

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 17 JUN 2024

TABLED BY: Hon. John Mutunga
Chair, DC - Agriculture & Livestock
Benson Inzoga

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THE NATIONAL ASSEMBLY

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THIRTEENTH PARLIAMENT – THIRD SESSION - 2024

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REPORT ON:

SENATE AMENDMENTS TO THE SUGAR BILL (NATIONAL ASSEMBLY BILL NO. 34 OF 2022)

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JUNE 2024

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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Agriculture and Livestock on its consideration of the Senate Amendments to the Sugar Bill (*National Assembly Bill No. 34 of 2022*) which was passed by the National Assembly on 27th September 2023 and submitted to the Senate pursuant to the provisions of Standing Order 142 of the National Assembly Standing Orders. The Senate considered and passed the Bill with amendments on Thursday, 25th April 2024.

The Senate amendments to the Bill were referred to the Departmental Committee on Agriculture and Livestock for consideration and reporting back to the House on 13th May 2024.

The Committee held a meeting on Friday, 17th May 2024 to consider the Senate Amendments to the Sugar Bill (National Assembly Bill No. 34 of 2022). The Committee agreed with the amendments proposed by the Senate to clauses 17, 19 (b), 19B (a), 19B (b), 29 (a) (i), 29 (b), 38 (1) (a), 43 and 60 but rejected the amendments proposed to clauses 2, 6, 19 (a), 19A, 19B (c), 29 (a) (ii), 38 (1) (b), 38 (2), 59 and the New Schedule because of various reasons that are provided in Chapter III of this Report.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee also thanks the Senate for their input into the Bill.

Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation 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 Senate Amendments to the Sugar Bill (*National Assembly Bill No. 34 of 2022*).

It is my pleasure to report that the Committee has considered the Senate Amendments to the Sugar Bill (*National Assembly Bill No. 34 of 2022*) and has the honour to report back to the National Assembly with the recommendation that the House adopts the Committee's recommendations on the Senate Amendments.

Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP
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 fifteen Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates pursuant to the **Standing Order 216 (5)** are 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, access 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 No. 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 Okello Odoyo, 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 Kanda Kilimo
Clerk Assistant III

Mr. David Ng'eno
Principal Research Officer II

Ms. Brigitta Mati
Legal Counsel I

CPA. Robert Ng'etich
Fiscal Analyst II

Mr. Gerald Kadede
Legal Counsel II

Mr. Muhumed Shillow
Research Officer III

Ms. Zainabu Sora
Serjeant-at-Arms I

Mr. Erastus Lotuk
Public Relations Officer III

Ms. Edith Chepngeno
Media Relations Officer III

Ms. Diana Chepkemoi
Audio Assistant

CHAPTER TWO

2 SENATE AMENDMENTS TO THE SUGAR BILL (NATIONAL ASSEMBLY BILL NO. 34 OF 2023)

2.1 INTRODUCTION

6. The Sugar Bill (*National Assembly Bill No. 34 of 2022*) is sponsored by Hon. Emmanuel Wangwe, CBS, MP.
7. The Bill was published vide Kenya Gazette Supplement No. 150 of 6th October 2022 and was considered and passed with amendments by the National Assembly on 27th September 2023. The Bill, being a Bill concerning counties was forwarded to the Senate for consideration pursuant to Standing Order 142 of the National Assembly Standing Orders.
8. The Senate considered and passed the Bill with amendments on 25th April 2024 and transmitted the amendments to the National Assembly seeking concurrence.

2.2 AMENDMENTS PROPOSED BY THE SENATE

The Senate proposed amendments to clauses 2, 6, 17, 19, 29, 38, 43, 59 and 60. They also proposed introduction of new clauses 19 A, 19B and a New Schedule. They proposed that:

Senate Amendment to Clause 2

9. Clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of “*sugarcane manufacturers apex body*”. “*Sugarcane zone means geographical area as set out in the Second Schedule where growers and millers are restricted to deliver and receive cane respectively*”.

Analysis of the Senate Amendment to Clause 2

The amendment proposed to clause 2 of the Bill seeks to provide definition for the word “sugarcane zones”. The Senate has introduced zoning in the Bill where sugarcane farmers will be required to deliver sugarcane to sugar companies within a particular region.

Senate Amendment to Clause 6

10. Clause 6 of the Bill be amended in:
 - a) sub-clause (1) by inserting the following new paragraph immediately after paragraph (e), “*(ea) one person of the gender that is least represented in the composition of the Board who has knowledge and experience in matters relating to the sugar industry appointed by Cabinet Secretary; and (eb) one person representing persons living with disabilities or youth appointed by the council of county governors*”.
 - b) subclause (2) by deleting the expression “*and (e)*” and substituting therefor the expression “*(e), (ea) and (eb)*”.

Sub-Clauses 6 (1) and (2) as Passed by the National Assembly

6 (1) The Board shall comprise:

- a) a non-executive chairperson appointed by the President;
- b) five representatives elected by growers from each sugar catchment area as per the First Schedule;
- c) two representatives elected by private and public owned sugar mills who are knowledgeable in sugar technology and value addition;
- d) the Principal Secretary in the Ministry for the time being responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;
- e) one person nominated by the Council of County Governors who is knowledgeable in extension services and management of farmer institutions;
- f) the Principal Secretary for the time being responsible for National Treasury or a representative nominated by the Principal Secretary in writing; and
- g) the Chief Executive Officer of the Board appointed under section 14 who shall be an *ex-officio* member and secretary to the Board.

(2) The members under subsection (1) (b), (c) and (e) shall be appointed by the Cabinet Secretary by notice in the Gazette.

Analysis of the Senate Amendment to Clause 6

The amendment proposed to clause 6 seeks to include a person of the gender that is least represented in the Board and a person living with disabilities to the membership of the Board.

Senate Amendments to Clause 17

11. Clause 17 be amended by inserting the following new heading immediately after clause 17, "*PART III – LICENSING AND REGISTRATION*".

Analysis of the Senate Amendment to Clause 17

Inserting a heading which is not currently in the Bill.

Senate Amendments to clause 19

12. Clause 19 be amended by deleting subclause (1) and substituting therefor the following subclause:
 - (1) "*A miller shall not purchase sugar crop from, or accept, sugar crop delivered by a grower and a grower shall not sell or deliver sugar crop to a miller, unless the:*
 - a) *grower is registered with, and has in force a valid supply agreement with the miller;*
 - b) *factory of the miller is situated within the grower's sugarcane zone; or*
 - c) *grower is exempted from the requirement by the Board under section 19A*".
 - (2) Deleting the heading appearing immediately after the subclause (3).

Sub-Clause 19 (1) as Passed by the National Assembly

19(1) A miller shall not purchase sugar crop from, or accept sugar crop delivered by, a grower and a grower shall not sell or deliver sugar crop to a miller, unless the grower is registered in respect of the factory of the miller for the supply of the sugar crop.

Analysis of the Senate Amendment to Sub-Clause 19 (1)

The Senate amendment provides that growers shall sell sugar crop to millers within their zone and millers shall buy sugar crop from growers within their zone.

Senate Amendments to Clause 29

13. Clause 29 be amended:

a) in subclause (1) by:

(i) deleting paragraph (d) and substituting therefor the following paragraph, “(d) one person with knowledge of and experience in the operation of sugar industry nominated by the Council of Governors”; and

(ii) deleting the words “nominated by universities” appearing immediately after the words “one person” in paragraph (e) and substituting therefor the words “representing the universities nominated by the Commission on University Education”.

b) by inserting the following subclause immediately after subclause (1), “(1A) The Cabinet Secretary shall appoint the members under subsection (1) (a), (b), (c), (d) and (e) by notice in the Gazette”.

Sub-Clause 29 (1) as Passed by the National Assembly

29(1) The Management of the Institute shall vest in the Board of Directors which shall consist of:

- a) a chairperson appointed by the Cabinet Secretary through a competitive process in consultation with the Public Service Commission;
- b) one person nominated by sugarcane growers' apex body;
- c) one person nominated by sugarcane manufacturers' apex body;
- d) one person nominated by the input supply system;
- e) one person nominated by universities;
- f) the Principal Secretary for the time being responsible for National Treasury or a representative appointed in writing;
- g) the Principal Secretary for the time being responsible for Agriculture or a representative appointed in writing;
- h) the Director General of the Kenya Agricultural and Livestock Research Organisation; and
- i) the Managing Director who shall be an *ex-officio* member.

Analysis of the Senate Amendments to clause 29

The Senate amendment deletes the provision for nomination of one person by the input supply system and replacing it by the requirement that one person with knowledge and experience in the operation of the sugar industry is nominated by the Council of Governors.

They also propose that the person representing universities should be nominated by the Commission for University Education. Further, they propose that members of the Board of Directors nominated under paragraphs (a), (b), (c), (d) and (e) shall be appointed by the Cabinet Secretary by a *Gazette* notice.

Senate Amendments to Clause 38

14. Clause 38 be amended as follows:

(1) Subclause 38(6) be amended in:

- a) Paragraph (b) by inserting the words "*allocated to the Kenya Sugar Research and Training Institute*" immediately after the words "*research and training*"; and
- b) Paragraph (d) by deleting the words "*and shall be managed by Kenya Rural Roads Authority of the catchment area*" appearing immediately after the words "*development and maintenance*" and substituting therefor the words "*of county roads and shall be allocated to county governments as a conditional grant on a pro rata basis*".

(2) Inserting the following new subclause immediately after subclause (1), "*(1A) The provisions of subsection (1) shall not apply to imported industrial sugar*".

Sub-Clause 38 (6) as Passed by the National Assembly

(6) The Sugar Development Levy collected under subsection (2) shall be appropriated as follows:

- a) fifteen per centum shall be applied for factory development and rehabilitation;
- b) fifteen per centum shall be applied for research and training;
- c) forty per centum shall be applied for cane development and productivity enhancement;
- d) fifteen per centum shall be applied for infrastructural development and maintenance and shall be managed by Kenya Rural Roads Authority of the catchment area;
- e) ten per centum shall be applied for the administration of the Board; and
- f) five per centum shall be applied for the furtherance and exercise of the functions of sugarcane farmers organisations.

Analysis of the Senate Amendments to clause 38

The Senate amendment to paragraph 38 (6) (b) seeks to specify that the money shall be applied to the Kenya Sugar Research and Training Institute which is the body mandated to conduct research and training in the sugar sector.

The amendment to paragraph 38 (6) (d) provides that the levy shall be used for infrastructural development of county roads and shall be managed by county governments and the Kenya Rural Roads Authority as passed by the National Assembly.

The insertion of the new clause (1A) exempts industrial sugar from payment of the Sugar Development Levy.

Senate Amendment to Clause 43

15. Clause 43 be amended in subclause (2) by inserting the words "*and Senaté*" immediately after the words "*the National Assembly*".

Sub-Clause 43 (2) as Passed by the National Assembly

16. 43(2) The Cabinet Secretary shall lay the report submitted to him under subsection (1) before the National Assembly within three months of the day the Assembly next sits after the receipt of the report.

Analysis of Senate Amendment to clause 43

The amendment provides that the Cabinet Secretary shall present the report of the operations of the Board in both the National Assembly and the Senate.

Senate Amendment to Clause 59

17. Clause 59 be deleted

Clause 59 as Passed by the National Assembly

- 59 (1) Notwithstanding the provisions of any other Act, each private sugar milling company shall have a representative of the growers in its board of directors.
- (2) In appointing a director representing the growers under subsection (1), the milling company shall consider in the first instance, the leaders of the out-grower institutions within the sugarcane catchment area in which the sugar mill is located.
- (3) A person appointed as a director under subsection (1), shall serve for a term not exceeding three years.

Analysis of Senate Amendment to Clause 59

The amendment seeks to remove representation of sugarcane growers in the board of directors of private milling companies.

Senate Amendment to Clause 60

18. Clause 60 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (k), "*(ka) the procedure for election of farmers' and millers' representatives to the Board and the pricing committee*".

Clause 60 as Passed by the National Assembly

Clause 60 gives the Cabinet Secretary powers to make regulations in consultation with county governments and the Board for the better operationalisation of the Act. Subclause 60 (2) provides areas where the regulations shall be made.

Analysis of the Senate Amendment to Clause 60

The amendment seeks to include the procedure for election of farmers' and millers' representatives to the Board and pricing committee in the list of areas to be covered in regulations.

New Clause 19A

19. The Bill be amended by inserting the following new clause immediately after clause 19:

19A. (1) A grower may deliver cane outside a sugarcane zone provided that the grower:

- a) Has a pre-existing agreement with a miller outside the sugarcane zone;
- b) Is not indebted to a miller or an out-grower institution within the sugarcane zone that they are situated; and
- c) Has no supply agreement with a miller within the sugarcane zone that they are situated.

(2) The grower who fulfils the provisions of subsection (1) shall notify the Board of their intention to supply cane outside a sugarcane zone.

(3) The Cabinet Secretary shall prescribe regulations for the notification process under subsection (2)

Analysis of the New Clause 19A

The clause provides cases when a grower may be allowed to supply cane to millers outside their sugarcane zone.

New Clause 19B

20. The Bill be amended by inserting the following new clause immediately after clause 19A:

19B. A miller may enter into a contract of cane supply with another miller if:

- a) the millers' factory is temporally broken down;
- b) there is an over-supply of cane to the miller; and
- c) the mill is located within the same sugarcane zone.

Analysis of the New Clause 19B

The new clause provides that millers may sign agreements to supply cane to other millers if their factories break down, if there is an over-supply and if they are in the same sugarcane zone.

New Schedule

21. The Bill be amended by inserting the following new schedule immediately after the First Schedule:

NEW SCHEDULE
S.2, 19(1)(b), 19A
SUGARCANE ZONES

| SUGARCANE ZONES | COUNTIES |
|------------------------|---|
| Central | Kisumu, Southern Nandi and Kericho |
| Upper Western | Bungoma, Kakamega (excluding Mumias area), Trans Nzoia, Uasin Gishu and Northern Nandi |
| Lower Western | Mumias, Busia and Siaya |
| Southern | Migori, Homabay, Kisii and Narok |
| Coastal | Kwale, Tana River and Lamu |

Analysis of the New Schedule

The New Schedule outlines the sugarcane zones within which growers can sell their sugarcane.

CHAPTER THREE

3 COMMITTEE OBSERVATIONS

The Committee having considered the Senate amendments to the Sugar Bill (National Assembly Bill No. 34 of 2022) observed that:

Clause 2

1. Clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of “*sugarcane manufacturers apex body*”. “*Sugarcane zone means geographical area as set out in the Second Schedule where growers and millers are restricted to deliver and receive cane respectively*”.

Committee Observation

The amendment indicates that the Senate has introduced zoning in the Bill. The National Assembly had opted to put in place catchment areas and cane purchase agreements.

It is important for the National Assembly and the Senate to get an explanation from either side on the reasons for settling for either zoning or catchment areas before coming up with a common position for Parliament that will be fair to both farmers and millers.

Clause 6

2. Clause 6 of the Bill be amended in:
 - a) sub-clause (1) by inserting the following new paragraph immediately after paragraph (e), “(ea) one person of the gender that is least represented in the composition of the Board who has knowledge and experience in matters relating to the sugar industry appointed by Cabinet Secretary; and (eb) one person representing persons living with disabilities or youth appointed by the council of county governors”.
 - b) subclause (2) by deleting the expression “and (e)” and substituting therefor the expression “(e), (ea) and (eb)”.

Committee Observation

The *Mwongozo* Code of Governance for State Corporations provides that a Board should comprise a membership of between seven (7) and nine (9). The Board as passed by the National Assembly has a membership of twelve (12) including the CEO. Adding the two nominees proposed by the Senate will increase the membership to fourteen (14) yet there is no much value that the additions will bring to the Board.

Clause 17

3. Clause 17 be amended by inserting the following new heading immediately after clause 17, "*PART III – LICENSING AND REGISTRATION*".

Committee Observation

Clause 18 talks about registration of millers while clause 19 talks about registration of a grower to a factory. It therefore makes sense for the heading to come immediately after clause 17 as proposed by the Senate as opposed to where it is currently placed (immediately after clause 19).

Clause 19

4. Clause 19 be amended by:
- a) deleting subclause (1) and substituting therefor the following subclause:
 - (1) "*A miller shall not purchase sugar crop from, or accept, sugar crop delivered by a grower and a grower shall not sell or deliver sugar crop to a miller, unless the:*
 - a) *grower is registered with, and has in force a valid supply agreement with the miller;*
 - b) *factory of the miller is situated within the grower's sugarcane zone; or*
 - c) *grower is exempted from the requirement by the Board under section 19A*".
 - b) Deleting the heading appearing immediately after the subclause (3).

Committee Observations

- 1) The amendment indicates that the Senate has introduced zoning in the Bill. The National Assembly had opted to put in place catchment areas and cane purchase agreements.

It is important for the National Assembly and the Senate to get an explanation from either side on the reasons for settling for either zoning or catchment areas before coming up with a common position for Parliament that will be fair to both farmers and millers.

- 2) The proposal to delete the heading appearing immediately after subclause (3) is ok given that the heading has been moved to appear immediately after clause 17.

Clause 29

5. Clause 29 be amended:
- a) in subclause (1) by:
 - (i) deleting paragraph (d) and substituting therefor the following paragraph, "*(d) one person with knowledge of and experience in the operation of sugar industry nominated by the Council of Governors*"; and

- (ii) deleting the words “*nominated by universities*” appearing immediately after the words “*one person*” in paragraph (e) and substituting therefor the words “*representing the universities nominated by the Commission on University Education*”.
- b) by inserting the following subclause immediately after subclause (1), “(1A) *The Cabinet Secretary shall appoint the members under subsection (1) (a), (b), (c), (d) and (e) by notice in the Gazette*”.

Committee Observations

- 1) The proposal to delete paragraph (d) is ok because it is not clear who members of the input supply system are. The proposal to replace the nominee with one person with knowledge and experience in the operation of sugar industry nominated by the Council of Governors is agreeable.
- 2) The Commission for University Education is a regulatory body for universities and therefore not best suited to appoint a nominee to the Board of Directors of the Kenya Sugar Research and Training Institute.
- 3) The proposal for the Cabinet Secretary to appoint members under subsection (1) (a), (b), (c), (d) and (d) is agreeable because it is a requirement of the *Mwongozo* Code of Governance for State Corporations.

Clause 38

6. Clause 38 be amended as follows:

(1) Subclause 38(6) be amended in:

- a) Paragraph (b) by inserting the words “*allocated to the Kenya Sugar Research and Training Institute*” immediately after the words “*research and training*”; and
- b) Paragraph (d) by deleting the words “*and shall be managed by Kenya Rural Roads Authority of the catchment area*” appearing immediately after the words “*development and maintenance*” and substituting therefor the words “*of county roads and shall be allocated to county governments as a conditional grant on a pro rata basis*”.

(2) Inserting the following new subclause immediately after subclause (1), “(1A) *The provisions of subsection (1) shall not apply to imported industrial sugar*”.

Committee Observation

- 1) It makes sense to state that fifteen percent of the Levy shall be given to the Kenya Sugar Research and Training Institute for specificity.
- 2) Sugar companies have been remitting cess to county governments for the repair and maintenance of roads in the sugar growing areas but the county governments do not repair and maintain the roads. It is for this reason that the National Assembly allocated the function to the Kenya Rural Roads Authority.

- 3) **The Sugar Development Levy will be paid on all imported sugar. Reasons need to be provided on why industrial sugar should be exempted from paying the Levy.**

Clause 43

7. Clause 43 be amended in subclause (2) by inserting the words "*and Senate*" immediately after the words "*the National Assembly*".

Committee Observation

It is ok for the report to be tabled in both Houses of Parliament for proper oversight.

Clause 59

8. Clause 59 be deleted

Committee Observation

Having a representative of cane growers in the board of directors of private milling companies is important because they will act as the link between the farmers and the milling companies. It will also create a sense of ownership of the companies by the farmers thus foster good working relationships between the milling companies and the farmers.

Clause 60

9. Clause 60 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (k), "*(ka) the procedure for election of farmers' and millers' representatives to the Board and the pricing committee*".

Committee Observation

It is important for the procedure of election for farmers' and millers' representatives to the Board and pricing committee to be provided in regulations.

New Clause 19A

10. The Bill be amended by inserting the following new clause immediately after clause 19:

19A. (1) A grower may deliver cane outside a sugarcane zone provided that the grower:

- a) Has a pre-existing agreement with a miller outside the sugarcane zone;
- b) Is not indebted to a miller or an out-grower institution within the sugarcane zone that they are situated; and
- c) Has no supply agreement with a miller within the sugarcane zone that they are situated.

(2) The grower who fulfils the provisions of subsection (1) shall notify the Board of their intention to supply cane outside a sugarcane zone.

- (3)The Cabinet Secretary shall prescribe regulations for the notification process under subsection (2)

Committee Observation

The amendment indicates that the Senate has introduced zoning in the Bill. The National Assembly had opted to put in place catchment areas and cane purchase agreements.

It is important for the National Assembly and the Senate to get an explanation from either side on the reasons for settling for either zoning or catchment areas before coming up with a common position for Parliament that will be fair to both farmers and millers.

New Clause 19B

11. The Bill be amended by inserting the following new clause immediately after clause 19A:

19B. A miller may enter into a contract of cane supply with another miller if:

- a) the millers' factory is temporally broken down;
- b) there is an over-supply of cane to the miller; and
- c) the mill is located within the same sugarcane zone.

Committee Observation

It is important to have provision on cane supply between milling companies in case of factory break downs and over-supply of cane. Restricting millers to enter into contracts with milling companies in their sugarcane zones is however not agreeable because some zones may only have one milling company.

New Schedule

12. The Bill be amended by inserting the following new schedule immediately after the First Schedule:

NEW SCHEDULE
S.2, 19(1)(b), 19A
SUGARCANE ZONES

| SUGARCANE ZONES | COUNTIES |
|------------------------|--|
| Central | Kisumu, Southern Nandi and Kericho |
| Upper Western | Bungoma, Kakamega (excluding Mumias area), Trans Nzoia, Uasin Gishu and Northern Nandi |
| Lower Western | Mumias, Busia and Siaya |
| Southern | Migori, Homabay, Kisii and Narok |
| Coastal | Kwale, Tana River and Lamu |

Committee Observation

The amendment indicates that the Senate has introduced zoning in the Bill. The National Assembly had opted to put in place catchment areas and cane purchase agreements.

It is important for the National Assembly and the Senate to get an explanation from either side on the reasons for settling for either zoning or catchment areas before coming up with a common position for Parliament that will be fair to both farmers and millers.

CHAPTER FOUR

4 COMMITTEE RECOMMENDATIONS

From the above observations, the Committee recommends as follows on the Senate Amendments to the Sugar Bill (National Assembly Bill No. 34 of 2022), That:

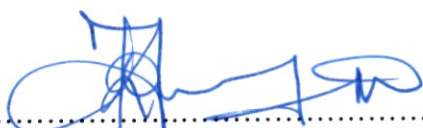
1. The House **AGREES** with the Senate amendments to:

- a) Clause 17;
- b) Clause 19 (b);
- c) Clause 19B (a);
- d) Clause 19B (b);
- e) Clause 29 (a) (i);
- f) Clause 29 (b);
- g) Clause 38 (1) (a);
- h) Clause 43; and
- i) Clause 60

2. The House **REJECTS** the Senate's amendment to:

- a) Clauses 2;
- b) Clause 6;
- c) Clause 19 (a);
- d) Clause 19A;
- e) Clause 19B (c);
- f) Clause 29 (a) (ii);
- g) Clause 38 (1) (b);
- h) Clause 38 (2);
- i) Clause 59; and
- j) The New Schedule

SIGNED.....



DATE.....

11/06/2024

HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, MP

CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK



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 Development today, Tuesday, 4th June 2024 do hereby affix our signatures to this **Report on the Consideration of the Sugar Bill (National Assembly Bill No. 34 of 2022)** 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 | |



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. Lauren 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 Chepengo | - | 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 Shamiah, 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 2022) 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:

11/06/2024

**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 20TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD IN THE COMMITTEE ROOM ON 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON FRIDAY, 17TH MAY 2024 AT 10.30 A.M.

PRESENT

- | | | |
|--|---|--------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP | - | Chairperson |
| 2. Hon. Geoffrey Makokha Odanga, MP | | |
| 3. Hon. Jared Oduyo Okelo, 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. Peter Kalerwa Salasya, MP | | |
| 9. Hon. Yussuf Mohamed Farah, MP | | |

ABSENT WITH APOLOGY

- | | | |
|---------------------------------------|---|-------------------------|
| 1. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 2. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 3. Hon. Ferdinand Kevin Wanyonyi, MP | | |
| 4. Hon. Justice Kipsang Kemei, MP | | |
| 5. Hon. Monicah Muthoni Marubu, MP | | |
| 6. Hon. Patrick Kibagendi Osero, MP | | |

IN ATTENDANCE

A. COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|---------------------|
| 1. Ms. Laureen O. Wesonga | - | Clerk Assistant I |
| 2. Mr. Victor Kilimo | - | Clerk Assistant III |
| 3. CPA. Robert Ng'etich | - | Fiscal Analyst II |
| 4. Mr. Gerald Kadede | - | Legal Counsel II |
| 5. Mr. Meldrick Sakani | - | Audio Assistant |

B. STATE DEPARTMENT FOR AGRICULTURE

- | | | |
|-----------------------|---|-----------------------|
| 1. Dr. Kipronoh Ronoh | - | Principal Secretary |
| 2. Mr. Tobias Osano | - | Chief Finance Officer |

- | | | |
|------------------------|---|--|
| 3. Mr. Samuel Ndung'u | - | Ag. Managing Director, NCPB |
| 4. Dr. Wilson Tonui | - | Chief Executive Officer, ADC |
| 5. CPA. Samwel Njire | - | Director, Finance and Accounts, NTZIC |
| 6. Mr. David Kithale | - | Parliamentary Liaison Officer |
| 7. Mr. Elias Kiragu | - | Deputy Director Finance, AFA |
| 8. Mr. Richard Bii | - | Senior Deputy Director, SCMS |
| 9. Mr. Samuel Guto | - | NPC, NAVCDP |
| 10. Mr. Rastus Shikuku | - | Assistant Director Budget, National Treasury |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes
4. Matters Arising
5. **Briefing by the Parliamentary Budget Office on the Estimates of Revenue and Expenditure for FY 2024/25 for the State Department for Agriculture**
6. **Meeting with the State Department for Agriculture to discuss the Supplementary Estimates No. 2 for FY 2023/24 and Estimates of Revenue and Expenditure for FY 2024/25**
7. Any other Business
8. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2024/088: PRELIMINARIES/ADOPTION OF THE AGENDA

The meeting was called to order at nineteen minutes to eleven O'clock with a word of prayer by the Chairperson. The Committee deliberated and proposed the following amendments to the Agenda:

Delete Agenda No. 5 and include the following new Agendas:

1. Consideration of Senate Amendments to the Food and Feed Safety Control Coordination Bill (National Assembly Bill No. 21 of 2023); and
2. Consideration of Senate Amendments to the Sugar Bill (National Assembly Bill No. 34 of 2022).

The Agenda of the meeting was the adopted having been proposed by Hon. Geoffrey Odanga, MP and seconded by Hon. Gabriel Kagombe, MP.

MIN. NO. NA/A&L/2024/089: CONFIRMATION OF MINUTES

This Agenda was deferred.

MIN. NO. NA/A&L/2024/090: MEETING WITH THE STATE DEPARTMENT FOR AGRICULTURE TO DISCUSS THE SUPPLEMENTARY ESTIMATES NO. 2 FOR FY 2023/24 AND ESTIMATES OF REVENUE AND EXPENDITURE FOR FY 2024/25

The Chairperson directed the Serjeant-at-Arms to usher officials from the State Department for Agriculture into the meeting. He then requested everyone in the meeting to introduce themselves.

The Chairperson notified the meeting that the Cabinet Secretary, Ministry of Agriculture and Livestock Development, through a letter, Ref: MOALD/CS/ADM/13 Vol. 6 (9) dated 13th May 2024, had informed the Committee that he had been tasked to lead the Kenyan delegation to the launch of the China-Kenya Tea Trade Centre in China and would therefore not be able to attend the budget meetings.

Members deliberated extensively on the absence of the CS in the meeting observing that unlike the State Department of Livestock Development whose Budget Documents were straightforward, the Committee needed to engage with the CS on the Budget Documents for the State Department for Agriculture particularly on the Fertilizer Subsidy Programme. Members resolved to reschedule the meeting to Tuesday, 21st May 2024 at 2.30 pm when the CS will be back in the country.

MIN. NO. NA/A&L/2024/091:

**CONSIDERATION OF SENATE
AMENDMENTS TO THE FOOD AND
FEED SAFETY CONTROL CO-
ORDINATION BILL (NATIONAL
ASSEMBLY BILL NO. 21 OF 2023)**

The Legal Counsel informed the meeting that the Senate had proposed amendments to clauses 22 and 25 and the First Schedule to the Bill.

Members deliberated and resolved as follows on the proposed amendments:

1. **Clause 22** : Agreed to
2. **Clause 25** : Agreed to
3. **First Schedule** : Rejected because competent authorities at the county level are not recognized internationally. Additionally, the departments proposed by the Senate report to the competent authorities listed in the First Schedule to the Bill.

MIN. NO. NA/A&L/2024/092:

**CONSIDERATION OF SENATE
AMENDMENTS TO THE SUGAR BILL
(NATIONAL ASSEMBLY BILL NO. 34 OF
2022)**

The Legal Counsel informed the meeting that the Senate had proposed amendments to clauses 2, 6, 17, 19, 29, 38, 43, 59 and 60. They had also proposed introduction of new clauses 19A, 19B and a new schedule to the Bill.

Members deliberated and resolved as follows on the proposed amendments:

1. **Clause 6**: Rejected because their proposal will increase the membership of the Board beyond the number proposed in the Mwongozo Code of Governance for State Corporations.
2. **Clause 17**: Agreed to
3. **Clauses 2 and 19, new clause 19A and the new schedule**: The clauses deal with zoning. The Committee needs to discuss the clauses with Senate and decide on whether or not to adopt zoning in the sugar industry.

4. Clause 19B

19B (a) – Agreed to

19B (b) – Agreed to

19B (c) – Rejected because it will be tying down the milling companies to only engage with millers within their zones.

5. Clause 29

(a) (i): Agreed to

(ii): Rejected because the Commission for University Education is a regulatory body for universities and is therefore not best suited to appoint a person to the Board of Directors of the Institute.

(b) Agreed to

6. Clause 38

1) (a) Agreed to

(b) Rejected because the Kenya Rural Roads Authority is better placed to oversee infrastructural development and maintenance of the roads.

2) Rejected because four per centum of CIF value on imported sugar and the provisions of sub-section (1) shall apply therefore apply to imported industrial sugar.

7. **Clause 43:** Agreed to

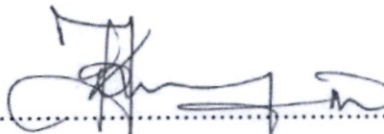
8. **Clause 59:** Rejected

9. **Clause 60:** Agreed to

MIN. NO. NA/A&L/2024/093:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at seven minutes to one O'clock. The next meeting will be held on Tuesday, 21st May 2024 at ten O'clock.

SIGNED:  DATE: 21/05/2024

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

REPUBLIC OF KENYA

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Clerk’s Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

SENATE AMENDMENTS TO THE SUGAR BILL (NATIONAL ASSEMBLY BILLS NO. 34 OF 2022)

The following amendments to the **Sugar Bill (National Assembly Bills No. 34 of 2022)** was passed by the Senate on Thursday, 25th April, 2024 -

CLAUSE 6

THAT Clause 6 of the Bill be amended in-

- (a) subclause (1) by inserting the following new paragraph immediately after paragraph (e)

(ea) one person of the gender that is least represented in the composition of the Board who has knowledge and experience in matters relating to the sugar industry appointed by Cabinet Secretary; and

(eb) one person representing persons living with the disabilities or youth appointed by the council of county governors;

- (b) subclause (2) by deleting the expression “and (e)” and substituting therefor the expression “(e), (ea) and (eb)”.

CLAUSE 17

THAT the Bill be amended by inserting the following new heading immediately after clause 17.

PART III –LICENSING AND REGISTRATION

CLAUSE 19

THAT Clause 19 of the Bill be amended by –

- (a) deleting subclause (1) and substituting therefor the following new subclause —

Signature _____

A handwritten signature in black ink, appearing to be 'Eg', written over a horizontal line.

- (1) A miller shall not purchase sugar crop from, or accept, sugar crop delivered by a grower and a grower shall not sell or deliver sugar crop to a miller, unless the —
- (a) grower is registered with, and has in force a valid supply agreement with the miller;
 - (b) factory of the miller is situated within the grower's sugarcane zone; or
 - (c) grower is exempted from the requirement by the Board under section 19A.
- (b) deleting the heading appearing immediately after the subclause (3).

CLAUSE 29

THAT clause 29 of the Bill be amended —

- (a) in subclause (1) by —
 - (i) deleting paragraph (d) and substituting therefor the following new paragraph—
(d) one person with knowledge of and experience in the operation of sugar industry nominated by the Council of County Governors;
 - (ii) deleting the words “nominated by universities” appearing immediately after the words “one person” in paragraph (e) and substituting therefor the words “representing the universities nominated by the Commission on University Education”;
- (b) by inserting the following new subclause immediately after subclause (1) —
(1A) The Cabinet Secretary shall appoint the members under subsection (1), (a), (b)(c) (d) and (e) by notice in the *Gazette*.

CLAUSE 38

1) THAT clause 38(6) be amended in—

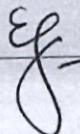
- (a) paragraph (b) by inserting the words “allocated to the Kenya Sugar Research and Training Institute” immediately after the words “research and training”; and
 - (b) paragraph (d) by deleting the words “and shall be managed by Kenya Rural Road Authority of the catchment area” appearing immediately after the words “development and maintenance” and substituting therefor the words “of county roads and shall be allocated to county governments as a conditional grant on a pro rata basis”.
- 2) THAT Clause 38 of the Bill be amended by inserting the following new subclause immediately after subclause (1) —

(1A) The provisions of sub-section (1) shall not apply to imported industrial sugar.

CLAUSE 43

THAT clause 43 be amended in subclause (2) by inserting the words “and the Senate” immediately

Signature _____



after the words "the National Assembly".

CLAUSE 59

THAT the Bill be amended by deleting clause 59.

CLAUSE 60

THAT clause 60 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (k) —

(ka) the procedure for election of farmers and millers representatives to the Board and the pricing committee.

NEW CLAUSE 19A

THAT the Bill be amended by inserting the following new clause immediately after clause 19—

19A. (1) A grower may deliver cane outside a sugarcane zone provided that the grower, — Exemption from
cane supply
restriction.

- (a) has a pre-existing agreement with a miller outside the sugarcane zone;
- (b) is not indebted to a miller or an outgrower institution within the sugarcane zone that they are situated; and
- (c) has no supply agreement with a miller within the sugarcane zone that they are situated.

(2) the grower who fulfils the provisions of subsection (1) shall notify the Board of their intention to supply cane outside a sugarcane zone.

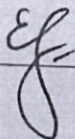
(3) The Cabinet Secretary shall prescribe regulations for the notification process under subsection (2).

NEW CLAUSE 19B

19B. A miller may enter into a contract of cane supply with another miller if — Intermillers
agreements.

- (a) the millers factory is temporally broken down; or
- (b) there is an over supply of cane to the miller; and
- (c) the mill is located within the same sugarcane Zone.

Signature _____



NEW SCHEDULE

THAT the Bill be amended by inserting the following new schedule immediately after the First Schedule-

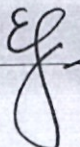
**NEW SCHEDULE
S.2, 19(1)(b), 19A.
SUGARCANE ZONES.**

| SUGARCANE ZONES | COUNTIES |
|------------------------|--|
| Central | Kisumu, Southern Nandi, and Kericho Counties. |
| Upper Western | Bungoma, Kakamega - excluding Mumias area, Trans- Nzoia, Uasin-Gishu, and Northern Nandi Counties. |
| Lower Western | Mumias, Busia and Siaya Counties. |
| Southern | Migori, Homa Bay, Kisii, Narok Counties. |
| Coastal | Kwale, Tana River, and Lamu Counties. |

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of "sugarcane manufactures apex body". "Sugarcane zone" means a geographical area as set out in the Second Schedule where growers and millers are restricted to deliver and receive cane respectively.

Signature _____





REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT - (THIRD SESSION)
THE NATIONAL ASSEMBLY
MESSAGES

MESSAGE FROM THE SENATE

_____ (No. 009 of 2024) _____

ON PASSAGE OF FOUR BILLS


Honourable Members,

1. Pursuant to the provisions of Standing Order 41(5), I wish to report to the House that on 2nd May 2024, I received four (4) Messages from the Senate regarding the passage of two Senate Bills and two National Assembly Bills.
2. The **first and second Messages** convey that, on Thursday, 25th April 2024, the Senate considered and passed **The County Boundaries Bill (Senate Bill No. 6 of 2023)** and **The Sugar Bill (National Assembly Bill No. 34 of 2022)**. The Sugar Bill was passed with amendments.
3. **Honourable Members**, the **third and fourth Messages** convey that, on Thursday, 2nd May 2024, the Senate considered and passed **The Division of Revenue Bill (National Assembly Bill No. 14 of 2024)** with amendments and the **County Governments (Amendment) Bill (Senate Bill No. 25 of 2023)** without amendments.
4. **Honourable Members**, the **County Boundaries Bill (Senate Bill No. 6 of 2023)** seek to give effect to Article 188 of the Constitution by providing for a procedure for alteration of county boundaries. It also proposes to provide for a mechanism for resolution of disputes relating to county boundaries as well as the establishment of an independent county boundaries commission.

5. On the other hand, the **County Governments (Amendment) Bill (Senate Bill No. 25 of 2023)** seeks to amend the County Governments Act, Cap. 265 to raise the statutory thresholds for removal of a member of a County Executive Committee. In conveying the Message regarding passage of this particular Bill, the Rt. Hon. Speaker of the Senate has notified that the sponsor, Sen. Samson Cherarkey, MP, has nominated the Member for Marakwet West, **the Hon. Timothy Kipchumba Toroitich, MP**, to co-sponsor the Bill in this House. In this regard, the Hon. Toroitich will henceforth be responsible for marshaling its consideration in the National Assembly.
6. **Honourable Members**, with regard to the Sugar Bill (National Assembly Bill No. 34 of 2022), I hereby direct the Clerk to circulate the Senate amendments to the Bill to all Members as required by the Standing Orders. In the meantime, the Message from the Senate, together with the Schedule of Senate amendments, shall stand referred to the **Departmental Committee on Agriculture and Livestock** for consideration.
7. **Honourable Members**, in order for the House to commence consideration of the two (2) Senate Bills, I further direct the Clerk to schedule the Bills for First Reading when the House convenes next for its regular Sittings. Thereafter, the two Bills will stand committed to the **Departmental Committee on Justice and Legal Affairs** for consideration.
8. I urge the two Committees to prioritize the respective Bills referred to them and report to the House as soon as is practicable to enable the House to proceed with the next stages of the Bills.

9. **Honourable Members**, with respect to the two (2) National Assembly Bills, that is, the **Sugar Bill, 2022** and the **Division of Revenue Bill, 2024**, you will recall that the National Assembly passed the two Bills on 27th September, 2023 and 20th March 2024, respectively, following which I referred the Bills to the Senate for consideration pursuant to the requirements of Article 110(4) of the Constitution. As part of the bicameral architecture of our legislative process on Bills concerning County Governments, the House is now required to consider the Senate amendments to the two Bills.
10. **Honourable Members**, passage of a Division of Revenue Bill ought to be done expeditiously and within the statutory timelines in order to allow for the attendant steps in the budget making process.
11. In this regard and in line with the resolution of the House of 14th February 2024 regarding *Processing of Messages received from the Senate during the Short and Long Recesses*, through *Notification No. 001 of 2024* dated Monday, 6th May 2024, I referred the Senate amendments to the Division of Revenue Bill, 2024 to the Budget and Appropriations Committee as soon as I received it.
12. The Committee is expected to have concluded consideration of the Senate amendments and should table its report today to facilitate consideration of the business listed as Order No. 10 in the day's Order Paper. As I have communicated earlier, this particular business has a statutory timeline.
13. The House is accordingly guided.

I thank you!


THE RT. HON. (DR.) MOSES M. WETANG'ULA, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Monday, 13th May 2024

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REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS
(Bill No. 34 of 2022)

THE SUGAR BILL, 2022

**(A Bill published in the Kenya Gazette Supplement
No. 150 of 2023 and passed by the National Assembly,
with amendments, on September 27th, 2023)**

N.A. /B/No. 34/2023

THE SUGAR BILL, 2022
ARRANGEMENT OF CLAUSES

Clause

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2—Interpretation.

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FUNCTIONS OF THE KENYA SUGAR BOARD**

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6—Composition of the Board.

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**THIRD SCHEDULE—PROVISIONS AS TO THE
MEETINGS AND
PROCEDURE OF THE
TRIBUNAL**

THE SUGAR BILL, 2022

A Bill for

AN ACT of Parliament to provide for the development, regulation and promotion of the sugar industry, to provide for the establishment, powers and functions of the Kenya Sugar Board, and for connected purposes

ENACTED by Parliament of the Republic of Kenya as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Sugar Act, 2022.

Short title.

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

Interpretation.

“agreements” means agreements specifying the standard provisions governing the rights and obligations of growers, millers, out-growers, transporters and other value chain actors in the sugar industry;

“Board” means the Kenya Sugar Board established under section 3;

“by-product” means any substance, other than sugar, produced incidentally during the process of manufacturing sugar;

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

“County Executive Committee Member” means the County Executive Member for the time being responsible for matters relating to agriculture in the respective County;

“Fund” means the Sugar Development Fund established under section 39;

“guidelines” means the guidelines for agreements between parties in the sugar industry set out in the regulations;

“grower” means a person who produces sugar-cane or any crop in Kenya for the manufacture of sugar;

“industry” means the sugar industry in Kenya and

includes the growing of sugar-cane and any other sugar producing crop, the manufacturing, refining, warehousing, marketing, transportation of sugar and disposal of sugar and its by-products;

“industrial sugar” means a white crystalline carbohydrate used as a sweetener and preservative sugar, which complies with the specifications set by the body for the time being responsible for setting standards;

“Institute” means the Kenya Sugar Research and Training Institute established under section 27;

“jaggery mill” means bare minimum technology equipment used to crush sugarcane to produce sugarcane juice which is processed through boiling to produce jaggery;

“licence” means a licence issued by the Board to a miller;

“member” means a member of the Board appointed under section 6;

“mill gate” means a site designed as such by the Board where sugar crops are received, weighed or tested;

“miller” means a person licensed to operate a sugar mill or a jaggery, mill in Kenya for the production of sugar including refined sugar and other by-products;

“outgrower” means a person who has a sugarcane farm in a catchment area and who has in force a cane supply contract in respect of the sugar-cane grown on such farm and registered by the Board;

“refined sugar” means sugar, which complies with the specifications set by the body for the time responsible for setting standards;

“retailer” means any person licensed to carry out retail business in Kenya and includes a supermarket, departmental store, retail shop, wholesale shop, distribution agency or a hawker;

“stakeholder” means a person with significant interest in the sugar industry and includes growers, out-growers, millers, transporters and other value chain actors in the industry;

“sugar” means crystalline or liquid sucrose derived from sugar crop in any of its recognised commercial forms, intended for human consumption or other use and includes jaggery, raw, brown, plantation (mill) white and industrial sugar;

“sugar beet” means any plant or part of a plant of the genus Beta or any of its hybrid that is grown for sugar production;

“sugar-cane” means any plant or part of a plant of the genus saccharum or any of its hybrid;

“sugar catchment area” means a specific geographical area where farmers are clustered within a suitable sugar catchment area for purposes of election to the Board under the First Schedule and *gazetted* as such by the Cabinet Secretary for the time being responsible for agriculture;

“sugarcane growers apex body” mean a national organization registered under the Societies Act whose membership shall comprise of mill level registered and contracted farmers’ institutions and groups championing the rights under a cane supply agreement and in the catchment areas listed under the First Schedule and gazetted as such by the Cabinet Secretary for the time being responsible for Agriculture;

Cap 108

“sugar crop” means a crop grown for the purpose of sugar production including sugarcane and sugar beet;

“sugarcane manufacturer’s apex body” means a national body, composed of sugar and jaggery millers registered under the Societies Act, with the main objective being to lobby for the interest of the registered millers;

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“Tribunal” means the Sugar Arbitration Tribunal established under section 44.

PART II—ESTABLISHMENT, POWERS AND FUNCTIONS OF THE KENYA SUGAR BOARD

3. (1) There is established a board to be known as the Kenya Sugar Board.

Establishment and incorporation of the 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) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing or lending money; and
- (d) doing or performing all such other acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

4. (1) The Board shall—

Functions of the Board.

- (a) regulate, develop and promote the sugar industry;
- (b) co-ordinate the activities of value chain actors within the industry; and
- (c) facilitate equitable access to the benefits and resources of the industry by all interested parties.

(2) Without prejudice to the generality of subsection (1), the Board shall—

- (a) participate in the formulation and implementation of overall policies, plans and programs of work for the development of the industry;
- (b) act as an intermediary between the industry and the Government;
- (c) establish linkages with other government agencies and research institutions to enhance quality assurance and research and facilitate flow of research findings to the interested parties;
- (d) monitor and regulate the domestic market with a view to identify any distortion in the sugar market and advise the Government and interested parties on any corrective measures to be taken;
- (e) advise the national and county governments on agricultural levies for purposes of planning, enhancing harmony and promotion of equity in the sugar industry;
- (f) facilitate the sale, import and export of sugar and sugar products;

- (g) promote and encourage the use of environmentally friendly technologies in the industry;
- (h) provide advisory services to growers, out-grower institutions and millers;
- (i) in collaboration with county governments, implement an equitable mechanism for the pricing of sugar crop and appropriation of proceeds from the disposal of the by-products of sugar production between millers and growers as stipulated in the guidelines;
- (j) collaborate with national and international trade bodies on sugar related matters;
- (k) oversee the formulation of standard provisions governing the mutual rights and obligations of growers, millers and other interested parties;
- (l) collect, collate and analyze industry statistics and maintain a data base for the industry;
- (m) register and license sugar and jaggery mills, exporters, importers and dealers;
- (n) enforce and monitor compliance with standards along the sugar value chain;
- (o) promote and advise on strategies for value addition and product diversification in the sugar industry;
- (p) in consultation with the county governments and other stakeholders, formulate a strategic plan for the sugar sub-sector at least once every five years;
- (q) in consultation with the county governments, formulate guidelines on an efficient, safe and economical transportation of sugar, sugar crop and disposal of unutilized by-products;
- (r) gather and disseminate market information on regional and global supply chain dynamics for the benefit of stakeholders;
- (s) establish linkages with various government agencies and research institutions to enhance quality assurance and research;
- (t) ensure that there is adequate public participation

and consultation with growers in its decision making affecting the sugar industry and its stakeholders;

- (u) promote the efficiency and development of the industry through the establishment of appropriate institutional linkages; and
- (v) perform such other functions as may be conferred on it by this Act or any other written law.

5. The County Government shall—

Functions of county governments.

- (a) issue certificates and inspect sugar crop nurseries in collaboration with the Kenya Sugar Research and Training Institute;
- (b) offer and coordinate extension services on sugar crop production in the respective county;
- (c) in collaboration with the Board and law enforcement agencies, enforce regulations within the county;
- (d) monitor and report incidences of pests and disease outbreaks and take appropriate action in collaboration with the Board and other relevant government agencies; and
- (e) maintain an efficient road network for the movement of sugarcane, delivery of other services and general development of the sugar industry.

6. (1) The Board shall comprise—

Composition of the Board.

- (a) a non-executive chairperson appointed by the President;
- (b) five representatives elected by growers from each sugar catchment area as per the First Schedule;
- (c) two representatives each elected by private and public owned sugar mills who are knowledgeable in sugar technology and value addition;
- (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to agriculture or a representative nominated by the

Principal Secretary in writing;

- (e) one person nominated by the Council of County Governors who is knowledgeable in extension services and management of farmer institutions;
- (f) the Principal Secretary for the time being responsible for National Treasury or a representative nominated by the Principal Secretary in writing; and
- (g) the Chief Executive of the Board appointed under section 14 who shall be an *ex-officio* member and the secretary to the Board.

(2) The members under subsection (1) (b), (c) and (e) shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(3) A person shall not be appointed as a chairperson of the Board of Directors unless the person holds at least a degree or its equivalent in any discipline from an institution recognized in Kenya and has fifteen years relevant experience in the sugar sector.

7. (1) A person appointed as chairperson or a member of the Board under section 6(1) (a), (b), (c) and (e) shall serve for a term of three years renewable for one further term upon election or nomination as the case may be.

Term of
appointment.

(2) Members of the Board under section 6(1)(a), (b), (c) and (e) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times.

8. A person shall cease to be a member of the Board if the person—

Vacation of
office.

- (a) is absent from three consecutive meetings of the Board without notifying the chairperson in writing;
- (b) becomes an officer, agent or member of staff of the Board;
- (c) resigns in writing addressed to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment exceeding six months

without the option of a fine;

- (e) is declared bankrupt;
- (f) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- (g) dies.

9. The Board shall have all the powers necessary for the proper performance of its functions under this Act, including the power to—

Powers of the Board.

- (a) impose a levy or levies upon growers and millers for the purposes of giving effect to the provisions of this Act;
- (b) control, supervise and administer the assets of the Board in such manner and for such purpose as best promotes the purpose for which the Board was established;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (e) lay down policy guidelines for the operations and management of all the funds collected by the Board;
- (f) access all such relevant information as may be necessary for the efficient administration of the industry;
- (g) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Board is established; and
- (h) open a banking account or banking accounts for the funds of the Board.

10. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Second Schedule.

Conduct of business and affairs of the Board.

(2) Except as provided in the Second Schedule, the Board shall regulate its own procedure and the procedure of

any of its committees.

11. (1) The Board 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.

(2) The Board 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.

12. The Board may, either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act.

Delegation of powers of the Board.

13. The Board shall pay to its members, such fees or allowances for expenses as determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

Remuneration of Board members.

14. (1) There shall be a Chief Executive Officer of the Board who shall be appointed through a competitive process by the Board and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

Chief Executive Officer.

(2) A person shall be qualified for appointment under this section if the person—

- (a) holds a relevant degree from a university recognized in Kenya;
- (b) has at least ten years knowledge and experience from a relevant field;
- (c) has at least five years' experience in a position of senior management; and
- (d) meets the provision of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Chief Executive Officer shall, subject to the directions of the Board, be responsible for the day to day

management of the affairs of the Board.

15. The Board may appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the Board may determine.

Staff of the Board.

16. A member, officer, employee or agent of the Board shall not be held personally liable to any action, claim or demand for a matter or thing done *bona fide* for the purpose of executing the functions, powers or duties of the Board.

Protection from personal liability.

17. Section 16 shall not relieve the Board of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially, of any works.

Liability of the Board for damages.

18. (1) A person shall not conduct the business of a miller unless he or she is registered by the Board and the premises in which the business is conducted is specified in the register in accordance with regulations made under this Act.

Registration of millers.

(2) The Board shall issue to each miller registered under this section, a certificate of registration specifying the premises at which milling may be carried on by the miller.

(3) No fee shall be charged in respect of registration or certification of registration made or issued under this section.

(4) In issuing certificates of registration under subsection (3), the Board shall satisfy itself that the premises upon which milling may be carried out meets the environmental standards set by the National Environmental Management Authority and the miller has been issued with a certificate of safety by the relevant county government.

(5) A miller may offer extension or other services to growers.

(6) Every miller registered under this section shall conduct business in accordance with this Act and any regulations made thereunder.

(7) A person who contravenes the provisions of this section commits an offence and shall upon conviction be liable to imprisonment for a term not exceeding five

years or to a fine not exceeding ten million shillings or to both.

19. (1) A miller shall not purchase sugar crop from, or accept sugar crop delivered by, a grower and a grower shall not sell or deliver sugar crop to a miller, unless that grower is registered in respect of the factory of the miller for the supply of sugar crop.

Registration of a grower to a factory.

(2) No miller shall, without reasonable cause, refuse to accept or collect sugar crop for the manufacture of sugar delivered by a grower in accordance with a cane supply agreement.

(3) A miller or a grower who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not less than one million shillings or three times the market value of sugar in respect of which the offence is committed, whichever is greater, or to imprisonment for a term not less than one year, or to both such fine and imprisonment.

PART III—LICENSING AND REGISTRATION

20. (1) A person shall not operate a sugar mill or a jaggery mill unless he or she is a holder of a current licence issued by the Board upon recommendation by the relevant County Government for that purpose.

Requirement of a licence to operate mill.

(2) A person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of a licence granted under this Act commits an offence and shall be liable on conviction, to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or to a fine not exceeding ten million shillings, whichever is the higher, or to imprisonment for a term not exceeding five years, or to both.

21. (1) A person shall apply to the Board for a licence to operate a sugar mill or a jaggery mill in the prescribed form.

Issue of licence and licence fees.

(2) The Board shall not issue a licence under this Act unless—

- (a) it is of the opinion that the applicant is a fit and proper person to hold such a licence; and

(b) it is satisfied that the applicant has sufficient knowledge, experience and capacity to enable him conduct business or that he has, amongst his staff, a person with such knowledge and experience.

(3) Every licence shall specify the premises upon which the milling of sugar may be carried on.

(4) There shall be payable for the issue of a licence, such fees as the Board, after consultation with the Cabinet Secretary, may prescribe.

(5) The issuance of a licence to an applicant under this section shall not be withheld without reasonable cause.

22. (1) A license issued under this Act shall be subject to such conditions as the Board may determine and as prescribed in regulations.

Conditions of a license.

(2) Every license shall, unless earlier revoked, expire on the 30th June next following the date of issue.

23. (1) A person shall not import or export sugar crop, sugar or sugar by-products without a valid licence issued by the Board in accordance with regulations made under this Act.

Sugar import.

(2) A holder of a valid import or export licence shall not import or export sugar crop, sugar or sugar by-products unless they have obtained a pre-import permit or pre-export approval from the Board in accordance with regulations made under this Act.

(3) A person who imports sugar into Kenya shall, prior to importation—

(a) provide evidence that the sugar they intend to import is not available in the local market;

(b) provide a sample of the sugar to be imported and pre-import verification certificate from the country of origin; and

(c) obtain pre-import approval from the Board.

(4) A person who contravenes this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings or to both.

(5) This section shall apply to importation of sugar-cane.

24. (1) The Board shall ensure, subject to such regional and international trade agreements to which Kenya is a party, that all sugar imports into the country are subject to all the prevailing import duties, taxes and other tariffs.

Safeguard measures.

(2) Despite sub-section (1), the Board shall ensure that—

(a) sugar shall be imported in the country only when there is sugar deficit and for a specific tonnage; and

(b) importers report to the Board on their imports, sales and stock as may be determined by the Board.

(3) The government shall introduce other safeguard measures as may be necessary to protect the industry from unfair trade practices.

(4) A person who contravenes the provision of this section commits an offence and shall be liable, on conviction, to a fine not exceeding three times the value of the domestic sugar in respect of which the offence is committed, or two million shillings, whichever is higher, or to imprisonment to a term not exceeding ten years, or to both.

25. (1) A licenced sugar miller shall be licenced by the Board to carry out the business of processing industrial sugar.

Industrial sugar.

(2) The Board shall regulate the processing of industrial sugar.

26. (1) Every miller shall supply sugar and other sugar products to the domestic market in a package that satisfies the trade principle of traceability.

Duties of millers and retailers.

(2) Every retailer shall sell sugar products in a package that satisfies the trade principle of traceability.

(3) The Cabinet Secretary shall within six months of the enactment of this Act, make regulations for the better implementation of the provisions of this section.

(4) Any person who contravenes the provisions of this section commits an offence and shall, upon conviction, be

liable to imprisonment for a term not exceeding two years or a fine not exceeding one million shillings or both.

PART IV- ESTABLISHMENT OF THE KENYA SUGAR RESEARCH AND TRAINING INSTITUTE

27. (1) There is hereby established a body to be known as the Kenya Sugar Research and Training Institute.

Establishment of the Kenya Sugar Research and Training Institute.

(2) The Institute is 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) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) 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.

28. (1) The Institute shall—

Functions of the Institute.

- (a) promote, co-ordinate and regulate research in sugar, sugar crop, sugar by-products, sugar technologies and management practices.
- (b) expedite equitable access to research information, resources, sugar technologies and innovations and promote the application of research findings in the development of the sugar industry.

(2) For the purpose of carrying out its functions, the Institute shall—

- (a) formulate policy and make policy recommendations in respect of sugar research, development and training to the Board in line with the national policy on sugar;
- (b) determine and advise the Board on the resource requirements for sugar research in Kenya both at the national and county level;
- (c) regulate, monitor and ensure that all sugar research

- undertaken by other institutions or persons undertaking sugar research is consistent with the national priorities specified in the relevant policy documents;
- (d) formulate or approve medium and long term research plans, strategies and budgets of the Institute;
 - (e) provide grants to institutions or persons desirous of carrying out research and training programs which are consistent with the national research priorities and plans of the Institute;
 - (f) support and promote the training and capacity building in relation to sugar industry research;
 - (g) liaise with and ensure the co-ordination of institutions, agencies and persons involved in sugar research;
 - (h) establish platforms for the purposes of sharing research information, advancing research and transfer of technology and dissemination of information relating to advancements made in sugar industry research;
 - (i) conduct training in industry best practice and value-addition;
 - (j) ensure continuance of performance improvement in the field of sugar industry research;
 - (k) breed and promote sugarcane varieties suited for various agro-ecological areas of Kenya;
 - (l) conduct research on nutritional requirements of sugar crop in order to provide recommendations on the appropriate inputs;
 - (m) appraise technologies on land preparation, drainage and water management for economical cane sugar crop production;
 - (n) study and monitor pests and diseases that affect sugar crop and recommend appropriate control strategies;
 - (o) develop agronomic packages for sugar crop maintenance and management;

- (p) institute socio-economic investigations to improve human resource management and enhance development of the sugar industry as an agribusiness;
- (q) test, design and evaluate farm machinery transport and factory equipment for efficient sugar production;
- (r) promote transfer of sugar industry technology based on applied research through relevant training and extension mechanism;
- (s) foster research on sustainable productivity, environmental issues, human safety at field and factory levels;
- (t) collaborate with the Government, the industry, universities and other national and international organizations for the purpose of furthering the Institute's mission;
- (u) charge fees or levies for rendered services and products;
- (v) offer modular courses on various aspects of sugar industry technologies, innovations and management practices.
- (w) perform such other function as may be conferred on it by this Act or any other written law.

29. (1) The Management of the Institute shall vest in the Board of Directors which shall consist of—

Management of
the Institute.

- (a) a chairperson appointed by the Cabinet Secretary through a competitive process in consultation with the Public Service Commission;
- (b) one person nominated by sugarcane growers' apex body;
- (c) one person nominated by sugarcane manufacturers apex body;
- (d) one person nominated by the input supply system;
- (e) one person nominated by universities;
- (f) the Principal Secretary for the time being responsible for National Treasury or a

representative appointed in writing;

- (g) the Principal Secretary for the time being responsible for Agriculture or a representative appointed in writing;
- (h) the Director General of the Kenya Agricultural Livestock and Research Organization; and
- (i) the Managing Director who shall be an *ex-officio* member.

(2) A person shall not be appointed as a chairperson of the Board of Directors of the Institute unless the person holds at least a degree or its equivalent in agricultural research or a related field from an institution recognised in Kenya and has at least ten years' experience in the sugar industry.

30. The provisions of sections 8, 9, 10, 11 and 12 shall apply to the Board of the Institute with necessary modification.

Application.

31. The funds of the Institute shall consist of-

Funds of the Institute.

- (a) monies remitted by the Board from the sugar development levy;
- (b) such monies as may accrue to or vest in the Board in the course of the exercise of its functions under this Act;
- (c) monies from any other source as approved by the Board of Directors and Ministry responsible; and
- (d) levies and fees accruing from rendered services and products.

32. (1) There shall be a Managing Director of the Institute who shall be appointed through a competitive process by the Board of the Institute and whose terms and conditions of service shall be determined by the Board in consultation with the Public Service Commission in the instrument of appointment or otherwise in writing from time to time.

Managing Director of the Institute.

(2) A person shall be qualified for appointment under this section if the person-

- (a) holds a doctorate degree in agricultural studies,

agronomy plant genetics and breeding, soil science or a related field from a university recognized in Kenya;

- (b) has at least ten years knowledge and experience from a relevant field;
- (c) has at least five years' experience in a position of senior management; and
- (d) meets the provisions of chapter six of the Constitution.

PART V— APPOINTMENT OF SUGAR INDUSTRY INSPECTORS

33. (1) The Board shall appoint qualified sugar industry inspectors for purposes of undertaking its functions under this Act or any other written law.

Appointment of crop inspectors.

(2) Notwithstanding any other provision of this Act or any other written law, the sugar industry inspector shall comprise of—

- (a) a crop inspector;
- (b) a factory inspector;
- (c) a warehouse and transportation inspector; and
- (d) any other inspector that the Board may consider necessary.

(3) A person shall not be appointed as a sugar industry inspector unless such person holds an academic or professional qualification prescribed by the Board.

(4) The Board shall maintain a register of persons qualified to be appointed as sugar industry inspectors.

(5) A person shall not be appointed as a sugar industry inspector unless such person is registered by the Board.

(6) The Board may appoint any other government agency as a sugar industry inspector for purposes of this Act.

(7) The Cabinet Secretary shall make Regulations for the better implementation of the provisions of this section.

34. An inspector or a person duly authorized in writing in that behalf by the Board may, at all reasonable

Entry and inspection.

times and upon production of such authority to any person so requesting—

- (a) enter any land or buildings occupied by the holder of a licence issued under this Act, or a person registered under this Act;
- (b) make such inspection and enquiries as the person may deem necessary for ascertaining whether the provisions of this Act or the terms and conditions of the respective licence are being complied with; and
- (c) may require any person found thereon to give such information as the person may require.

35. (1) For the purposes of this Act, an inspector who has reasonable grounds may— Powers of entry.

- (a) at any reasonable time, enter upon any land, premises or vehicle;
- (b) take such persons and things as the inspector considers necessary;
- (c) perform the functions or exercise the powers conferred by this Act or any other written law;
- (d) make enquiries or carry out a search to ascertain if this Act is being complied with;
- (e) demand the production by a licence holder of the licence for examination;
- (f) seize and remove any article or thing in respect of which the inspector has reasonable grounds for believing that an offence under this Act is being or has been committed; or
- (g) do any other thing authorized under this Act.

(2) The owner or occupier of any land or a person in control of any premise or a vehicle which an inspector has entered under subsection (1) shall render such reasonable assistance as may be required by the inspector.

(3) A person who refuses, unreasonably delays or fails to comply with a requirement under subsection (2) commits an offence.

36. (1) A person shall not prevent, hinder or obstruct Obstruction of

an inspector in performance of the functions, and duties or exercise of powers conferred by this Act. inspectors.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or both.

PART VI—FINANCIAL PROVISIONS

37. The funds of the Board shall comprise— Funds of the Board.

- (a) such monies as may be appropriated by the National Assembly for the purposes of the Board;
- (b) such monies 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) all monies from any other source provided for or donated or lent to the Board; and
- (d) the Sugar Development Levy.

38. (1) The Cabinet Secretary shall in consultation with the Board, by order in the *gazette*, impose a levy on domestic sugar not exceeding four per centum of the value and a four per centum of CIF value on imported sugar to be known as the Sugar Development Levy. Sugar Development Levy.

(2) The levy shall be payable at such rate as may be specified in the order.

(3) An order under this section may contain provisions as to the time at which any amount payable by way of the levy shall become due.

(4) All moneys received in respect of the levy shall be paid to the Board and if not paid on or before the date prescribed by the order, the amount due and any sum payable under subsection (5) shall be a civil debt recoverable summarily by the Board.

(5) If a person fails to pay any amount payable by him or her by way of the levy on or before the date prescribed by the order, a sum equal to three per centum of the amount shall be added to the amount due for each month or part thereof during which the amount due remains unpaid.

(6) The Sugar Development Levy collected under subsection (2) shall be appropriated as follows—

- (a) fifteen per centum shall be applied for factory development and rehabilitation;
- (b) fifteen per centum shall be applied for research and training;
- (c) forty per centum shall be applied for cane development and productivity enhancement;
- (d) fifteen per centum shall be applied for infrastructural development and maintenance and shall be managed by Kenya Rural Roads Authority of the catchment area.
- (e) ten per centum shall be applied for the administration of the Board; and
- (f) five per centum shall be applied for the furtherance and exercise of the functions of sugarcane farmers organisations.

39. (1) There is established a Fund to be known as the Sugar Development Fund which shall be administered by the Board.

Sugar
Development
Fund.

(2) The Fund shall consist of—

- (a) the Sugar Development levy;
- (b) any funds provided by bilateral or multilateral donors for the purposes of the Fund;
- (c) any moneys provided by the National Assembly for the purposes of the Fund;
- (d) any moneys provided by a county assembly for the purposes of the Fund; and
- (e) moneys from any other source approved by the Board.

40. The financial year of the Board shall be the period of twelve months ending on the thirtieth of June in every year.

Financial year.

41. (1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of revenue and expenditure of the Board for that financial

Annual estimates.

year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Board for the financial year concerned and in particular, shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Board;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Board;
- (c) the proper maintenance of the buildings and grounds of the Board;
- (d) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Board; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.

42. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Board.

Accounts and
audit.

(2) Within a period of three months from the end of the financial year, the Board shall submit to the Auditor-General or to an auditor appointed under subsection (3), the accounts of the Board together with—

- (a) a statement of the income and expenditure of the Board during that year; and
- (b) a statement of the assets and liabilities of the Board on the last day of that year.

(3) The accounts of the Board shall be audited by the Auditor-General or by an auditor appointed by the Board with the written approval of the Auditor General.

(4) The appointment of an auditor under subsection (3) shall not be terminated by the Board without the prior written consent of the Auditor-General.

(5) The Auditor-General may give general or specific directions to an auditor appointed under subsection (3) and the auditor shall comply with such directions.

(6) An auditor appointed under subsection (3) shall report directly to the Auditor-General on any matter relating to the directions given under subsection (5).

(7) Within a period of six months after the end of each financial year, the Auditor-General shall report on the examination and audit of the accounts of the Board to the Cabinet Secretary and where an auditor has been appointed under subsection (3), such auditor shall transmit a copy of the report to the Auditor General.

(8) The fee payable to an auditor, appointed under subsection (3) shall be determined and paid by the Board.

(9) Nothing in this Act shall be construed to prohibit the Auditor General from carrying out an inspection of the records and accounts of the Board whenever it appears to him desirable.

(10) Notwithstanding anything in this Act, the Auditor-General may transmit to the Cabinet Secretary a special report on any matters incidental to his power under this Act and section 50(1) of the Public Audit Act (No.34 of 2015) shall, with necessary modifications, apply to any report made under this section.

43. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the immediate preceding year. Annual report.

(2) The Cabinet Secretary shall lay the report submitted to him under subsection (1) before the National Assembly within three months of the day the Assembly next sits after the receipt of the report.

PART VII- ESTABLISHMENT OF THE SUGAR ARBITRATION TRIBUNAL

44. (1) There is hereby established a Tribunal to be Establishment of
the Sugar

known as the Sugar Arbitration Tribunal.

Arbitration
Tribunal.

(2) The Tribunal shall consist of—

- (a) a chairperson appointed by the Chief Justice who shall be a person qualified to be appointed as a judge of the High Court; and
- (b) four other members, being persons with expert knowledge in economics, trade, law, agriculture, research and engineering with at least five years' experience in arbitration, all of who shall be appointed by the Chief Justice through a competitive recruitment process.

(3) The Chairperson and members of the Tribunal shall serve on a part-time basis.

(4) The members of the Tribunal appointed under subsection (2) shall hold office for such period, not exceeding three years, on such terms and conditions as shall be specified in the instrument of appointment but shall be eligible for re- appointment for one further term of a period not exceeding three years.

(5) A person shall not be qualified to be appointed as a member of the Tribunal if that person is a public servant or takes an active part in the activities of a political party.

(6) A person shall not qualify for appointment under this section unless the person has met the requirement of Chapter Six of the Constitution.

(7) The provisions set out in the Third Schedule shall have effect with respect to the meetings and procedure of the Tribunal.

(8) Except as provided in the Third Schedule, the Tribunal shall regulate its own procedure as to the conduct of meetings.

45. (1) The Tribunal shall determine—

Jurisdiction of the
Tribunal.

- (a) disputes between sugar crop farmers;
- (b) disputes between sugar crop farmers and the following-
 - (i) out grower institutions;

- (ii) millers;
- (iii) other interested parties;
- (c) disputes relating to cane pricing;
- (d) disputes relating to contract farming;
- (e) disputes between millers; and
- (f) disputes between any other interested parties.

46. (1) The Tribunal shall expeditiously determine any dispute before, but in any case, shall determine a dispute within a period of three months from the date the dispute is lodged.

Determination of disputes.

(2) An Appeal shall lie from the decision of the Tribunal to the High Court within thirty days on points of law and facts and on points of law to the Court of Appeal.

(3) A decision of the Tribunal shall be enforced in the same manner as a decision of a Magistrates Court.

(4) The Tribunal shall apply the rules of evidence and procedure under the Evidence Act (Cap. 80) and the Civil Procedure Act (Cap. 21), with the necessary modifications, while ensuring that its proceedings do not give undue regard to procedural technicalities.

47. The Tribunal shall have the powers of the High Court—

Powers of the Tribunal.

- (a) to administer oaths to the parties and witnesses to the proceedings;
- (b) to summon witnesses and to require the production of documents;
- (c) to order the payment of costs; and
- (d) to order that the provisions of the law relating to Commissions of Inquiry in Kenya with respect to—
 - (i) the protection of the members of the Tribunal from suit;
 - (ii) the form of summonses to witnesses;
 - (iii) to giving or fabricating of false evidence;
 - (iv) the duty and indemnity of witnesses, and the penalty for contumacy, insult or interruption

of proceedings; and

(v) the appearance of advocates;

shall with any necessary adaptations or modifications, apply to the members of, the witnesses before, and the proceedings before, the Tribunal in like manner as they apply to Commissions of Inquiry.

48. A member of the Tribunal may be removed if the member—

Removal of members of the Tribunal.

- (a) becomes an undischarged bankrupt;
- (b) is convicted of a criminal offence and sentenced to imprisonment for a period exceeding six months without the option of a fine;
- (c) is incapacitated by reason of prolonged physical or mental illness from performing the duties of the office;
- (d) violates the Constitution; or
- (e) is otherwise unable or unfit to discharge the functions of the office.

49. Where the office of any member becomes vacant, whether by death or otherwise, the Chief Justice may appoint another person to be a member of the Tribunal and such member shall serve for his or her full term.

Vacancy.

50. The Chief Justice shall appoint a Secretary and such other staff of the Tribunal necessary for the proper functioning of the Tribunal.

Secretary of the Tribunal.

51. (1) The remuneration of the staff of the Tribunal and the expenses of the Tribunal shall be paid out of monies allocated by the National Assembly to the Judiciary Fund.

Remuneration of members and staff of the Tribunal.

(2) The Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission on the recommendation of the Salaries and Remuneration Commission.

PART VIII—MISCELLANEOUS PROVISIONS

52. (1) The Board shall, at least once in every year, convene an annual general meeting of representatives of

Annual general meeting.

millers and growers for the purposes of considering the annual report and accounts of the Board and for the purposes of transacting such other business of which notice shall be given.

(2) The Board may convene special meetings in addition to the meetings mentioned in subsection (1) for such purposes and at such times as it may deem fit.

(3) Subject to this Act and any regulations made thereunder, the Board may make rules for the regulation of the conduct of business and procedure at the general meetings convened pursuant to this section.

53. All sugar millers and importers shall ensure that all sugar produced locally or imported into the country meets—

Quality, safety and health control measures.

- (a) safety and quality standards as set by the body for the time being responsible for setting standards;
- (b) safety and health standards for food handlers as set by the body for the time being responsible for public health; and
- (c) environmental standards and issues as set by the body from time to time being responsible for public health.

54. (1) The Board shall carry out physical inspection of premises licenced under section 21 quarterly to ensure that safety and health standards are followed.

Inspection for quality and safety.

- (2) Every person licenced under this Act shall—
- (a) not discharge any affluent, dangerous materials, substances, oil or oil mixtures into land, water, air, or aquatic environment;
 - (b) not release smoke or any air pollutant to the air that pollutes the environment;
 - (c) manage any hazardous waste and materials;
 - (d) not import any hazardous waste;
 - (e) not mislabel any sugar or jaggery; and
 - (f) not aid or abet illegal trafficking of sugar or related substances.

(3) When an offence under this section, is committed by a body corporate, the body corporate and every director or officer of the body corporate who ought to have had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or to an imprisonment for a term not exceeding five years.

(4) In addition to the sentence under subsection (3), the Court may order for the revocation of a licence.

55. (1) The Board may direct any organization or person in the industry to produce any document or information, or submit any returns which it reasonably considers necessary for the proper performance of its functions under this Act.

Offences and penalties.

(2) Any person who—

- (a) fails to comply with any direction given by the Board under this Act; or
- (b) furnishes to the Board any information or produces any document which is false or misleading in any material particular; or
- (c) obstructs an officer of the Board in the performance of his functions under this Act; or
- (d) diverts or abets the diversion of transit sugar into the domestic market,

commits an offence.

(3) A person convicted of an offence under paragraph (d) of subsection (2) shall be liable to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or two million shillings, whichever is the higher, or to imprisonment for a term not exceeding ten years, or to both.

56. (1) There shall be, for the purposes of this Act, agreements to be known as the sugar industry agreements negotiated between growers and millers, growers and out-grower institutions, and millers and out-grower institutions.

Sugar industry agreements.

(2) Without prejudice to the generality of subsection

(1), the matters to be provided for in the agreements shall include—

- (a) the designation of any agricultural crop from which it is possible to manufacture sugar which is subject to the agreement;
- (b) the right of a grower to grow a sugar crop on their land;
- (c) a sugar-cane farming contract providing for the terms and conditions of the production of sugarcane and sugar and prescribing the rights and obligations of growers and millers;
- (d) a formula for determining the price to be paid by millers to growers for sugarcane or any other designated agricultural produce in consultation with stakeholders, which may include any factor related to the sale or other disposal of sugar industry products;
- (e) the functions to be executed by the Board in the execution of the agreement;
- (f) the granting of powers to the Board to enforce penalties prescribed in the agreement for the contravention of, or failure to comply with any term of the agreement; and
- (g) the enforcement of levies upon growers and millers for the purpose of enabling the Board to fulfill any obligation incurred by it in accordance with its constitution.

57.(1) A person who contravenes any of the provisions of this Act commits an offence. General penalty.

(2) A person convicted of an offence under this Act for which no other penalty is provided for shall be liable—

- (a) in the case of a first conviction, to a fine not less than one million shillings or three times the market value of the sugar in respect of which the offence is committed, whichever is greater, or imprisonment for a term not less than one year, or to both such fine and imprisonment; and
- (b) in the case of a second or subsequent

conviction, to a fine not less than three million shillings or three times the market value of the sugar in respect to which the offence is committed, whichever is greater, or to imprisonment for a term not less than two years, or to both such fine and imprisonment.

58. (1) There shall be a Sugarcane Pricing Committee (hereinafter referred to as "the committee").

Sugarcane pricing committee.

(2) The Committee shall comprise of—

- (a) a nominee of the Board;
- (b) one person nominated by the sugar manufacturers' apex body;
- (c) two persons nominated by the sugar growers' apex body;
- (d) the Principal Secretary responsible for finance or a representative appointed in writing;
- (e) the Principal Secretary responsible for matters related to Agriculture or a representative appointed in writing;
- (f) two representatives from county government nominated by the Council of Governors; and
- (g) a nominee of the Sugar Research and Training Institute.

(3) The main objective of the Committee shall be to—

- (a) review sugarcane prices in consultation with the Sugar Research and Training Institute;
- (b) provide a mechanism that remunerates farmers for other products delivered from the processing of the cane;
- (c) ensure adherence to the negotiated cane processing formula;
- (d) transition to payment based on quality; and
- (e) enforce contracts between farmers and millers.

(4) The Committee shall come up with a pricing formula and in doing so shall take into account the—

- (a) pricing mechanism for all other cane related charges paid by the farmer;

- (b) an index that takes into consideration delayed harvesting;
- (c) transportation cost per tonne per kilometre of sugarcane;
- (d) inflation and adjustment cost of production; and
- (e) formula as provided by the Sugar Research and Training Institute.

(5) The Board shall offer secretarial services to the Committee.

(6) The sugarcane prices set by the Committee under subsection (3) shall be reviewed after three months provided that the Committee may, with prior approval of the Board, undertake an early review of the sugarcane pricing.

59. (1) Notwithstanding the provisions of any other Act, each private sugar milling company shall have a representative of the growers in its board of directors.

Representative of a grower in a private milling company.

(2) In appointing a director representing the growers under subsection (1), the milling company shall consider in the first instance, the leaders of the out-grower institutions within the sugar-cane catchment area in which the sugar mill is located.

(3) A person appointed as a director under subsection (1), shall serve for a term not exceeding three years.

PART IX – PROVISIONS ON DELEGATED POWERS

60. (1) The Cabinet Secretary shall in consultation with county governments and the Board make regulations generally for the better carrying into effect of the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), may make regulations prescribing—

- (a) the regulation and control of the production, manufacturing, marketing, importation or exportation of sugar and its by-products;
- (b) the forms of licences to be issued under this Act, and the form and manner of application for the licences;
- (c) the fees which may be charged for any activity

- relating and incidental to the development, products, marketing and distribution of sugar and its by-products;
- (d) the establishment of weigh bridges and collection centres;
 - (e) standards on grading, sampling and inspection, tests and analysis, specifications, units of measurement, code of practice and packaging, preservation, conservation and transportation of sugar and sugar by-products to ensure safety and proper trading;
 - (f) production and import of sugar to ensure adequate sugar availability in the country;
 - (g) guidelines on general industry agreements between growers and millers and between parties in the sugar industry;
 - (h) minimum period within which farmers are to be paid for sugar crop delivered and penalties for delayed payments;
 - (i) cane harvesting and transportation;
 - (j) the conditions with respect to the delivery, measurement, examination and testing of sugar crop;
 - (k) the seizure by an inspector of books, documents and sugar crop which, in the opinion of the inspector, may afford evidence of a contravention of this Act and the doing of such other things as may appear to the inspector to be necessary for ascertaining whether compliance has been made with this Act; and
 - (l) penalties for non-adherence to sugar industry agreements.

(3) Without prejudice to the generality of this section, the Cabinet Secretary shall make the regulations necessary to operationalize this Act within six months from the date of commencement of this Act.

PART X —CONSEQUENTIAL AMENDMENTS

61. The Agriculture and Food Authority Act, 2013 is

Amendment of
the First Schedule

amended in the First Schedule by deleting paragraph 1(ii). to No. 13 of 2013.

62. The Crops Act, 2013 is amended in Part I of the First Schedule by deleting the words "Sugarcane.....Saccharum spp". Amendment of the First Schedule to No. 16 of 2013.

PART XI —SAVINGS AND TRANSITIONAL PROVISIONS

63. (1) Upon the commencement of this Act, a person who was a member of the staff of the former Sugar Board of Kenya before the commencement of the Agriculture and Food Authority Act, 2013 and current staff of the Sugar Directorate not being under any notice of dismissal or resignation shall upon commencement of this Act and subject to subsection (2) become a staff of the Board on their current improved terms and conditions of service. Transfer of Staff. No. 13 of 2013.

(2) The pensions of staff under the provident fund of Agriculture and Food Authority- Sugar Directorate shall on the commencement of the Act vest in the Board.

64. 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 Sugar 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. Transfer of assets and liabilities.

65. All legal proceedings and claims pending in respect of actions and activities to which this Act apply shall be continued or enforced by or against the Board in the same manner as they would have been continued or enforced by or against the Agriculture and Food Authority had this Act not been enacted. Pending proceedings and claims.

FIRST SCHEDULE

[S. 2, 6(1)(b) and 29(b)]

DELINEATION OF SUGAR CATCHMENT AREAS

| SUGAR CATCHMENT AREA | COUNTIES |
|-----------------------------|--------------------------|
| Rift Catchment Area | Kericho, Nandi and Uasin |

| | |
|------------------------------|---|
| | Gishu |
| Upper Western | Bungoma, and Trans Nzoia |
| Lower Western Catchment Area | Busia, Kakamega, Siaya and Vihiga |
| Southern Catchment Area | Homa Bay, Kisumu, Migori, Narok and Kisii |
| Coastal Catchment Area | Kwale, Lamu, and Tana River |

SECOND SCHEDULE [Section 10]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

Meetings.

(2) Notwithstanding the provisions of subparagraph (1), the Chairperson may, and upon request in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be two thirds of the members of the Board provided that in the case of a tie, the chairperson shall have a casting vote.

(5) The chairperson shall preside at every meeting at which he or she is present but, in his or her absence, the members shall elect one of their members to preside who shall with respect to that meeting and the business transacted thereat have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board 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 the person presiding shall have a casting vote.

(7) Subject to paragraph (4), no proceeding of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the 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 and may make standing orders in respect thereof.

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

Disclosure of interest.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

3. The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson and the Chief Executive Officer:

The common seal.

Provided that the Board shall, in the absence of either the Chairperson or the Chief Executive Officer in any particular matter, nominate one member to authenticate the seal of the Board on behalf of either the Chairperson or the Chief Executive Officer.

4. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Contracts and instruments.

THIRD SCHEDULE [Section 44.]

**PROVISIONS AS TO THE MEETINGS AND
PROCEDURE OF THE TRIBUNAL**

1. Any member of the Tribunal may, at any time, by notice in writing to the Chief Justice, resign his office.

Resignation.

2. (1) If a member of the Tribunal becomes a member of the Board or, in any case where a member other than the Chairperson is appointed to the service of the Government his or her office shall become vacant.

Vacation of office.

(2) The Chairperson or a member of the Tribunal may be removed from office by the Chief Justice if the member is—

- (a) unable to discharge the functions of his office by reason of mental or physical infirmity; or
- (b) an undischarged bankrupt; or
- (c) convicted of an offence involving fraud or dishonesty; or
- (d) convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings.

(3) In the event of the inability of any member of the Tribunal to attend for the purpose of any particular proceedings, the Chief Justice may appoint another person to be a member of the Tribunal for the remainder of the term of the member whose vacancy caused the appointment.

3. If any member of the Tribunal has any interest in any particular proceedings before the Tribunal, he or she shall so inform the Chief Justice and the Chief Justice may, after considering that interest, appoint another member in his place for the purpose of the particular proceedings.

Disclosure of interests.

4. The decision of the Tribunal shall be that of the majority and shall be signed by the members thereof agreeing thereto.

Majority decisions.

5. The quorum of the Tribunal shall be three members.

Quorum.

6. No proceedings of the Tribunal shall be invalid by reason only of a vacancy among the members thereof.

Proceedings to be valid.

7. The Tribunal shall sit at such place as it may consider most convenient having regard to all the circumstances of the particular proceedings.

Venue.

The Sugar Bill, 2022

8. Subject to the provisions of this Schedule, the Tribunal shall have power to make rules governing its procedure.

Rules.

9. A document purporting to be a copy of any order of the Tribunal, and certified by the Chairperson to be a true copy thereof, shall in any legal proceedings be *prima facie* evidence of the order.

Proof of document.

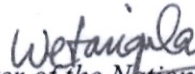
The Sugar Bill, 2022

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 27th September, 2023.

A handwritten signature in black ink, appearing to be 'J. J. J.', written over two horizontal lines.

Clerk of the National Assembly

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly Standing Orders.

A handwritten signature in black ink, appearing to be 'Wetangula', written over a horizontal line.

Speaker of the National Assembly

