be assigned by the Cabinet Secretary or conferred under any other law.

(2) The Board shall, in the performance of its functions under this Act, consult and collaborate with the Council of County Governors.

12. (1) The board of directors may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.

Committees of the board of directors.

(2) The board of directors may co-opt to sit in the committees established under subsection (1) such other persons whose knowledge and skills are necessary for the performance of the functions of the Board.

13. The board of directors may, by resolution, delegate to any committee of the Board or to any member,

Delegation by the board of directors.

officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

14. The members of the board of directors shall be paid such remuneration or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, determine.

Remuneration of members of the board of directors.

15. (1) There shall be a chief executive officer of the Board who shall be competitively recruited and appointed by the board of directors on such terms and conditions as the board of directors shall determine.

Chief executive officer.

(2) A person is qualified for appointment under subsection (1) if the person—

- (a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;
- (b) has at least five years' experience in a position of management; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The chief executive officer shall serve for a term of three years and shall be eligible for appointment for one further term of three years.

16. The chief executive officer shall be the secretary to the Board and shall, subject to the direction of the board of directors—

Functions of the chief executive officer.

- (a) be responsible for the day to day management of the affairs of the Board;
- (b) manage the funds, property and affairs of the Board;
- (c) be responsible for the management of the staff of the Board;
- (d) oversee and coordinate the implementation of the policies, programmes and objectives of the Board;
- (e) cause to be prepared for the approval of the board of directors—
 - (i) the strategic plan and annual plan of the

Board; and

(ii) the annual budget and audited accounts of the Board; and

(f) perform such other duties as may be assigned by the board of directors.

17. The chief executive officer shall cease to hold office if the person—

Removal of chief executive officer.

(a) resigns in writing, addressed to the board of directors;

(b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;

(c) is found liable for gross misconduct or abuse of office in contravention of the Public Officers Ethics Act or any other relevant law;

No. 4 of 2003.

(d) is declared bankrupt;

(e) is unable to perform the functions of office by reason of mental or physical infirmity; or

(f) dies.

18. The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.

Staff of the Board.

19. Liability shall not attach to members of the Board, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection of members and staff from liability.

20. The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the board of directors.

Common seal of the Board.

21. All letters and instruments written or made by or on behalf of the board of directors, other than those required by law to be under seal, and all decisions of the board of directors, shall be signed under the hand of the chief executive officer or in the absence of the chief

Signing Authority.

The Coffee Bill, 2023

executive officer, a person authorized by the Board.

22. The business and affairs of the board of directors shall be conducted in accordance with the First Schedule.

Conduct of
business of the
Board.

PART III — ROLE OF COUNTY GOVERNMENTS

23. (1) A county government shall—

Role of county
governments.

- (a) implement the National Government policy relating to coffee;
- (b) maintain an up to date register of coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in that county;
- (c) consider applications for the certificates, permits and licenses enumerated under the second schedule to this Act;
- (d) enforce national and county legislation on coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions;
- (e) offer and co-ordinate the delivery of extension services on sustainable production, primary processing of coffee and climate smart agriculture;
- (f) inspect nurseries, pulping stations, warehouses, millers and roasters located within their respective counties;
- (g) regulate the movement of coffee through the issuance of movement permits for *buni*, parchment and clean coffee within the county and from the county to warehouses situated outside the county;
- (h) in collaboration with law enforcement agencies, enhance security in coffee growing areas; and
- (i) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies.

(2) A county executive committee member may impose such levies and fees as may be necessary for the registration and issuance of licences or the provision of

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services in accordance with the respective county legislation and such standards as may be prescribed by the Cabinet Secretary.

(3) The Cabinet Secretary shall, in consultation with the Board and the county executive committee members prescribe standards and guidelines for the setting of levies and fees by county executive committee members under subsection (2).

24. Each county government may enact county specific legislation setting out the –

Enactment of county specific legislation.

- (a) criteria for registration under section 26;
- (b) criteria for the issuance of permits and licences by an applicant within the respective county;
- (c) information required to be submitted by an applicant for a permit or licence;
- (d) process of determination of an application for a permit or licence;
- (e) conditions for the issuance or renewal of a licence under this Act;
- (f) grounds for the rejection of an application or cancellation of a licence issued under this Act;
- (g) process of issuance of a licence to an applicant for a permit or licence; and
- (h) process of application for the renewal of permits or licences and revocation of a licence issued to an applicant under this Act.

25. (1) A person shall not operate a –

Licensing of coffee operations.

- (a) pulping station or carry out hulling activities;
- (b) coffee growers' mill;
- (c) coffee roaster
- (d) warehouse; or
- (e) commercial coffee miller,

unless that person has applied for, and obtained a licence from the respective county government in which the operation is to be undertaken.

(2) An applicant for a licence under subsection (1) shall submit an application in the prescribed form together with the prescribed fees to the respective county executive

committee member for consideration.

(3) The county executive committee member shall consider the application and may issue to the applicant a licence in accordance with the respective county legislation.

PART IV—REGULATORY PROVISIONS

26. The Board and county governments shall regulate the production and processing of coffee with a view of —

Regulation of production and processing of coffee.

- (a) promoting productivity;
- (b) promoting access to markets;
- (c) facilitating provision of infrastructure including farm inputs;
- (d) providing post-harvest services;
- (e) providing extension services;
- (f) providing incentives to farmers; and
- (g) providing credit facilities.

(2) The Board and county governments shall maintain the necessary statistical information with respect to the coffee sector for proper planning.

27. (1) A coffee grower, nursery operator, grower miller, commercial miller, coffee roaster, cooperative society, coffee association or coffee estate shall register with the respective county government where they are based.

Registration.

(2) Despite subsection (1), a grower who is a registered member of a coffee cooperative society or association which is registered by a county government, shall be exempted from registration by that county government.

(3) Subsection (2) shall apply to a grower on condition that the cooperative society or association is registered in the same county as that which the grower is carrying out business.

(4) A registered cooperative society or association shall —

- (a) submit a register of its members to the

respective county government at the beginning of each calendar year; and

(b) furnish the county government with information on any change of membership within thirty (30) days of a change of membership.

(5) A county government shall not charge any fees for the registration of an applicant under subsection (1).

(6) Each county government shall keep and maintain the register under subsection (1) for statistical purposes.

(7) A register under subsection (6), shall include—

(a) the name of the coffee grower, nursery operator, miller, coffee roaster, cooperative society, coffee association or coffee estate;

(b) the location, size and parcel number of the land on which the business is located; and

(c) such other information as the Board may prescribe.

(8) Each county government shall submit to the Board a copy of the register under subsection (6).

28. (1) A person who intends to perform any function under this Act for which a licence or a permit is required shall submit to the relevant licencing authority specified in the Second Schedule – Licencing.

(f) an application for a licence or permit, in the prescribed form;

(g) such information as may be prescribed; and

(h) the prescribed fees.

(2) A licencing authority shall consider an application within such period, not exceeding fourteen days, as may be prescribed in the respective legislation, and may –

(a) grant an application for a licence or permit unconditionally;

(b) grant the application subject to conditions specified in the respective licensing legislation; or

(c) refuse the application.

(3) A licensing authority shall inform the applicant of its decision under subsection (2) within fourteen days of

the decision.

(4) Where a licensing authority refuses to grant an application, the licensing authority shall, in its notification under subsection (3), specify the reasons for the refusal.

(5) A licensing authority shall, at least thirty days before granting a new licence under this Act, give notice of the proposed grant by notice in the *Gazette* and in such other manner as the authority may determine.

(6) The licensing authority shall, in issuing the notice under subsection (5)—

- (a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;
- (b) state the purpose and the date for which the licence is proposed to be issued; and
- (c) invite objections to the proposed grant of licence and direct that such objections be lodged with the licensing authority within fourteen days from the date of the notice.

(7) The licensing authority shall consider any objection submitted to it under subsection (6) and may grant the licence applied for, subject to such terms and conditions as the licensing authority shall consider appropriate.

(8) A licence issued under this Act shall not be transferable.

(9) The holder of a coffee buyer's licence or an entity associated with a holder of the licence shall not carry on the business of a commercial miller, broker, roaster, agent or warehouse operator.

(10) A buyer's licence shall not be construed as authorizing a person to engage in direct sale of coffee or coffee products.

(11) A holder of a commercial miller's licence or any other entity associated with such holder shall not carry on the business of a buyer, broker, roaster, or agent .

(12) A licensing authority shall not issue a licence to a person whose effect would result in in the contravention of subsection (9), (10) or (11).

(13) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or twice the value of the coffee or coffee product, whichever is greater, or to imprisonment for a term not exceeding two years or both.

29. The following licences shall be issued by the Authority under the Capital Markets Act—

Licences issued by the Authority
Cap. 485A.

- (a) coffee exchange licence authorising a person to conduct the business of a coffee exchange;
- (b) a broker's licence authorising a person to offer clean coffee for sale at an exchange on behalf of the grower.

30. (1) A person shall not operate as a cupping laboratory, liquorer, coffee buyer, coffee importer, agent or warehouse operator unless the person is licensed or issued a registration certificate or a permit by the Board upon satisfaction of the prescribed conditions.

Requirements for certificates, licenses and permits.

(2) A person shall not conduct the business of a coffee exchange or offer brokerage services at an exchange unless that person is licensed by the Authority in accordance with the provisions of the Capital Markets Act.

Cap. 485A

(3) A person who contravenes the provision of this section commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or both.

31. A licence holder shall act in the best interest of coffee growers and adhere to prescribed conditions for the issuance of a licence and contractual obligations.

Obligations of license holders.

32. A licence holder shall submit monthly returns to the relevant licensing authority in the prescribed form.

Returns.

33. (1) A person shall not transport clean coffee unless such person —

Movement permits.

- (a) holds a licence issued pursuant to section 28 of this Act; and
- (b) has applied for, and obtained a movement permit issued, in the case of—
 - (i) buni and parchment, by the respective county of origin;

(ii) movement of clean coffee from the coffee mills to the warehouses, by the respective county government; and

(iii) movement of clean coffee by buyers upon purchase, movement of purchased clean coffee to warehouses by millers, or movement of clean coffee for export or import, by the Board.

(2) A coffee movement permit issued under subsection (1) shall be in the prescribed form.

(3) Subsection (1)(b)(i) shall not apply to a smallholder moving cherry coffee produced by the smallholder between the farm and the pulping station where they are registered.

(4) A person transporting coffee under subsection (1) shall –

(a) have, in his or her possession at the time of transporting the coffee, the original movement permit issued by the respective licensing authority; and

(b) ensure that the vessel used to transport the coffee conforms to the prescribed coffee standards.

(5) The respective county executive committee member shall monitor the movement of cherry and parchment coffee between farms and stores and the movement of clean coffee and hulled buni to the market and shall, for this purpose –

(a) prescribe, in county legislation, guidelines for the safe movement of cherry and parchment coffee; and

(b) put in place measures to curb illegal dealings in coffee or coffee products.

(6) A person who moves coffee contrary to this Act commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

34. A licence or permit issued under this Act shall be in the prescribed form.

35. (1) A licence or permit issued by the licensing

Duration of licence

Form of licence, or permit

authority shall expire on 30th June of every year and a license holder wishing to renew the licence may apply by 1st June preceding the expiry of the licence.

(2) Notwithstanding the provisions of sub-section (1), a late application may be made upon payment of a late application fee as may be prescribed.

36. (1) A licensing authority may cancel a licence or permit if the licensee –

Cancellation of licence or permit

- (i) fails to meet any condition imposed by the licencing authority;
- (j) fails to comply with the provisions of the licencing legislation; or
- (k) surrenders the licence or permit to the relevant licensing authority together with a notice setting out a request that the licence be cancelled.

37. (1) Each county executive committee member shall submit to the Board, at the end of each month or within such timelines as may be agreed upon with the Board, a report on the registered and licensed coffee growers and dealers within the respective county.

Submission of reports.

(2) The Board shall submit to the respective county executive committee member a report on the registered and licensed dealers and other service providers within the respective county at the end of each month or within such timelines as may be agreed upon with the respective county executive committee member.

38. Where an applicant is dissatisfied with the decision of a licencing authority not to, issue a licence, to revoke or cancel a licence under this Act, the applicant may make an application to the Dispute Resolution Committee established under section 92.

Appeals.

PART V — PRODUCTION AND PROCESSING

39. (1) The Institute shall—

Coffee production.

- (a) disseminate, in collaboration with the county governments, coffee production and processing technologies;
- (b) undertake the propagation of coffee planting materials;
- (c) supervise, in collaboration with the county governments, nursery operators undertaking the

business of propagating planting materials;

- (d) issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export;
- (e) map out areas suitable for coffee production in Kenya; and
- (f) undertake capacity building for the county governments and other players on coffee production and processing.

(2) The respective county executive committee members shall undertake soil mapping and analysis to determine nutritional requirements for coffee production.

40. (1) A person shall not import coffee planting materials unless such a person been registered by the Board.

Importation of coffee planting materials.

(2) The Board may, upon application and in collaboration with the Kenya Plant Health inspectorate Service and any other relevant agency, register a person to import coffee planting material for nursery establishment subject to the prescribed conditions.

41. (1) The Institute shall, in collaboration with the respective county executive committee member, undertake analysis of the farm inputs to ascertain compliance with the prescribed standards.

Farm inputs.

(2) The respective county executive committee member shall establish such farm inputs schemes as may be necessary to enhance coffee production.

(3) The National Government, in collaboration council of county governors, may put in place the infrastructure necessary for the production and availability of quality farm inputs for coffee production;

(4) The county executive committee members shall monitor and oversee the implementation and compliance with standards by farm input stockists.

42. (1) A co-operative society comprising coffee growers shall keep and maintain a register of coffee growers and the number of coffee trees planted or uprooted by each of its members in the prescribed form.

Notification after planting, uprooting coffee or change of details of farm or estate.

(2) A co-operative society shall submit to the respective county executive committee member, annually, a record of the information maintained by the society

under subsection (1).

(3) Each county executive committee member shall keep and maintain a record, in the prescribed form, of the area under coffee cultivation and information regarding uprooted coffee in the county.

(4) The county executive committee member shall submit to the Board, annually, the record kept under subsection (3).

43. (1) The Board shall register certification schemes to monitor compliance with the coffee standards.

Certification of
Kenyan Coffee.

(2) A coffee grower, miller or any other player in the coffee value chain may seek certification by the respective licencing authority to ensure the quality of coffee, the quality of service and secure market confidence.

(3) The Board shall keep and maintain a register of certification scheme operators in each county.

(4) The Board shall, for the purpose of subsection (2),

(a) keep and maintain a register of certified scheme operators; and

(b) submit, a copy of the register to the respective county executive committee member.

(5) Each county executive committee member shall monitor the operations of certification schemes and periodically advise the coffee growers within the respective county and the Board on best practice and performance of a scheme.

(6) A certification scheme under subsection (1) shall provide the particulars of certification services, competencies of their scheme operators and the benefits of the certification schemes to coffee growers.

(7) Certified coffee shall be identified and labelled according to the respective certification scheme for traceability and marketing.

(8) A miller shall, in the case of certified coffee, specify information relating to the certified coffee in the sales catalogue maintained by the miller.

(9) A coffee miller shall, before offering the coffee for sale in an exchange, provide proof of certification.

44. The processing of coffee shall be carried out at designated, standard approved facilities and in accordance

Requirements
relating to coffee
processing.

with the National Standards and Industry Code of Practice.

45. (1) The Board shall establish a coffee traceability system in the prescribed form.

Requirements relating to coffee traceability and a disclosures.

(2) A person who operates a pulping station or coffee mill shall comply with the prescribed traceability system established by the Board under subsection (1).

(3) A commercial miller shall-

- (a) ensure that the grower or grower's representative is given reasonable notice to be present during the milling process;
- (b) take out comprehensive insurance cover against fire, theft and other risks for all coffee in its possession and custody;
- (c) account for mill spillage or sweepings and all other coffee by-products to the growers and the Board;
- (d) digitize its operations to ensure weight precision, timely dissemination of information and protection of growers' data;
- (e) submit returns on coffee received and milled to the Board and the respective county government; and
- (f) comply with the prescribed standard coffee grades.

46. (1) A cooperative society or a coffee union –

Resolution by a cooperative society or a coffee union.

- (a) shall in charging a fee to its growers, adhere to the society's budget and not exceed ten percent of the gross earnings from the coffee sales;
- (b) despite having a registered brokerage firm, may engage the services of a private

brokerage firm; and

(c) may pass a resolution to borrow money.

Section 3 of Cap
490.

(2) A resolution under subsection (1) (b) and (c) shall be made at a general or special meeting convened by the commissioner for cooperative development and be supported by at least three quarters of its members.

(3) The commissioner for cooperative development shall take and keep a record of the proceeding of the meeting, which record shall include a list of the members present and the resolutions made.

47. (1) Every contract for milling of coffee shall be in writing and shall contain such information as may be prescribed.

Milling services.

(2) A commercial miller shall –

- (a) ensure that the grower or grower's representative is given reasonable notice to be present during the milling process;
- (b) take out comprehensive insurance cover against fire, theft, and other risks for all coffee in its possession and custody;
- (c) account for mill spillage or sweepings and all other coffee by-products to the growers and the Board;
- (d) digitize its operations to ensure weight precision, timely dissemination of information and protection of growers' data;
- (e) submit returns on coffee received and milled to the Board and the respective county government; and
- (f) comply with the prescribed standard coffee grades.

48. (1) A coffee miller may bulk parchment or *buni*

Bulking of coffee.

coffee of the same quality and characteristics in order to attain millable quantities.

(2) A coffee miller who bulks coffee shall avail information, in the prescribed form, to an exchange and the direct settlement system provider on the proportions of the bulked coffees for purposes of processing payments.

(3) The Board and the respective county executive committee member shall, separately or jointly undertake regular inspections to ensure compliance with this Act by the coffee millers.

(4) A coffee grower may deliver coffee samples not exceeding five hundred grams of parchment or *buni* for independent quality analysis by a laboratory before delivery to a commercial coffee miller.

(5) A laboratory to which a sample is submitted under subsection (4) shall issue to the coffee grower a report on quality compliance in the prescribed form.

(6) A coffee miller shall remit two hundred- and fifty-grams samples for each grade of an out-turn to the Board for quality analysis and assessment of conformity with coffee standards.

(7) A co-operative society or association comprising smallholder growers that intends to obtain milling services shall competitively procure the services of a miller or other service providers to whom the coffee is intended to be delivered for milling.

(8) Any charges imposed for the delivery of services to a coffee grower shall be communicated in the prescribed form to the direct settlement system provider before the sale of coffee for the purpose of settlement after the sale has been conducted.

PART VI— COFFEE TRADING AND MARKETING.

49. (1) Kenya Coffee may be offered for sale through— Coffee trading.

- (a) auction in an Exchange;
- (b) direct sales;
- (c) international exchange; or
- (d) such other method as the Cabinet Secretary in consultation with county governments and the

Board may prescribe.

(2) A buyer, a roaster, or a grower miller licensed by the relevant licensing authority, or a broker appointed by the grower, may trade at an exchange in accordance with this Act and any other law governing trade in an exchange.

50. (1) A licensed coffee grower may undertake, in the prescribed manner, a direct sale in coffee.

International and
local direct coffee
sales.

(2) Before a contract for direct sale is completed, a sample of not more than two hundred and fifty grams of the coffee intended for sale, shall be submitted to an exchange for quality analysis and price discovery.

(3) An exchange in which the sample is delivered under subclause (1) shall within fourteen days, issue to the coffee grower with a report on the quality and the price discovery in the prescribed form.

(4) Despite the provisions of subclause (2) and (3), a contract for future sales shall not be subjected to price and grade discovery at an exchange.

(5) The price at which a licensed coffee grower offers coffee for sale under subsection (1) shall bear a favorable comparison to the price at an exchange.

(6) A licensed coffee grower shall submit monthly returns to the Board, in the prescribed form, on sales undertaken under subsection (1) including —

- (a) a copy of the contract;
- (b) the coffee grade;
- (c) the coffee quantity;
- (d) the coffee price;
- (e) details of a certification scheme, where applicable;
- (f) quality report;
- (g) mode of payment; and
- (h) a dispute resolution clause.

51. (1) The Capital Market Authority shall licence an exchange for the purposes of trading coffee.

Licensing and functions of an Exchange.

(2) An exchange shall—

- (a) manage its auction floor, the central sample room, the information registry and the direct settlement system;
- (b) maintain records relating to coffee sales, coffee samples and sweepings;
- (c) avail sales catalogues to interested parties in accordance with the Capital Markets Act;
- (d) disseminate market information for every auction and an analysis of performance on, weekly and monthly basis; and
- (e) carry out such other function as the Cabinet Secretary for trade may prescribe.

CAP 485A

(3) The proceeds of the sale of coffee at an Exchange shall be deposited in a direct settlement system established in accordance with the Capital Markets Act.

52. (1) A broker or agent appointed by growers and other service providers shall not receive coffee sale proceeds on behalf of the growers.

Management of an exchange and settlement of coffee sales proceeds

(2) A coffee warrant or a warehouse receipt issued by a warehouse operator to a depositor of coffee shall be transferable to a new holder who has purchased the coffee and is entitled to take its delivery upon presentation of the coffee warrant or the warehouse receipt endorsed by an exchange to the warehouse operator.

(3) A person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

53. (1) A grower or a broker appointed by a grower shall, in the presence of a commercial miller and in consultation with an exchange, prepare a sales catalogue for all the coffee in a licenced warehouse in accordance with the Act.

Sales Catalogue

(2) A sales catalogue shall contain information on the prompt date and such other particulars as may be

prescribed under this Act.

54. (1) All coffee shall be stored in warehouses licensed by the respective county governments.

Coffee
warehousing in
designated
warehouses.

(2) A county executive committee member shall not designate premises as a coffee warehouse unless the premises have been inspected, approved and licensed in accordance with this Act and other relevant legislations.

(3) A licensed warehouse shall conform to the standards prescribed by the Kenya Bureau of Standards.

(4) The Board and county governments shall inspect warehouses and monitor warehousing activities on a regular basis.

(5) A warehouse operator shall—

- (a) insure all coffee in his or her warehouse or under his or her custody against fire, theft and other insurable risk;
- (b) not remove or cause to be removed from a warehouse, coffee unless the operator has applied for, and obtained an endorsed coffee warrant or warehouse receipt as the case may be; and
- (c) account for any weight or quality loss to the respective grower, agent, buyer or roaster.

(6) A person who operates a warehouse contrary to this Act commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

55. (1) A grower or an agent representing the grower may offer coffee for sale, in the prescribed manner, in an international exchange and may for this purpose enter in to a written contract for future sale.

Sale of coffee in an
international
exchange.

(2) A contract under subsection (1) shall include the following information-

- (a) the name of the exchange
- (b) the quality of coffee;
- (c) the quantity of coffee;
- (d) the mode of payment;

- (e) the mode and place of storage;
- (f) the details of insurance cover; and
- (g) a dispute resolution clause.

(3) The contract under subsection (1) shall be submitted to the Board within fourteen days of the signing of the contract.

(4) The Cabinet Secretary shall prescribe regulations on sale of coffee at an international exchange.

56. The Board may, for the purpose of trading in the international coffee market and auction —

Coffee trading licence

- (a) issue a coffee trading licence to a grower or a buyer; and
- (b) in collaboration with the Cabinet Secretary for trade, issue trade insurance to a cooperative society to indemnify it from any risk on any coffee exported in an international market or auction.

57. (1) A person shall not export coffee or cause any coffee to be exported unless such person has —

Export and import of coffee.

- (a) applied for, and obtained, a phytosanitary certificate from the Kenya Plant Health Inspectorate Service; and
- (b) notification and registration of direct sales contract, certificate of origin, certificate of quality and any other relevant approvals issued by the Board.

(2) The Board shall authorize the importation of coffee through the issuance of import permits or a buyer's licence.

(3) Clean coffee imports shall —

(a) be accompanied by the certificate of origin and phytosanitary certificate issued by the country of origin and adhere to Kenyan coffee standards; and

(b) be inspected and issued with Phytosanitary Certificate by the Kenya Plant Health Inspectorate

Service.

(4) Clean coffee which consists only of a sample or a parcel not exceeding twenty kilograms in weight and which meets the relevant licensing and certification requirements shall not require a buyer's license from the Board.

58. (1) A person who blends any or various grades of coffee produced in Kenya with any other coffees produced outside Kenya shall declare the percentage of Kenyan coffee in the blend.

Prohibition against blending

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding twice the value of the blended coffee, or to imprisonment for a term not exceeding one year, or to both.

59. The trading activities at an exchange shall be compliant with relevant laws that deter unfair trading and anti-competitive practices.

Anti-competitive practices.

PART VII—QUALITY ASSURANCE.

60. (1) The Board and the respective county executive committee members shall collaborate in the enforcement of coffee industry standards along the value chain for purposes of quality assurance.

Quality assurance for coffee industry.

(2) The Board, in consultation with an accredited university of higher learning and industry stakeholders may develop a training curriculum, conduct examinations and jointly issue certificates for coffee liquorers.

(3) The Board may enter into a memorandum of understanding with an accredited university for the training and administration of liquorers' examinations.

(4) A person shall not offer liquoring services unless such person is certified as a liquorer has applied for, and obtained a practicing licence from the Board.

(5) The Board shall, in collaboration with the respective county executive committee members establish cupping centers in the counties for the purpose of conducting coffee quality analysis and capacity building.

(6) The Board shall carry out assessments on coffee quality maintenance at any premises in which the processing of coffee is carried out along the value chain.

(7) The Board may sample coffee at any stage of the value chain to ascertain permissible pesticides residue levels for compliance with set national and international standards.

(8) The Board, in collaboration with the respective county executive committee member shall –

- (a) monitor maintenance of pesticide spraying records by coffee growers to enforce compliance with the permissible pesticides residue levels in coffee beans; and
- (b) inspect coffee storage bags to check against potential contamination and monitor wholesalers, suppliers, manufacturers and importers to ensure compliance with safety standards.

(9) The Institute shall in collaboration with the county governments and other relevant bodies conduct periodic surveillance on the application of pesticides to ensure compliance with set standards and best practices.

61. (1) The Board and the respective county executive committee members shall, by notice in the Gazette, appoint inspectors for the enforcement of the provisions of this Act.

Inspections

(2) The Board and the respective county executive committee members may, separately or jointly, conduct inspection of coffee farms, coffee nurseries, pulping stations, coffee mills, warehouses, cupping laboratories, roasters or coffee buyers' vessels transporting coffee to monitor compliance with the requirements of this Act.

(3) A smallholder, a grower, a pulping station operator, a transporter, a miller, a warehouse operator or a buyer shall accord an inspector access and necessary assistance for effective inspection.

(4) A person who fails to accord an inspector access to premises and information commits an offence.

62. (1) A person importing coffee into the country shall –

Coffee imports to conform to standards

- (a) ensure that the coffee complies with the coffee standards and such other quality standards as may be prescribed under this Act or any other law; and
- (b) adhere to the safety and health standards

prescribed under this Act or any other law.

(2) The Board shall destroy coffee which does not conform to the coffee standards.

(3) The Board shall not destroy coffee under subsection (2) unless –

- (a) it has issued to the importer of the coffee, notice, in the prescribed form, of intention to destroy the coffee;
- (b) given the importer an opportunity to be heard; and
- (c) obtained an order of a Court of competent jurisdiction for the destruction of that coffee.

(4) The Board may, in addition to the action taken under subsection (3), suspend or cancel any licence issued to the importer under this Act.

PART VIII—FINANCIAL PROVISIONS

63. The funds and assets of the Board shall comprise of— Funds of the Board.

- (a) such monies as may be appropriated by the National Assembly for the purposes of the Board;
- (b) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) monies received from the levy imposed on coffee sales pursuant to section 64;
- (d) such monies as may be payable to the Board pursuant to this Act or any other written law;
- (e) such gifts as may be donated to the Board; and
- (f) monies from any other source granted, donated or lent to the Board.

64. (1) The Cabinet Secretary shall, in consultation with the Board and county governments and by notice in the *Gazette*, impose a levy of two per centum on the export import value remitted by coffee buyers to the Board through the direct settlement system for the development of the coffee industry. Coffee development Levy.

(2) The levy imposed under subsection ((1)

hall be apportioned as follows—

- (a) thirty per centum to the Institute;
- (b) fifteen per centum to the Board for regulatory purposes;
- (c) twenty per centum for price stabilization which shall be managed by the Commodities Fund;
- (d) ten per centum to the Board for marketing purposes; and

(e) twenty-five per centum to the county growing areas on pro-rata basis as a conditional grant for coffee development.

65. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that year.

Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned.

(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in the National Assembly.

66. (1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

Accounts and Audit.

- (a) a balance sheet showing in detail the assets and liabilities of the Board;
- (b) monies received from the levy imposed on coffee sales pursuant to section 64; and
- (c) such other statements of accounts as the Cabinet Secretary may approve.

(2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

CAP 412B.

(3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all

vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.

67. (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.

Annual report and publication.

(2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to the National Assembly and the Senate the reports, balance sheet and statements under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if a House of Parliament is not sitting, within fourteen days of the commencement of its next sitting.

68. The financial year of the Board shall be the period of twelve months ending on the thirty first of June in each financial year.

Financial year of the Board.

PART IX—COFFEE RESEARCH AND TRAINING INSTITUTE OF KENYA

69. (1) There is established an Institute to be known as the Coffee Research and Training Institute.

Establishment of the Institute.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all other things or acts

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necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

70. (1) The headquarters of the Institute shall be in Kiambu County. Headquarters.

(2) The Institute may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.

71. (1) The Institute shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Institute shall have power to— Powers of the Institute.

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Institute;
- (c) receive gifts, grants, donations or endowments made to the Institute and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Institute's funds not immediately required for the purposes of this Act, as it may determine; and
- (e) operate a bank account into which all monies received by the Institute shall be paid in the first instance and out of which all payments made by the Institute shall be made.

(2) The Institute may, if it considers it necessary, create or take part in the creation of, become a member of, or associate with a body or corporation designed to assist or promote the coffee industry.

72. (1) The management of the Institute shall vest in a Council consisting of— Membership of Council of the Institute.

- (a) a chairperson of the Council appointed by the Cabinet Secretary by notice in the *Gazette*;
- (b) the Principal Secretary responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;

- (c) the Principal Secretary for matters relating to finance or a representative nominated by the Principal Secretary in writing;
- (d) the Director General of Kenya Agricultural Research Institute;
- (e) one person representing estate coffee growers nominated by the largest association of estate growers;
- (f) one person representing small scale coffee growers nominated by the umbrella body of cooperative societies’;
- (g) a chief executive officer appointed in accordance with section 79 who shall be an *ex-officio* member of the Council.
- (h) a chief executive officer appointed in accordance with section 79 who shall be an *ex-officio* member of the board.

(2) The Cabinet Secretary shall appoint the members under subsection (1) (a), (e), (f), and (g) by notice in the *Gazette*.

(3) A person is qualified for appointment as a chairperson of the Council of the Institute if that person holds a post graduate degree in crop research or a related field from a university recognized in Kenya and has three years’ experience in the coffee sector.

73. The persons appointed under section 72 (1)(a) (e),(f), (g) and (h) shall serve for a term of four years renewable for one further term.

Term of appointment.

74. A person shall cease to be a member of the Council of the Institute if that person—

Vacation of office.

- (a) is absent from three consecutive meetings of the Council of the Institute without the permission of the chairperson;
- (b) becomes an officer, agent or member of staff of the Institute;
- (c) resigns in writing addressed to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six

months; and

- (c) is declared bankrupt;
- (f) is unable to perform the functions of his office by reason of mental or physical infirmity; or
- (g) dies.

75. (1) The Institute shall—

Functions of the
Institute.

- (a) advise the National and county governments on the resource requirements for coffee research;
- (b) prioritise areas for, and co-ordinate, coffee research including research in coffee diseases and new coffee varieties;
- (c) develop appropriate systems to promote balanced, diversified and sustained coffee development and to optimise coffee production through adaptive and investigative research;
- (d) disseminate, in collaboration with the Board, the Kenya Agricultural and Livestock Research Organisation established under the Kenya Agricultural and Livestock Research Organisation Act and other organizations, knowledge, information and application of research findings in relation to coffee; and
- (e) facilitate the use of improved production technology and establish adequate feedback systems from agricultural producers in order to achieve and maintain national self-sufficiency and export capacities in agricultural products.
- (f) develop curriculum and offer training on research findings.

Cap 319.

(2) For the purpose of carrying out its functions under subsection (1), the Institute shall—

- (a) make policy recommendations to the Cabinet Secretary on coffee research;
- (b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes within the framework of the national agricultural research system;

- (c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanisation and technology options to improve coffee production and provide answers to foreseeable problems facing coffee;
- (d) collaborate with the extension and education services and other organisations, agencies and institutions including schools, technical institutions and universities, public or private, to disseminate research results and technologies;
- (e) undertake the propagation of quality coffee planting materials and supervision of registered nursery operators;
- (f) provide competitive grants to research institutes and persons desirous of carrying out research and training programs which address value chain priorities and are consistent with the national research priorities and plans of the institute;
- (g) organize, design and carry out on-station and on-farm research for coffee;
- (h) support and promote the training and capacity building in relation to agricultural research;
- (i) establish and maintain regular contact with regional and international agricultural research centres to ensure the rapid introduction, evaluation and use of coffee improved technology;
- (j) establish platforms for the purposes of sharing research information, advancing research and transfer of technology and dissemination of information relating to advancements made in coffee research;
- (k) conduct annual reviews of research results and ensure performance improvement in the field of agricultural research;
- (l) make available to the Science Commission annual reports on research and development activities carried out by or under the auspices of the Institute;
- (m) be the lead scientific agency in coffee breeding for the development of a climate resilient coffee

crop and coffee that is resistant to diseases and pests;

- (n) develop technologies and practices for adoption along the production, processing and value chain that contribute towards climate change adaptation, resilience and mitigation;
- (o) be the custodian of the Kenyan Coffee Genome and the primary instrument for making modern genomics resources available to researchers working across the coffee production chain;
- (p) provide and facilitate access to timely scientific information in a useable format and advisory services to actors in the coffee production chain;
- (q) conduct market research and analysis and disseminate information on its findings to relevant stakeholders; and
- (r) perform such other functions as the Council of the institute shall determine.

76. The Council of the Institute may co-opt two persons with knowledge and experience in matters relating to coffee for the better carrying out of the functions of the Council.

Power to co-opt.

77. The provisions of the First Schedule on the conduct of business and affairs of the Board of Directors shall apply to the Council with necessary modifications.

Conduct of business of the Council of the Institute.

78. The members of the Council of the Institute shall be paid such remuneration or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine.

Remuneration of members of the Council of the Institute.

79. (1) There shall be a chief executive officer of the Institute who shall be competitively recruited and appointed by the Council of the Institute on such terms and conditions as the Council shall determine.

Chief executive officer of the Institute.

(2) The chief executive officer shall be responsible for the day to day management of the affairs of the Institute.

(3) A person is qualified for appointment under subsection (1) if the person—

- (a) is a citizen of Kenya;

- (b) holds a degree in agriculture, crops science or business administration from a university recognized in Kenya;
- (c) holds a postgraduate degree or its equivalent from a university recognised in Kenya; and
- (d) has at least five years' experience at senior management level in agricultural science; policy formulation; policy-oriented research and analysis; and management of human resource and finance.

(4) The chief executive officer shall serve for a term of five years renewable for a further term of five years.

80. The Council of the Institute may remove the chief executive officer in accordance with the terms and conditions of service for—

Removal of chief executive officer of the Institute.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

81. The Institute may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Institute under this Act and upon such terms and conditions of service as the Institute may determine.

Staff of the Institute.

82. Liability shall not attach to the members of the Council, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection of members and staff from liability.

83. The affixing of the common seal of the Institute shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the Council of the Institute.

Common seal of the Institute.

84. All letters and instruments written or made by or on behalf of the Council of the Institute, other than those required by law to be under seal, and all decisions of the

Signing Authority.

Council of the Institute, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the Council of the Institute.

PART X—FINANCIAL PROVISIONS OF THE INSTITUTE

85. The funds and assets of the Institute shall comprise of— Funds of the Institute

- (a) such monies as may be appropriated by the National Assembly for the purposes of the Institute;
- (b) such monies or assets as may accrue to or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act including proceeds from patents;
- (c) one percent of monies collected from the sale of coffee pursuant to section 64 of this Act;
- (d) such monies as may be payable to the Institute pursuant to this Act or any other written law;
- (e) such gifts as may be donated to the Institute; and
- (f) monies from any other source granted, donated or lent to the Institute.

86. The Council of the Institute may, upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act. Powers to raise or borrow money.

87. The Council of the Institute may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the Institute in securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance. Power to invest

88. (1) At least three months before the commencement of each financial year, the Institute shall cause to be prepared estimates of the revenue and Annual Estimates

expenditure of the Institute for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Institute for the financial year concerned.

(3) The annual estimates prepared by the Institute under subsection (2) shall be submitted to the Cabinet Secretary for tabling in Parliament.

89. (1) The Institute shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

Accounts and Audit.

(a) a balance sheet showing in detail the assets and liabilities of the Institute; and

(b) such other statements of accounts as the Cabinet Secretary may approve.

(4) The accounts of the Institute shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

CAP 412B.

(5) The Institute shall submit to the Auditor-General all books and accounts of the Institute, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Institute such information and explanation as he may consider necessary for the performance of his duties.

90. (1) The Institute shall, within a period of seven months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Institute during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.

Annual report and publication.

(2) The Institute shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as

the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to Parliament the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if Parliament is not sitting, within fourteen days of the commencement of its next sitting.

91. The financial year of the Institute shall be the period of twelve months ending on the thirty first of June in each financial year.

Financial year of
the Institute.

PART XI—MISCELLANEOUS PROVISIONS

92. (1) Disputes related to issuance of permits, licensing, nomination of Board members or Council members and other matters that may arise in the coffee sector shall be resolved, in the first instance, by a Dispute Resolution Committee.

Disputes
Resolution
Committees

(2) Each licensing authority shall have an ad hoc Dispute Resolution Committee that consists of a chair and two other members appointed by notice in the *Gazette*, in the case of—

- (a) the Board, the Cabinet Secretary; and
- (b) the county governments, the respective governor;

by notice in the *Gazette*.

(3) A member of the committee shall not be members of a licencing authority.

(4) A dispute resolution committee may regulate its own procedure.

(5) A licencing authority shall provide secretarial services to a dispute resolution committee.

(6) The Cabinet Secretary shall make rules on the procedure for nominating members to a Dispute Resolution Committee.

(7) Decisions regarding any dispute contemplated under this section shall be made by the relevant Dispute Resolution Committee within thirty days of the hearing of the dispute in question.

(8) A person who is dissatisfied with the decision of

a Dispute Resolution Committee may appeal to the High Court.

93. (1) The Board, a licenced exchange and each county executive committee member shall automate their operations for the efficient delivery of services and dissemination of information within the coffee sector. Digitization.

(2) In automating its processes, the Board and the county executive committee member shall ensure that—

- (a) multiple parties can access a common system;
- (b) flow of data takes place seamlessly across the value-chain without interruption;
- (c) the system is safe and secured and protected against unauthorized access;
- (d) there is in place, a mechanism that ensures access to the system is properly regulated and monitored with adequate mechanisms for continued integrity; and
- (e) the records are not lost, destroyed or tampered with, and in the event of any loss or destruction, sufficient back-up is available in a secure place.

94. (1) The chief executive officer of the Institute may, in writing, request any person to furnish the Institute with such information or to produce such documents or records as the chief executive officer deems necessary and relevant for the performance of the functions of the Organization. Request for information.

(2) A person who—

- (a) refuses or fails, without reasonable cause, to comply with a request under subsection (1) to furnish any information or to produce any documents or records; or
- (b) in furnishing such information, makes a statement which they know to be false, commits an offence and shall be liable, on conviction to a fine not exceeding fifty thousand shillings or to imprisonment not exceeding three months, or to both.

95. (1) Pursuant to Article 24 of the Constitution, the right of access to information under Article 35 of the Constitution shall be limited with respect to information Limitation of the right to access information.

whose disclosure is, in the opinion of the Council likely to prejudice the integrity of research or any intellectual property rights held by the Institute.

(2) An officer, member of staff, or agent of the Institute shall not disclose information acquired under this Act except with the written consent of the Council of the Institute.

(3) A person who receives information in contravention of subsection (2) shall not disclose or publish the information.

(4) A person who contravenes subsection (2) or (3) commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

96. The Board shall carry out market research and analysis and disseminate information on its findings to all stakeholders.

Dissemination of
market information

97. (1) A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine of not more than fifty thousand shillings or a fine not exceeding twice the value of the coffee or coffee products or, to imprisonment for a term not exceeding six months, or to both.

Penalties.

(2) Where an offence under this Act is committed by a partnership, company, association or co-operative society, every person who at the time when the offence was committed—

- (a) was director, partner or officer;
- (b) had knowledge or should have had knowledge of the commission of the offence; and
- (c) did not exercise due diligence to ensure compliance with this Act,

commits an offence and is liable for the offence as if they had committed the offence, unless they prove that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer

concerned as aforesaid and to all the circumstances.

98. Subject to other applicable laws, the Institute shall be exempted from such taxes, duties, fees, levy, cess or other charges as the Cabinet Secretary for the time being responsible for finance may by, notice in the *Gazette*, specify. Exemptions.

99. (1) The Cabinet Secretary may, in consultation with the Board and the Council of County Governors, make Regulations— Regulations.

- (a) prescribing anything that may be prescribed under this Act; and
 - (b) generally for the better carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations to provide for—
- (a) the regulation of the processing, importation and exportation of coffee and coffee products;
 - (b) the forms to be used —
 - (i) in the application for registration, licensing, permits, contracts, bulking of coffee, coffee traceability, and related activities;
 - (ii) to give notice to an importer on the intention to destroy coffee;
 - (iii) in submission of monthly returns to the Board by growers and roasters; and
 - (iv) by a laboratory to report on quality compliance.
 - (c) the process of application for registration, licensing and related activities;
 - (d) any fee or levy which may be charged for anything done under this Act;
 - (e) the regulation and enforcement of contracts between growers, processors and other players in the coffee industry.
 - (f) the process of nomination of members to the Board;
 - (g) the conditions for the issuance of certificates,

- licenses and permits under this Act;
- (h) the trade, storage, bulking, packing and roasting of coffee;
 - (i) the regulation of nursery operations, pulping, milling, warehousing and transportation of coffee;
 - (j) the grading and classification of coffee;
 - (k) the imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers; and
 - (l) operationalization of the Direct Settlement System.

PART XII—TRANSITIONAL PROVISIONS

100. (1) All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Agriculture and Food Authority with respect to the coffee sector shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board as the case may be.

Rights and obligations.

(2) All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Kenya Agricultural and Livestock Research Organisation with respect to the Coffee Research Institute shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Institute as the case may be.

101. All funds, assets, and other property, moveable and immovable which were immediately before the appointed day vested in Agriculture and Food Authority for the carrying out of and Kenya Agricultural and Livestock Research Organisation for the carrying out of functions relating to coffee, shall, by virtue of this paragraph, vest in the Council or the Institute as the Cabinet Secretary may, by order, determine.

Assets.

102. (1) On or after the appointed day, all actions, suits or legal proceedings pending by or against the Agriculture and Food Authority in relation to the coffee sector shall be carried on or prosecuted by or against the Board, and no action, suit or legal proceedings

Legal proceedings

shall in any manner abate or be prejudicially affected by the enactment of this Act.

(2) On or after the appointed day, all actions, suits or legal proceedings pending by or against the Kenya Agricultural and Livestock Research Organisation in relation to the coffee research institute shall be carried on or prosecuted by or against the Institute, and no action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

103. (1) Any reference to the Agriculture and Food Authority in any written law or in any contract, document or instrument of whatever nature, in relation to coffee, shall, on the appointed day, be read and construed as a reference to the Board.

Reference to written laws.

(2) Any reference to the Kenya Agricultural and Livestock Research Organisation in any written law or in any contract, document or instrument of whatever nature, in relation to coffee, shall, on the appointed day Act, be read and construed as a reference to the Institute.

104. (1) All directions, orders and authorizations given, or licenses or permits issued, or registrations made by the Agriculture and Food Authority in relation to coffee, and subsisting or valid immediately before the appointed day, shall be deemed to have been given, issued or made by the Authority as the case may be, under this Act.

Previous authorizations.

105. (1) Any person who, at the commencement of this Act, is a member of staff of the Agriculture and Food Authority dealing with the coffee sector shall, on the appointed day, become a member of staff of the Board on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary.

Staff.

(2) Any person who, at the commencement of this Act, is a member of staff of the Kenya Agricultural and Livestock Research Organisation working with the coffee research institute shall, on the appointed day, become a member of staff of the Institute on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary.

106. (1) In this Part—

Interpretation.

“appointed day” means the day this Act comes into

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force.

107. (1) The Crops Act is amended—
- (a) in section 14 (1) by deleting paragraph (a); and
 - (b) in the First Schedule by deleting the term “coffee” appearing in Part 1.

Consequential
amendments

Cap 318

FIRST SCHEDULE. s. 22 and s. 77

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF DIRECTORS

1. (1) The board of directors shall meet at least once in every three months to conduct the business of the Board. Meetings of the Board.

(2) The chairperson shall convene the ordinary meetings of the board of directors at the premises of the Board.

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the board of directors, convene a special meeting at any time where he considers it expedient for the transaction of the business of the Board.

(4) Unless three quarters of the total number of the members of the Board otherwise agree, at least fourteen days written notice of every meeting of the board of directors shall be given to every member of the respective board by the Secretary.

(5) The quorum for the conduct of the business of the Board shall be five members.

(6) The chairperson shall preside at every meeting of the Board at which the chairperson is present and in the absence of the chairperson, the members of the Board present shall elect one person from their number to preside over the meeting of the Board and that person shall have all the powers of the chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the board of directors shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the board of directors shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of this Schedule, the board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings.

2. (1) If a member of the board of directors is directly or indirectly interested in any matter before the Board and is present at a meeting of the board of directors at which the Disclosure of interest.

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matter is the subject of consideration, the member shall, at the meeting and as soon as is reasonably practicable after the commencement of the meeting, disclose the interest of the member in the matter and shall not take part in the deliberations or vote on, the matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the board of directors by any person generally or specially authorized by the board of directors for that purpose.

SECOND SCHEDULE.

s.11, s.23

LICENCE, PERMIT OR CERTIFICATE


No.	Type of Licence/ Permit or Certificate	Issuing Authority
1.	Coffee buyer's licence	Board
2.	Independent cupping laboratory licence	Board
3.	Warehouse operator's licence	Board
4.	Coffee liqueur's licence;	Board
5.	Processed coffee import permit	Board
6.	Clean coffee movement permit for exports	Board
7.	Coffee trading licence	Board
8.	Commercial coffee miller's licence	Board
9.	Warehouse licence	County government
10.	Coffee nursery certificates	County government
11.	Pulping station licence	County government
12.	Grower's milling licence	County government
13.	Coffee roaster's licence	County government
14.	Parchment permit from the county of origin	County government
15.	Clean coffee movement permit from the county of origin	County government
16.	Coffee exchange licence	Capital Markets Authority
17.	Brokers licence	Capital Markets Authority

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I certify that this printed impression is a true copy of the Bill as passed by the Senate on Thursday, 21st March, 2024.


Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 161 of the Senate Standing Orders.


Speaker of the Senate

**ANNEX FOUR:
LETTER
INVITING
STAKEHOLDERS
FOR THE
MEETING TO
DISCUSS THE BILL**



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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Nairobi, Kenya
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When replying, please quote

Ref: NA/DDC/A&L/2024/032

27th May, 2024

✓ **Dr. Kipronoh Ronoh, PhD**

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State Department for Agriculture
Ministry of Agriculture &
Livestock Development
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NAIROBI

Ms. Sarah Nyagah

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CPA. Lisper Ndung'u

Chief Executive Officer
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Ms. Mary Mwiti

Chief Executive Officer
Council of Governors
2nd Floor, Delta House
Waiyaki Way, Westlands
NAIROBI

Dear *PS,*

REF: STAKEHOLDER ENGAGEMENT ON THE COFFEE BILL (SENATE BILL NO. 10 OF 2023) BY THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

The Departmental Committee on Agriculture and Livestock is established pursuant to Standing Order 216 and is mandated *inter alia* 'to study and review all legislation referred to it'.

Pursuant to the cited mandate, the Committee is in the process of considering the coffee Bill (Senate Bill No. 10 of 2023) (copy attached).

FCPA Wyckliffe Shamiah

Chief Executive Officer
Capital Markets Authority
3rd Floor, Embankment Plaza
Longonot Road, off Kilimanjaro Avenue
Upper Hill
NAIROBI

Mr. Anthony Mwangi

Chief Executive Officer
Kenya Association of Manufacturers
15 Mwanzi Road, Opp Westgate
Shopping Mall, Westlands
NAIROBI

Ms. Wanjiku Wakogi

Chief of Staff
Office of the Deputy President
Harambee House Annex
Harambee Avenue
NAIROBI

Ms. Grace Kyallo

Director General
Agriculture and Food Authority
Tea House, Naivasha Road,
Off Ngong Road
NAIROBI

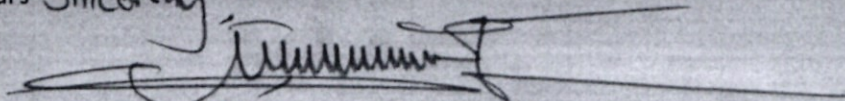
The Bill seeks to provide for the development and regulation of the Coffee industry in Kenya. It proposes to recognise the coffee industry by transitioning the regulatory and commercial roles currently being undertaken by the Agriculture and Food Authority to the Coffee Board of Kenya. The Bill further seeks to transition the research of coffee currently being undertaken by the Coffee Research Institute under the Kenya Agricultural and Livestock Research Organisation to the Coffee Research Institute.

In compliance with the provisions of Article 118(1)(b) of the Constitution, the Committee invites you for a meeting to discuss the said Bill. The meeting will be held on **Tuesday, 4th June 2024** in **Committee Room 26, Fifth Floor, Bunge Tower, Parliament Buildings** at **10.00 a.m.**

You are requested to submit electronic copies of your submissions to the Committee through the Office of the Clerk via email address cna@parliament.go.ke by **Monday, 3rd June 2024** and provide twenty (20) hard copies of the submissions during the meeting.

The liaison officers for this activity are **Ms. Laureen Omsa Wesonga** who may be contacted on Tel. No. **0710820442** or email: laureen.wesonga@parliament.go.ke and Mr. Victor Kilimo on Tel. No. **0724587091** or email: kilimo.simon@parliament.go.ke.

Yours *Sincerely*



Samuel Njoroge, CBS
CLERK OF THE NATIONAL ASSEMBLY

Copy to:

Hon. Mithika Linturi, EGH
Cabinet Secretary
Ministry of Agriculture &
Livestock Development
Kilimo House, Cathedral Road
NAIROBI

ANNEX FIVE:
COPY OF THE
NEWSPAPER
ADVERTISEMENT
ON PUBLIC
PARTICIPATION

National News

Gloom and doom Weatherman warns of more rains which have left a trail of destruction as parents' and teachers'

Kenya Airways diverts flights due to heavy rains, poor visibility

BY HILARY KIMUYU

Kenya Airways (KQ) on Saturday night diverted flights to other airports due to heavy rains and poor visibility at Jomo Kenyatta International Airport (JKIA).

In a statement, the national carrier also warned of potential delays in departures from JKIA due to poor visibility caused by the torrential downpours on Saturday night.

"Due to the heavy rains and poor visibility in Nairobi, we have diverted a number of our flights, which may lead to extended delays for some of our departures out of Nairobi," KQ said.

The airline apologised for the inconvenience caused but emphasised that safety remains the top priority.

"We apologise for the inconvenience caused to our customers. The safety and well-being of our crew and customers is our num-

ber one priority," it added.

The flight disruption came at the same time when the Kenya Airports Authority (KAA) announced that all vehicles must use the main gate of JKIA to enter and exit the airport indefinitely.

In a statement yesterday, KAA said that persistent heavy rains in Nairobi have led to flooding at JKIA's Tower Avenue underpass.

"Normal flight operations at the airport are still ongoing and access to all terminals remains available. However, due to the situation, traffic is expected to be heavier than normal. We recommend that all vehicles use the main entrance to enter and exit the airport until further notice," the statement read in part.

KAA's Managing Director, Henry Kegoye, said recent leaks in airport roofs were due to refurbishment works, with further infrastructure improvements scheduled through June this year.



Schools in flood-hit areas to remain shut: Machogu

Machogu says Term Two will begin as scheduled, but some schools postpone opening date by a week to monitor the situation

BY WINNIE ATIENO

Schools affected by floods that have, so far, killed over 80 people and displaced at least 131,450, will not reopen today for Term Two as per the education calendar.

The Kenya Meteorological Department Director David Gikungu warned that the rains would continue in various parts of the country for the next seven days. He also said there is a risk of landslides on steep slopes.

Education Cabinet Secretary Ezekiel Machogu told the *Nation* that schools will reopen as earlier scheduled except the ones in areas affected by floods.

"Schools are reopening as earlier scheduled apart from those affected by floods," he said.

Tana River is one of the counties badly affected by floods. Some families have been forced to move out of their homes as a swollen River Tana threatens to break its banks. Other residents in the region have been living in displaced people's camps since last year after their houses were destroyed by El-Nino rains.

Other regions where floods have left families homeless are



A flooded area in Pipeline, Nairobi County, yesterday after heavy rains hit the capital the previous evening. DENNIS ONSONGO/ NATION

Nairobi, parts of the Rift Valley, Nyanza, Western and Central Kenya.

The National Parents Association chairman Silas Obuhatsa lauded the ministry for maintaining the school calendar.

He said schoolchildren were affected during the Covid-19 pandemic when the government suspended learning for more than eight months.

Mr Obuhatsa said that the State cannot make a general decision of postponing the reopening of schools across the country, even though some areas have been experiencing flooding.

Speaking to the *Nation*, Mr Obuhatsa said in 2020 Kenyan children were deprived of education due to the covid-19 pandemic and this should be avoided by all means necessary.

"We learnt our lessons during the pandemic period when the

school calendar was delayed, and learners and teachers suffered. The syllabus was not completed and performance went down. This time round, the State has given instructions that only schools affected by floods should postpone reopening. We support this move," said Mr Obuhatsa.

However, the association chair urged the government to ensure that children in flood-hit areas are taken to safer places.

Mr Obuhatsa urged the State to concentrate in areas like Tana River and Kisumu counties where flooding has always a major disaster. He said that some schools have been submerged.

"In such areas, the government cannot reopen schools. The safety of our learners and teachers is crucial," said Mr Obuhatsa.

He urged the government to give a new date for the reopening of schools in the flood-affected



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT - THIRD SESSION (2024)
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:

1. THE CULTURE BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2024);
2. THE COFFEE BILL (SENATE BILL NO. 10 OF 2023); AND
3. THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL (SENATE BILL NO. 12 OF 2023).

INVITATION TO SUBMIT MEMORANDA

WHEREAS Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation.

AND WHEREAS the Culture Bill (National Assembly Bill No. 12 of 2024), the Coffee Bill (Senate Bill No. 10 of 2023), and the Prevention of Livestock and Produce Theft Bill (Senate Bill No. 12 of 2023) were read a First Time in the House and referred to the relevant Departmental Committees for consideration and reporting back to the House.

IT IS NOTIFIED that:

1. **The Culture Bill (National Assembly Bill No. 12 of 2024)** is a Bill sponsored by the **Leader of the Majority Party** that seeks to—
 - (a) give effect to Article 11 of the Constitution on the promotion and protection of culture and cultural heritage of communities in Kenya;
 - (b) promote national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage;
 - (c) ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage; and
 - (d) provide a framework to guide national cultural development.
2. **The Coffee Bill (Senate Bill No. 10 of 2023)** is a Bill sponsored by **Sen. Kamau Murango, MP** and **co-sponsored** in the National Assembly by the **Leader of the Majority Party**. The Bill seeks to provide for the development and regulation of the Coffee industry in Kenya. It proposes to reorganize the coffee industry by transitioning the regulatory and commercial roles currently being undertaken by the Agriculture and Food Authority to the Coffee Board of Kenya. The Bill further seeks to transition the research of coffee currently being undertaken by the Coffee Research Institute under the Kenya Agricultural and Livestock Research Organization to the Coffee Research Institute.
3. **The Prevention of Livestock and Produce Theft Bill (Senate Bill No. 12 of 2023)** is a Bill sponsored by **Sen. Samson Cherankey, MP** and **co-sponsored** in the National Assembly by the **Hon. Abdul Rahim Dawood, MP**. The Bill provides for a legal framework for the identification of livestock, the movement of livestock, the prevention of livestock theft, the regulation of trade in livestock, and the return of illegally acquired livestock. The Bill, additionally—
 - (a) outlines a framework for the branding of livestock and the requirement to obtain a removal permit when livestock is to be moved from one premises to another to facilitate the tracing and recovery of livestock;
 - (b) creates various offences, including illegal possession of livestock or produce, the killing of livestock with intent to steal, tampering with identification brands, unlawful conveyance of livestock or produce, theft of livestock or produce, and use of unregistered brands;
 - (c) obligates the National and county governments to put in place measures to protect livestock-keeping communities from livestock theft and enhance the socio-economic welfare of the communities through education and the promotion of alternative means of livelihood;
 - (d) repeals section 278 of the Penal Code which currently provides for the offence of stealing stock; and
 - (e) repeals and replaces the Stock and Produce Theft Act (Cap. 355) and the Branding of Stock Act (Cap. 357).

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Departmental Committees as listed below:

S. NO.	BILL	COMMITTEE
1	The Culture Bill (National Assembly Bill No. 12 of 2024)	Sports and Culture
2	The Coffee Bill (Senate Bill No. 10 of 2023)	Agriculture and Livestock
3	The Prevention of Livestock and Produce Theft Bill (Senate Bill No. 12 of 2023)	Agriculture and Livestock

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings and on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to ca@parliament.go.ke to be received on or before **Wednesday, 8th May 2024 at 5.00 p.m.**

S. NIROGGE, CBS
CLERK OF THE NATIONAL ASSEMBLY
29th April 2024

"For the Welfare of Society and the just Government of the People"

ANNEX SIX:
WITNESS
ATTENDANCE
SCHEDULE FOR
THE
STAKEHOLDER
ENGAGEMENT
MEETING



THIRTEENTH PARLIAMENT – THIRD SESSION – 2024
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

WITNESS ATTENDANCE REGISTER

AGENDA: Stakeholder Engagement on the Coffee Bill (Senate Bill No. 10 of 2023)

DATE: 4th June 2024

VENUE: Meeting Room 26, 5th Floor, Bunge Tower

NO.	NAME	INSTITUTION	DESIGNATION IN FULL	CELLPHONE	SIGNATURE
1.	Wycliffe Shambiri	Capital Markets Authority	CHIEF EXECUTIVE	0711426602	
2.	Jairus Muaka	Capital Markets Authority	Senior Manager Policy & Legal	0724533502	
3.	Matthew Mukiya	Capital Markets Authority	Senior Manager Commodities	0715819364	
4.	Josephine Kang'ong'a	Capital Markets Authority	Manager, Legal Framework	0722874566	
5.	Malcolm Mwangi	Kenya Ass. of Manufacturers	Legal Officer	0729890628	
6.	Ruth Lemlem	KAM	Manager Legal Affairs	072237446	
7.					
8.					
9.					
10.					

**ANNEX SEVEN:
STAKEHOLDER
SUBMISSIONS**

①



DDC
8/5/24

Wakulima House,
KPCU Building 2nd Floor
Along Haile Selassie Ave
P.O. Box 36886 - 00200,
Nairobi, Kenya
Tel: 0733-222 223
Email: nce@nairobicoffeexchange.co.ke

08th May 2024

Mr. Samuel Njoroge – CBS
Clerk of the National Assembly
P.O. Box 41842- 00100
Nairobi.

Ms. Wasonga
Please deal.
9/5/2024

Dear Sir,

REF: NAIROBI COFFEE EXCHANGE SUBMISSION OF MEMORANDA FOR THE COFFEE BILL (SENATE BILL NO. 10 OF 2023)

Following the invitation to submit memoranda dated 29th April 2024, we hereby would like to make our submission here in attached the Nairobi Coffee Exchange memoranda to the coffee bill (Senate Bill No. 10 of 2023 in compliance with Articles 118(1) (b) of the Kenyan Constitution and standing order 127(3).

Yours Sincerely,

Lisper Ndung'u
Chief Executive Officer

Cc: **FCPA Wycliffe Shamiah**
Chief Executive Officer
Capital Markets Authority

NATIONAL ASSEMBLY
RECEIVED
08 MAY 2024
DEPUTY CLERK
J.W.N
P.O. Box 41843 - 00100, NAIROBI

PROPOSED COFFEE BILL, 2023

INSTITUTION.....NAIROBI COFFEE EXCHANGE...DATE.....08/05/2024...

S/No	Section No.	Provisions of the Section	Rationale for Amendment Recommendation	Proposed Amendment**
1.	S. 2	<p>“auction” means the auction system under which clean coffee is offered for sale at a coffee exchange and includes the place at which, or a facility by means of which, whether electronic or otherwise, offers or invitations to sell, buy or exchange coffee contracts are regularly made on a centralized basis, but does not include—</p> <p>(a)the office or facilities of a coffee buyer or service provider; or</p> <p>(b)the office or facilities of a clearing house;</p>	<p>This definition is redundant since we no longer have an auction, but an Exchange regulated by the CMA.</p>	deletion
2.	s.2	<p>“buyer” means an incorporated company licensed by the Board to buy clean coffee at an exchange for export, local sale or value addition or to import clean coffee for secondary processing in Kenya</p>	<p>We propose to liberalize the buyer’s market provided they deal through a licensed broker or agent,</p>	<p>“buyer” means a person purchasing Kenyan coffee from the Exchange or direct sales through a licensed broker or agent.</p>

3.	s. 2	<p>“coffee dealer” means a person registered by the Board, a county government or the Authority to deal in coffee as provided under this Act.</p>	<p>We propose to harmonize regulation of the trade aspects into one Authority for seamless oversight.</p>	<p>“coffee dealer” means a person licensed by the Capital Markets Authority to represent growers in direct sales.</p>
4.	s. 2	<p>“direct sale” means a contractual arrangement between a grower, a cooperative society, estate union, grower-miller, estate or an association of coffee growers and an overseas buyer or local roaster for the sale of own clean coffee based on mutually accepted terms and conditions enforceable in law and includes settlement of coffee sales proceeds through the direct settlement system on boarded by a coffee exchange.</p>	<p>Use of the phrase “includes settlement of sales proceeds through the Direct Settlement System on boarded by a coffee exchange may create interpretation ambiguity.</p>	<p>“direct sale” means a contractual arrangement between a grower, a cooperative society, estate union, grower-miller, estate or an association of coffee growers and an overseas buyer or local roaster for the sale of own clean coffee based on mutually accepted terms and conditions enforceable in law and includes settlement of resultant coffee sales proceeds through the direct settlement system on boarded by a coffee exchange.</p>
5.	s. 2	<p>“direct settlement system” means a banking facility provided by commercial banks regulated by the Central Bank of Kenya for clearing and settlement of coffee sales proceeds;</p>	<p>To avoid ambiguity the definition is best left to the attendant CMA regulation.</p>	<p>“direct settlement system” has the meaning assigned to it in the Capital Markets (Coffee Exchange) Regulations 2019;</p>

6.	s. 2	“small holder” means a grower cultivating coffee in a small parcel of land or in small parcels of land who does not possess his own pulping station;	The definition may lead to ambiguity as to status of estate growers who do not possess a pulping station.	“small holder” means a grower cultivating coffee in otherwise than in an estate;
7.	s. 3 (b)	Regulate the coffee sector	We propose to specify the extent of the regulatory aspects of the Board.	Regulate the agricultural aspects of the coffee sector.
8.	s. 11 (1) (c)	register coffee dealers as set out in the second schedule.	We propose to have the trade and commercial aspects of coffee regulated by the CMA to allow for seamless rectification of potential market abuse by a central regulatory body.	Delete
9.	s. 11 (1) (k)	maintain and cause to be published an up-to-date register of coffee dealers	We propose to have the trade and commercial aspects of coffee regulated by the CMA to allow for seamless rectification of potential market abuse by a central regulatory body.	Delete
10.	s. 28 (10)	A buyer’s license shall not be construed as authorizing a person to engage in direct sale of coffee or coffee products.	In line with our proposal to liberate the buyer’s market by doing away with buyer’s licenses but instead require direct sales agents to maintain KYC documents of buyers.	Delete

11.	s. 29 (c)		To centralize regulation of trade aspects of coffee.	(c) An agent license authorizing a person to act as an intermediary in a direct sale.
12.	s. 30 (1)	A person shall not operate as a cupping laboratory, liquorer, coffee buyer, coffee importer, agent or warehouse operator unless the person is licensed or issued a registration certificate or a permit by the Board upon satisfaction of the prescribed conditions.	Towards liberalization of the buyer space and for purposes of centralizing the regulation of trade aspects of coffee.	A person shall not operate as a cupping laboratory, liquorer, coffee buyer, coffee importer, agent or warehouse operator unless the person is licensed or issued a registration certificate or a permit by the Board upon satisfaction of the prescribed conditions.
13.	s. 30 (2)	A person shall not conduct the business of a coffee exchange or offer brokerage services at the exchange unless that person is licensed by the Authority in accordance with the provisions of the Capital Markets Act.	Towards centralizing the regulation of trade aspects of coffee.	A person shall not conduct the business of a coffee exchange, agent or offer brokerage services at the exchange unless that person is licensed by the Authority in accordance with the provisions of the Capital Markets Act.
14.	s. 51	(1) There is established a body to be known as Coffee Exchange for purposes of coffee trading. (2) The Coffee Exchange shall be a body corporate, registered under the Companies Act.	Leads to duplicity and potential ambiguity since CMA regulations already prescribe roles of an Exchange.	Delete

		<p>(3) The functions of the Exchange shall be to –</p> <p>(a) manage the auction floor, the central sample room, the information registry and the direct settlement system;</p> <p>(b) maintain records relating to coffee sales, coffee samples and sweepings;</p> <p>(c) avail sales catalogues to interested parties in accordance with the Capital Markets Act; and</p> <p>(d) carry out such other function as the Cabinet Secretary may prescribe.</p> <p>(4) The proceeds of the sale of coffee at the Exchange shall be deposited in a direct settlement system established in accordance with the Capital Markets Act.</p>		
15.	s. 55	<p>55. (1) A grower or an agent representing the grower may offer coffee for sale in the prescribed manner, in an international exchange and may for this purpose enter into a written contract for future sales.</p>	<p>To ensure that the base prices or transactions are anchored on the local price discovery mechanism which usually has a premium above the international markets as compared to using reserve prices at the local Exchange to ensure</p>	<p>A grower or an agent representing the grower may offer coffee for sale in the prescribed manner, in an international exchange and may for this purpose enter into a written contract for future sales.</p>

16.	s. 56	<p>The Board may, for the purpose of trading in the international coffee market and auction –</p> <p>(a) Issue a coffee trading licence to a grower or a buyer; and</p> <p>(b) In collaboration with the Cabinet Secretary for trade, issue trade insurance to a cooperative society to indemnify it from any risk on any coffee exported in an international market or auction.</p>	<p>competitive prices and fair returns to the growers.</p> <p>Towards centralizing the regulation of trade aspects of coffee under the CMA.</p>	<p>The Capital Markets Authority may, for the purpose of trading in the international coffee market and auction –</p> <p>(a) Issue a coffee trading licence to a grower or a buyer; and</p> <p>In collaboration with the Cabinet Secretary for trade, issue trade insurance to a cooperative society to indemnify it from any risk on any coffee exported in an international market or auction.</p>
17.	S. 63	Funds of the body	To avoid ambiguity between counties and the Board as to the body entitled to collect fines under the Bill.	(g) fines imposed under this Act.
18.	s. 64 (2) (c)	Twenty percentum for price stabilization which shall be managed by the Commodities Fund.	Define the Commodities Fund and develop provisions on operationalization of the Fund.	
19.	s. 99 (2) (l)	(2) Without prejudice to the generality of subsection (1) the Cabinet Secretary may	The DSS is regulated by the CMA.	Delete

		make regulations to provide for- (l) Operationalization of the Direct Settlement System		
20.	Second Schedule	1. Buyer's license	We propose liberalization of the market.	
21.	Second Schedule	7. Coffee trading license	Towards centralizing the regulation of trade aspects of coffee under the CMA.	CMA to be the issuing authority.
22.			To specify that CMA would license agents.	18. Agents – CMA as the issuing authority
23.		Millers	We propose introduction of more stringent provisions and specificity on the quality of bags used by millers.	
24.		Warehousemen	We propose introduction of stiffer penalties for warehouses that fail to issue warrants and a procedure for raising complaints on the same.	

*Provide text on exact wording of the provision in the section's paragraph or sub paragraph

** provide the exact wording of how the proposed amendment to the regulations paragraph or sub paragraph is proposed to read.



The Coffee Bill 2023.

Comments by the Capital Markets Authority

1. Clearing house means an entity approved by the Authority but the term Authority has not been defined. Proposal to define Authority to mean the Capital Markets Authority or to use the full "Capital Markets Authority" where there is reference to CMA.
2. Licensing authority has been defined to mean the Board, the County Government or the Capital Markets Authority as the case may be. This has left out the Warehouse Receipt Council.
3. Constitution of the Board in section 7 leaves out representation of the Principal Secretary National Treasury to represent the interests of the Capital Markets Authority. This is especially important since one of the functions of the Board under section 11(a) is to regulate and promote the development of the Coffee industry where the Capital Markets Authority plays a key role.
4. One of the functions of the Board in section 11(b) is to consider applications for the issuance of permits and licenses under the second schedule of the Act. The second schedule of the Act states that the Board shall be the competent body to issue a Coffee Trading Licence. This is a conflict between the Bill and the Capital Markets Coffee regulations which give the Capital Markets Authority the mandate to issue coffee broker licenses. The brokers are the authorized representatives of the growers to carry on coffee trading. Coffee Trading License can easily be used to offer coffee brokerage since the Board has a separate license for Coffee Buyers.
5. Section 11(m) states that the Board shall conduct surveillance and enforce compliance with the relevant policies, standards and legislations on the Coffee subsector. Proposal to include that this will be done in collaboration with the relevant coffee subsector regulators who also have a mandate to inspect and carry out surveillance on their licensees.
6. Section 11(o) states that the Board shall regulate the trading of Coffee which is a function of the Capital Markets Authority at the Coffee Exchange. The Board should focus on regulating Direct Sales window.
7. Section 11(2) has provided that the Board shall collaborate with the Council of Governors in discharging their functions. The Authority is not represented in the Board and not mentioned as an agency for collaboration therefore locking them out. Proposal to include the Authority in the collaboration.
8. Section 51 (c) of the Bill states that the Capital Markets Authority shall carry out such functions as the Cabinet Secretary may prescribe. The definition of Cabinet Secretary means the Cabinet Secretary Agriculture. This is problematic as the CS Agriculture is not the appropriate Cabinet secretary to prescribe the Capital Markets Authority to perform a function.
9. Section 55(4) states that the Cabinet Secretary shall prescribe regulations for the sale of coffee at an international exchange. International Exchanges are under different



regulatory frameworks of respective mother countries and Kenya cannot develop regulations for the same. Provision for international exchange should be deleted.

10. Section 56 states that the Board may issue a trading licence for international Coffee trading. This should be the function of the Capital Markets Authority.
11. Section 92 provides for the dispute resolution mechanism for matters that may arise in the coffee subsector including the settlement of disputes relating to licensing. The Capital Markets Authority being in charge of the licensing of the Coffee Exchange and Coffee Brokers and who has dispute resolution mechanisms under the Capital Markets Act is also not captured in this section. If the Bill is to be gazetted and becomes law, it would create confusion as to which body licensees of the Capital Markets Authority in the coffee subsector will have their disputes resolved.
12. Section 99 (2) of the Bill states that the Cabinet secretary may make regulations to provide for:
 - (a) The regulation of importation and exportation of coffee
 - (b) The forms to be used in the application for registration, licensing and related activities.
 - (c) The process of application for registration and licensing
 - (h) The trade of coffee...
 - (k)..... and the payment of coffee sales proceeds to growers and their service providers
 - (l) operationalization of the Direct Settlement System

Section 99(2) (h)(k)(l) infringe on the mandate of the Capital Markets Authority and should be deleted or amended.

13. The Bill should revoke the Nairobi Coffee Exchange Rules 2012 which are still in force.

4/6/2024

Additional clauses

14. Clause 2-

- ~~(i) definition of 'buyer' to be revised to 'coffee buyer.~~
- (ii) delete definition of 'coffee dealer'
- (iii) in the definition of ' direct sales' delete the words ' and includes settlement of coffee sales proceeds' and replace with ' and settled'

15. Clause 3 (b) – to be specific on the regulatory function of the Board. Proposed wording-
'Regulate the processing of coffee and standards to be adhered to by the coffee sector'

16. Clause 11 (b) to be specific that the licenses and permits to be issued are the ones to be issued by the board

17. Clause 11 (1) (m) to be specific that the surveillance and enforcement will only be on persons the board has licensed or registered.

18. Delete clause 49(1) (c)

19. Clause 49 (1) (d) to include the Capital Markets Authority

20 Clause 51 (1) add the words' in accordance with CM Act'

21. Delete Clause 51 (2).

DDC
8
8/5

MEMORANDUM

TO: Parliamentary Committee on Agriculture, Livestock and Fisheries

FROM: Caleb Kipkirui Yegon

DATE: 08/05/2024

SUBJECT: Coffee Bill No. 10 of 2023: Revitalizing Kenya's Coffee Industry

Ms. Wasongi,
Please deal
[Signature]
9/5/2024

INTRODUCTION

Coffee farming is the mainstay to millions of Kenyans. It is our largest agricultural export, contributing significantly not only to our economy but also to our national identity. The **Coffee Bill No. 10 of 2023** presents a crucial opportunity to revitalize this sector and empower our coffee farmers. This memorandum looks into the Bill's potential to enhance efficiency, increase farmer incomes and solidify Kenya's position as the leading coffee producer.

Kenya's Coffee as a Global Treasure

Kenya is a world leader in coffee quality. According to the International Coffee Organization (ICO), Kenya produces about 1.7% of the world's coffee, but is renowned for its high-quality Arabica coffee with a distinct taste profile. Kenyan coffee is a major foreign exchange earner, with exports valued at over \$140 million USD in 2022, Kenya National Bureau of Statistics reports.

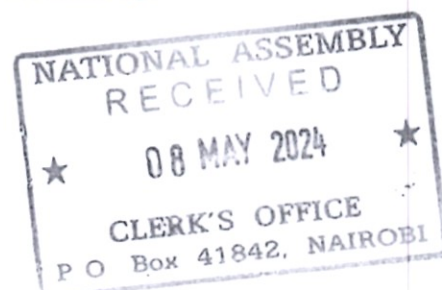
Empowering our Coffee Farmers

The Kenyan Coffee Industry is dominated by over 1.5 million small-scale farmers. The Coffee Bill offers a chance to empower these farmers and improve livelihoods. A well-structured Coffee Board can:

- Implement robust quality control standards. This ensures Kenyan coffee remains synonymous with excellence.
- Promote research and development. Investment in new farming methods and disease resistance can exponentially boost yields and farmer profits.
- Facilitate better market access for farmers. A centralized board can negotiate fairer prices and connect farmers with international markets.

Restructuring for Shared Prosperity

The Bill's proposed restructuring aims to benefit all stakeholders by:



- Empowering farmers. A focus on farmer cooperation can provide greater bargaining power, improved access to resources and a more significant share of profits.
- Enhancing the role of co-operatives. Co-operatives can play a vital role in training farmers on best practices and providing essential services like processing and marketing support.
- Attracting private investments. A clear regulatory framework established by the Coffee Board can attract investments for infrastructural development and value-added coffee products.

Benefits

The Coffee Bill has the potential to unlock measurable benefits for Kenyan Coffee Industry, including:

- **Increased efficiency.** A streamlined regulatory body can reduce bureaucracies, and expedite processes
- **Improved farmer incomes.** Fairer pricing, better market access and improved farming techniques can lead to a substantial increase in farmer livelihoods.
- **Enhanced global competitiveness.** A focus on quality and innovation could solidify Kenya's credentials as a leading producer of premium coffee.

A 2023 report by the Kenya Coffee Platforms projects that the reforms proposed in the **Coffee Bill** could increase farmer incomes by 20% within the next 5 years.

Case study: A farmer's perspective

John Mwangi, a small-scale coffee farmer from Murang'a County highlights the challenges faced by many. "Currently, navigating the complex regulations and accessing fair prices is difficult. The Coffee Board, with a focus on farmer support, could significantly improve our situation."

Potential Concerns and Solutions

While the Bill offers promise, some aspects require careful considerations. The three glaring issues are:

- **Overlapping functions.** Clear delineation of responsibilities between the Coffee Board and the Agriculture and Food Authority is crucial to avoid duplication of efforts. Article 60(8), 60(9) and 61 of the Bill
- **Vagueness.** Article 46(b) of the Bill does not expressly explain what happens to the terms of agreement between the two entities; article 27(3) does not clearly state

what happens to the principles of co-operatives assuming the farmer lives at the border, their coffee farm extending to the next county, who registers them?
Finally, who licenses commercial coffee millers? 25(c)

- **Representation.** The composition of the Coffee Board should ensure fair representation of all stakeholders, including farmers, co-operatives and private entities.

Recommendations

I strongly support the **Coffee Bill No. 10 of 2023** with the following recommendations:

1. Establish a clear mechanism to address potential overlaps in regulatory functions.
2. Address questions concerning seemingly small concerns but which pose major challenges like registration and licensing, relationship between and clear function (s) of entities, and transparency regarding payment and surplus.
3. Consider Incorporating a pilot programme to test the effectiveness of the new structure before full-scale implementation.

With these proposals, Kenyans can be assured that the Coffee Bill ushers in a new era of prosperity for our coffee industry, our farmers and our nation as a whole.

Caleb Kipkirui Tegen

~~Caleb Kipkirui~~

08/05/2024



COUNCIL OF GOVERNORS

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Our Ref: COG/6/48 Vol. 61 (65)

28th March 2024

Mr. Samuel Njoroge
Clerk of the National Assembly
Parliament Building
NAIROBI

Dear Mr. Njoroge,

**SUBMISSIONS ON THE AGRICULTURAL AND LIVESTOCK EXTENSION SERVICES
BILL (SENATE BILLS NO. 12 OF 2022) AND MUNG BEANS BILL (SENATE BILLS NO.
13 OF 2022)**

The above subject matter refers.

The Council of Governors wishes to forward for your consideration the legislative memoranda attached herewith on the **Agricultural and Livestock Extension Services Bill (Senate Bills No. 12 of 2022)** and **Mung Beans Bill (Senate Bills No. 13 of 2022)**

Thank you for the continued support.

Yours sincerely,

Mary Mwiti
Chief Executive Officer

Copy: All Excellency Governors

All CECMs in charge of Agriculture

All County Attorneys



SUBMISSIONS ON THE COFFEE BILL (SENATE BILLS NO. 10 OF 2023) AND PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL (SENATE BILL NO. 12 OF 2023)

A. Introduction

Currently, the Coffee Sub-sector is regulated through the Crops Act, 2013 and Agriculture and Food Authority Act, 2013 which are not aligned to the Constitution. Further, the Regulations for the coffee sub-sector were developed to guide the sector development and regulation as well as guide on the function of the National and County Governments.

The current regulation are;

- a) **The Crops (Coffee) (General) Regulations, 2019** which were gazetted on 1st July 2019, vide Legal Notice No. 102 of 2019.
- b) **The Capital Markets (Coffee Exchange) Regulations, 2020** which were gazetted in the Kenya Gazette of 3rd April 2020 vide Legal Notice No. 40 of 2020.

B. Summary Of The Key Provisions In The Crops (Coffee)(General) Regulations, 2019

- a) The functions of the national government through Agriculture and Food Authority (AFA) and county governments are clearly delineated under the Crops (Coffee) (General) Regulations.
- b) Licences to be issued by AFA are independent coffee cupping laboratories, warehousemen, liquorers, and buyers. It will also issue movement permits for purchased clean coffee, regulate coffee imports and exports, and register dealers.
- c) The Certificates and Licenses to be issued by the County Governments are for **nursery operators, pulping stations, grower millers, commercial millers, warehouse facilities and coffee roasting**. County governments are also supposed to register **nursery operators, coffee growers and pulping station licence holders and issue coffee nursery certificates and permits for movement of coffee**.
- d) The regulations provide two channels of marketing clean coffee through weekly auctions at the Nairobi Coffee Exchange, and direct sales.

C. Coffee Bill (Senate Bills No. 10 of 2023)

Having reviewed the **Coffee Bill (Senate Bills No. 10 of 2023)** in its entirety, the Council of Governors fully supports the Bill as passed by the Senate. We note that the Bill is aligned to the current regulatory framework which the County Governments are implementing effectively. Under the Bill the County Governments are now able to *inter alia* issue **Commercial coffee milling license** and represented in the Board of Management of the Coffee Board of Kenya;

The Council therefore recommends that the National Assembly maintains and adopts the functional assignment between the two levels of government as is in the bill to ensure that the County Governments are able to effectively and efficiently implement the Act in the development and regulation of the coffee sector in Kenya.



MEMORANDUM ON THE COFFEE BILL 2023

Submitted to

**THE CLERK,
SENATE
PARLIAMENT BUILDINGS,**

Presented By

**ANTHONY MWANGI, CHIEF EXECUTIVE,
KENYA ASSOCIATION OF MANUFACTURERS**

JUNE 2024 – NAIROBI, KENYA

1.0 INTRODUCTION

Kenya Association of Manufacturers (KAM) is the leading business membership organization in East Africa that plays a key advocacy role on behalf of manufacturers in Kenya and in the region through her strong linkages with all sectors of the economy. KAM has over 950 members and represents over 40% of Kenya's manufacturing value add industries.

KAM represented Kenya's manufacturing sector interests in the East Africa Trade integration process through the design, ratification and implementation of the Customs Union, and the Common Market Protocol. The integration process in East Africa has been successful with Kenya Playing a critical role. The EAC region integration is expected to spur the manufacturing sector enhancing intra-EAC trade in value added products and thus grow the economies of the region.

KAM has a membership of manufacturers across thirteen manufacturing sectors and Service ranging from **Food and Beverage, Pharmaceutical; Automotive; Chemical and Allied; Metal and Allied; Paper and Paperboard; Leather and Apparel; Textile and Apparel; Plastics and Rubber; Timber, Wood and Furniture; Electric and Electronic; Building, Mining and Construction; Agro-Processing.**

2.0 PROPOSED COFFEE BILL 2023

In response to the call for public participation on the afore-referenced Bill, we propose the following amendments to be considered before the draft Bill is enacted:

2.1 General proposals:

To grow the Coffee Industry in Kenya, the Coffee Bill, 2023, can create a more conducive environment for business and manufacturing, encouraging investment, enhancing infrastructure, and promoting innovation within the coffee sector.

1. Incentives for Investment

- We propose the introduction of tax holidays and reduced corporate tax rates for new coffee processing and manufacturing businesses for the first five years.
- Provide incentives for private investment in warehousing infrastructure, such as tax deductions on construction costs."

2. Infrastructure Development

- Facilitate the development of essential infrastructure such as roads and utilities in coffee-growing areas through public-private partnerships. Developing roads and utilities ensures that coffee-growing areas are easily accessible, reducing transportation costs and time for moving raw and processed coffee, which is crucial for maintaining quality and competitiveness.

3. Research and Development

- Establishing a fund to support research and development in coffee production and processing technologies, offering grants to businesses and research institutions. Funding research and development (R&D) encourages the creation of innovative techniques and technologies that can increase productivity, improve coffee quality, and reduce production costs.

2.2 Specific Proposals

	CLAUSE	PROPOSAL	JUSTIFICATION
1	<p>Clause 7 Board of Directors 7. (1) The management of the Board shall vest in a board of directors consisting of—</p> <p>(a) a chairperson appointed by the President by notice in the Gazette;</p> <p>(b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;</p> <p>(c) the Principal Secretary for the time being responsible for trade or a representative nominated by the Principal Secretary in writing;</p> <p>(d) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;</p> <p>(e) two persons of the opposite gender representing plantation coffee growers nominated by the Council of County Governors;</p>	<p>We propose to amend this clause to provide for the inclusion of industry stakeholders as members of the Board.</p> <p>To read as follows:</p> <p><i>(j) two persons nominated by the association of coffee manufacturers.</i></p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> • Representation from the business and manufacturing sectors on the Board who will provide industry insights and practical solutions. • The proposed Board in the Bill is heavily dominated by government officials. • This grants the government a hand to influence fully the activities of the Board through the direct nomination of most of the Board members. • We therefore propose for the Board to be reconstituted to include more industry stakeholders.

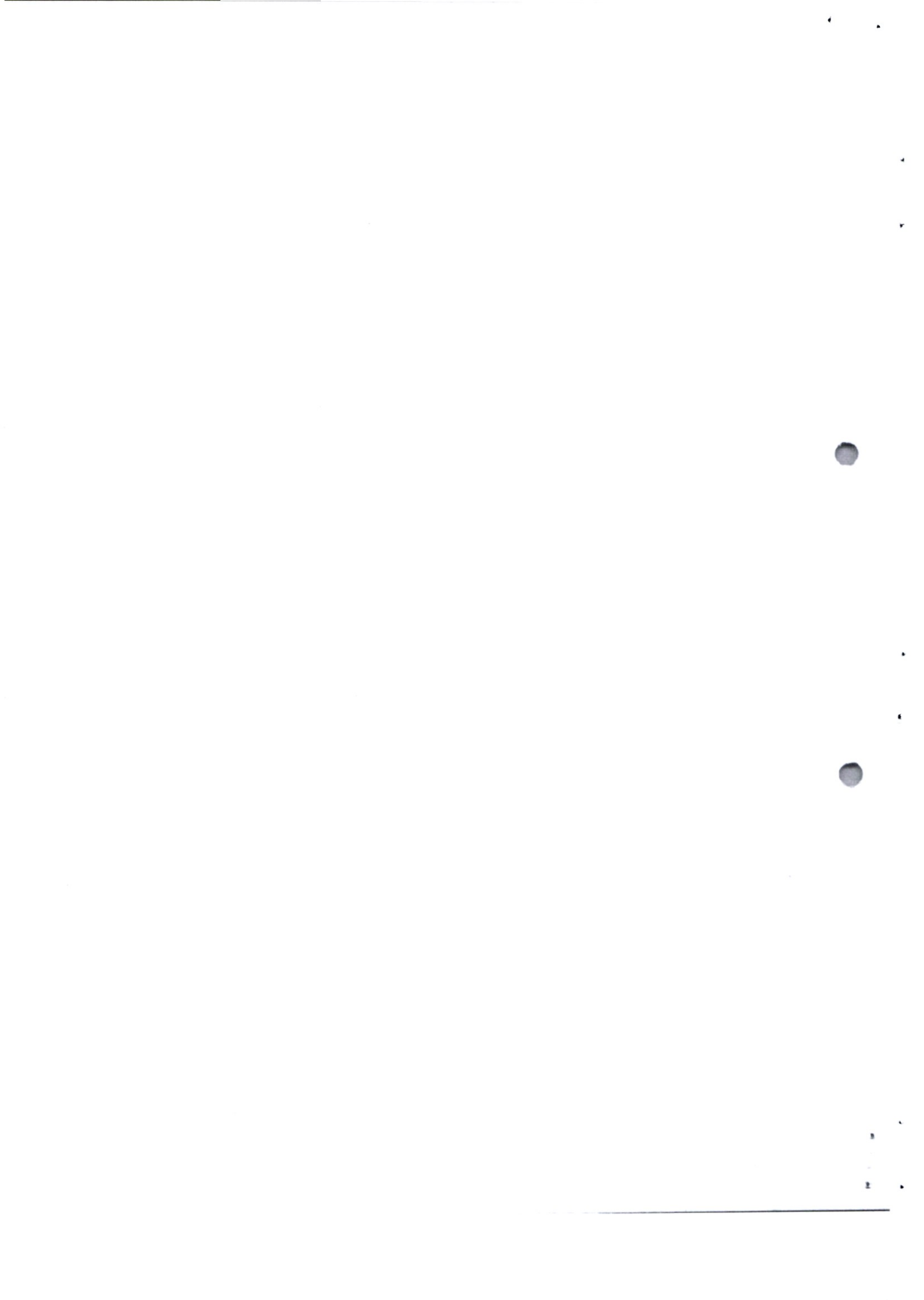
	<p>(f) one person nominated by the Institute;</p> <p>(g) one person representing an association of coffee farmers nominated by the Cabinet Secretary;</p> <p>(h) one person nominated by the cooperative society representing the largest number of small-scale coffee associations in Kenya; and</p> <p>(i) a chief executive officer appointed under section 15 who shall be an ex-officio member of the Board</p>		
2	<p>Clause 11 Functions of the Board.</p>	<p>We propose to amend this clause to add to the functions of the Board.</p> <p>To read as follows:</p> <p>11. (1) The board of directors shall—</p> <p>Functions of the Board</p> <ul style="list-style-type: none"> • (q): conduct regular consultations with coffee industry stakeholders to ensure policies are aligned with business needs. • (r): Focus on marketing strategies that leverage digital platforms to reach a broader audience and boost coffee sales. • (s): Develop a centralized online registry to facilitate easy access to 	<p>This proposal is based on the following:</p> <ul style="list-style-type: none"> • Policy Relevance: Policies that are aligned with the actual needs of the industry are more likely to be effective and sustainable. Engaging stakeholders helps the Board stay updated on market trends, technological advancements, and emerging issues. • Expanded Reach: Digital platforms provide a cost-effective means to reach a global audience, far beyond traditional marketing channels. This can significantly enhance the visibility and marketability of coffee products. • Data Integration: The registry can integrate various types of data, including production statistics, market prices, and regulatory

		information for coffee dealers and growers	updates, providing comprehensive insights that support better planning and decision-making.
3	<p>Clause 11(1)(b) Functions of the Board</p> <p>Licensing (b)consider applications for the issuance of permits and licences under the second schedule to this Act;</p>	<p>We propose to amend the licensing regime in the Bill by harmonizing and centralizing the issuance and management of the issuance of licences.</p> <p>To read as follows:</p> <p><i>(1) Establish a centralized and harmonized licensing system for the issuance and management of licenses within the coffee industry.</i></p>	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> • This proposed amendment will contribute to a more efficient, transparent, and fair licensing regime, supporting the growth and sustainability of the coffee industry. • Uniformity of Legislation is paramount to avoid multiplicity of laws and other costs. • Coffee is a physical commodity that is traded through a physical market where the buyer has to see what they are buying, and where a kilo of clean coffee in one bag does not resemble a kilo of clean coffee in the next bag. • This therefore means that the buyer has to receive a sample of the coffee they are buying before they offer a price. From this context alone, coffee cannot be traded like other trade that is regulated by the Capital Market Authority as the trade requirements are completely different. • While the Bill has defined Auction and Exchange and tied them to the Capital Markets Authority and the license provider, it has not provided a structure of how this will be co-opted into the coffee trade as currently constituted. It's not known who the owners of this Exchange company shall be and how it will relate with other coffee stakeholders including the coffee grower.

4	<p>Clause 23 (1)(a) Role of County Governments</p> <p>(a) implement the National Government policy relating to coffee;</p>	<p>We propose the development of a National Government Policy.</p> <p><i>Feedback development of the policy.</i></p>	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> • The industry lacks the Coffee policy and Strategy. • The coffee industry requires a solid framework, for purposes of stability and future forecast. This is premised on the need to address the needs of the industry to have stable and consistent laws and regulations. • Since 2019 there have been various laws that have been proposed and some adopted, the policy may have provided guidance in such instances. • The proposed laws are: <ul style="list-style-type: none"> a) Coffee Bill, 2019 b) Coffee General Regulations, 2019 c) Coffee Bill (National Assembly), 2020 d) Coffee Bill (The Senate Bill), 2020 e) Coffee Bill (National Assembly), 2021 f) Coffee Bill (The Senate Bill), 2023 • We therefore propose a comprehensive policy that will guide the growth and regulation of the coffee sector.
5	<p>Clause 23(1)(c) Role of County Governments</p> <p>One of the functions of the County Governments is to –</p> <p>(c)consider applications for the certificates, permits and licenses enumerated under the second schedule to this Act</p>	<p>We propose to delete this clause.</p>	<ul style="list-style-type: none"> • The Functions of issuance of licenses should be done centrally by the Board. • Centralizing the licensing system reduces bureaucracy and streamlines the process, making it more efficient for applicants. This reduces waiting times and administrative burdens, fostering a more business-friendly environment.

6	<p>Clause 23(2) Role of County Governments</p> <p>(2) A county executive committee member may impose such levies and fees as may be necessary for the registration and issuance of licences or the provision of services in accordance with the respective county legislation and such standards as may be prescribed by the Cabinet Secretary under this Act.</p>	<p>We propose to limit the power of the county executive committee member to impose levies and fees.</p>	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> • Imposition of levies by county executive committee at county level shall mean different levies for similar licences across the counties. <p>This will be prohibitive to trade and shall impede the smooth and efficient flow of businesses in the coffee value chain.</p>
7	<p>Clause 24 Enactment of county specific legislation.</p>	<p>We propose the creation of uniform guidelines by the Cabinet Secretary to standardize the operations of the coffee industry.</p>	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> • Without the guidance of the Cabinet Secretary, counties may enact different laws that impose different fees and levies. <p>This will increase the cost of doing business in the country and significantly slow down the growth of the coffee sector.</p>
8	<p>Clause 28 Licences issued by the Capital Markets Authority</p> <p>The following licences shall be issued by the Authority under the Capital Markets Act—</p> <p>a) coffee exchange licence authorising a person to conduct the business of a coffee exchange;</p>	<p>We propose to delete this clause</p>	<p>This proposal is based on the following:</p> <ul style="list-style-type: none"> • The licensing process should be centralized. • Centralizing and digitizing the licensing process increases transparency, reducing opportunities for corruption and ensuring that the process is clear and predictable.

	b) a broker's licence authorising a person to offer clean coffee for sale at an exchange on behalf of the grower.		
9	<p>Clause 48(4) Establishment and functions of the Coffee Exchange</p> <p>(4) The proceeds of the sale of coffee at the Exchange shall be deposited in a direct settlement system established in accordance with the Capital Markets Act.</p>	We propose for more engagements with the industry stakeholders to establish a more feasible payment system.	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> The Bill seeks to introduce the element of a central payment system. Prior to its roll out the same ought to be tested to establish its efficacy and reliability. <p>This will ensure that the system will work seamlessly without any major hitches.</p>
10	<p>Clause 59(1) Coffee development levy</p> <p>The Cabinet Secretary shall, in consultation with the Board and the Institute and by notice in the Gazette, impose a levy of two percent on the export import value remitted by coffee buyers to the Board for the development of the coffee industry.</p>	We propose for a phased re-introduction of the coffee development levy.	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> The clause reintroduces the levies that had been removed by the government; the implication is that the buyers will caution themselves by factoring in the levy in their buying price and take-home amount by the farmer continues to shrink. To counteract this, we propose a phased re-introduction of the levy. This will allow for the market to adjust itself gradually.
11	<p>Second schedule List of licences, permits and certificates</p>	We propose the addition of the Coffee Marketing Agents License .	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> Marketing is a core function of the industry and needs to be incorporated.





MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

MEMORANDUM BY THE MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT ON THE PROPOSED COFFEE BILL, (SENATE BILLS NO.10 OF 2023)

BY

**HON. MITHIKA LINTURI, EGH
CABINET SECRETARY**

JUNE 2024

Introduction

The Coffee Sub-sector supports more than 800,000 smallholder farmers, in 605 coffee cooperative societies and 2,749 estates. The Industry contributes about 0.3% to the GDP and 8% to the agricultural sector.

It contributes about 30% of the total employment in the agricultural sector. The industry supports about five (5) million people due to its effective forward and backward linkage

Coffee is grown in 33 counties with growers categorized into cooperative societies (small holder farmers) and estates (medium and large-scale farmers). In the 2022/2023, a total of 111,902 Ha was under coffee production; an increase of 2.29% from 109,385 Ha in the year 2021/2022. Coffee production is cyclic in nature and over the last five-year period, the highest being 51,852 MT of clean coffee in 2021/2022.

In the 2022/2023, a total of 48,648 MT of clean coffee was produced with cooperative societies producing 34,488 MT and estates 14,160 MT. Production reduced in 2022/23 as a result of unfavorable weather conditions which affected flowering and increased incidences of pests and diseases.

Coffee Value chain

In Kenya, smallholder coffee farmers are organized into cooperative societies and Medium and large scale producers categorized as estates for primary processing, and marketing.

In the year 2022/2023, the number of active estates were 2,749 while co-operative societies were 605 with a total of 1,122 factories. The role of

Cooperatives is to produce, aggregate, undertake primary processing, transport, market, and facilitate access to finance and farm input for members. Coffee produced by growers goes for secondary processing by millers to produce clean Coffee.

The Coffee marketed by brokers at the central auction in Nairobi or sold to overseas buyers and local roasters through direct sales.

In 2022/2023, twenty-one (21) commercial coffee millers were licensed by the respective County Governments to mill coffee for growers. During the same period, the Coffee Directorate licensed 154 coffee buyers to buy coffee through the central auction at the Nairobi Coffee Exchange (NCE). Eighteen (18) Coffee warehousemen were licensed to provide safe and secure storage of clean coffee.

Table 1. Area, Production and Value of Coffee in the last five years

Coffee Year	Production		Exports	
	Area under coffee (Ha)	MT of clean coffee	MT of Clean Coffee	Value in KES Billion
2018/2019	116,193	44,989	50,600	21.70
2019/2020	119,675	36,873	45,263	22.02
2020/2021	108,199	34,512	41,797	27.07
2021/2022	109,385	51,852	42,858	34.37
2022/2023	111,902	48,648	47,957	34.11

Current Regulatory and Institutional framework in Coffee

The Coffee Industry is regulated by the Crops Act 2013, the Crops (Coffee) (General Regulations) 2019 and the the Capital Markets (Coffee Exchange) Regulations, 2020.

These instruments provide the legal framework and role of each licensing authority to facilitate production, processing and marketing of coffee. The Coffee Directorate licenses coffee buyers, coffee warehousemen, coffee liquor, independent cupping laboratories and issues coffee import permits. County governments license coffee nurseries, pulping stations, commercial millers, grower millers, roasters and warehouses while Capital Markets Authority is responsible for the licensing of coffee brokers, Nairobi Coffee Exchange and the service providers responsible for the provision of Direct Settlement System (DSS).

The Ministry of Agriculture and Livestock Development (MOALD) provides the overall policy direction to the Coffee sub-sector.

The implementation of the agriculture sector reforms in 2013 culminated into the consolidation of various legislation and institutions giving way to the enactment of the Crops Act 2013 and Agriculture and Food Agriculture (AFA) Act No 13 of 2013.

The Agriculture and Food Authority (AFA) is a state corporation under the MOALD established by the Agriculture and Food Authority Act, No. 13 of 2013 whose mandate is to develop, promote and regulate the scheduled crops.

Section 11 of the AFA Act, 2013 provides that "*The Authority shall organize its secretariat into such directorates as the Authority, with the approval of the Cabinet Secretary, may determine taking into account the functions of the Authority under this Act and any other Act of Parliament and shall include a directorate in Coffee production.*" In line with this section, the Authority established the Coffee Directorate whose mandate is to develop, promote and regulate the Coffee sub-sector.

Pursuant to Section 40 of the Crops Act, 2013, the Cabinet Secretary through gazette notice number 16 of 1st July, 2019 published the Crops (Coffee) (General Regulations) 2019 to guide the development, promotion, and regulation of Coffee for the benefit of the growers and other stakeholders in Coffee sub-sector.

From a policy position, the Government has pronounced itself on the intention to reduce the number of government agencies/ Boards through mergers and winding ups. Creation of a new government agency may therefore run against the government intension and in conflict with the initial intended policy objective of streamlining the regulatory function, reducing overlaps in mandates, and increasing cost-effectiveness in the management of regulatory boards.

The appointment of a Board of Directors for AFA for the first time in 2023 fully operationalized the Authority and is anticipated to put in place all pre-requisite structures geared at efficient and effective service delivery to all scheduled crops, including the Coffee value chains.

Comments on the Proposed Coffee Bill, 2023

- The establishment of the proposed Coffee Board of Kenya to regulate Coffee shall negate the policy direction which informed the merger. This will negate the benefits envisaged in the merger that include reducing overlaps in mandates and increasing cost-effectiveness in the management of regulatory boards.
- The establishment of Coffee Research and training Institute to undertake and coordinate coffee research will undo policy direction which informed the merger of the former research institutions under the Kenya Agriculture and Livestock Research Act. The merger was envisaged to bring synergy and efficient resource utilizations.
- The provisions of the Bill are similar to those of the Crops (Coffee)(General) Regulations, 2019 including the use of coffee-specific technical terms namely, cherry, buni, parchment, milling, and pulping station among others. This makes it too loaded with details that should go to the regulations once it's signed into law.
- The Bill provides for multiple exchanges for auctioning coffee which may pose some challenges in marketing operations.
- The bill establishes the Board and a Council each being autonomous but are expected to compliment the functions of each other without clear linkage framework. This may pose a problem in seamless operation and service delivery.

The specific comments on the Bill are contained in the attached matrix

SUMMARY OF KEY OBSERVATIONS ON THE PROPOSED COFFEE BILL, 2023

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
Part 1 – Preliminary;				
1.	Clause 2 Interpretation			
	Association	This is too general and dangerous because anybody can associate and do coffee business	For clarity on who can form an association.	Redefine
	Board	The referencing is wrong	The Board is established under section II clause '4'	Delete '3' and replace with '4'
	Broker	Not the party to sell coffee for the farmers but to offer	Coffee belongs to the farmer, but broker only offers it to buyers on behalf.	Replace the word sell with offer
	Buni	With coma the interpretation is ambiguous	For clarity to imply that hulled buni is also referred to as clean coffee, heavy buni or light buni	Remove the coma a after buni
	Clearing house	This term is in the definition, but not used anywhere in the Bill	The term is not used anywhere in the entire body of the bill	Delete the term clearing house

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
	Clearing and settlement	This term is in the definition, but not used anywhere in the Bill	The term is not used anywhere in the entire body of the Bill	Delete Clearing and settlement
	Coffee dealer	These words have been defined under licensing authority	Provide clarity	Replace the word Board, a County Government or the Authority with Licensing Authority
	Coffee grower	Coffee grower is linked to pulping which is one method of processing	We have other growers who use other alternative methods of processing	Delete words "is linked to a licensed pulping station"
	Coffee sales	The term is not used anywhere in the entire Bill	Provides clarity	Delete the words "Coffee sales"
	Coffee Standards	Interpretation not clear	For clarity	Amend the interpretation to read "Kenya Coffee Standards formulated according to Standards Act"
	Direct sales	It is not necessary for the grower payments to go through the direct	The grower's proceeds from direct sales when there is mutual	Remove the words "through the direct settlement system"

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
		settlement system when there is a contract between the grower and overseas buyers	agreement should go directly to their account.	
	Small holder	Definition is not clear	For clarity	To be redefined
	Miller	Not Provided in the Interpretations	Forms an important part of the bill	To be defined
	Primary Processing	The definition does not cover all the primary processing methods	Coffee primary processing includes: fully washed, semi-washed and dry processing methods	It is the process of removal of pulp from cherry or drying of cherry in order to achieve parchment or buni
	Roaster	Not Defined	For clarity	To be defined
	Sales catalogue	The presence of commercial miller is not necessary	Commercial miller has no role in the preparation of the catalogue	Delete the words "in a commercial miller"
	Secondary processing	Roasting, grading and packaging of clean coffee is not part of secondary processing buni hulling is not captured	Roasting, grinding and packaging of clean coffee are for manufacturing and not processing buni hulling is a secondary method of processing	Remove roasting, grinding and packaging of clean coffee and introduce "and buni" after parchment

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
	Smallholder	A grower has already been defined	To provide for clarity	Delete the word grower and replace with "a person"
3.	The objects of this Act Clause (f)	The delivery of extension services	It is ambiguous as the extension services is a devolved function	Amend the Clause to read "Promotion of Coffee research and training for the development of the Coffee sector"
Part II – The Coffee Board of Kenya				
7.	Clause 7 (1) - Board of Directors	Principal Secretary Treasury is missing	Limits the number as guided by mwongozo which should not be more than 9. One Person from Council of County Governors is sufficient	Replace Principal Secretary Trade and replace with Principal Secretary Treasury
	Clause 7 (1) - Board of Directors	Traders Association not represented	They form an important space in the coffee value chain	Introducing 1 (i) A representative of traders who shall have similar qualification as (e) and (f)
	Clause 8 (1)			Add (i) in 8 (1)

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
9.	Clause 7 (i)	This part is missing	To give complete meaning to section 9	Include (i) in no. 9
10.	Clause 10 (g)	Dies	It is ambiguous	If that person dies
11.	Clause 1(j)	Link of the standards and the standards body not clear	Coffee Board has autonomy to enforce without KEBS	Delete the words "in collaboration with KEBS"
	Clause 11 (2)	Consultation and Collaboration depends on the respective roles of each government	To Enhance proper performance of its functions for service delivery as a Board Each level of government has its distinct functions under the constitution	Amend to read "under this Act respect the roles of the two levels of Government"
14.	Clause 14	Remunerations or allowances as the Cabinet Secretary shall, in consultation with	Remunerations or allowances are determined by Salaries and Remuneration Commission	Delete the words "as the Cabinet Secretary shall, in consultation with "
		Corporation Secretary is not provided for in the bill	To align with Mwongozo	Introduce a sub clause for Corporation Secretary.
	Clause 15.2 (a) and (b)	Qualifications provided not clear	To align with Mwongozo	The qualifications are defined in Mwongozo

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
Part III - Role of County Governments				
23.	Clause 23 (f)	Inspection of millers	According to Second Schedule, millers licensing fall under the Board	Remove inspection of 1 millers
	Clause 23(2) and (3)	Each county government may enact legislation for licensing and issuance of permits.	For uniformity To avoid exploitation of farmers	Setting of levies should be centralized to avoid abuse since county governments are semi autonomy
24.	Clause 24	Enactment of County Specific legislation	To avoid conflicts with the National Act of Legislation	Delete section 24
25.	Sections 25, 28	Move sections 25 Part IV	To provide flow on the licensing functions	To come before Clause 28 as part of Licensing
Part IV - Regulatory Provisions				
26.	Clause 26	The processes are on production and not licensing	It is ambiguous	Delete section 26
27.	Clause 27 (8)	Frequency of sharing non captured	For real time capturing of data	Add Annually

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
28.	Clause 28	The provisions are detailed	The details can be provided in the regulations	Retain 1,2 5,8-13 Delete 4,5,6 & 7
29.	Clause 29	Clause is misplaced	It is provided for under the Capital markets Act	Delete clause 29
30.	Clause 30 (1)	Registration & licensing Coffee Baristas not captured under licensing requirements	To Oversee their activities	All Baristas to be registered by the Board
	Clause 30 (2)	Conducting the services of an exchanges	This is a function regulated under the CMA	Delete (2)
PART V – PRODUCTION AND PROCESSING				
39	Clause 39	Functions of the institute	It is adequately provided in section 75	Delete section 39
41.	Clause 41 (1)	The Institute shall	It is a regulatory function by the board	Delete the word institute and replace with "Board"
41	Clause 41 (1)	Analysis of farm inputs	The Institute has the capacity to do Analysis of farm inputs The Institute can do it on their own to avoid conflicts with other agencies	Delete 41 (1) to go to institute functions

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
	Clause 41 (2)	County Executive committees shall establish farm input schemes	It is ambiguous	Delete 41 (2)
	Clause 41 (3)	Putting in place infrastructure necessary for the production and availability of quality farm inputs	It is ambiguous	Delete 41 (3) to go to the institute
	Clause 41 (4)	County Executive Committee members monitoring and overseeing implementation and Compliance with standards of farm input stockists	It is beyond the County capacity	Delete
43.	Clause 43 (2)	Coffee grower, miller or any other player seeking seek certification by the respective licensing authority	For clarity	Delete the words "licensing Authority" and replace with the words "respective certification bodies"

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
	Clause 43 (5)	CEC'S monitoring certification Schemes	It is an optional undertaking May not have Capacity	Delete 43 (5)
	Clause 43 (9)	A coffee miller shall	Certification is voluntary	Delete 43 (9)
44.	Clause 44	National Standards	Coffee Standards are in place	Include National Coffee Standards
45.	Clause (d) and (e)	Traceability and disclosure are mixed up	For Clarity	Separate Traceability and disclosure
46.	Clause 1 (a) and (b)	Societies charging fees from gross earnings or registering brokerage firm	Addressed in the Cooperatives Bill To Avoid conflict of interest	Delete 1 (a) and (b)
47.	Clause 47 (1)	Milling Contracts	This is repeated	Delete Take 47(1) to 45
48.	Clause (1) to (8)	Bulking of Coffee	To allow flow of milling activities	To come after 45 as a continuation of Milling services
Part VI - Coffee Trading and Marketing				
49.	Clause 1 (c)	International exchange	It is ambiguous. Covered under clause 49 (1)(a)	Delete 49 (1)c
50.	Clause 50	Side notes refers to International and local direct Coffee Sales	The text refers to direct sales only	Amend the side note to read "Direct Coffee Sales"

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
	Clause 50 (2)	Sample to be submitted to the exchange for analysis	In direct sales, there is no exchange involved	Sample Submitted to the Board
	Clause (3)	Requires the exchange to provide a grower with a report	For direct sales the growers submit samples to the Board who is expected to issue a report to the growers.	Amend to read "the board shall within 14 days issue to the coffee grower a report on the quality and the price discovery in the prescribed form".
	Clause 4)	Subjected quality and price discovery of an exchange.	Direct sales does not involve exchange.	Amend by deleting the word "at an exchange"
51.	Clause 51 (2)	Sub clause 51 (2) purport to provide procedures which are already under CMA Act.	The procedure to be followed the Capital Market Authority Act	Delete 51 (2)
53	Sub clause 53 (1)	Preparation of a sales catalogue is for the coffee in a licensed warehouse.	Catalogues are only prepared for coffee offered for sales at the exchange. Warehouse also store coffee for direct sales that does not	Delete the word "all the coffee" and substitute with the words "coffee destined for sale at the exchange"

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
			require preparation for a catalogue.	
54	Clause (6)	A fine not exceeding three hundred thousand shillings Imprisonment for a term not exceeding six months	Fine is not punitive enough and the term is very lenient	A fine double of the value of coffee in the warehouse. Imprisonment of a term not exceeding 12 months.
55	Clause (1) (4)	International exchange is not defined and make the clause ambiguous.	Reference to international market subject the growers to a lot of information seeking which does not add value.	Delete word International.
56		Licensing of coffee dealer already provided for in the Act.	This repetition of section 27 and 28 of the Act.	Delete the section
PART V11 – QUALITY ASSURANCE				
60	Clause (5)	The board shall in collaboration with respective CEC	The Counties need to be involved and CEC	Delete the words "CEC" and replace with the word "County Government

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
	Clause (8)	Board Monitoring Maintenance of pesticide spraying and Coffee storage bags	Counties have better proximity and capacity to monitor	Delete the word "Board" and replace with the word "County"
	Clause (9)	The Institute to ensure compliance with set standards in application of pesticides.	It's a compliance issue.	The delete the word Institute and replace with the word Board.
61.	Clause (5)	Appointment of inspectors through a gazette notice by the Board	Inspectors have to meet some basic qualifications	Add clause 6 (5) as follows; for purposes of section (1) the board may by regulations, prescribes the qualification of different categories and the powers of inspectors.
PART VII – FINANCIAL PROVISIONS				
64	64 (1)	Impose a levy of two per centum on the coffee export import value.	For clarity and inclusivity of the direct sales that does not pass through DSS.	Proposal on remittance of the value to the Board as follow:

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
				(a) Coffee buyers (two per centum) through DSS. (b) Direct sales (two per centum) (c) Coffee importers (ten per centum of CIF value).
	64 (2)(c)	The twenty per centum for Price stabilization to be managed by the Commodities Funds.	The Board is better placed to manage the Price Stabilization Fund while Commodity is designed to provide credit to various farmers dealing in different crops.	Delete the words "Commodity Fund" and replace with the word "Board".
PART IX – COFFEE RESEARCH AND TRAINING INSTITUTE OF KENYA				
72.	Clause (1)	Membership of the Council of the Institute.	The Board to be included as the regulator of the Coffee Industry.	Include the Boards representation.
	72 (1) d	Kenya Agriculture research Institute (KARI)	KARI no longer exist	Replace the word "KARI "with the word "KALRO"
	72 (1) (g)	Chief Executive Officer of the board.	Role	Delete 72 (1) (h) and replace with one person

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
				representing coffee traders nominated by the apex body representing coffee traders.
75	Clause (1) (b)	The word disease	Pests includes diseases and insects	Delete the word "disease" and replace with the word "Pests"
PART XII – TRANSITIONAL PROVISIONS				
101.	Clause 101	Assets transition clause on Assets of the Board-Missing	To avoid any disputes of asset ownership when the Board comes into place	Insert transition clause for assets as 101 and re-number the subsequent clauses to read: All property, except such property as the Cabinet Secretary may specify in writing, which immediately before the commencement of this act, was vested in the government for the

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
				use of the Coffee Directorate of the Agriculture and Food Authority , shall, on the date of commencement of this Act, vest in the Board subject to all interests, liabilities, charges, obligations and trusts affecting that property
102	Clause 102 (1)	The provision as it is excludes the former staff of the defunct Coffee Board of Kenya who are currently working in other Directorates of AFA and the AFA Headquarters who would want to be revert to being employees of the Board	To ensure smooth transition to the Board by maintaining/retaining the personnel of the Board who are required for effective and efficient service delivery To avoid any legal Suits	Amend to read as "Upon the commencement of this Act, a person who was a member of the staff of the former Coffee Board of Kenya before the commencement of the Agriculture and Food Authority Act 2013 and current staff of the Coffee

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
				Directorate not being under any notice of dismissal or resignation shall upon the commencement of this Act and subject to subsection (2) becomes a staff of the Board on same or improved terms and conditions of service"
	Clause 105(3)	Provision for pension not provided	To ensure smooth transition and security of staff pension schemes	Introduce a sub clause 105(3) to read that: The pension of staff under the Coffee Board of Kenya staff pension scheme of the Agriculture and Food Authority – Coffee Directorate and any other pension schemes of

S/No	Clause of the Bill	Observation	Justification/Remarks	Proposal
				which current staff of the Coffee Directorate who are not members of the Coffee Board of Kenya staff pension scheme are members shall on the commencement of the Act vest in the Board.

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 Hon. Mithika Linturi, EGH

Date.....18/6/2024



**KENYA EXPORT
PROMOTION & BRANDING
AGENCY**

Ref: KEPROBA/RI/1VOL 3 (15)

22nd September, 2023

Alfred K'Ombudo
Principal Secretary
State Department for Trade
Ministry of Investments, Trade and Industry
NAIROBI

Dear *PS*

RE: THE COFFEE DEVELOPMENT LEVY

The Kenya Export Promotion and Branding Agency (KEPROBA), with the guidance of the Board Members settled on the Tea and Coffee as priority Value Chains for the Financial Year 2023/24 . In this regard, the Agency commits to direct most of her efforts to the two value chains on aspects that will drive increase of their exports.

As part of the coffee reforms spearheaded by H.E the Deputy President, Hon. Rigathi Gachagua, the Coffee Bill 2023 is already published and is in the Senate for consideration. We note that one of the provisions in the Bill Article 59, speaks of the introductions of a Coffee Development Levy as follows:

59. (1) The Cabinet Secretary shall, in consultation with the Board and the Institute and by notice in the Gazette, impose a levy of two percent on the export import value remitted by coffee buyers to the Board for the development of the coffee industry.

(2) The levy imposed under subsection (1) shall be apportioned as follows—

- a) one percent to the Institute.**
- b) zero-point five percent to the Board for regulatory and coffee promotion purposes; and**
- c) zero-point five percent to the coffee growing County Governments for coffee development as a conditional grant.**

As a trade promotion agency, charged with the mandate to advocate, coordinate, harmonize and implement export promotion and Nation branding initiatives and



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**KENYA EXPORT
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AGENCY**

policies to promote Kenyan goods and services in export markets, KEPROBA would like to propose the following amendments to ensure this mandate is also catered for:

1. That the "Coffee Development Levy" is renamed to read "**The Coffee Development and Marketing Levy**" so that it creates a bigger coverage for use of these resources and removes the ambiguity of not being all encompassing.
2. That section 59 subsection (2) is amended to allocate a share of the levy to the Kenya Export Promotion and Branding Agency for marketing and promotion purposes. This could be done by amending it to read as follows:

(b) zero-point two five percent to the Board for regulatory purposes and zero-point two five to the Kenya Export and Promotion Agency (KEPROBA) for coffee promotion, marketing, and communication purposes.

We thank you for your continued support.

Yours

Sincerely

Floice Mukabana
Ag. CHIEF EXECUTIVE OFFICER



S/No	Section No.	Provisions of the Section	Rationale for Amendment Recommendation	Proposed Amendment**
1.	PART I	“Coffee grower” a person who cultivates coffee in Kenya, is linked to a licensed pulping station, and may for purposes of licensing, include a co-operative society, coffee union, association or estate;	This definition to include individual farmer to allow for DSS to settle directly to farmers’ accounts.	Include “Individual farmer”
2.	PART II – 11 (p)	The Board shall source markets and market Kenyan coffee in the international market;	Risk of designing regulatory actions that result in personal gain rather than what is best for industry	Delete
3.	PART III- 23 (1)	A county government shall- Include constitutional provision that stipulates that National legislation prevails over county legislation if— the national legislation is aimed at preventing unreasonable action by a county that— (i) is prejudicial to the economic, health or security interests of Kenya or another county; or (ii) impedes the implementation of national economic policy.	This remedies issues of double licensing at National and county level – conflict of laws	Include constitutional provision

4.	PART XII 105(1)	Any person who, at the commencement of this ACT, is a member of staff of the Agriculture and Food Authority dealing with the coffee sector shall, on the appointed day, become a member of staff of the Board on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary	Include- and shall undergo a skills Audit to determine suitability for roles assigned.	Include clause on skills audit
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