

REPUBLIC OF KENYA



TWELFTH PARLIAMENT

FIFTH SESSION

THE SENATE

THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND  
FISHERIES

REPORT ON THE CONSIDERATION OF THE COFFEE BILL,

(SENATE BILLS No. 22 of 2020)

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DATE	22.07.2021
TABLED BY	Vice Chair
COMMITTEE	Agriculture
CLERK AT THE TABLE	I. Mbayi

Clerk's Chambers  
Parliament Buildings,  
NAIROBI

JULY, 2021

*RT. Hon Speaker*  
*You may approve for*  
*tabling.*  
*19/07/21*

*Approved*  
*21/7/21*

*Forwarded & recommended*  
*for approval*  
*25/7/2021*  
*Clerk of the Senate*

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## **ABBREVIATIONS**

AFA	-	Agriculture and Food Authority
CCMMAA	-	Commercial Coffee Millers and Marketing Agents Association
CECM	-	County Executive Committee Member
CEO	-	Chief Executive Officer
CMA	-	Capital Markets Authority
COG	-	Council of Governors
CS	-	Cabinet Secretary
CSRISC	-	Coffee Subsector Reforms Implementation Standing Committee
KALRO	-	Kenya Agricultural and Livestock Research Organization
KCPA	-	Kenya Coffee Producers Association
KCTA	-	Kenya Coffee Traders Association
NCCFK	-	National Coffee Cooperative Federation of Kenya
NCE	-	Nairobi Coffee Exchange
PS	-	Principal Secretary

## **PREFACE**

**Mr. Speaker Sir,**

### **Establishment of the Committee**

The Senate Standing Committee on Agriculture, Livestock and Fisheries was constituted on Wednesday, 24<sup>th</sup> June, 2020 during the Fourth Session of the Twelfth (12<sup>th</sup>) Parliament pursuant to the provisions of standing order 187 (1) of the Standing Orders of the Senate which states:

*“Unless otherwise provided by any written law or these Standing Orders, the Senate Business Committee shall, in consultation with Parliamentary Parties, nominate Senators who shall serve on a Select Committee.”*

### **Mandate of the Committee**

The Standing Committee on Agriculture, Livestock and Fisheries is mandated under the Second Schedule to the Standing Orders to consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.

### **Oversight**

In executing its mandate, the Committee oversees the following Government Departments and agencies, namely-

- i. The State Department of Agriculture;
- ii. The State Department of Livestock;
- iii. The State Department for Fisheries; and
- iv. The State Department of Irrigation.

### **Membership of the Committee**

The Committee is comprised of the following members-

- |                                     |                    |
|-------------------------------------|--------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - Chairperson      |
| 2. Sen. Enoch Wambua, MP            | - Vice-Chairperson |
| 3. Sen. Kipchumba Murkomen, EGH, MP |                    |

4. Sen. (Canon) Naomi Jillo Waqo, MP
5. Sen. (Dr.) Michael Malinga Mbiti, MP
6. Sen. (Eng.) Ephraim Maina, EBS, MP
7. Sen. Justice (Rtd.) Madzayo Stewart Mwachiru, MP
8. Sen. Issa Juma Boy, MP

### **Secretariat of the Committee**

The Committee secretariat is comprised of –

- |                      |                           |
|----------------------|---------------------------|
| 1. Ms. Carol Kirorei | - Clerk Assistant         |
| 2. Ms. Regina Munyao | - Legal Counsel           |
| 3. Ms. Njeri Manga   | - Media Relations Officer |
| 4. Ms. Mary Nyawira  | - Audio Officer           |
| 5. Mr. Godana Mamo   | - Serjeant-At-Arms        |

### **Acknowledgement**

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the consideration of the Coffee Bill, (Senate Bills No. 22 of 2020).

**Mr. Speaker Sir,**

It is my pleasant duty, pursuant to Standing Order 213 (6), to present the Report of the Standing Committee on Agriculture, Livestock and Fisheries on the consideration of the Coffee Bill (Senate Bills No. 22 of 2020) for consideration by the House.

Signed.....



Date .....17/7/2021.....


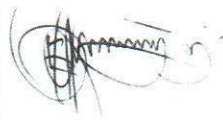
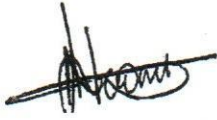


**SEN. PETER NJERU NDWIGA, EGH, M.P.**

**CHAIRPERSON**

**THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK &  
FISHERIES**

**REPORT ON THE CONSIDERATION OF THE COFFEE BILL, (SENATE  
BILLS No. 22 of 2020)**

**MEMBERS' ADOPTION LIST**

NO	NAME	SIGNATURE
1.	Sen. Njeru Ndwiga, EGH, MP <b>Chairperson</b>	
2.	Sen. Enoch Wambua, MP <b>Vice-Chairperson</b>	
3.	Sen. (Canon) Naomi Waqo, MP	
4.	Sen. Kipchumba Murkomen, EGH, MP	
5.	Sen. (Dr.) Michael Mbiti, MP	
6.	Sen. Issa Juma Boy, MP	
7.	Sen. Justice (Rtd.) Stewart Madzayo, MP	
8.	Sen. (Eng.) Ephraim Maina, EBS, MP	

## **EXECUTIVE SUMMARY**

The Coffee Bill, (Senate Bills No. 22 of 2020) sponsored by the Chairperson, Standing Committee on Agriculture, Livestock & Fisheries, Sen. Njeru Ndwiga, EGH, M.P. was read a First Time in the Senate on Tuesday, 11<sup>th</sup> May, 2021 and thereafter stood committed to the Standing Committee on Agriculture, Livestock and Fisheries.

The object of the Bill is to provide for the development and regulation of the coffee industry in Kenya. The Bill proposes to reorganize the coffee industry by transitioning the regulatory and commercial roles currently undertaken by the Agriculture and Food Authority (AFA) to the Coffee Board of Kenya. The Bill further seeks to transition the research of coffee currently undertaken by the Coffee Research Institute under the Kenya Agricultural and Livestock Research Organization (KALRO) to the Coffee Research Institute (CRI).

Pursuant to the provisions of Article 118 (1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Standing Committee on Agriculture, Livestock and Fisheries invited interested members of the public to submit their views on the Bill through advertisements in The Standard and The Daily Nation newspapers on Thursday, 13<sup>th</sup> May, 2021. The Committee received written submissions from various stakeholders in the coffee sub sector and also held virtual meetings with Senators from coffee growing counties, the Council of Governors, the Coffee Sub Sector Reforms Implementation Standing Committee, coffee farmers, processors and traders to receive their submissions on the Bill.

Chapter One of this report contains an overview of the Bill setting out its salient provisions. Chapter Two of the report documents the submissions received from stakeholders. Chapter Three contains the Committee observations and finally, Chapter Four contains the Committee Recommendations.

## **1.0. INTRODUCTION**

### **1.1. Overview of the Bill**

The object of the Coffee Bill (Senate Bills No. 22 of 2020) is to provide for the development and regulation of the Coffee industry in Kenya. The Bill proposes to reorganize the coffee industry by transitioning the regulatory and commercial roles currently undertaken by the Agriculture and Food Authority (AFA) to the Coffee Board of Kenya. The Bill further seeks to transition the research of coffee currently undertaken by the Coffee Research Institute under the Kenya Agricultural and Livestock Research Organization (KALRO) to the Coffee Research Institute (CRI).

### **Part II-The Coffee Board of Kenya**

**Clause 3** of the Bill establishes the Coffee Board of Kenya and provides that the Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

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

**Clause 4** of the Bill states that the headquarters of the Board shall be in Nairobi City County and that it may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.

### **Functions of the Board**

**Clause 5** provides for the functions of the Board to-

- (a) enter into contracts;

- (b) manage, control and administer the assets of the Board;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and
- (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.

### **The Board of Directors**

**Clause 6** of the Bill makes provision for the composition of the board of directors as follows-

- (a) a chairperson appointed by the President by notice in the Gazette;
- (b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;
- (c) the Principal Secretary for the time being responsible for trade or a representative nominated by the Principal Secretary in writing;
- (d) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;
- (e) two persons of the opposite gender representing plantation coffee growers nominated by the Council of County Governors;
- (f) one person nominated by the Institute;
- (g) two persons representing an association of farmers' coffee nominated by the Cabinet Secretary; and
- (h) a chief executive officer appointed under section 14 who shall be an ex-officio member of the Board.

**Clause 7** provides for the qualifications for appointment as a member of the board of directors as follows-

- (a) holds a degree from a university recognized in Kenya;
- (b) has three years' experience in the coffee sector; and
- (c) meets the requirements of Chapter Six of the Constitution.

The board members are to serve for a term of three years' renewable for one further term.

### **Functions of the Board**

**Clause 10** provides for the functions of the Board to include-

- (a) regulate and promote the development of the coffee industry;
- (b) consider applications for the issuance of permits and licences under the Second Schedule to this Act;
- (c) register coffee dealers;
- (d) make recommendations to the Cabinet Secretary for, and oversee the implementation of strategies, plans and policy for the coffee sector;
- (e) collect, collate and maintain a data base and disseminate information on the coffee industry;
- (f) conduct local and international coffee market intelligence and promotional activities including the application of the Kenya Coffee Mark of Origin;
- (g) establish linkages with various government agencies, the Institute and other research institutions for the development of the coffee industry;
- (h) put in place a framework for the capacity building and interaction of various players in the coffee industry;
- (i) promote the development of regional appellations for Kenyan coffee;

- (j) develop and enforce the coffee industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards;
- (k) maintain and cause to be published an up to date register of coffee dealers, coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in the country; and
- (l) coordinate capacity building activities for players in the coffee value chain.

The Bill further provides that the board of directors shall, in the performance of their functions under this Act, consult and collaborate with the Council of County Governors.

### **CEO**

**Clause 14** provides that for a Chief Executive Officer of the Board who shall be competitively recruited and appointed by the board of directors. The qualifications of the CEO are provided as follows-

- (a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;
- (b) has at least five years' experience in a position of management; and
- (c) meets the requirements of Chapter Six of the Constitution.

**Clause 15** of the Bill sets out the functions of the CEO as follows-

- (a) be responsible for the day to day management of the affairs of the Board;
- (b) manage the funds, property and affairs of the Board;
- (c) be responsible for the management of the staff of the Board;
- (d) oversee and coordinate the implementation of the policies, programmes and objectives of the Board;
- (e) cause to be prepared for the approval of the board of directors—
  - (i) the strategic plan and annual plan of the Board; and

- (ii) the annual budget and audited accounts of the Board;
- (f) perform such other duties as may be assigned to him or her by the board of directors.

**Clause 17** of the Bill also provides for a corporation secretary to be appointed by the board of directors whose qualifications are as follows-

- (a) holds a degree from a recognized university;
- (b) is registered under the Certified Public Secretaries of Kenya Act;
- (c) is a member of good standing of the Institute of Certified Public Secretaries of Kenya established under section 3 of the Certified Public Secretaries of Kenya Act;
- (d) has at least seven years' experience in a similar position; and
- (e) meets the requirements of Chapter Six of the Constitution.

#### **Duties of the corporation secretary**

The corporation secretary shall be the secretary to the Board and shall —

- (a) provide guidance to the board of directors on their duties and responsibilities and on matters of governance;
- (b) ensure timely preparation and circulation of Board and committee papers and minutes;
- (c) maintain and update the register of conflicts of interest; and
- (d) ensure that the annual returns and any other statutory documents required to be filed are promptly filed with the relevant authorities.

### **PART III – ROLE OF COUNTY GOVERNMENTS**

**Clause 23** of the Bill provides the role of each county government to-

- (a) implement the National Government policy relating to coffee;

- (b) maintain an up to date register of coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in that county;
  - (c) consider applications for the certificates, permits and licenses enumerated under the second schedule to this Act;
  - (d) enforce national and county legislation on coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions;
  - (e) offer extension services on coffee production and primary processing;
  - (f) inspect nurseries, pulping stations, warehouses, millers and roasters located within their respective counties;
  - (g) in collaboration with law enforcement agencies, enhance security in coffee growing areas; and
  - (h) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies.
- (2) A county executive committee member may impose such levies and fees as may be necessary for the registration and issuance of licences or the provision of services in accordance with the respective county legislation and such standards as may be prescribed by the Cabinet Secretary under this Act.
- (3) The Cabinet Secretary shall, in consultation with the Board and the county executive committee members prescribe standards and guidelines for the setting of levies and fees by county executive committee members under subsection (2).

**Clause 24** allows counties to enact county specific legislation on matters relating to registration, permits and licences.

#### **Licensing of coffee operations**

**Clause 25** provides that a person shall not operate a –

- (a) pulping station or carry out hulling activities;

(b) coffee growers' mill; or

(c) coffee roaster unless the person has applied for, and obtained a licence from the respective county government in which the operation is to be undertaken.

(2) An applicant for a licence under subsection (1) shall submit an application in the prescribed form together with the prescribed fees to the respective county executive committee member for consideration.

(3) The county executive committee member shall consider the application and may issue to the applicant a licence in accordance with the respective county legislation.

#### **PART IV – REGULATORY PROVISIONS**

##### **Registration**

**Clause 26** provides that a person or entity shall not carry out the business of a coffee grower, nursery operator, cooperative society, coffee association or coffee estate unless such person is registered by the respective county government in which the business is to be undertaken. It further provides that a county government shall not charge any fees for the registration of an applicant.

The Bill further provides that each county government shall keep and maintain the register for statistical purposes. A register shall include—

- (a) the name of the coffee grower, nursery operator, cooperative society, coffee association or coffee estate;
- (b) the location, size and parcel number of the land on which the business is located; and
- (c) such other information as the Board may prescribe.

The Bill further provides that each county government shall submit to the Board a copy of the register.

## **Licensing**

**Clause 27** provides that a person who intends to perform any function under this Act for which a licence or a permit is required shall submit to the relevant licencing authority specified in the Second Schedule –

- (a) an application for a licence or permit, in the prescribed form;
- (b) such information as may be prescribed; and
- (c) the prescribed fees.

(2) A licencing authority shall consider an application within such period, not exceeding fourteen days, as may be prescribed in the respective legislation, and may –

- (a) grant an application for a licence or permit unconditionally;
- (b) grant the application subject to conditions specified in the respective licensing legislation; or
- (c) refuse the application.

(3) A licensing authority shall inform the applicant of its decision under subsection (2) within fourteen days of the decision.

(4) Where a licensing authority refuses to grant an application, the licensing authority shall, in its notification under subsection (3), specify the reasons for the refusal.

(5) A licensing authority shall, at least thirty days before granting a new licence under this Act, give notice of the proposed grant by notice in the Gazette and in such other manner as the authority may determine.

(6) The licensing authority shall, in issuing the notice under subsection (5)—

- (a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;
  - (b) state the purpose and the date for which the licence is proposed to be issued;
- and

(c) invite objections to the proposed grant of licence and direct that such objections be lodged with the licensing authority within fourteen days from the date of the notice.

(7) The licensing authority shall consider any objection submitted to it under subsection (6) and may grant the licence applied for subject to such terms and conditions as the licensing authority shall consider appropriate.

(8) A licence issued under this Act shall not be transferable.

(9) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or twice the value of the coffee or coffee product, whichever is greater, or to imprisonment for a term not exceeding two years or both.

## **PART V – FINANCIAL PROVISIONS**

**Clause 32** provides that the funds and assets of the Board shall comprise of-

- (a) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;
- (b) such monies as may be payable to the Board pursuant to this Act or any other written law;
- (c) such gifts as may be donated to the Board; and
- (d) monies from any other source granted, donated or lent to the Board.

The Bill further provides for preparation of annual estimates of revenue and expenditure three months before the commencement of each financial year and their submission to the Cabinet Secretary for tabling in the National Assembly and the Senate. The Board is also mandated to keep books of accounts in relations to its undertakings, funds, activities and property as the Cabinet secretary may approve from time to time and shall submit the same to the Auditor General within three months after the end of each financial year. The Board is also to submit its annual report to the Cabinet Secretary.

## **PART VI – COFFEE RESEARCH INSTITUTE OF KENYA**

**Clause 37** establishes the Coffee Research Institute whose headquarters shall be in Kiambu County. The Board may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.

The management of the Institute shall vest in a board whose term is four years' renewable once and membership is set out in **clause 40** as follows-

- (a) a chairperson of the board appointed by the President by notice in the Gazette;
- (b) the chairperson of the Board appointed by the President under section 6 (1) (a);
- (c) the Principal Secretary responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;
- (d) the Principal Secretary for matters relating to finance or a representative nominated by the Principal Secretary in writing;
- (e) the Secretary to the Science Commission appointed under paragraph 6 of the Second Schedule to the Science and Technology Act or a representative nominated by the Secretary in writing;
- (f) one person representing coffee growers nominated by the Cabinet Secretary;
- (g) one person nominated by Commission on University Education representing the universities nominated by the Cabinet Secretary; and
- (h) a chief executive officer appointed in accordance with section 47 who shall be an ex-officio member of the board.

**Clause 43** provides the functions of the Institute as follows-

- (a) advise the National and county governments on the resource requirements for coffee research;
- (b) prioritize areas for, and co-ordinate, coffee research including research in coffee diseases;

- (c) develop appropriate systems to promote balanced, diversified and sustained coffee development and to optimize coffee production through adaptive and investigative research;
- (d) disseminate, in collaboration with the Board, the Kenya Agricultural and Livestock Research Organization established under the Kenya Agricultural and Livestock Research Organization Act and other organizations, knowledge, information and application of research findings in relation to coffee; and
- (e) facilitate the use of improved production technology and establish adequate feedback systems from agricultural producers in order to achieve and maintain national self-sufficiency and export capacities in agricultural products.

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

- (a) make policy recommendations to the Cabinet Secretary on coffee research;
- (b) identify production, policy, market, processing and utilization constraints in the coffee industry and prepare short and long-term research programmes within the framework of the national agricultural research system;
- (c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanization and technology options to improve coffee production and provide answers to foreseeable problems facing coffee;
- (d) collaborate with the extension and education services and other organizations, agencies and institutions including schools, technical institutions and universities, public or private, to disseminate research results and technologies;
- (e) provide grants to research institutes and persons desirous of carrying out research and training programs which are consistent with the national research priorities and plans of the Institute;

The CEO shall serve for a term of five years' renewable for a further term of five years.

## **PART VII – FINANCIAL PROVISIONS OF THE INSTITUTE**

**Clause 53** provides that the funds and assets of the Institute shall comprise of-

- (a) such monies or assets as may accrue to or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act including proceeds from patents;
- (b) two and a half percent of monies collected from the sale of coffee;
- (c) such monies as may be payable to the Institute pursuant to this Act or any other written law;
- (d) such gifts as may be donated to the Institute; and
- (e) monies from any other source granted, donated or lent to the Institute.

The board of the institute also has powers to raise or borrow money and to invest. The Bill further provides that the Institute shall prepare estimates three months before the commencement of each financial year and shall keep books of account of all its undertakings, funds, activities and property to be forwarded to the Auditor General within three months after the end of the financial year. The Board must also submit its annual report, balance sheets and other statements of account to the Cabinet Secretary.

## **PART VIII – MISCELLANEOUS PROVISIONS**

**Clause 60** provides that the Board shall arbitrate disputes arising between any parties under the Act. A party who is not satisfied with the decision of the Board may, within thirty days, appeal to a Court of competent jurisdiction.

**Clause 61** provides that the Institute's CEO may request any person to furnish the Institute with such information or to produce such documents or records as the chief executive officer deems necessary and relevant for the performance of the functions of the Organization. A person who refuses or fails, without reasonable cause to comply with such a request, or makes false statements shall be liable, on conviction, to a fine

not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

**Clause 62** provides that pursuant to Article 24 of the Constitution, the right of access to information under Article 35 of the Constitution shall be limited with respect to information whose disclosure is, in the opinion of the board of the Institute, likely to prejudice the integrity of research or any intellectual property rights held by the Institute.

(2) An officer, member of staff, or agent of the Institute shall not disclose information acquired under this Act except with the written consent of the board of the Institute.

(3) A person who receives information in contravention of subsection (2) shall not disclose or publish the information.

(4) A person who contravenes subsection (2) or (3) commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

### **Penalties**

**Clause 64** provides that-

(1) A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine of not less than twenty thousand shillings or a fine not exceeding twice the value of the coffee or coffee products or, to imprisonment for a term not exceeding six months, or to both.

(2) Where an offence under this Act is committed by a partnership, company, association or co-operative society, every person who at the time when the offence was committed—

(a) was director, partner or officer;

(b) had knowledge or should have had knowledge of the commission of the offence; and

- (c) did not exercise due diligence to ensure compliance with this Act, commits an offence and is liable for the offence as if they had committed the offence, unless they prove that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer concerned as aforesaid and to all the circumstances.

### **Regulations**

**Clause 66** provides that the Cabinet Secretary may, in consultation with the Board, make Regulations—

- (a) prescribing anything that may be prescribed under this Act; and
- (b) generally for the better carrying out of the provisions of this Act.

The First Schedule provides for the conduct of business and affairs of the Board of Directors or the Board of the Institute.

The Second Schedule provides for various licences and their respective issuing authorities.

### **1.2. Committal of the Bill to the Standing Committee on Agriculture Livestock and Fisheries**

The Coffee Bill (Senate Bills No. 22 of 2020) was read a First Time in the Senate on Tuesday, 11<sup>th</sup> May, 2021. The Bill was thereafter committed to the Standing Committee on Agriculture, Livestock and Fisheries for consideration.

Pursuant to Article 118 (1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Committee invited views on the Bill from the public by placing advertisements in the Daily Nation and the Standard newspapers on Thursday, 13<sup>th</sup> May, 2021.

The Committee met virtually with the following stakeholders in the coffee sub sector-

1. Senators from coffee growing counties;
2. The Council of Governors;

3. The Coffee Subsector Reforms Implementation Standing Committee (CSRISC);
4. The Coffee Estate Processors Association;
5. Kenya Coffee Traders Association (KCTA);
6. National Coffee Cooperative Federation of Kenya (NCCFK); and
7. Nairobi Coffee Exchange.

The Committee also received written submissions from the following-

1. Kenya Coffee Producers Association (KCPA);
2. Nature Kenya;
3. Commercial Coffee Millers and Marketing Agents Association (CCMMAA);
4. David Thirinja, Chairman, Tigania North F.C.S.;
5. Michael Kiprotich Kurgat, Marketing Professional and coffee farmer, Chepkitar F.C.S.; and
6. Daniel Rop, Farmer Kericho County.

At its 136<sup>th</sup> Sitting held on 24<sup>th</sup> June, 2021 and its 137<sup>th</sup> Sitting held on 29<sup>th</sup> June, 2021, the Committee considered the submissions received from the various stakeholders. The Committee thereafter held a Report Writing Retreat between 15<sup>th</sup> and 19<sup>th</sup> July, 2021 in Naivasha, Nakuru County, where it considered and approved proposed amendments and adopted its report.

## **2.0. SUBMISSIONS**

### **2.1. Submissions from Senators from coffee growing counties**

At its 130<sup>th</sup> Sitting held on 27<sup>th</sup> May, 2021 on the Zoom online meeting platform, the Standing Committee on Agriculture, Livestock and Fisheries met with Senators from coffee growing counties to receive their views on the Bill. The Senators proposed the following-

1. Under section 25, on licensing of coffee operations, there was need for amendment to provide for a time limit for the issuance of licenses;
2. Under clause 59, there was need for amendment to expressly provide for the end of the Financial Year as June, so as to harmonize the financial calendar with audits and tabling of reports;
3. Under clause 60, the Board should not sit as a quasi-judicial body. Further, the words "court of competent jurisdiction" were ambiguous. There was need for amendment to provide for the specific court for lodging of appeals;
4. Under clause 62, on limitation of the right to access to information needed to be amended as an Act cannot limit the Constitution;
5. There was further need for provision of quality assurance under the Bill; and
6. There was need for harmonization of the Bill with the Ministry's Coffee Bill.

### **2.2. Submissions from the Council of Governors**

At its 131<sup>st</sup> Sitting held on 28<sup>th</sup> May, 2021 on the Zoom online meeting platform, the Standing Committee on Agriculture, Livestock and Fisheries met with the Agriculture and Cooperatives Committee of the Council of Governors chaired by Hon. (Dr.) James Nyoro, to receive their views on the Bill. The COG commended the Senate for coming up with such a reformative Bill. However, in order to ensure that the County Governments were able to effectively and efficiently implement the Act in the development and regulation of the coffee sector in Kenya, the Council of Governors proposed the following amendments-

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
<b>Long title</b>	AN ACT of Parliament to provide for the regulation, development and promotion of the Coffee industry, and for connected purposes	Amend to read as follows:  AN ACT of Parliament to provide for the <u>establishment of the Coffee Board of Kenya, Coffee Research Institute, and role of the national and county governments and for the regulation of the coffee industry</u> , and for connected purposes.	To align the long title of the Bill to the provisions of the Fourth Schedule to the Constitution which has clearly provided for the functions of the National and County Governments in the agriculture sector.
<b>6: Board of Directors</b>	6(1) The management of the Board shall vest in a board of directors consisting of —  (a) a chairperson appointed by the President by notice in the Gazette; (b)... (c)... (f) one person nominated by the Institute;	Amend by deleting clause 6(1)(f) and substituting with the following new clause 6(1)(f) to read as follows:  6(1) The management of the Board shall vest in a board of directors consisting of —  (a) a chairperson appointed by the President by notice in the Gazette; (b)... (c)...  <u>(f) Two persons nominated by the Council of County Governors who should have relevant knowledge in the coffee sub sector to represent the interests of the County Governments;</u>	To provide for the representation of the Coffee growing counties in the Board of Directors given that agriculture is a devolved function.
<b>10. Functions of the Board.</b>	(1) The board of directors shall—  (a) regulate and promote the development of the coffee industry; (b) ... (c) ...	Amend functions (k)(l) and introduce new functions immediately after (l) to read as follows:  <u>Functions of the Board</u>	To align the functions of the Board to the Fourth Schedule of the Constitution which gives the National Government the mandate of development of

	<p>(k) maintain and cause to be published an up to date register of coffee dealers, coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in the country; and</p> <p>(l) coordinate capacity building activities for players in the coffee value chain.</p>	<p>10(1). The Board shall—</p> <p>(a) regulation and promotion the development of the coffee industry;</p> <p>(b)...</p> <p>(c)...</p> <p>(k) <u>maintain and cause to be published an up to date register of coffee dealers, coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in the country;</u></p> <p>(l) <u>undertake capacity building activities and provide advisory services for players along the coffee value chain;</u></p> <p>(m) <u>undertake technology transfer and technical assistance to the counties on matters relating to coffee;</u></p> <p>(n) conduct surveillance, inspections and enforce compliance to relevant policies, standards and related legislation;</p> <p>(o) co-ordinate inter-agency representation to international coffee fora to promote Kenya coffee for increased market share; and</p>	<p>agriculture policy, standards and international trade.</p>
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		(p) arbitrate disputes arising between parties under this Act.	
<b>23. Functions of County Governments</b>	<p>23. (1) Each county government shall—</p> <p>(a) implement the National Government policy relating to coffee;</p> <p>(b) maintain an up to date register of coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in that county;</p> <p>(c) consider applications for the certificates, permits and licenses enumerated under the second schedule to this Act;</p> <p>(d) enforce national and county legislation on coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions;</p> <p>(e) offer extension services on coffee production and primary processing;</p> <p>(f) inspect nurseries, pulping stations, warehouses, millers and roasters located within their respective counties;</p> <p>(g) in collaboration with law enforcement agencies, enhance security in coffee growing areas; and</p> <p>(h) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and</p>	<p>Amend by deleting the entire clause 23(1) and replace with the following new Clause 23(1) as the functions of the County Governments as follows:</p> <p><u>Functions of County Governments</u></p> <p>23. (1) Each county government shall—</p> <p>(a) implement the National Government policy relating to coffee;</p> <p>(b) <u>develop and regulate the development of the coffee industry within the county;</u></p> <p>(c) <u>register and maintain a register of coffee players within the county including coffee growers, nursery operators, millers, warehouses, pulping stations, roasters, coffee cooperative societies, coffee associations, and coffee estates;</u></p> <p>(d) <u>issue the coffee nursery operator certificates;</u></p> <p>(e) <u>issue pulping station licence, milling licence, roasters licence and warehouse licence;</u></p>	<p>This is to align the provisions of the Bill to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution in regards to the mandates of County Governments which includes the development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.</p> <p>Therefore, in order to develop and adequately regulate the Coffee industry, County Governments should play a central role as per the dictates of the Fourth Schedule of the Constitution.</p>

	other relevant government agencies.	<p>(f) <u>regulate the movement of coffee through issuance of movement permits for buni, parchment and clean coffee within the county and from the county to warehouses;</u></p> <p>(g) enforce national and county legislation on coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions;</p> <p>(h) offer and co-ordinate extension services on coffee production and primary processing;</p> <p>(i) inspect nurseries, pulping stations, warehouses, millers and roasters located within their respective counties;</p> <p>(j) in collaboration with law enforcement agencies, enhance security in coffee growing areas; and</p> <p>(k) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies.</p>	
<b>25. Licencing of coffee operations</b>	<p>25 (1) A person shall not operate a –</p> <p>(a) pulping station or carry out hulling activities;</p>	<p>Amend to by introducing the following new licenses immediately after 25(1)(c) to read as follows:</p>	<p>This is to align the provisions of the Bill to the provisions of Part 2 sections 1 and 7 of the Fourth</p>

	<p>(b) coffee growers' mill; or</p> <p>(c) coffee roaster</p> <p>unless the person has applied for, and obtained a licence from the respective county government in which the operation is to be undertaken.</p>	<p>25(1) A person shall not operate a—</p> <p>(a) pulping station or carry out hulling activities;</p> <p>(b) coffee growers' mill;</p> <p>(c) coffee roaster,</p> <p><u>(d) commercial mill; or</u></p> <p><u>(d) Warehouse.</u></p> <p>unless the person has applied for, and obtained a licence from the respective county government in which the operation is to be undertaken.</p>	<p>Schedule to the Constitution in regards to the mandates of County Governments which includes the development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.</p>
<b>26. Registration.</b>	<p>26. (1) A person or entity shall not carry out the business of a coffee grower, nursery operator, cooperative society, coffee association or coffee estate unless such person is registered by the respective county government in which the business is to be undertaken.</p> <p>(2) A county government shall not charge any fees for the registration of an applicant under subsection (1).</p>	<p>Amend to read as follows:</p> <p>26. (1) A person or entity shall not carry out the business of a coffee grower, nursery operator, cooperative society, coffee association or coffee estate unless such person is registered by the respective county government in which the business is to be undertaken.</p> <p>(2) A county government <u>may not</u> charge any fees for the registration of an applicant under subsection (1).</p>	<p>To give discretion to the respective County Governments on matters charging of registration fees.</p>
<b>27. Licensing.</b>	<p>27. (1) A person who intends to perform any function under this Act for which a licence or a permit is required shall submit to the relevant licencing authority specified in the Second Schedule —</p>	<p>Amend by introducing a new clause immediately after clause 27(9) to read as follows:</p> <p>27(10). The Board and county governments shall share amongst themselves, information on the</p>	<p>To address of the teething issues facing the coffee industry in Kenya which has continued to negatively affect farmers' earnings</p>

	<p>(2)...</p> <p>(9) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or twice the value of the coffee or coffee product, whichever is greater, or to imprisonment for a term not exceeding two years or both.</p>	<p>persons registered or licensed under this Act.</p> <p>(11) A holder of a coffee buyer's licence, or any other entity associated with such holder, shall not be licensed as a commercial miller, broker, roaster, agent or warehouse operator.</p> <p>(12) A buyer's licence shall not authorize the buyer to engage in direct sale.</p> <p>(13) A holder of a commercial miller's licence, or any other entity associated with such holder, shall not be licensed as a buyer, broker, roaster, agent or warehouse operator.</p>	<p>from the sale of their coffee.</p>
<p><b>40. Membership of Board of the Institute.</b></p>	<p>40. (1) The management of the Institute shall vest in a board consisting of—</p> <p>(a) a chairperson of the board appointed by the President by notice in the Gazette;</p> <p>(b)...</p>	<p>Amend by introducing a new Clause to read as follows:</p> <p>40. (1) The management of the Institute shall vest in a board consisting of—</p> <p>(a) a chairperson of the board appointed by the President by notice in the Gazette;</p> <p>(b)...</p> <p>(i) <u>Two persons nominated by the Council of County Governments and appointed by the Cabinet Secretary to represent the interest of the County Governments.</u></p>	<p>To provide for the representation of the County Governments in the Board of the Institute. This will assist in the prioritization of the research as per the County needs.</p>

### 2.3. Submissions from the Coffee Sub-sector Reforms Implementation Standing Committee (CSRISC)

The Coffee Sub-sector Reforms Implementation Standing Committee (CSRISC) attended a meeting held on 28<sup>th</sup> May, 2021. The Chairman of the Committee, Prof. Joseph Kieyah, PhD. submitted the following proposed amendments-

CLAUSE	CURRENT PROVISION	PROPOSED AMENDMENT	JUSTIFICATION
Long title	AN ACT of Parliament to provide for the regulation, development and promotion of the Coffee industry, and for connected purposes	AN ACT of Parliament to provide for establishment of the Coffee Board of Kenya, and the Coffee Research Institute, and to provide for the role of the national and county governments for the regulation, development and promotion of the Coffee industry, and for connected purposes.	To be specific on the Purpose/object of the Bill
2 Interpretation	Certain necessary terms are missing in definitions or not sufficiently defined	Insertion of new definitions. These are: “auction” “auction levy” “Authority” “agent” “association” “bid” “broker” “buyer” “buyers levy” “clean coffee” “clearing house” “clearing and settlement”	Align the definitions with the published Crops (Coffee)(General) Regulations 2019 and Capital Markets (Coffee Exchange) Regulations, 2020 (hereinafter referred to as the regulations)

		"coffee business" "coffee dealer" "coffee development" "coffee miller" "coffee milling" "coffee research" "coffee roaster" "coffee sales proceeds" "coffee standards" "coffee year" "Com.mittee" "co-operative society" "county government" "cupping centre" "direct sale" "direct settlement system" "digitalization" "estate" "inspector" "licensing authority" "liquorer" "liquoring" "milling statement" "out-turn statement" "primary processing" "prompt date" "pulping station" "sale" "sales catalogue" "secondary processing"	
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		<p>“small holder”</p> <p>“sweepings”</p> <p>“Tribunal”</p> <p>“warrant”</p> <p>“warehouse”</p> <p>“warehouse operator”</p> <p>“warehouse receipt”</p>	
<p>New</p> <p>Object and purpose of the Bill</p>	New clause	<p>3. Enumerate the object and purpose of the Act specifically as follows:</p> <p>(a) establish a framework for the regulation of the coffee subsector.</p> <p>(b) provide for a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality assurance, coffee trading, marketing, payment system and credit finance;</p> <p>(c) provide for enforcement of the regulatory framework and coffee standards in the subsector;</p> <p>(d) delineate the roles of the National and County Governments in the coffee subsector and recognize agriculture as a devolved function under the Constitution;</p> <p>(e) provide a framework for interlinkages amongst state agencies, regulators and players along the coffee value chain including the public private partnerships;</p>	<p>To give an overview of why the law was enacted, the specific objectives the Bill aims to achieve and the mischief it intends to cure in the coffee sub sector.</p>

		<p>(f) promotion of vertical integration of the coffee value chain for purposes of achieving economies of scale and managing risk;</p> <p>(g) promote evidence based coffee research for the development of the subsector;</p> <p>(h) promote farmer-based associations or platforms for representation of farmers' interests;</p> <p>(i) provide a framework for the establishment of a coffee stabilization fund;</p> <p>(j) establishment a framework for the provision of sustainable funding for the subsector;</p> <p>(k) provide for the establishment of a dispute resolution mechanism in the coffee sub sector, and</p> <p>(l) provide a framework for the engagement of the Kenya Government and international fora.</p>	
6 (Now 7) Board of directors	<p>6. (1) The management of the Board shall vest in a board of directors consisting of—</p> <p>(a) a chairperson appointed by the President by notice in the Gazette;</p> <p>(b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;</p>	<p>6. Proposal to amend the composition of the Board to consist of</p> <p>(a) ... (as before)</p> <p>(b) ... (as before)</p>	<p>To align with the provisions of Mwongozo and ensure all players along the value chain have been represented in the Board</p>

	<p>(c) the Principal Secretary for the time being responsible for trade or a representative nominated by the Principal Secretary in writing;</p> <p>(d) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;</p> <p>(e) two persons of the opposite gender representing plantation coffee growers nominated by the Council of County Governors;</p> <p>(f) one person nominated by the Institute;</p> <p>(g) two persons representing an association of farmer's coffee nominated by the Cabinet Secretary; and</p> <p>(h) a chief executive officer appointed under section 14 who shall be an ex-officio member of the Board.</p>	<p>(c) consider amendment to the other provisions in this sub section to include-</p> <p>(i) Principal Secretary in charge of cooperatives or the Commissioner for Co-operatives</p> <p>(ii) the Principal Secretary for the time being responsible for finance or a representative nominated by the Principal Secretary in writing;</p> <p>(iii) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;</p> <p>(iv) one person representing coffee estate growers nominated by the Council of County Governors;</p> <p>(v) one person nominated by the Council of County Governors who should have relevant knowledge in the coffee sub sector;</p> <p>(iv) one person representing the Attorney General;</p> <p>(h) .. (as before)</p>	<p>The membership should not exceed the proposed number under Mwongozo which provides or 7-9 members</p>
<p>10 (Now 11)</p> <p>Functions of the Board</p>	<p>10. (1) The board of directors shall—</p> <p>...</p> <p>(b) consider applications for the issuance of permits and licences under the second schedule to this Act;</p> <p>...</p>	<p>(a) ... (as before)</p> <p>NEW (b) issue registration certificates for agents, licences for independent coffee cupping laboratories, liquorers, warehouse operators and buyers, movement permits for purchased clean coffee, and</p>	<p>For clarity on the certificates, licences and permits that are to be issued by the Board as stipulated in the regulations.</p> <p>To enhance the functions of the Board</p>

	<p>(d) make recommendations to the Cabinet Secretary for, and oversee the implementation of strategies, plans and policy for the coffee sector;</p> <p>...</p> <p>(f) conduct local and international coffee market intelligence and promotional activities including the application of the Kenya Coffee Mark of Origin;</p> <p>(l) coordinate capacity building activities for players in the coffee value chain.</p>	<p>regulate imports and exports of coffee;</p> <p>(c) undertake the registration of coffee dealers;</p> <p>(d) make recommendations to the Cabinet Secretary for, and oversee the implementation of policies strategies, plans and funding models for the coffee sector;</p> <p>(e) ... as before</p> <p>(f) conduct national and international coffee market intelligence and surveys to inform promotional and branding strategies including the application of the Kenya Coffee Mark of Origin;</p> <p>(g) ... (as before)</p> <p>(h) develop and implement a framework for the capacity building of relevant players in the coffee industry;</p> <p>(i) ...(as before)</p> <p>(j) ... (as before)</p>	<p>so as to ensure development and promotion of the coffee sector.</p>
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		<p>(k) ... (as before)</p> <p>(l) undertake capacity building activities and provide advisory services for players along the coffee value chain;</p> <p>(m) undertake technology transfer and technical assistance to the counties on matters relating to coffee;</p> <p>(n) conduct surveillance, inspections and enforce compliance to relevant policies, standards and related legislation; and</p> <p>(o) co-ordinate inter-agency representation to international coffee fora to promote Kenya coffee for increased market share.</p> <p>(p) arbitrate disputes arising between parties registered or licensed by the Board under this Act.</p>	
14 (Now 15) Chief executive officer.	<p>(2) A person is qualified for appointment under subsection (1) if the person—</p> <p>(a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;</p>	<p>(2) A person is qualified for appointment under subsection (1) if the person—</p> <p>(a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;</p>	To align with the provisions of Mwongozo

	<p>(b) has at least five years' experience in a position of management; and</p> <p>(c) meets the requirements of Chapter Six of the Constitution.</p>	<p>(b) has at least ten years' knowledge and experience in the coffee subsector;</p> <p>(c) has served in a position of senior management for a period of at least five years; and</p> <p>(d) meets the requirements of Chapter Six of the Constitution</p>	
<p>Role of County Governments, Regulatory Provisions, Financial Provisions, and Coffee Research Institute</p>	<p>Part III, Part IV, Part V, and Part VI</p>	<p>Part III Coffee Research Institute</p> <p>Part IV Functions of County Governments</p> <p>Part V Registration and Licensing</p> <p>Part VI Production and Processing</p>	<p>These parts are rearranged for better flow on functions of national government entities and county governments and a new section on production and processing added.</p>
<p>27 (Previously 40)</p> <p>Membership of the Board of Coffee Research Institute</p>		<p>(e) the Principal Secretary for matters relating to trade or a representative nominated by the Principal Secretary in writing;</p> <p>(g) one person representing the Chief Executive Officer of the Kenya Phytosanitary Plant Health Services;</p> <p>(h) one person representing smallholder coffee growers nominated by the Council of County Governors;</p> <p>(i) one person representing coffee estate growers</p>	<p>To upgrade the qualifications for the Board chairman and members and add representation of coffee growers.</p>

		<p>nominated by the Council of County Governors</p> <p>On qualifications:</p> <p>(3) A person is qualified for appointment as a chairperson of the board of the Institute if that person—</p> <p>(a) holds a doctorate degree in economics, agriculture, business, law, administration or other relevant degree from a university recognized in Kenya; and</p> <p>(b) has at least five years' experience in the coffee sector.</p>	
<p>30 (Previous 43)</p> <p>Functions of the Institute</p>		<p>(2) For the purpose of carrying out its functions under subsection (1), the Institute shall—</p> <p>(a) undertake policy and social-economic analysis and make recommendations to the Cabinet Secretary on coffee research;</p> <p>(b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes;</p> <p>(e) undertake the production and supervision of quality coffee planting materials by the Institute and the authorised nursery operators;</p> <p>(f) provide competitive grants to research institutes and persons desirous of carrying out research and training</p>	<p>To provide for some functions more specifically</p>



		<p>programs which address value chain priorities and are consistent with the national research priorities and plans of the Institute;</p> <p>(h) support and promote the training and capacity building in relation to coffee research;</p> <p>(m) the lead agency in coffee breeding in the developing a climate resilient coffee crop and in leading the scientific effort to strengthen Kenya coffee's resistance to diseases and pests;</p> <p>(n) the lead agency in developing production, processing and other technologies and practices that contribute towards climate change adaption, resilience and mitigation;</p> <p>(o) the custodian of the Kenyan Coffee Genome and the primary instrument for making modern genomics resources available to researchers working across the coffee production chain;</p> <p>(p) the premier national and regional institute in research into and development of new coffee varieties and improvement of existing varieties;</p> <p>(q) to facilitate the use of improved production and processing technologies and to establish adequate feedback systems from coffee farmers and processors in order to achieve the highest</p>	
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		<p>possible quality of coffee in Kenya;</p> <p>(r) the principal platform for providing in an accessible form timely and usable form scientific information and advisory services to actors in the whole coffee production chain through field visits, radio programmes, demonstration farms, publications and modern technology tools such as social media;</p> <p>(s) conduct market research and analysis and disseminate information on its findings to relevant stakeholders;</p> <p>(t) organize national and regional bi-annual conference with coffee producers, processors and key stakeholders to share research findings and receive feedback.</p>	
34 Chief Executive Officer of the Institute	Qualifications	(b) holds a minimum doctorate degree in agriculture, crops science, economics or business administration or its equivalent from a university recognised in Kenya; and	To upgrade the qualifications of the Chief Executive Officer
44 (Previously 25) Licensing of Coffee Operations	Licensing	<p>(1) A person shall not operate a—</p> <p>(a) pulping station or carry out hulling activities;</p> <p>(b) coffee growers' mill;</p>	To align with the coffee regulations on licensing

		<p>(c) commercial mill;</p> <p>(d) warehouse; or</p> <p>(e) coffee roaster,</p>	
Part V Registration and licensing	Sections 45 to 80 Registration, issuance of licences and permits and conditions attendant thereto	Functions of the Board, County Governments and the Capital Markets Authority on registration, issuance of licences and permits and conditions attendant thereto specifically provided for	To align with the coffee regulations
Part VIII Quality Assurance	New	<p>82 (1) The Board and county governments shall collaborate in the enforcement of coffee industry standards along the value chain, for purposes of quality assurance.</p> <p>(2) The Board, in consultation with an accredited university of higher learning, and industry stakeholders, may develop a training curriculum, conduct examinations and jointly issue certificates for coffee liquorers.</p> <p>(3) The Board may enter into a memorandum of understanding with an accredited university in the training and administration of liquorers' examinations.</p> <p>(4) A person certified as a liquorer shall apply for a practicing licence to the Board to offer liquoring services.</p>	Coffee quality assurance standards and enforcement provided for.

(5) The Board shall, in collaboration with county governments, establish cupping centers in the counties for the purpose of coffee quality analysis and capacity building.

(6) Coffee quality analysis at the cupping centers shall be carried out by certified liquorers.

(7) Quality Assurance officers from the Board shall carry out assessments on coffee quality maintenance at any premises that handles coffee along the value chain.

(8)The Board shall be at liberty to sample coffee at any stage of the value chain to ascertain permissible pesticides residue levels for compliance with set national and international standards.

(9)The Board in consultation with county governments shall monitor maintenance of pesticide spraying records by coffee growers to enforce compliance with the permissible pesticides residue levels in coffee beans.

(10)The Board and county governments shall inspect coffee storage bags, wholesalers, suppliers, manufacturers and importers to check against potential contamination and samples of such coffee bags shall be subjected to relevant tests for possible contaminants.

		(11)The Institute shall conduct periodic surveillance on the application of pesticides to ensure compliance with set standards and best practices.	
Inspectors	New	<p>83(1)The Board and county governments shall appoint and gazette inspectors for the enforcement for the provisions of this Act.</p> <p>(2)The Board and the county governments, shall separately or jointly conduct inspections of coffee farms, coffee nurseries, pulping stations, coffee mills, warehouses, cupping laboratories, roasters or coffee buyers' vessels transporting coffee to ascertain compliance with the requirements of this Act.</p> <p>(3) A smallholder, a grower, a pulping station operator, a transporter, a miller, a warehouse operator or a buyer shall accord an inspector access and necessary assistance for effective inspection.</p> <p>(4)A person who fails to accord an inspector access to premises and information commits an offence.</p>	Appointment of inspectors and
Coffee imports and exports	New	<p>84 (1) All coffee imported to Kenya shall conform to the Kenya coffee standards.</p> <p>(2) Coffee, which does not conform to the Kenya coffee standards shall be destroyed upon an order of a court of competent jurisdiction obtained in proceedings</p>	

		instituted by the Board with due notice to the importer, and the import and permit of the owner may be suspended and subsequently cancelled.	
Surveillance	New	<p>85(1)The Board and county governments shall jointly or separately conduct periodic surveillance among growers, pulping stations, millers, roasters, processing plants, warehousing facilities, transporters, retail outlets, border points, and buyers' premises to assess the degree of compliance with the coffee industry policy, standards, code of practice and regulatory framework.</p> <p>(2)The Board and the county governments shall share surveillance reports for purposes of compliance and enforcement.</p>	
86(Previously 32) Funds of the Board		<p>Added (2) The Cabinet Secretary may, in consultation with the Board and the Institute and by Notice in the <i>Gazette</i>, impose a 2% levy based on export import value to be remitted by coffee buyers to the Board to support the coffee industry.</p> <p>(3) The levy imposed under subsection (2) shall be apportioned as follows—</p> <p>(a) 1% to the Institute;</p> <p>(b) 0.5% to the Board for regulatory and coffee promotion purposes; and</p> <p>(c) 0.5% to the coffee growing County Governments for</p>	To provide for a levy and the apportionment of the same.

		coffee development as conditional grants	
Part X (Previously VIII) Section 93 Digitalization	Miscellaneous Provisions  New	<p>Amended to read General Provisions.</p> <p>(1) The Board, county governments, every licence holder, certificate holder and service provider shall digitalize and automate their operations for efficient service delivery and information dissemination.</p> <p>(2) The digitalization process shall ensure—</p> <ul style="list-style-type: none"> <li>(a) multiple parties can access a common system;</li> <li>(b) flow of data takes place seamlessly across the value-chain without corruption;</li> <li>(c) the system is safe and secured and protected against unauthorized entry or access;</li> <li>(d) access to the system is properly regulated and monitored with adequate mechanisms for continued integrity; and</li> <li>(e) the records are not lost, destroyed or tampered with, and in the event of any loss or destruction, sufficient back-up</li> </ul>	To align with the coffee regulations

		<p>is available in a secure place.</p> <p>(3) The digitalization referred to in sub-section (1) shall require the conversion of the entire value chain into a digital platform based on automation, computerization, integration across the value-chain and digital instrument usage including weigh scales, digital scanners, storage and inventory management.</p>	
Section 94 Sharing of information	New	Provision on sharing of information between the Board and County Governments	To align with the coffee regulations and enhance harmony in regulation of the coffee industry.
Sections 95, 96 and 97	Request for Information	Provided separate provisions for request for information by the Coffee Research Institute, the Board and the County Governments and obligation to provide correct information.	To strengthen information sharing, enhance harmony in the regulation of the coffee industry and align with the coffee regulations.
Section 101	Regulations	<p>(1) The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations—</p> <p>(a) ... (as before)</p> <p>(b) the forms to be used in the application for registration, licensing, permits, the notification to the direct settlement system provider, contracts and related activities;</p> <p>(c)... (as before)</p>	To align with the coffee regulations

		<p>(d) any fee or levy which may be charged for anything done under this Act;</p> <p>(e) the regulation of contracts and enforcement of contractual obligations between growers, processors and other players in the coffee industry;</p> <p>(f) the nomination of the members of the Board;</p> <p>(g) the manner in which persons to represent growers shall be nominated;</p> <p>(h) the forms prescribing the terms to be met by persons holding certificates, licenses and permits;</p> <p>(i) the manner in which coffee shall be traded where applicable and the manner of storage, bulking, packing and roasting;</p> <p>(j) the manner of payment of the coffee sales proceeds to growers and their service providers;</p> <p>(k) regulating the nursery operations, pulping, milling, warehousing and transportation of coffee;</p> <p>(l) the services to be provided to growers;</p> <p>(m) the manner of grading and classification of coffee under this Act;</p> <p>(n) the capping of costs charged by service providers along the value chain, and</p>	
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	(o) without prejudice to any provision in this section, anything which under this Act may be prescribed.	
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#### 2.4. Submissions from Kenya Coffee Traders Association (KCTA)

At its 133<sup>rd</sup> Sitting held on 3<sup>rd</sup> June, 2021 on the Zoom online meeting platform, the Standing Committee on Agriculture, Livestock and Fisheries met with Kenya Coffee Traders Association to receive their views on the Bill. Ms. Mette-Marie Hensen, the Chairperson of the Kenya Coffee Traders Association gave submissions as follows-

1. There is a lack of analysis on the operation of the value chain;
2. Constitution of the Board's board of directors should be reviewed to incorporate representatives from the trade industry, from the millers, and from the counties;
3. The role of the county governments who have a great responsibility in the Bill and should be clearly supported by the national government;
4. The Bill was unclear on national policy on coffee;
5. That a national structure for fees and levies be provided so as to prevent overregulation through suggested enactment of county specific laws on coffee which could potentially create avenues for exploitation, leading to diminished value of the produce;
6. If licensing of many supply chain actors is to be moved to county level, as per the Second Schedule to the Bill, the counties must be adequately prepared on how to carry out the licensing; and
7. There was need for harmonization of all legislation touching on the coffee sub-sector to avoid confusion among stakeholders and prevent erosion of value of the coffee sector and panic amongst stakeholders and overseas supporters of Kenyan coffee.

## **2.5. Submissions from National Coffee Co-operative Federation of Kenya**

**(NCCFK)**

At its 133<sup>rd</sup> Sitting held on 3<sup>rd</sup> June, 2021 on the Zoom online meeting platform, the Standing Committee on Agriculture, Livestock and Fisheries met with National Coffee Co-operative Federation of Kenya to receive their views on the Bill. The Chairperson, Mr. Francis Ngone gave submissions on behalf of the NCCFK as follows-

1. The Ministry of Agriculture has not done enough to enhance the operationalization of the Crops (Coffee) (General) Regulations, 2019 and the Capital Markets (Coffee Exchange Regulations, 2020 developed by the Coffee Taskforce to adequately address the issues of the ailing coffee sub sector;
2. The Bill fails to make provision for the Capital Markets Authority and its functions for enhanced transparency and accountability;
3. The Bill is not clear on prohibition of multi-licensing, parallel directorships and cross ownership of shares in commercial milling companies, marketing agencies, coffee brokers and coffee buying companies so as to eliminate potential conflicts of interest;
4. There is need for provisions on the establishment, structure and regulation of the direct settlement system (DSS) as provided under Regulation 54(1) of the Crops (Coffee) (General) Regulations, 2019;
5. There is need to incorporate the Third Schedule to the Crops (Coffee) (General) Regulations, 2019 (15) which provides that licensed growers' societies shall only seek credit from regulated financial institutions upon approval by the growers;
6. The Bill reverts the milling function to the Coffee Board as opposed to the counties thus opposing the devolution of the agriculture function;
7. On composition of the Board, the Bill should be amended to provide for three members representing co-operative societies where coffee is grown and two members representing plantation coffee growers of registered estates associations.

## **2.6. Submissions from the Commercial Coffee Millers and Marketing Agents**

### **Association (CCMMAA)**

The Commercial Coffee Millers and Marketing Agents Association (CCMMAA) submitted a written memorandum to the Committee proposing the following amendments to the Bill-

1. That clause 6 of the Bill on composition of the Board be amended to allow independent participation of industry stakeholders. The current provision grants the government a hand to influence fully the activities of the Board through direct nomination of all the members either through the Council of Governors, the institute or the Cabinet Secretary;
2. Clause 7 requires all the Board to be a university graduate. Majority of the farmers are not university graduates and hence the requirement is not favourable to a lot of them who have great experience in the coffee sector;
3. Clause 10 (1) which provides for application of the Kenya Coffee Mark of Origin imposes costs including costs on compliance and audit. When this is made mandatory, then it only increases that cost of production;
4. Under Part III on the role of the county governments in the issuance of licenses being pulping station, warehouse and coffee roaster's licences, there is need for clarity as to which licences these are;
5. Clause 23 (1) provides that "each county government shall implement the National Government policy relating to coffee" however, there is no National Government policy in place and hence the need to develop one;
6. The introduction of county legislations infers that each county may formulate its own rules and regulations. The effect is multiplicity of laws, which shall hinder coffee business and increasing the costs of operations that may eventually be pushed back to the farmer;
7. There is need to maintain the independence of the cooperative movement;
8. Clause 21(1)(f) provides for inspection of nurseries, pulping stations, roasters and warehouses located within their respective counties. The scope of inspection is unclear. The suited persons to carry out inspections on the processes are the Coffee Board of Kenya and the Coffee Research Institute;

9. Clause 23 (2) provides that A county executive committee member may impose levies and fees for registration and issuance of licences. Imposition of levies by county executive committee at county level shall mean different levies for similar licences and would be prohibitive to trade;
10. Clause 24 which provides that t each county government may enact county specific legislation setting out theb) criteria for the issuance of permits and licences by applicant within the respective county may create restrictions on the inter-county movement of the coffee;
11. The Bill does not provide the requirements for setting up the independent cupping lab. It does not show the qualification requirements for the cupper and how the disputes related to results variance shall be handled;
12. The Bill should be amended to provide for Central issuance of the license by the Coffee Board and the counties to support the Board functions;
13. The Bill fails to provide for the Coffee Marketing Agents Licence. Marketing is a core function in the coffee value chain therefore the licence should be included in the Bill;
14. Clause 26 on registration of coffee associations should be deleted as it threatens the existence of Cooperative movement which is hedged on the law that restricts the movement of small holder farmers from one form of association to another; and
15. Clause 53 (b) which provides that the funds of the Institute shall comprise of b) two and half percent of monies collected from the sale of coffee should be deleted as it reintroduces the levies that had been scrapped by the government. The implication is that the take home amount by the farmer continues to shrink.

## **2.7. Submissions from Nature Kenya**

Nature Kenya – the East African Natural History Society submitted a written memorandum to the Committee proposing the following amendments to the Bill-

1. That clause 6 on composition of the Board be amended to include the Principal Secretary responsible for environment or a representative nominated by the PS in writing, and persons representing civil society organization engaged in

environmental conservation and climate change matters. This is because the environment and especially natural ecosystem provide services that are key in the production of quality coffee moderation of climate change which is a threat to coffee farming;

2. Clause 10(2) be amended to provide that the Board of Directors shall in performance of its functions under this Act, consult and collaborate with the Council of County Governors and other stakeholders;
3. That clause 23 (1) (c) be amended to read as follows-  
(c) Offer extension services on **sustainable** coffee production, **climate smart** agriculture and **clean production** in primary processing;
4. Clause 25(1) be amended to read-  
“unless the person has applied for a licence from the respective county government in which the operation is to be **undertaken and complied with all environmental protection laws, including environment impact assessment as set out in the Environmental Management and Coordination Act.**”

#### 2.8. Submissions from Mr. Michael Kiprotich Kurgat

Mr. Michael Kiprotich Kurgat, a coffee farmer and marketing professional from Chepkitar Farmers' Cooperative Society, submitted a written memorandum to the Committee proposing the following amendments to the Bill-

1. That clause 43(1)(b) provides the for the functions of the Institute on areas surrounding coffee diseases thus limiting the research to coffee crop disease, varieties and pests, leaving out important issues affecting coffee. The clause should cover research along the whole value chain from the pulping station, coffee mill, auction, export and consumer levels. This will ensure useful information is obtained from every stage of the value chain; and
2. That clause 43(1)(d) be amended to that provide the Institute shall be the custodian of coffee data/information along the whole value chain. This will make the institute to be one stop shop on matters data relating to coffee rather than have coffee information scattered into Kenya National Bureau of Standards (KNBS), AFA, the Ministry of Trade and other state departments.

## **2.9. Submissions from Mr. Daniel Thirinja**

Mr. Daniel Thirinja, Chairman, Tigania North Farmers' Cooperative Society, submitted a written memorandum to the Committee proposing the following amendments to the Bill-

1. That clause 6(1)(d) and (e) be amended as follows-

*(d) Two persons of the opposite gender representing and elected by smallholder coffee growers.*

*(e) Two persons of opposite gender representing and elected by plantation coffee growers.*

Smallholder and plantation coffee growers should be allowed to elect their own representatives and the Council of Governors should not be allowed to decide on behalf of coffee growers.

2. That a new clause 6(1)(f) be included to read as follows-

*(f) One person of either gender who shall have knowledge and experience in the coffee sector, representing and nominated by the council of Governors*

The Council of Governors should be allowed to nominate one person of either gender with knowledge and experience in coffee Sector to represent the council of Governors, the same way the national Government is represented by Principal Secretary.

## **2.10. Submissions from the Kenya Coffee Producers Association (KCPA)**

The Kenya Coffee Producers Association submitted a written memorandum to the Committee proposing the following amendments to the Bill-

1. That the coffee exchange be licenced and regulated by the Coffee Board as the Capital Markets Authority has no experience in coffee trading;
2. That the Bill should provide for the definition of association and the Act under which is registered;
3. That the qualifications of the Chairperson of the Board be amended to read-
  - i. Holder of a degree from a university recognized in Kenya;

- ii. Five years' experience in the coffee industry;
  - iii. Active coffee farmer; and
  - iv. Meets the requirement of Chapter 6 of the Constitution.
4. That the criteria for selection of farmer representatives be included in the Bill as follows-
- a) The representatives should be appointed by bonafide farmer organization;
  - b) Nomination must meet the following criteria-
    - The organization must be dully registered and have been in existence for at least 8 years (provide proof of existence for the last eight years).
    - The organization must have a national outlook, with membership across the regions where coffee is grown
    - The organization shall provide evidence of nomination process.
  - c) The nominating farmer organization will nominate 12 nominees of both gender and pass to the cabinet secretary and Council of Governors for to seek 6 representatives from the 12.
  - d) include a recall clause by the nominating farmer organization- the farmer organization shall free to recall the nominee to the board who doesn't meet the expectation of the organization.
  - e) The 12 Nominees shall be nominated based on the following:
    - Regional balance-farmer representatives from cooperatives shall be derived from Central, Eastern, Rift valley, western/Nyanza regions.
  - f) Based on the above, there will be 4 representatives from cooperatives societies, one representative from large estates and one from medium and small estates; who must be a degree holder from university recognized in Kenya and meet the requirements of chapter 6 of the Constitution.
5. That the Bill should provide entrenchment of a farmer representative/ association in law as follows-
- There shall be Kenya Coffee Producers Act to bring together coffee farmers in cooperative, small, medium and large estates.
6. That functions of producer organizations be included as follows-

- a) Engage coffee board, county governments and other relevant ministries to enhance coffee production;
  - b) Work in collaboration with the board and the county government and other relevant ministries for promotion of coffee;
  - c) Engage relevant ministries to ensure farmers interests are well represented;
  - d) Be involved in management of all estate organization dealing with coffee;
  - e) To nominate farmers' representatives in the state organizations dealing with coffee;
  - f) Engage various ministries to ensure farmers interests are well represented;
  - g) Be involved in management of all state organization dealing with coffee;
  - h) Nominate farmers' representatives in the state organization to ensure equity, a national face and gender consideration;
  - i) Maintain data base of its members
7. The Funds of the organization shall include-
- a) Subscription remittances from the membership of the association facilitated by the board and the coffee exchange;
  - b) Donations from development partners; and
  - c) 0.5% to support coffee farmers to run the organization collected from sale of coffee.
8. That there is need for the Bill to establish the Nairobi Coffee Exchange (NCE);
9. That there is need for a provision stating that the Board shall collaborate with other industry stakeholders, both private and public;
10. That provision of the office of the Chief Executive Officer and the Company Secretary should be harmonized as they are competing functions;
11. That imposition of levies and fees by the counties be deleted as it amounts to double taxation of farmers;
12. That the Bill should define the Coffee research institute and harmonize provisions with the KALRO Act, 2013;

13. That the criteria for appointment of the Chairperson of the Board be included in the Bill;
14. That clause 53(b) providing for that the funds and assets of the Institute shall comprise of two and a half percent of monies collected from the sale of coffee be deleted;
15. That there is need for a review of all Acts and Regulations to be affected by the Bill including the AFA Act, 2013, the KALRO Act, 2013, the Crops (Coffee) (General) Regulations, 2019 and the Capital Market (Coffee Exchange) Regulations, 2020;
16. That section 22 and 44 of the First Schedule be amended to avoid possible conflicts of interest as no board members should be involved in any private business of the Board;
17. That licencing of the coffee auction is not defined in the Second Schedule. The Board should issue the coffee auction licence.

#### **2.11. Advisory Note from the Capital Markets Authority on**

The Capital Markets Authority (CMA) submitted an Advisory Note to the Committee on the role of CMA in regulation of Commodities Exchanges including Coffee Exchange in Kenya. The Advisory Note highlighted the following-

1. Kenya envisages to position itself as a centre of excellence in spot commodities markets in agriculture, energy, minerals and metals supported by national derivatives exchanges to stimulate development and economic transformation in the country. This Vision has been articulated in the Vision 2030 Development Strategy, the Northern Corridor Integration Projects (NCIP) Summit of Heads of States/Governments Presidential Directives (2014) and the 'Big 4' Agenda. Therefrom, a comprehensive and stakeholder driven policy framework was developed to guide the implementation process and includes: the Capital Markets Master Plan (2014-2023), Commodities Exchange Feasibility Study Report (2015), Capital Markets Authority Policy Framework on the Development of Commodities Markets in Kenya (2016) the Presidential National Task Force on Coffee Sub-Sector Reforms (2016) as well as the Joint Cabinet Memorandum on

the Establishment of Commodities Exchanges in Kenya (2016) submitted by the Cabinet Secretaries for National Treasury and Planning; Industry, Investment and Trade; and Agriculture, Livestock and Fisheries;

2. Consequently, the Capital Markets (CM) Act was amended vide the Finance Act (2016) to expand its mandate to regulate Spot Commodities Markets in line with regional integration initiatives as well as the national policy frameworks;
3. The supervision of spot commodities markets by the securities markets regulator is common international practice evidenced in various jurisdictions including EAC countries (Rwanda, Uganda, Tanzania, Kenya) and the African Union countries (Nigeria, Malawi, Ethiopia), India and Mauritius, amongst others;
4. In addition, the National Treasury and Planning, in consultation with the National Taskforce on establishment of a Commodities Exchange in Kenya, the Coffee Sub-Sector Reforms Implementation Committee (CSIC) and the Ministry of Agriculture, Livestock, Fisheries and Cooperatives jointly developed the Capital Markets (Commodity Markets) Regulations, 2020, the Capital Markets (Coffee Exchange) Regulations, 2020, Warehousing Receipts System Act, 2019 and Warehousing Receipt System Regulations, 2021 to support the establishment of structured commodities trading in Kenya via the development of a Warehousing Receipt System and establishment of fully fledged Commodities Exchange(s);
5. The need to develop structured mechanisms for commodities trading in Kenya is supported by the recognition that the country's smallholder farmers face several challenges related to existing market inefficiencies manifested in the form of supply chain inadequacies, constrained access to credit, inefficient price discovery, volatility and poor market access which leads to high production and marketing costs as well as low competitiveness;
6. Currently operating commodities exchanges include the Mombasa Tea Auction (trading as East Africa Tea Trade Association - EATTA) and Nairobi Coffee Exchange (NCE) that have long been regulated by the Agriculture and Food Authority (AFA);

7. Seven main factors impede trading on agricultural commodity trading platforms in Kenya. They are:

- a) limited success in attracting financial institutions' commitment to the platforms;
- b) the failure of the platforms to offer contracts that respond to unmet trader needs, especially those seeking mechanisms for hedging quality, price and delivery risk i.e. commodity forwards and futures;
- c) the inability of the platforms to reduce the transaction costs of exchange;
- d) the potential for conflict of interest among brokers who also act as off-market traders;
- e) the potential for market manipulation - when risks associated with trading on the platform involve information asymmetry between buyers and sellers; and
- f) actors trading in thin markets are forced to absorb high fixed costs due to limited trading volumes leading to unprofitable trading platforms;
- g) weak governance systems and enforcement regimes.

8. Evidently, there is a need for a more open, efficient and adequately regulated commodities markets covering a wider range of products. It entails development of markets for commodities on the back of improved post-harvest management solutions, harmonization of grading systems, regional trade standards and policies, development of Warehouse Receipt Systems which include certification of warehouses, warehouse receipt financing as well as market linkages through secure and transparent trading platforms such as commodity exchanges;

9. The modernization of commodities markets in Kenya as articulated in the cabinet/executive directives require the transformation of the current business models. In order to realize this, Kenya will need to develop a facilitative environment for the introduction of effective commodity exchanges including

- a) a readiness of financial and banking firms to fulfil commodity exchange transactions and to lend to actors in the sector;

- b) a strong demand/supply and willingness among actors in the industry to pay for risk-shifting instruments i.e. forwards and futures;
  - c) market supervision and governance entities that are perceived to be trustworthy, impartial and decisive in their approach to resolving contract disputes between market participants, based on clearly defined rules of behavior for participating on the exchange;
  - d) transparent rules governing the behavior of brokers;
  - e) a robust collateral management and settlement system that builds participant confidence and
  - f) vibrant spot markets with large trade volumes.
10. To achieve this, redesigning the institutional framework is necessary, rather than have production, warehousing, trading and marketing activities bundled in one eco-system, it has become apparent that there is need to develop three distinct, but interlinked, eco systems to enhance competitiveness of the sector as well as introduce structured commodities trading effectively and efficiently in Kenya. These ecosystems include the production value chain, the warehousing ecosystem and the commodities exchange ecosystem;

#### **Commodities Exchanges (including Coffee Exchange) Being Regulated by CMA**

11. There is a need for an effective Commodities' Regulator to oversee operations and check potential market manipulation hence the designation of the Capital Markets Authority as the Regulator;
12. The Capital Markets (Commodity Markets) Regulations 2020 is the overarching regulatory framework for commodity exchanges in Kenya. The following should be noted:
- a) That the law does not limit any entity from establishing a commodities exchange. As such, there can be many different commodity exchanges operating so long as they are deemed viable.
  - b) What will be traded on the exchange are the negotiable warehouse receipts.

- c) The CMA's jurisdiction focuses on the regulatory oversight of the exchange business operations and not on the commodities it is trading which is the responsibility of the various line ministries. In this regard, supervision is targeted on governance, conduct of business – including risk management and investor protection.

### **Justification for having commodity exchanges being regulated by CMA**

13. The justification for having commodity exchanges being regulated by CMA are as follows-

- a) Whilst there are peculiarities within the production value chains of various commodities that may necessitate particular regulatory interventions, the core function of any exchange (centralized trading platform) is generic in nature which is to ensure fair and orderly trading and the efficient dissemination of price information. Hence, it would be counter intuitive to have different regulatory regimes govern the operations of different trading platforms, yet their business operations are similar. Nevertheless, the law provides flexibility towards addressing trading peculiarities in various commodities by obligating exchanges to develop their rules framework governing trading. In addition, the country has adequate capacity and experience on regulating exchanges through the CMA, hence no need for establishing a new regulator. Finally, allowing for different regulatory regimes will bring about regulatory arbitrage within the various commodity sectors operating exchanges potentially compromising risk management, investor protection and financial stability.
- b) Spot commodity exchanges can by design be specialized in raw produce or agricultural products at various levels of value addition. The scope of agricultural products may cover already processed food (such as fruit juices and pork bellies). In many cases the commodities exchange reviewed across the continent and African continent trade underlying assets beyond agricultural produce, including minerals, metals and

energy. Very frequently commodities exchanges expand their line of business to include trading of derivatives of the underlying assets. Effectively most commodities exchanges trade both underlying commodities and their derivatives (options and futures) as they seek economies of scale and more transparent pricing models. Experienced jurisdictions have therefore made national policy decisions to place the overall oversight mandate of commodities exchanges to the securities (capital markets) regulators. This would also help avoid fragmentation of commodities exchange where specific commodities are each assigned to the MDAs related to the specific sector.

- c) To benchmark market regulation in the areas of risk management, corporate governance, technological safeguards, and investor protection practices against regulatory prescriptions for other asset classes to improve the level of trust amongst the markets' current and prospective participants.
- d) To bring in institutional participation in Kenya's commodity markets (along with other institutional investors such as pension funds, insurance, treasury investments - when allowed). This will bring in rich liquidity in contracts that will enable more cost-effective hedging and will contribute to improving overall market efficiency. Furthermore, institutions such as fund managers can also help make the process of price discovery more efficient with their robust research/analytic capabilities.
- e) To enhance new product segments, such as commodity options on futures (Commodity derivatives) which are important for all major businesses and corporates to manage price risks. The NSE derivatives exchange was launched in July 2019 and can trade both financial and commodity derivatives. This will contribute towards enhancing the market competitiveness of an economy and is therefore an important pillar in the financial landscape of Kenya as a major economy in the region. In addition, the development of these products will contribute towards the

goal of developing Nairobi as a regional and international financial center.

### **On commodities not being securities**

14. Purchasing commodities on a centralized exchange is to buy goods at a set price to be delivered later or as an investment activity. These commodities are traded on a centralized exchange based on negotiable collateralized warehouse receipts (WR). Negotiable, meaning that the receipts are freely transferable which facilitates access to credit by making them eligible as collateral for loans as well as facilitation of exchange trading without requiring the physical transfer of goods, and collateralized, meaning that the WRs are backed by the real commodity secured in an exchange approved and accredited warehouse.
15. The Warehouse Receipt System Act provides that warehouse receipts issued under the Act are negotiable and therefore may be traded on a secondary market. It is this secondary market that the Authority intends to regulate with settlement being the physical delivery of the commodity which will be undertaken at the warehouse in which the goods are stored.
16. The Warehouse Receipt is a type of documentation used in the commodities market to guarantee the quantity and quality of a particular commodity being stored within an approved facility. The Warehouse Receipt also provides the exchange with documentation that the goods authorized for sale are available for transfer to a buyer. Commodities exchange trading therefore occurs based on the integrity of the Warehouse Receipt as the real commodity will be delivered after the transaction concludes. This therefore makes the trading of a Warehouse Receipt a contract between the seller and buyer binding the seller to provide the real commodity as per documented specifications later to the buyer once payment is received.
17. There is an opportunity in the coffee subsector to upgrade the Coffee Warrants to Negotiable Warehouse Receipts. Lastly, there is an opportunity for player at the Commodity of Coffee Exchange to develop commodity or Coffee futures

which are purely financial instruments whose mandate for regulation is vested with the Capital Markets Authority.

### 3.0 COMMITTEE OBSERVATIONS

The Committee made the following observations-

1. There is need to align the Bill with the recommendations of National Coffee Taskforce Report and recommendations of other stakeholders in the coffee sub-sector.
2. The Committee invited the Ministry of Agriculture, Livestock, Fisheries and Cooperatives to a meeting scheduled for 29<sup>th</sup> June, 2021 to submit its views on the Bill. However, vide a letter reference number MOALF&C/SDCDAR/AD/VOL II, dated 8<sup>th</sup> June, 2021, the Ministry informed the Committee that it had its own Coffee Bill before the National Assembly and thus would not attend the meeting;
3. Over the years, the coffee industry has greatly deteriorated, resulting in some instances, to the uprooting of coffee bushes by farmers. The farmers have not received adequate returns for their produce as a result of impediments to competitive trade. As a result, there is a need to streamline coffee trading structures in order to maximize returns to the farmer. In light of this, there is need to strengthen the operations of the coffee exchange.
4. That the creation of the office of the CEO and the corporation secretary of the Board results in parallel roles and functions which would likely create conflict in their performance;
5. The coffee sub-sector is majorly farmer-driven. The Bill as drafted lacks adequate representation of farmers in the board of the Institute. Therefore, there is need for further representation in the board;
6. Noting that there are several bodies mandated to licence various activities along the coffee value chain, automation of services offered by the licencing authorities is necessary for efficiency and coordination;
7. The coffee sub-sector has been marred by theft of coffee and other illegal activities. There is therefore need to monitor the movement of clean coffee within and outside the county;
8. The Coffee Research Foundation was transformed upon the enactment of the Kenya Agricultural and Livestock Research Organization Act, 2013 to the

Coffee Research Institute under the KALRO. This change resulted in decreased funding for research and diminished focus on coffee research;

9. In order to position Kenyan coffee in the international market, there is need to monitor and maintain high standards in coffee production. As such, there is need to provide for regulation and enforcement of these standards;

#### 4.0. COMMITTEE RECOMMENDATIONS

The Committee recommends as follows:

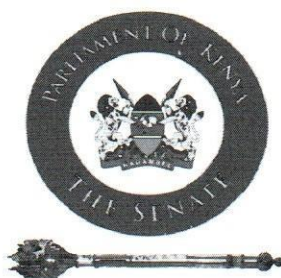
1. That the long title be amended to reflect the objects of the Bill and a new clause be inserted to provide for the objects of the Bill;
2. That the Bill be amended to enrich the functions of the Coffee Board of Kenya to include among others, dispute resolution mechanisms;
3. That the provision on appointment and functions of the corporation secretary be deleted;
4. That the Part on the role of the county governments be amended to broaden the functions of the county governments;
5. That the membership of the Board of the Coffee Research Institute be amended to enhance farmers' representation;
6. That the functions of the Coffee Research Institute be broadened for better performance of its duties;
7. That a provision on coffee development levy and its apportionment be provided for;
8. That the clause providing for the powers of the Cabinet Secretary to make regulations be amended to include specific provisions on various aspects;
9. That a provision regulating movement of coffee be provided for under the Bill and that a further provision be made for the county executive committee member to monitor and prescribe guidelines for movement of coffee;
10. That a provision on automation of operations of the Board and county governments be added to the Bill for efficient delivery of services and dissemination of information in the coffee sub-sector;
11. That new Parts be inserted in the Bill to provide for-
  - (a) coffee production and processing;
  - (b) coffee marketing and trading; and
  - (c) quality assurance.
12. That the Second Schedule to the Bill be amended to streamline licences issued by various issuing authorities; and
13. That the Bill proceeds to the next stage in the legislative process.

## **APPENDICES**

APPENDIX I	Minutes of the Committee Deliberations
APPENDIX II	Committee Stage amendments to the Bill
APPENDIX III	The Coffee Bill, (Senate Bills No. 22 of 2021)
APPENDIX IV	Copies of the Newspaper advertisements on 13 <sup>th</sup> May, 2021

# APPENDIX I

Committee Minutes



**MINUTES OF THE 130<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON THURSDAY, 27<sup>TH</sup> MAY, 2021, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

- |                                      |   |             |
|--------------------------------------|---|-------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP  | - | Chairperson |
| 2. Sen. (Canon) Naomi Jillo Waqo, MP |   |             |
| 3. Sen. Issa Juma Boy, MP            |   |             |
| 4. Sen. (Dr.) Michael Mbiti, MP      |   |             |

**ABSENT WITH APOLOGY**

- |  |   |                  |
|--|---|------------------|
| 1. Sen. Enoch Wambua, MP                   | - | Vice-Chairperson |
| 2. Sen. Kipchumba Murkomen, EGH, MP        |   |                  |
| 3. Sen. (Eng.) Ephraim Maina, MP           |   |                  |
| 4. Sen. Justice (Rtd.) Stewart Madzayo, MP |   |                  |

**IN ATTENDANCE**

1. Sen. Mutula Kilonzo Junior, MP
2. Sen. Agnes Kavindu Muthama, MP
3. Sen. Okong'o Omogeni, SC, MP
4. Sen. Charles Kiburu, MP

**SECRETARIAT**

- |                      |   |   |
|----------------------|---|---|
| 1. Ms. Carol Kirorei | - | Clerk Assistant <i>(Taking Minutes)</i> |
| 2. Ms. Regina Munyao | - | Legal Counsel                           |
| 3. Ms. Njeri Manga   | - | Media Relations Officer                 |
| 4. Ms. Mary Nyawira  | - | Audio Officer                           |

**MIN. NO. 87/2021**

**PRELIMINARIES**

The Chairperson called the meeting to order at 11.10 a.m. followed by a word of prayer.

**MIN. NO. 88/2021**

**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Issa Boy Juma, MP and seconded by Sen. (Dr.) Michael Mbiti, MP-

1. Preliminaries
  - a) Prayer

- b) Adoption of the Agenda*
2. Meeting with Senators from coffee growing counties to discuss the Coffee Bill, 2020
  3. Any other business.
  4. Date of Next Meeting
  5. Adjournment.

**MIN. NO. 89/2021**

**MEETING WITH SENATORS FROM COFFEE  
GROWING COUNTIES TO DISCUSS THE COFFEE  
BILL, 2020**

The Chairperson welcomed the Senators from coffee growing counties to the meeting and informed them that the purpose of the meeting was to receive their views on the Coffee Bill, 2020 sponsored by the Committee. He then welcomed the Legal Counsel to brief the Members on the provisions of the Bill. The Senators gave the following proposals-

1. Under clause 60, the Board should not sit as a quasi-judicial body. Further, the words "court of competent jurisdiction" were ambiguous. There was need for amendment to provide for the specific court for lodging of appeals;
2. Under clause 62, on limitation of the right to access to information needs to be amended as an Act cannot limit the Constitution;
3. Under clause 59, there was need for amendment to provide for the end of the Financial Year as June so as to harmonize with audits and tabling of reports;
4. Under section 25, on licensing of coffee operations, there was need for amendment to provide for a time limit for the issuance of licenses;
5. There was further need for provision of quality assurance under the Bill.

Following deliberations, it was agreed that the draft harmonized Bill incorporating the Committee Bill and the Ministry's Bill be shared with the Members for their information. The Chairperson further extended an invitation to the Senators to attend a meeting with the Council of Governors to discuss the Bill scheduled to be held on Friday, 28<sup>th</sup> May, 2021 at 11.00 a.m.

**MIN. NO. 90/2021**

**DATE OF NEXT MEETING**

The next meeting would be held on Friday, 28<sup>th</sup> May, 2021 at 11.00 a.m.

**MIN. NO. 91/2021**

**ADJOURNMENT**

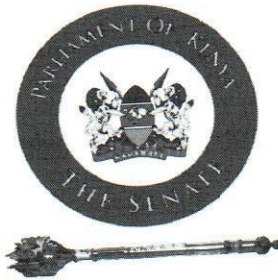
There being no other business, the meeting was adjourned at 12.17 a.m.



SIGNED:.....

(CHAIRPERSON)

DATE:.....18/6/2021.....



**MINUTES OF THE 131<sup>ST</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON FRIDAY, 28<sup>TH</sup> MAY, 2021, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

1. Sen. Peter Njeru Ndwiga, EGH, MP
2. Sen. Enoch Wambua, MP
3. Sen. Issa Juma Boy, MP
4. Sen. (Dr.) Michael Mbiti, MP

- Chairperson
- Vice-Chairperson

**ABSENT WITH APOLOGY**

1. Sen. Kipchumba Murkomen, EGH, MP
2. Sen. (Canon) Naomi Jillo Waqo, MP
3. Sen. (Eng.) Ephraim Maina, MP
4. Sen. Justice (Rtd.) Stewart Madzayo, MP

**IN ATTENDANCE**

1. Sen. Agnes Kavindu Muthama, MP

**THE SENATE**

**IN ATTENDANCE**

1. Hon. (Dr.) James Nyoro  
Committee
2. Ms. Mary Nzomo
3. Mr. Julius Rotich
4. Mr. Benson Loktari
5. Mr. Robert Kiteme
6. Mr. Kizito Wangalwa
7. Mr. Mussolini Kithome
8. Prof. Joseph Kieyah, PhD
9. Ms. Olivia Simiyu
10. Ms. Susan Maira
11. Mr. Matthew Mukisu
12. Sen. Okong'o Omogeni, SC, MP

- COG Chairperson, Agriculture
- CEC Agriculture, Trans Nzoia
- CEC Agriculture, Uasin Gishu
- COG Secretariat
- COG Secretariat
- COG Secretariat
- COG Secretariat
- Chairperson, CSISC
- CSISC
- CSISC
- CSISC

**SECRETARIAT**

1. Ms. Josephine Kusinyi

- Principal Legal Counsel

- |                       |   |
|-----------------------|---|
| 2. Ms. Carol Kiorei   | - Clerk Assistant ( <i>Taking Minutes</i> ) |
| 3. Ms. Regina Munyao  | - Legal Counsel                             |
| 4. Ms. Sombe Toona    | - Legal Counsel                             |
| 5. Ms. Njeri Manga    | - Media Relations Officer                   |
| 6. Mr. Philip Bwambok | - Audio Officer                             |

**MIN. NO. 92/2021**

**PRELIMINARIES**

The Chairperson called the meeting to order at 11.10 a.m. followed by a word of prayer.

**MIN. NO. 93/2021**

**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Issa Boy Juma, MP and seconded by Sen. (Dr.) Michael Mbiti, MP-

1. Preliminaries
  - a) *Prayer*
  - b) *Adoption of the Agenda*
2. Meeting with the Council of Governors and the Coffee Sub-Sector Reforms Implementation Standing Committee to discuss the Coffee Bill, 2020
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

**MIN. NO. 94/2021**

**MEETING WITH THE COUNCIL OF GOVERNORS  
AND THE COFFEE SUB-SECTOR  
IMPLEMENTATION STANDING COMMITTEE TO  
DISCUSS THE COFFEE BILL, 2020**

The Chairperson welcomed the Council of Governors and the Coffee Sub-sector Implementation Standing Committee. He then welcomed the Chairperson, Agriculture and Cooperatives Committee of the Council of Governors to make his remarks.

Hon. (Dr.) James Nyoro made the following remarks-

1. He expressed gratitude to the Committee for drafting the Bill and for continued cooperation with the Council of Governors;
2. As agreed at the conference held in October, 2020 in Mombasa between the Council and the Standing Committee on Agriculture, Livestock & Fisheries, there was serious need to safeguard agriculture as a devolved function with a focus in its transformation;
3. Inter-governmental agriculture forum is slated to begin in July, 2021 for cooperation between the national and county government in implementation of the agriculture function;
4. On coffee, the status quo cannot continue, there is need for urgent reform and implementation of the same. There is also need for additional investment thus need for a system to bring various stakeholders in the industry together;
5. The re-introduction of the Coffee Board with redefined structures in line with devolution is an important feature of the Bill;
6. The re-introduction of the Coffee Research Institute is another plus of the Bill;

7. The COG is uncomfortable with the Ministry's handling of the coffee sub-sector, and have raised concern on the lack of involvement of the COG in the development of the Ministry's Coffee Bill;
8. The COG is uncomfortable with the Ministry's Bill as it removes county government functions and places the same under the mandate of the Board thus creating a conflict and competition between the two;
9. County governments have devoted resources for the implementation of the Coffee General Regulations, 2019, yet the Ministry's Bill shall invalidate the provisions of the Regulations;
10. There is concern that there is no cooperation between the Ministry and the CSISC on coffee issues yet they are both domiciled in the national government. In this regard, the Council is contemplating court proceedings on discrepancies that are likely to gravely affect county government functions.

In response, the Committee clarified that the function of the legislature is to legislate, as such therefore, the Committee shall proceed with its Bill despite the Ministry's Bill. The Chairperson then invited the Chairperson of the Coffee Sub Sector Reforms Implementation Standing Committee (CSRISC) to brief the meeting on proposed amendments to the Coffee Bill, 2020.

Prof. Joseph Kieyah gave the following proposed amendments to the Bill-

1. The long title be amended to read *"AN ACT of Parliament to provide for establishment of the Coffee Board of Kenya, and the Coffee Research Institute, and to provide for the role of the national and county governments for the regulation, development and promotion of the Coffee industry, and for connected purposes."*
2. That clause 2 be amended by inserting new definitions including- *"auction", "auction levy", "Authority", "agent", "association", "bid", "broker", "buyer", "buyers levy", "clean coffee", "clearing house", "clearing and settlement", "coffee business", "coffee dealer", "coffee development", "coffee miller", "coffee milling", "coffee research", "coffee roaster", "coffee sales proceeds", "coffee standards", "coffee year", "Committee", "co-operative society", "county government", "cupping centre", "direct sale", "direct settlement system", "digitalization", "estate", "inspector", "licensing authority", "liquorer", "liquoring", "milling statement", "out-turn statement", "primary processing", "prompt date", "pulp station", "sale", "sales catalogue", "secondary processing", "small holder", "sweepings", "Tribunal", "warrant", "warehouse", "warehouse operator", and "warehouse receipt"*
3. That a new clause 3 be inserted to read as follows-
  3. Enumerate the object and purpose of the Act specifically as follows:
    - (a) *establish a framework for the regulation of the coffee subsector.*
    - (b) *provide for a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality assurance, coffee trading, marketing, payment system and credit finance;*

- (c) provide for enforcement of the regulatory framework and coffee standards in the subsector;
- (d) delineate the roles of the National and County Governments in the coffee subsector and recognize agriculture as a devolved function under the Constitution;
- (e) provide a framework for interlinkages amongst state agencies, regulators and players along the coffee value chain including the public private partnerships;
- (f) promotion of vertical integration of the coffee value chain for purposes of achieving economies of scale and managing risk;
- (g) promote evidence based coffee research for the development of the subsector;
- (h) promote farmer-based associations or platforms for representation of farmers' interests;
- (i) provide a framework for the establishment of a coffee stabilization fund;
- (j) establishment a framework for the provision of sustainable funding for the subsector;
- (k) provide for the establishment of a dispute resolution mechanism in the coffee sub sector, and
- (l) provide a framework for the engagement of the Kenya Government and international fora.

**Rationale:** To give an overview of why the law was enacted, the specific objectives the Bill aims to achieve and the mischief it intends to cure in the coffee sub sector.

4. That Clause 6 be amended on composition of the Board to include-
  - i) Principal Secretary in charge of cooperatives or the Commissioner for Co-operatives
  - (ii) the Principal Secretary for the time being responsible for finance or a representative nominated by the Principal Secretary in writing;
  - (iii) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;
  - (iv) one person representing coffee estate growers nominated by the Council of County Governors;
  - (v) one person nominated by the Council of County Governors who should have relevant knowledge in the coffee sub sector;
  - (iv) one person representing the Attorney General;

**Rationale:** to align with the provisions of Mwongozo and ensure all players along the value chain have been represented in the Board.

5. That clause 10 on the functions of the Board be amended as follows-

*NEW* (b) issue registration certificates for agents, licences for independent coffee cupping laboratories, liquorers, warehouse operators and buyers,

*movement permits for purchased clean coffee, and regulate imports and exports of coffee;*

*(c) undertake the registration of coffee dealers;*

*(d) make recommendations to the Cabinet Secretary for, and oversee the implementation of policies strategies, plans and funding models for the coffee sector;*

*(f) conduct national and international coffee market intelligence and surveys to inform promotional and branding strategies including the application of the Kenya Coffee Mark of Origin;*

*(h) develop and implement a framework for the capacity building of relevant players in the coffee industry;*

*(l) undertake capacity building activities and provide advisory services for players along the coffee value chain;*

*(m) undertake technology transfer and technical assistance to the counties on matters relating to coffee;*

*(n) conduct surveillance, inspections and enforce compliance to relevant policies, standards and related legislation; and*

*(o) co-ordinate inter-agency representation to international coffee fora to promote Kenya coffee for increased market share.*

*(p) arbitrate disputes arising between parties registered or licensed by the Board under this Act.*

6. That clause 14(2) on the qualifications of the CEO be amended to read as follows-

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

(a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;

(b) has at least ten years' knowledge and experience in the coffee subsector;

(c) has served in a position of senior management for a period of at least five years; and

(d) meets the requirements of Chapter Six of the Constitution

7. That parts III, IV and IV be rearranged and a new Part VI – Production and Processing be included in the Bill.

8. That Clause 27 on membership of the Board of the Coffee Research Institute be amended to upgrade the qualifications for the Board chairman and members and add representation of coffee growers;
9. That clause 30 on the functions of the institute be amended to provide as follows-
  - (2) For the purpose of carrying out its functions under subsection (1), the Institute shall—
    - (a) undertake policy and social-economic analysis and make recommendations to the Cabinet Secretary on coffee research;
    - (b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes;
    - (c) undertake the production and supervision of quality coffee planting materials by the Institute and the authorised nursery operators;
    - (d) provide competitive grants to research institutes and persons desirous of carrying out research and training programs which address value chain priorities and are consistent with the national research priorities and plans of the Institute;
    - (e) support and promote the training and capacity building in relation to coffee research;
    - (f) the lead agency in coffee breeding in the developing a climate resilient coffee crop and in leading the scientific effort to strengthen Kenya coffee's resistance to diseases and pests;
    - (g) the lead agency in developing production, processing and other technologies and practices that contribute towards climate change adaption, resilience and mitigation;
    - (h) the custodian of the Kenyan Coffee Genome and the primary instrument for making modern genomics resources available to researchers working across the coffee production chain;
    - (i) the premier national and regional institute in research into and development of new coffee varieties and improvement of existing varieties;
    - (j) to facilitate the use of improved production and processing technologies and to establish adequate feedback systems from coffee farmers and processors in order to achieve the highest possible quality of coffee in Kenya;
    - (k) the principal platform for providing in an accessible form timely and usable form scientific information and advisory services to actors in the whole coffee production chain through field visits, radio programmes, demonstration farms, publications and modern technology tools such as social media;
    - (l) conduct market research and analysis and disseminate information on its findings to relevant stakeholders;
    - (m) organize national and regional bi-annual conference with coffee producers, processors and key stakeholders to share research findings and receive feedback.
10. That clause 34 on the qualifications of the CEO of the Institute be amended to read as follows-
  - (b) holds a minimum doctorate degree in agriculture, crops science, economics or business administration or its equivalent from a university recognised in Kenya; and

Rationale: To upgrade the qualifications of the Chief Executive Officer.

11. That clause 44 on licensing of coffee operations be amended to read as follows—  
(1) A person shall not operate a—

- (f) pulping station or carry out hulling activities;
- (g) coffee growers' mill;
- (h) commercial mill;**
- (i) warehouse; or**
- (j) coffee roaster,

Rationale: To align with the coffee regulations on licensing

12. That Part V on registration and licensing be amended to align it to the provisions of the Coffee Regulations.
13. That Part VIII on Quality Assurance be amended to provide for coffee quality assurance standards and enforcement.
14. That a new provision be included to provide for inspectors.
15. That a new provision on Coffee imports and exports and surveillance be included.
16. That Clause 86 on Funds of the Board be amended to add—  
The Cabinet Secretary may, in consultation with the Board and the Institute and by Notice in the Gazette, impose a 2% levy based on export import value to be remitted by coffee buyers to the Board to support the coffee industry.  
(3) The levy imposed under subsection (2) shall be apportioned as follows—  
(a) 1% to the Institute;  
(b) 0.5% to the Board for regulatory and coffee promotion purposes; and  
(c) 0.5% to the coffee growing County Governments for coffee development as conditional grants
17. That clause 93 on digitalization be amended to align with provisions of the Regulations;
18. That a new clause 94 be included to strengthen information sharing, enhance harmony in the regulation of the coffee industry and align with the coffee regulations;
19. That clause 101 be amended to align with provisions of the Regulations;

**MIN. NO. 95/2021**

**DATE OF NEXT MEETING**

The next meeting would be held on Monday, 31<sup>st</sup> May, 2021 at 10.00 a.m.

**MIN. NO. 96/2021**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at 12.17 p.m.



SIGNED:.....

...

(CHAIRPERSON)

DATE:.....18/6/2021.....



**MINUTES OF THE 132<sup>ND</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON MONDAY, 31<sup>ST</sup> MAY, 2021, AT 10.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

- |                                     |   |             |
|-------------------------------------|---|-------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson |
| 2. Sen. Issa Juma Boy, MP           |   |             |
| 3. Sen. (Dr.) Michael Mbiti, MP     |   |             |

**ABSENT WITH APOLOGY**

- |  |   |                  |
|--|---|------------------|
| 1. Sen. Enoch Wambua, MP                   | - | Vice-Chairperson |
| 2. Sen. (Canon) Naomi Jillo Waqo, MP       |   |                  |
| 3. Sen. Kipchumba Murkomen, EGH, MP        |   |                  |
| 4. Sen. (Eng.) Ephraim Maina, MP           |   |                  |
| 5. Sen. Justice (Rtd.) Stewart Madzayo, MP |   |                  |

**SECRETARIAT**

- |                         |   |   |
|-------------------------|---|---|
| 1. Ms. Carol Kirorei    | - | Clerk Assistant ( <i>Taking Minutes</i> ) |
| 2. Ms. Njeri Manga      | - | Media Relations Officer                   |
| 3. Ms. Joyce Chelang'at | - | Audio Officer                             |

**MIN. NO. 97/2021**

**PRELIMINARIES**

The Chairperson called the meeting to order at 10.10 a.m. followed by a word of prayer.

**MIN. NO. 98/2021**

**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Issa Boy Juma, MP and seconded by Sen. (Dr.) Michael Mbiti, MP-

1. Preliminaries
  - a) Prayer
  - b) Adoption of the Agenda
2. Meeting with the CS, Ministry of Agriculture, Livestock, Fisheries & Cooperatives to discuss the Coffee Bill, 2020
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

**MIN. NO. 99/2021**

**MEETING WITH THE CS, MINISTRY OF  
AGRICULTURE, LIVESTOCK, FISHERIES &  
COOPERATIVES TO DISCUSS THE COFFEE BILL,  
2020**

The meeting was informed that vide a letter dated Friday, 28<sup>th</sup> May, 2021, the Cabinet Secretary had indicated that he was engaged in official duty and requested for postponement of the meeting to Wednesday, 9<sup>th</sup> June, 2021. The Committee resolved to respond to the letter and accede to the request for postponement. The Committee further tasked the secretariat to follow up on a date for the physical meeting to discuss the Petition concerning the plight of seed farmers in Trans Nzoia County.

**MIN. NO. 100/2021**

**DATE OF NEXT MEETING**

The next meeting would be held on Thursday, 3<sup>rd</sup> June, 2021 at 11.00 a.m.

**MIN. NO. 101/2021**

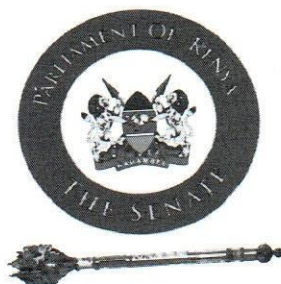
**ADJOURNMENT**

There being no other business, the meeting was adjourned at 10.17 a.m.



SIGNED:.....  
(CHAIRPERSON)

DATE:.....18/6/2021.....



**MINUTES OF THE 133<sup>RD</sup> SITTING OF THE STANDING COMMITTEE ON  
AGRICULTURE, LIVESTOCK & FISHERIES HELD ON THURSDAY, 3<sup>RD</sup>  
JUNE, 2021, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

1. Sen. Peter Njeru Ndwiga, EGH, MP
2. Sen. Enoch Wambua, MP
3. Sen. Issa Juma Boy, MP
4. Sen. (Dr.) Michael Mbiti, MP

- Chairperson
- Vice-Chairperson

**ABSENT WITH APOLOGY**

1. Sen. (Canon) Naomi Jillo Waqo, MP
2. Sen. Kipchumba Murkomen, EGH, MP
3. Sen. (Eng.) Ephraim Maina, MP
4. Sen. Justice (Rtd.) Stewart Madzayo, MP

**IN ATTENDANCE**

1. Sen. Agnes Muthama, MP
2. Sen. Cleophas Malala, MP

**IN ATTENDANCE**

1. Mr. Daniel Mbithi
2. Mr. Adrian Atugi  
Association
3. Ms. Mette Marie Hensen  
Association
4. Mr. Joseph Kosgey
5. Mr. Francis Ngone  
Federation

- CEO, Nairobi Coffee Exchange
- Chairman, Coffee Estate Processors
- Chairperson, Kenya Coffee Traders
- National Coffee Cooperatives Union
- Chairperson, National Coffee Cooperatives

**SECRETARIAT**

1. Ms. Carol Kiorei  
*Minutes)*
2. Ms. Lucy Radoli
3. Ms. Njeri Manga
4. Mr. Philip Bwambok
5. Ms. Hellen Irungu

- Clerk Assistant *#Taking*
- Legal Counsel
- Media Relations Officer
- Audio Officer
- Intern, Legal Services

**MIN. NO. 102/2021**

**PRELIMINARIES**

The Chairperson called the meeting to order at 11.05 a.m. followed by a word of prayer.

**MIN. NO. 103/2021**

**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Issa Boy Juma, MP and seconded by Sen. Enoch Wambua, MP-

1. Preliminaries
  - a) *Prayer*
  - b) *Adoption of the Agenda*
2. Meeting with the coffee farmers, processors and traders to discuss the Coffee Bill, 2020
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

**MIN. NO. 104/2021**

**MEETING WITH COFFEE FARMERS,  
PROCESSORS & TRADERS TO DISCUSS THE  
COFFEE BILL, 2020**

The Chairperson informed the meeting that the Coffee Bill, (Senate Bills No 22 of 2020) had been read a First Time in the Senate and that the purpose of the meeting was to receive submissions on the Bill from various stakeholders. He then invited the guests to present their submissions.

**Kenya Coffee Traders Association**

Ms. Mette-Marie Hensen, the Chairperson of the Kenya Coffee Traders Association gave submissions as follows-

1. There is a lack of analysis on the operation of the value chain;
2. Constitution of the Board should be reviewed to incorporate representatives from the trade industry;
3. The role of the county governments who have a great responsibility in the Bill and should be clearly supported by the national government;
4. The Bill is unclear on national policy on coffee;
5. Further written submissions would be submitted to the Committee.

In response the Committee noted that agriculture was a fully devolved function under the Constitution, hence the larger chunk of responsibilities had been given to the

**National Coffee Co-operative Federation of Kenya**

Mr. Francis Ngone briefed the Committee as follows-

1. The National Coffee Co-operative Federation is an apex body with membership composed of Coffee Co-operative Unions in Kenya, whose main objectives are-
  - i. Promotion of welfare and socio-economic interest of coffee producers in Kenya;
  - ii. To act as the principal mouthpiece of the small-scale coffee producers in Kenya;

- iii. To provide advocacy, advice and protect members against adverse legislation.
2. The Ministry of Agriculture has not done enough to enhance the operationalization of the Crops (Coffee) (General) Regulations, 2019 and the Capital Markets (Coffee Exchange Regulations, 2020 developed by the Coffee Taskforce to adequately address the issues of the ailing coffee sub sector;
3. The Bill fails to make provision for the Capital Markets Authority and its functions for enhanced transparency and accountability;
4. The Bill is not clear on prohibition of multi-licensing, parallel directorships and cross ownership of shares in commercial milling companies, marketing agencies, coffee brokers and coffee buying companies so as to eliminate potential conflicts of interest;
5. There is need for provisions on the establishment, structure and regulation of the direct settlement system (DSS) as provided under Regulation 54(1) of the Crops (Coffee) (General) Regulations, 2019;
6. There is need to incorporate the Third Schedule to the Crops (Coffee) (General) Regulations, 2019 (15) which provides that licensed growers' societies shall only seek credit from regulated financial institutions upon approval by the growers;
7. The Bill reverts the milling function to the Coffee Board as opposed to the counties thus opposing the devolution of the agriculture function;
8. On composition of the Board, the Bill should be amended to provide for three members representing co-operative societies where coffee is grown and two members representing plantation coffee growers of registered estates associations.

#### **Nairobi Coffee Exchange**

Mr. Daniel Mbithi, the Chairperson of the Nairobi Coffee Exchange stated that-

1. There is another Coffee Bill developed by the Ministry of Agriculture being processed and whether the two Bills would be harmonized;
2. The Bill is in tandem with the provisions of the Regulations developed by the Coffee Taskforce; and
3. That direct sales should be provided for in the Bill.

#### **Coffee Estates and Processors Association**

Mr. Adrian Atugi, Chairman Coffee Estates and Processors Association stated that the farmers be empowered as per the Coffee Taskforce recommendations, and be allowed to sell their coffee, that markets be opened up for the benefit of the farmers.

#### **MIN. NO. 105/2021**

#### **ANY OTHER BUSINESS**

##### **1. Statement on the state of the Mumias Sugar Company Ltd.**

The Committee deliberated on the Statement on the state of Mumias Sugar Company Ltd. and its impending takeover/resuscitation sought by Sen. Cleophas Malala, MP. Sen. Malala requested the Committee to expedite its consideration of the Statement as the takeover by an investor was imminent and was likely to be concluded within a weeks' time, thus the Statement would likely be overtaken by events.

Following deliberations, the Committee resolved to meet with the KCB Management, the Receiver Manager, Mumias Sugar Company Ltd. and the CS, Ministry of Agriculture, Livestock & Fisheries on Wednesday, 9<sup>th</sup> June, 2021 to deliberate on the Statement.

**MIN. NO. 106/2021**

**DATE OF NEXT MEETING**

The next meeting would be held on Wednesday, 9<sup>th</sup> June, 2021 at 11.00 a.m.

**MIN. NO. 107/2021**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at 11.50 a.m.



SIGNED:.....

(CHAIRPERSON)

DATE:.....18/6/2021.....



**MINUTES OF THE 136<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON THURSDAY, 24<sup>TH</sup> JUNE, 2021, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

- |  |   |                  |
|--|---|------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP        | - | Chairperson      |
| 2. Sen. Enoch Wambua, MP                   | - | Vice-Chairperson |
| 3. Sen. Kipchumba Murkomen, EGH, MP        |   |                  |
| 4. Sen. Justice (Rtd.) Stewart Madzayo, MP |   |                  |
| 5. Sen. Issa Juma Boy, MP                  | - | Ag. Chairperson  |

**ABSENT WITH APOLOGY**

1. Sen. (Canon) Naomi Jillo Waqo, MP
2. Sen. (Eng.) Ephraim Maina, MP
3. Sen. (Dr.) Michael Mbiti, MP

**SECRETARIAT**

- |                      |   |   |
|----------------------|---|---|
| 1. Ms. Carol Kiorei  | - | Clerk Assistant ( <i>Taking Minutes</i> ) |
| 2. Ms. Regina Munyao | - | Legal Counsel                             |

**MIN. NO. 119/2021**

**PRELIMINARIES**

The Chairperson called the meeting to order at 10.17 a.m. followed by a word of prayer.

**MIN. NO. 120/2021**

**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. (Canon) Naomi Waqo, MP and seconded by Sen. Kipchumba Murkomen, EGH, MP-

1. Preliminaries
  - a) *Prayer*
  - b) *Adoption of the Agenda*
2. Confirmation of previous Minutes
3. Matters arising from previous Minutes
4. Consideration of submissions received on the Coffee Bill, 2020
5. Any other business.
6. Date of Next Meeting
7. Adjournment.

**MIN. NO. 121/2021****CONFIRMATION OF PREVIOUS MINUTES**

The Minutes of the 135<sup>th</sup> Sitting held on Friday, 18<sup>th</sup> June, 2021 were confirmed as a true record of the proceedings and signed by the Ag. Chairperson after being proposed by Sen. Kipchumba Murkomen, EGH, MP and seconded by Sen. Njeru Ndwiga, EGH, MP.

**MIN. NO. 122/2021****MATTERS ARISING FROM PREVIOUS MINUTES**

1. *Ex Min. 110/2021* - *Meeting with the Receiver Manager, Mumias Sugar Co. Ltd.*

Members were informed that the Committee was in receipt of correspondence from the Receiver Manager, Mumias Sugar Company Ltd. requesting for more time to publish an advertisement on the proposed leasing of the Company. This was to enable his office to prepare detailed bid documents to maintain uniformity of the bids for expeditious evaluation. There was also need to discuss the modalities with all stakeholders before the "Invitation to International Bidding" was advertised in local and international media. The Receiver Manager requested for extension of time to end of July.

The Committee resolved to invite the Receiver Manager to a meeting in a week's time to discuss the matter further.

**MIN. NO. 123/2021****CONSIDERATION OF SUBMISSIONS RECEIVED ON THE COFFEE BILL, 2020**

The Legal Counsel presented the submissions received from the various stakeholders as follows-

**1. Long Title**

**Proposal:** That the Long Title be amended to read as follows:

AN ACT of Parliament to provide for establishment of the Coffee Board of Kenya, and the Coffee Research Institute, and to provide for the role of the national and county governments for the regulation, development and promotion of the Coffee industry, and for connected purposes.

**Resolution:** Agreed to.

**2. Clause 2**

**Proposal:** Insertion of new definitions including: "auction", "auction levy", "Authority", "agent", "association", "bid", "broker", "buyer", "buyers levy", "clean coffee", "clearing house", "clearing and settlement", "coffee business", "coffee dealer", "coffee development", "coffee miller", "coffee milling", "coffee research", "coffee roaster", "coffee sales proceeds", "coffee standards", "coffee year", "Committee", "co-operative society", "county government", "cupping centre", "direct sale", "direct settlement system", "digitalization", "estate", "inspector", "licensing authority", "liquorer", "liquoring", "milling statement", "out-turn statement", "primary processing", "prompt date", "pulp station", "sale", "sales catalogue", "secondary processing", "small holder", "sweepings", "Tribunal", "warrant", "warehouse", "warehouse operator", and "warehouse receipt"

**Resolution:** Agreed to.

**Proposal:** That "association" be defined and the Act under which it is registered.

**Resolution:**

**Resolution:** Agreed to.

3. **Proposal:** That coffee exchange be licensed and regulated by the Coffee Board as opposed to CMA which has no experience in coffee trading.

**Resolution:** Not agreed to.

4. **Object and purpose of the Act**

**Proposal:** That the object and purpose of the Act be specific as follows-

- (a) *establish a framework for the regulation of the coffee subsector.*
- (b) *provide for a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality assurance, coffee trading, marketing, payment system and credit finance;*
- (c) *provide for enforcement of the regulatory framework and coffee standards in the subsector;*
- (d) *delineate the roles of the National and County Governments in the coffee subsector and recognize agriculture as a devolved function under the Constitution;*
- (e) *provide a framework for interlinkages amongst state agencies, regulators and players along the coffee value chain including the public private partnerships;*
- (f) *promotion of vertical integration of the coffee value chain for purposes of achieving economies of scale and managing risk;*
- (g) *promote evidence based coffee research for the development of the subsector;*
- (h) *promote farmer-based associations or platforms for representation of farmers' interests;*
- (i) *provide a framework for the establishment of a coffee stabilization fund;*
- (j) *establishment a framework for the provision of sustainable funding for the subsector;*
- (k) *provide for the establishment of a dispute resolution mechanism in the coffee sub sector, and*
- (l) *provide a framework for the engagement of the Kenya Government and international fora.*

**Resolution:** Agreed to.

5. **Clause 6**

**Proposal:** That the composition of the Board be amended to consist of:

- (i) Principal Secretary in charge of cooperatives or the Commissioner for Cooperatives
- (ii) the Principal Secretary for the time being responsible for finance or a representative nominated by the Principal Secretary in writing;
- (iii) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;
- (iv) one person representing coffee estate growers nominated by the Council of County Governors;

(v) one person nominated by the Council of County Governors who should have relevant knowledge in the coffee sub sector;

(iv) one person representing the Attorney General;

**Proposal:** That the clause be amended to include representatives from the trade, from the millers, and from the counties on the board of directors.

**Proposal:** That the clause be amended to include-

- i. Principal Secretary responsible for environment.
- ii. Two persons representing civil society organization engaged in environmental conservation and climate change matters.

**Resolution:** That the PS, National Treasury be included in the Board's membership.

#### 6. Qualifications of the Chairperson of the Board

**Proposal:** That a new clause be inserted to provide as follows-

- i. Holder of a degree from a university recognized in Kenya.
- ii. Five years' experience in the coffee industry
- iii. Active coffee farmer.
- iv. Meets the requirement of Chapter 6 of the Constitution

**Resolution:** Not agreed to.

#### 7. Appointment of coffee growers' representatives

**Proposal:** That a new clause be included in the Bill to set out the criteria of selection of farmer representatives.

**Resolution:** Not agreed to. These may be handled in the Regulations.

#### 8. **Proposal:** Clause 6(1) (d) and (e) be amended as follows-

*(d) Two persons of the opposite gender representing and elected by smallholder coffee growers.*

*(e) Two persons of opposite gender representing and elected by plantation coffee growers.*

#### **Proposed New Clause-**

*(f) One person of either gender who shall have knowledge and experience in the coffee sector, representing and nominated by the council of Governors*

**Resolution:** Not agreed to. These may be handled under the Regulations.

#### 9. **Proposal:** Clause 6 be amended to read as follows-

*Three members representing the co-operative societies where coffee is grown.*

*Two members representing the plantation coffee growers of registered coffee estates associations.*

**Resolution:** Not agreed to.

#### 10. **Proposal:** That clause 6 be amended to allow industry stakeholders independent participation.

**Resolution:** Not agreed to.

**11. Clause 7**

**Proposal:** That Clause 7 be amended to remove the requirement that members hold a degree.

**Resolution:** Not agreed to.

**12. Clause 10**

**Proposal:** That the clause be amended by inserting a new clause (b) and inserting words in the other clauses as highlighted-

**NEW (b) issue registration certificates for agents, licences for independent coffee cupping laboratories, liquorers, warehouse operators and buyers, movement permits for purchased clean coffee, and regulate imports and exports of coffee;**

(c) **undertake the** registration of coffee dealers;

(d) make recommendations to the Cabinet Secretary for, and oversee the implementation of policies strategies, plans and **funding models** for the coffee sector;

(f) conduct **national** and international coffee market intelligence **and surveys to inform** promotional **and branding strategies** including the application of the Kenya Coffee Mark of Origin;

(h) **develop and implement** a framework for the capacity building of **relevant** players in the coffee industry;

(l) **undertake** capacity building activities **and provide advisory services** for players **along** the coffee value chain;

(m) **undertake technology transfer and technical assistance to the counties on matters relating to coffee; conduct surveillance, inspections and enforce compliance to relevant policies, standards and related legislation; and**

(o) **co-ordinate inter-agency representation to international coffee fora to promote Kenya coffee for increased market share.**

(p) **arbitrate disputes arising between parties registered or licensed by the Board under this Act.**

**Resolution:** Agreed to save for the new clause (b) as this is catered for in the Second Schedule.

**13. Proposal:** That Clause 10 (2) be amended to read as follows-

*The Board of Directors shall in performance of its functions under this Act, consult and collaborate with the Council of County Governors and other stakeholders.*

**Resolution:** Agreed to but with further amendment to include other stakeholders.

**14. Proposal:** That Clause 10 be amended to include the establishment and management of the Nairobi Coffee Exchange.

**Resolution:** Agreed to.

**15. Proposal:** That clause 10 be amended to include-  
*The Board shall collaborate with other industry stakeholders, both private and public.*

**Resolution:** Agreed to.

**16. Proposal:** That Clause 10(f) be amended to remove the Kenya Coffee Mark of Origin as this increases cost of production.

**Resolution:** Not agreed to.

#### **17. Clause 14**

**Proposal:** That clause 14(2) be amended to provide as follows-

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

- (a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;
- (b) has at least ten years' knowledge and experience in the coffee subsector;
- (c) has served in a position of senior management for a period of at least five years; and
- (d) meets the requirements of Chapter Six of the Constitution

**Resolution:** Not agreed to.

#### **18. Clause 15**

**Proposal:** That the positions of Chief Executive officer and Company Secretary should be harmonised.

**Resolution:** Agreed to.

#### **19. Clause 23**

**Proposal:** That clause 23(e) be amended to read as follows-

*(c) Offer extension services on sustainable coffee production, climate smart agriculture and clean production in primary processing.*

**Resolution:** Agreed to.

**Proposal:** That there is need for a policy on coffee to enable 23(1)(a) which provides that each county government shall implement the national government policy relating to coffee.

**Resolution:** Not agreed to as this is provided in clause 10(c).

**Proposal:** That Clause 23(d) be amended to avoid multiplicity of laws.

**Resolution:** Not agreed to. Clause 26 obligates County Government to register coffee farmers, Clause 23 therefore empowers counties to enact legislation setting out the criteria for registration.

**Proposal:** That Clause 23 (1) (f) be amended to have inspection carried out by the Board and the Coffee Research Institute.

**Resolution:** Not agreed to as Agriculture is a devolved function and therefore this functions fall within the county.

**Proposal:** That clause 23(2) be amended to delete imposition of taxes by the county executive committee.

**Resolution:** Not agreed to as this is a county government function.

## 20. Clause 24

**Proposal:** Section 24 provides that each county government may enact county specific legislation setting out the criteria for the issuance of permits and licences by applicant within the respective county. This may create restrictions on the inter-county movement of the coffee.

**Resolution:** Not agreed to.

**Proposal:** That the clause provides for a national structure for fees and levies.

**Resolution:** Not agreed to.

## 21. Clause 25

**Proposal:** To align with coffee regulation on Licencing the clause be amended to read as follows-

(1) A person shall not operate a—

(a) pulping station or carry out hulling activities;

(b) coffee growers' mill;

(c) commercial mill;

(d) warehouse; or

(e) coffee roaster,

**Resolution:** Agreed to.

**Proposal:** There is need to clarify the purpose of the License

issuance of licenses being pulping station, warehouse and coffee roaster's licences.

**Resolution:** Not agreed to. Clause 25(1) provides that a person shall not operate.....the licence therefore is for operating the listed activities.

**Proposal:** Clause 25(1) be amended to provide that unless the person has applied for a licence from the respective county government in which the operation is to be undertaken and complied with all environmental protection laws, including environment impact assessment as set out in the Environmental Management and Coordination Act.

**Resolution:** Not agreed to.

## 22. Clause 26

**Proposal:** Clause 26(1) opens up for the farmer to form and join associations and companies at will, thus killing the spirit of cooperative movement. The split of the cooperatives and the formation of cooperatives by the factory members of the existing cooperatives is a recipe for disputes especially with respect to the assets and liabilities of the cooperative

**Resolution:** Not agreed to.

## 23. Clause 27

**Proposal:** That the clause be amended to incorporate the conditions of establishing a cupping laboratory.

**Resolution:** Not agreed to.

## 24. Clause 8

**Proposal:** Central issuance of the license by the Coffee Board and the Counties to support the Board functions. Conflict of interest may deride issuance of permits. The area County Government may decide not to issue a licence to a commercial coffee miller in the event where it has a preferred miller.

**Resolution:** Not agreed to. It is not clear which clause is being referred to. The bill does not have section 8. Clause 8 provides for terms of appointment for the Board members.

## 25. Clause 31

**Proposal:** the Bill should clearly define the role in which the County Government should play as stakeholders in the market.

- i) Involve the county government in the development of legal and regulatory frameworks. This will enhance proper and ease in implementation of the legal and regulatory frameworks.
- ii) On licensing, County government should license all activities undertaken by the farmers e.g. Coffee Milling.
- iii) The county and national government should have a budgetary provision to enhance the boosting of coffee production as a way of reducing the cost of production and reducing of the individual farmer's contribution towards the cost of running the cooperative societies.
- iv) Neutral Body to handle Cherry Advance like Financial institutions (Banks and Saccos).
- v) The Cherry advance is a post-harvest remedy which cannot assist production. How will the coffee be revived without considering those who haven't delivered and they want to revive their coffee farming? It is our proposal that the recommendations of the 2016 presidential coffee taskforce regarding the subsidized farm inputs and rehabilitations of factories be given utmost priority

- vi) Productivity: - There is need for standardization in terms of production and quality. There should be a sustainable and good quality farm input supply.
- vii) Societies should be allowed to borrow from financial institutions with an approval from the general meeting and also from the Ministry of Co-operatives from the County government using their Collaterals.
- viii) Setting up of a minimum guarantee on returns based on quality

**Resolution:** Not agreed to.

## **26. Clause 32**

**Proposal:** That the clause be amended as follows-

(2) *The Cabinet Secretary may, in consultation with the Board and the Institute and by Notice in the Gazette, impose a 2% levy based on export import value to be remitted by coffee buyers to the Board to support the coffee industry.*

(3) *The levy imposed under subsection (2) shall be apportioned as follows—*

(a) *1% to the Institute;*

(b) *0.5% to the Board for regulatory and coffee promotion purposes; and*

(c) *0.5% to the coffee growing County Governments for coffee development as conditional grants*

**Resolution:** Agreed to.

## **MIN. NO. 124/2021**

### **ANY OTHER BUSINESS**

*1. Invitation to attend the Launch of the Kenya Marine Services Socio-economic Development Project*

The meeting was informed of an invitation from the PS, Fisheries, Aquaculture and the Blue Economy to attend the launch of the Kenya Marine Fisheries Socio-economic Development Project scheduled to take place on Saturday, 26<sup>th</sup> June, 2021 in Mombasa. The Committee resolved to attend the launch of the Project.

## **MIN. NO. 125/2021**

### **DATE OF NEXT MEETING**

The next meeting would be held on Tuesday, 29<sup>th</sup> June, 2021 at 11.00 a.m.

## **MIN. NO. 126/2021**

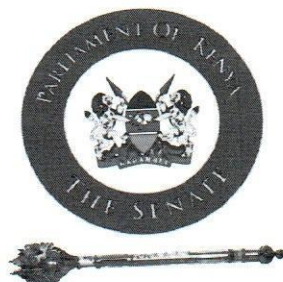
### **ADJOURNMENT**

There being no other business, the meeting was adjourned at 1.10 p.m.

A handwritten signature in black ink, appearing to read "Schirpa", is positioned above the signature line.

SIGNED:.....  
(CHAIRPERSON)

DATE:.....29/6/2021.....



**MINUTES OF THE 137<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON TUESDAY, 29<sup>TH</sup> JUNE, 2021, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

- |  |                    |
|--|--------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP        | - Chairperson      |
| 2. Sen. Enoch Wambua, MP                   | - Vice-Chairperson |
| 3. Sen. Kipchumba Murkomen, EGH, MP        |                    |
| 4. Sen. Justice (Rtd.) Stewart Madzayo, MP |                    |
| 5. Sen. Issa Juma Boy, MP                  |                    |
| 6. Sen. (Canon) Naomi Jillo Waqo, MP       | - Ag. Chairperson  |

**ABSENT WITH APOLOGY**

1. Sen. (Eng.) Ephraim Maina, MP
2. Sen. (Dr.) Michael Mbiti, MP

**SECRETARIAT**

- |                      |   |
|----------------------|---|
| 1. Ms. Carol Kiorei  | - Clerk Assistant ( <i>Taking Minutes</i> ) |
| 2. Ms. Regina Munyao | - Legal Counsel                             |
| 3. Ms. Njeri Manga   | - Media Relations Officer                   |

**MIN. NO. 127/2021**

**PRELIMINARIES**

The Acting Chairperson called the meeting to order at 11.10 a.m. followed by a word of prayer.

**MIN. NO. 128/2021**

**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Issa Boy Juma, MP and seconded by Sen. Kipchumba Murkomen, EGH, MP-

1. Preliminaries
  - a) Prayer
  - b) Adoption of the Agenda
2. Confirmation of previous Minutes
3. Matters arising from previous Minutes
4. Consideration of submissions received on the Coffee Bill, 2020
5. Any other business.
6. Date of Next Meeting

7. Adjournment.

**MIN. NO. 129/2021**

**CONFIRMATION OF PREVIOUS MINUTES**

The Minutes of the 136<sup>th</sup> Sitting held on Thursday, 24<sup>th</sup> June, 2021 were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Kipchumba Murkomen, EGH, MP and seconded by Sen. Issa Boy Juma, MP.

**MIN. NO. 130/2021**

**MATTERS ARISING FROM PREVIOUS MINUTES**

1. *Ex Min. 110/2021*  
*Co. Ltd.*

- *Meeting with the Receiver Manager, Mumias Sugar*

Members were informed that the meeting with the Receiver Manager, Mumias Sugar Company Ltd. to discuss his request for extension of time to end of July to publish an advertisement on the proposed leasing of the Company was scheduled to be held on Friday, 2<sup>nd</sup> July, 2021 at 11.00 a.m.

**MIN. NO. 131/2021**

**CONSIDERATION OF SUBMISSIONS RECEIVED  
ON THE COFFEE BILL, 2020**

The Legal Counsel presented the submissions received from the various stakeholders as follows-

1. **Proposal:** That levies at the county level be deleted as this amounts to double taxation.  
**Resolution:** Not agreed to.

2. **Clause 37**

**Proposal:** That the Coffee Research Institute be defined and its establishment be harmonized with the KALRO Act, 2013, as well as clarity on its functions especially in terms of lending.

**Resolution:** Not agreed to. The Coffee Research institute is defined under clause 2 of the Bill and its functions set out in clause 43.

3. **Clause 40**

**Proposal:** That the clause be amended to upgrade the qualification for the Board Chairman and add representation of growers.

*(e) the Principal Secretary for matters relating to trade or a representative nominated by the Principal Secretary in writing;*

*(g) one person representing the Chief Executive Officer of the Kenya Phytosanitary Plant Health Services;*

*(h) one person representing smallholder coffee growers nominated by the Council of County Governors;*

*(i) one person representing coffee estate growers nominated by the Council of County Governors*

On qualifications:

*(3) A person is qualified for appointment as a chairperson of the board of the Institute if that person—*

- (a) holds a doctorate degree in economics, agriculture, business, law, administration or other relevant degree from a university recognized in Kenya; and
- (b) has at least five years' experience in the coffee sector.

**Proposal:** That the clause be amended to set criteria for appointment of chairman- appointing body is not the issue but the following should guide the appointment.

- i. Holder of a degree from a university recognized in Kenya.
- ii. Five years' experience in the coffee industry
- iii. Active coffee farmer.
- iv. Meets the requirement of Chapter 6

**Proposal:** That the clause be amended to allow farmers to nominate their representatives.

**Resolution:** That the clause be amended to provide for nomination of a farmer representative by the Cabinet Secretary and a small scale farmers' representative nominated by the Council of Governors.

#### 4. Clause 43

**Proposal:** That the clause be amended to provide for some functions specifically.

(2) For the purpose of carrying out its functions under subsection (1), the Institute shall—

- (a) undertake policy and social-economic analysis and make recommendations to the Cabinet Secretary on coffee research;
- (b) identify production, policy, market, processing and utilization constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes;
- (e) undertake the production and supervision of quality coffee planting materials by the Institute and the authorized nursery operators;
- (f) provide competitive grants to research institutes and persons desirous of carrying out research and training programs which address value chain priorities and are consistent with the national research priorities and plans of the Institute;
- (h) support and promote the training and capacity building in relation to coffee research;
- (m) the lead agency in coffee breeding in the developing a climate resilient coffee crop and in leading the scientific effort to strengthen Kenya coffee's resistance to diseases and pests;
- (n) the lead agency in developing production, processing and other technologies and practices that contribute towards climate change adaption, resilience and mitigation;
- (o) the custodian of the Kenyan Coffee Genome and the primary instrument for making modern genomics resources available to researchers working across the coffee production chain;

- (p) the premier national and regional institute in research into and development of new coffee varieties and improvement of existing varieties;
- (q) to facilitate the use of improved production and processing technologies and to establish adequate feedback systems from coffee farmers and processors in order to achieve the highest possible quality of coffee in Kenya;
- (r) the principal platform for providing in an accessible form timely and usable form scientific information and advisory services to actors in the whole coffee production chain through field visits, radio programmes, demonstration farms, publications and modern technology tools such as social media;
- (s) conduct market research and analysis and disseminate information on its findings to relevant stakeholders;
- (t) organize national and regional bi-annual conference with coffee producers, processors and key stakeholders to share research findings and receive feedback.

**Resolution:** Agreed to.

**Proposal:** That the clause 43 1(b) provide for the institute to undertake research on the whole value chain.

**Resolution:** Not agreed to.

#### 5. Clause 47

**Proposal:** That the clause on qualifications of the CEO of the Institute be amended as follows-

- b) holds a *minimum doctorate degree in agriculture, crops science, economics or business administration or its equivalent from a university recognised in Kenya;*

**Resolution:** Not agreed to.

#### 6. Clause 53

**Proposal:** That clause 53 (b) be amended to read as follows-

- 53(b) *The levy should not be more than 2% of monies collected from the sale of coffee.*

**Resolution:** Agreed to and the earlier proposal by the Taskforce is adopted.

**Proposal:** The clause be amended to do away with levies; the implication of which is that the take home amount by the farmer continues to shrink

**Resolution:** Not agreed to.

#### 7. Clause 66

**Proposal:** That the clause be amended to as follows-

- 1) *The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations-*
  - (a) ... (as before)

- (b) the forms to be used in the application for registration, licensing, permits, the notification to the direct settlement system provider, contracts and related activities;*
- (c)... (as before)*
- (d) any fee or levy which may be charged for anything done under this Act;*
- (e) the regulation of contracts and enforcement of contractual obligations between growers, processors and other players in the coffee industry;*
- (f) the nomination of the members of the Board;*
- (g) the manner in which persons to represent growers should be nominated;*
- (h) the forms prescribing the terms to be met by persons holding certificates, licenses and permits; (m) the manner of grading and classification of coffee under this Act;*
- (n) the capping of costs charged by service providers along the value chain, and*
- (o) without prejudice to any provision in this section, anything which under this Act may be prescribed.*

**Resolution:** Agreed to.

8. **Proposal:** That the Bill includes marketing which is a core function in the coffee value chain.

**Resolution:** Agreed to.

9. **Clause 74(1)**

**Proposal:** That all laws be that may be affected by this legislation be reviewed including KALRO Act, AFA Act, Coffee Regulations to ensure uniformity in provisions.

**Resolution:** Agreed to.

10. **First Schedule, s.22 and 44**

**Proposal:** That No Board members should be involved in any private business of the board.

**Resolution:** Not agreed to.

11. **Second Schedule, s. 10 and 23 - License, permit or certificate**

**Proposal:** That licensing should not be moved to the counties.

**Resolution:** Not agreed to.

12. **Proposal:** That the Coffee Board should issue coffee auction license

**Resolution:** Agreed to.

13. **Part V – Registration and licensing**

**Proposal:** That a new Part be included in the Bill to provide for Registration, issuance of licences and permits and conditions attendant thereto.

**Resolution:** Agreed to.

#### **14. Part VIII – Quality Assurance**

**Proposal:** That a new Part be included in the Bill to provide for quality assurance.

**Resolution:** Agreed to.

**15. Proposal:** That a new clause be inserted on coffee imports and exports to read as follows-

*84 (1) All coffee imported to Kenya shall conform to the Kenya coffee standards.*

*(2) Coffee, which does not conform to the Kenya coffee standards shall be destroyed upon an order of a court of competent jurisdiction obtained in proceedings instituted by the Board with due notice to the importer, and the import and permit of the owner may be suspended and subsequently cancelled.*

**Resolution:** Agreed to.

**16. Proposal:** That a new clause on appointment and duties of inspectors be included as follows-

*Appointment and duties of inspectors.*

*83(1) The Board and county governments shall appoint and gazette inspectors for the enforcement for the provisions of this Act.*

*(2) The Board and the county governments, shall separately or jointly conduct inspections of coffee farms, coffee nurseries, pulping stations, coffee mills, warehouses, cupping laboratories, roasters or coffee buyers' vessels transporting coffee to ascertain compliance with the requirements of this Act.*

*(3) A smallholder, a grower, a pulping station operator, a transporter, a miller, a warehouse operator or a buyer shall accord an inspector access and necessary assistance for effective inspection.*

*(4) A person who fails to accord an inspector access to premises and information commits an offence.*

**Resolution:** Agreed to.

**17. Proposal:** That a new clause on surveillance be inserted to read as follows-

*85(1) The Board and county governments shall jointly or separately conduct periodic surveillance among growers, pulping stations, millers, roasters, processing plants, warehousing facilities, transporters, retail outlets, border points, and buyers' premises to assess the degree of compliance with the coffee industry policy, standards, code of practice and regulatory framework.*

*(2) The Board and the county governments shall share surveillance reports for purposes of compliance and enforcement.*

**Resolution:** Agreed to.

**18. Proposal:** That clause 93 (Miscellaneous Provisions) be amended to read General Provisions and provide as follows-

*Amended to read General Provisions.*

- (1) The Board, county governments, every licence holder, certificate holder and service provider shall digitalize and automate their operations for efficient service delivery and information dissemination.*
- (2) The digitalization process shall ensure—*
  - (a) multiple parties can access a common system;*
  - (b) flow of data takes place seamlessly across the value-chain without corruption; the system is safe and secured and protected against unauthorized entry or access;*
  - (c) access to the system is properly regulated and monitored with adequate mechanisms for continued integrity; and*
  - (d) the records are not lost, destroyed or tampered with, and in the event of any loss or destruction, sufficient back-up is available in a secure place.*
- (3) The digitalization referred to in sub-section (1) shall require the conversion of the entire value chain into a digital platform based on automation, computerization, integration across the value-chain and digital instrument usage including weigh scales, digital scanners, storage and inventory management.*

**Resolution:** Agreed to.

**19. Proposal:** That Bill be amended to provide for sharing of information between the Board and County Governments so as to align with the coffee regulations and enhance harmony in regulation of the coffee industry.

**Resolution:** Agreed to.

**20. Proposal:** That the Bill be amended to provide separate provisions for request for information by the Coffee Research Institute, the Board and the County Governments and obligation to provide correct information. This is to strengthen information sharing, enhance harmony in the regulation of the coffee industry and align with the coffee regulations.

**Resolution:** Agreed to.

**21. Proposal:** That the Bill be amended to include marketing which is a core function in the coffee value chain. Include coffee marketing agents license.

**Resolution:** Not agreed to.

The secretariat was tasked to prepare the amendments within a week's time.

**MIN. NO. 132/2021**

**DATE OF NEXT MEETING**

The next meeting would be held on Friday, 2<sup>nd</sup> July, 2021 at 11.00 a.m.

**MIN. NO. 133/2021**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at 12.19 p.m.



SIGNED:.....  
(CHAIRPERSON)

DATE:.....17/7/2021.....



**MINUTES OF THE 139<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON THURSDAY, 8<sup>TH</sup> JULY, 2021, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

- |                                     |   |                  |
|-------------------------------------|---|------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson      |
| 2. Sen. Enoch Wambua, MP            | - | Vice-Chairperson |
| 3. Sen. Kipchumba Murkomen, EGH, MP |   |                  |
| 4. Sen. Issa Juma Boy, MP           |   |                  |

**ABSENT WITH APOLOGY**

1. Sen. (Canon) Naomi Jillo Waqo, MP
2. Sen. Eng. Ephraim Maina, EBS, MP
3. Sen. (Dr.) Michael Mbiti, MP
4. Sen. Justice (Rtd.) Stewart Madzayo, MP

**SECRETARIAT**

- |                       |   |   |
|-----------------------|---|---|
| 1. Ms. Carol Kiorei   | - | Clerk Assistant                           |
| 2. Mr. David Angwenyi | - | Clerk Assistant ( <i>Taking Minutes</i> ) |
| 3. Ms. Regina Munyao  | - | Legal Counsel                             |
| 4. Ms. Mary Nyawira   | - | Audio Officer                             |

**MIN. NO. 140/2021**

**PRELIMINARIES**

The Chairperson called the meeting to order at 11.19 a.m. and commenced the meeting with a word of prayer.

**MIN. NO. 141/2021**

**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Issa Juma Boy, MP and seconded by Sen. Kipchumba Murkomen, EGH, MP-

1. Preliminaries
  - a) *Prayer*
  - b) *Adoption of the Agenda*
2. Consideration of proposed amendments to the Coffee Bill, 2020 \*

3. Any other business.
4. Date of Next Meeting
5. Adjournment.

**MIN. NO. 142/2021**

**CONSIDERATION OF THE PROPOSED  
AMENDMENTS TO THE COFFEE BILL, 2020.**

The Legal Counsel informed the meeting that the amendments by the Coffee Taskforce adopted by the Committee were yet to be redrafted into the drafting style of the Senate. Noting the need to consider the final draft of the proposed amendments, the Committee resolved to give the secretariat more time to redraft the amendments and thereafter hold a retreat to consider the same between 22<sup>nd</sup> and 26<sup>th</sup> July, 2021 in Nakuru County.

Members sought clarification on the Committee's resolution regarding licensing of the coffee exchange. The Committee was informed that the resolution made was that the Capital Markets Authority would handle the licensing as opposed to the Board. The Legal Counsel was tasked to compare the provisions of the Coffee General Regulations, 2019 and the provisions of the Coffee Bill, 2020 to ensure that they were in tandem, and that a comparative analysis be undertaken on the role of the Capital Markets Authority in commodity exchange in other jurisdictions.

**MIN. NO. 143/2021**

**ANY OTHER BUSINESS**

**i) Second Reading of the Coffee Bill, 2020**

The meeting was informed that the Coffee Bill, 2020 was listed in the Order Paper for Second Reading. The Chairperson undertook to communicate to the Speaker to put the Bill on hold until the Committee finalized its Report.

**ii) Introduction of Committee Clerk**

Members were informed that Mr. David Anunda Angwenyi, Clerk Assistant, would be joining the secretariat of the Committee to serve as a Committee Clerk. Members welcomed him to the Committee.

**MIN. NO. 144/2021**

**DATE OF NEXT MEETING**

The next meeting would be held on Friday, 9<sup>th</sup> July, 2021 at 11.00 a.m.

**MIN. NO. 145/2021**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at 11.45 a.m.

A handwritten signature in black ink, appearing to read "Schirpa", is written over a horizontal dotted line.

SIGNED:.....

(CHAIRPERSON)

DATE:.....17/7/2021.....



**MINUTES OF THE 140<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON FRIDAY, 9<sup>TH</sup> JULY, 2021, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

- |                                     |   |                  |
|-------------------------------------|---|------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson      |
| 2. Sen. Enoch Wambua, MP            | - | Vice-Chairperson |
| 3. Sen. Kipchumba Murkomen, EGH, MP |   |                  |

**ABSENT WITH APOLOGY**

1. Sen. (Canon) Naomi Jillo Waqo, MP
2. Sen. Issa Juma Boy, MP
3. Sen. Justice (Rtd.) Stewart Madzayo, MP
4. Sen. (Eng.) Ephraim Maina, MP
5. Sen. (Dr.) Michael Mbiti, MP

**SECRETARIAT**

- |                       |   |   |
|-----------------------|---|---|
| 1. Ms. Carol Kiorei   | - | Clerk Assistant                           |
| 2. Mr. David Angwenyi | - | Clerk Assistant ( <i>Taking Minutes</i> ) |
| 3. Ms. Regina Munya   | - | Legal Counsel                             |
| 4. Ms. Mary Nyawira   | - | Audio Officer                             |

**MIN. NO. 146/2021**

**PRELIMINARIES**

The Chairperson called the meeting to order at 11.20 a.m. followed by a word of prayer.

**MIN. NO. 147/2021**

**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Enoch Wambua, MP and seconded by Sen. Kipchumba Murkomen (EGH), MP-

1. Preliminaries
  - a) *Prayer*
  - b) *Adoption of the Agenda*
2. Consideration of the role of the Capital Markets Authority in the regulation of commodities exchanges
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

**MIN. NO. 148/2021**

**CONSIDERATION OF THE ROLE OF CAPITAL  
MARKETS AUTHORITY IN THE REGULATION OF  
COMMODITIES EXCHANGES**

The Chairperson informed the Committee that an advisory note had been received from the Capital Markets Authority on regulation of commodities exchanges by the CMA. He informed the Committee-

1. That a meeting was held between the Committee, the Commission, all centers of coffee growers were represented and the Members of Parliament where the Commission took the stakeholders through the process and the intended regulation to be introduced;
2. That the contentious issues for discussion are issues raised by the Minister/Cabinet Secretary for Agriculture, on the issue of CMA when he hosted Members of Parliament;
3. That CMA is not the body that directly sells Coffee;
4. That the coffee Bill, 2020 provides for a provision for coffee Exchange that is mandated to regulate the auction of the coffee and that the Coffee exchange that is being regulated by CMA as provided by the Capital Markets Act;
5. The coffee Millers were licensed to be marketing agents, who are also the coffee buyers; a mischief the Committee is trying to cure through the Bill; and
6. That the Minister insists that the Membership of the coffee exchange to be appointed by the Cabinet Secretary while the Committee suggests that the membership of the coffee exchange to be predominantly from the farmers as it's the farmers body;

Following deliberations, the Committee resolved as follows-

1. To leave the Bill in its present form to conform to the coffee regulation and also the role of CMA as currently provided for in the Capital Markets Act; and
2. To have the retreat on between 15<sup>th</sup> and 19<sup>th</sup> July, 2021 in Naivasha, Nakuru County to consider the final draft of the proposed amendments to the Coffee Bill, 2020 and report.

**MIN. NO. 149/2021**

**DATE OF NEXT MEETING**

The next meeting would be held on Friday, 16<sup>th</sup> July, 2021 at 9.00 a.m.

**MIN. NO. 150/2021**

**ADJOURNMENT**

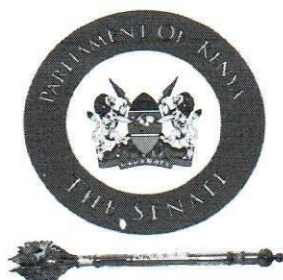
There being no other business, the meeting was adjourned at 11.35 p.m.

A handwritten signature in black ink, appearing to read 'Schirya', is written over a horizontal dotted line.

SIGNED:.....

(CHAIRPERSON)

DATE:.....17/7/2021.....



**MINUTES OF THE 142<sup>ND</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON SATURDAY, 17<sup>TH</sup> JULY, 2021, AT 10.00 A.M. AT THE ENASHIPAI RESORT AND SPA, NAIVASHA.**

**PRESENT**

- |                                      |   |                  |
|--------------------------------------|---|------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP  | - | Chairperson      |
| 2. Sen. Enoch Wambua, MP             | - | Vice-Chairperson |
| 3. Sen. (Canon) Naomi Jillo Waqo, MP |   |                  |
| 4. Sen. Kipchumba Murkomen, EGH, MP  |   |                  |
| 5. Sen. Issa Juma Boy, MP            |   |                  |

**ABSENT WITH APOLOGY**

1. Sen. Justice (Rtd.) Stewart Madzayo, MP
2. Sen. (Eng.) Ephraim Maina, MP
3. Sen. (Dr.) Michael Mbiti, MP

**SECRETARIAT**

- |                       |   |   |
|-----------------------|---|---|
| 1. Ms. Carol Kiorei   | - | Clerk Assistant ( <i>Taking Minutes</i> ) |
| 2. Mr. David Angwenyi | - | Clerk Assistant                           |
| 3. Mr. Jeffah Ombati  | - | Legal Intern                              |
| 4. Ms. Winnie Atieno  | - | Audio Officer                             |

**MIN. NO. 156/2021**

**PRELIMINARIES**

The Chairperson called the meeting to order at 10.15 a.m. followed by a word of prayer.

**MIN. NO. 157/2021**

**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Enoch Wambua, MP and seconded by Sen. (Canon) Naomi Waqo, MP-

1. Preliminaries
  - a) Prayer
  - b) Adoption of the Agenda
2. Consideration and adoption of the Report on the Consideration of the Coffee Bill (Senate Bills No. 22 of 2020)
3. Any other business.

4. Date of Next Meeting
5. Adjournment.

**MIN. NO. 158/2021**

**CONSIDERATION AND ADOPTION OF THE  
REPORT ON THE CONSIDERATION OF THE  
COFFEE BILL, (SENATE BILLS NO. 22 OF 2020)**

The Committee considered the Report on the consideration of the Coffee Bill, (Senate Bills No. 22 of 2020). The Committee adopted the Report after it was proposed by Sen. Issa Boy Juma, MP and seconded by Sen. (Canon) Naomi Waqo, MP

**MIN. NO. 159/2021**

**ANY OTHER BUSINESS**

**a) The Coconut Industry Development Bill, 2021**

The Committee was informed that the Coconut Industry Development Bill, 2021 had been read a First Time and had been committed to the Committee for consideration. The Committee resolved to undertake public participation in Mombasa County between 9<sup>th</sup> – 12<sup>th</sup> August, 2021.

**b) Invitation to a Workshop by KEPSA**

The Committee was informed that an invitation had been received from KEPSA Agriculture Sector Board to attend a joint Workshop with the Departmental Committee on Agriculture and Livestock of the National Assembly on 20<sup>th</sup> July, 2021. Noting that the said date was a public holiday, the Committee resolved to propose Friday, 13<sup>th</sup> July, 2021 for the meeting.

**MIN. NO. 160/2021**

**DATE OF NEXT MEETING**

The next meeting would be held on Monday, 19<sup>th</sup> July, 2021 at 11.00 a.m.

**MIN. NO. 161/2021**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at 11.15 a.m.

SIGNED:.....



(CHAIRPERSON)

DATE:.....17/7/2021.....

# APPENDIX II

Committee Stage amendments to the Bill



14<sup>th</sup> July, 2021

The Clerk of the Senate,  
Parliament Buildings,  
**NAIROBI.**

**RE: COMMITTEE STAGE AMENDMENTS TO THE COFFEE BILL, SENATE  
BILLS NO. 22 OF 2020**

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**NOTICE** is given that Sen. Peter Njeru Ndwiga, Chairperson, Committee on Agriculture, Livestock and Fisheries intends to move the following amendments to the Coffee Bill, Senate Bills No. 22 of 2020, at the Committee Stage—

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended by inserting the words “of the opposite gender” immediately after the words “two persons” in paragraph (g).

**CLAUSE 10**

**THAT** clause 10 of the Bill be amended in subsection (1) by —

- (a) inserting the words “funding models” immediately after the words “implementation of strategies” in paragraph (d);
- (b) deleting paragraph (f) and substituting therefor the following new paragraph  
—
  - (f) conduct national and international coffee market intelligence and surveys to inform promotional and branding strategies including the application of the Kenya Coffee Mark of Origin;
- (c) deleting paragraph (h) and substituting therefor the following new paragraph  
—
  - (h) develop and implement a framework for the capacity building of players in the coffee industry;
- (d) deleting paragraph (l);
- (e) inserting the following new paragraphs immediately after paragraph (l)—

- (m) undertake technology transfer and provide technical assistance to county governments on matters relating to coffee;
- (n) conduct surveillance and enforce compliance with relevant policies, standards and legislation on the coffee sector;
- (o) co-ordinate inter-agency representation in international coffee fora to promote increased market share of Kenyan coffee
- (p) arbitrate over disputes arising between parties registered or licensed by the Board under this Act; and
- (q) carry out such other functions as may be assigned by the Cabinet Secretary or conferred under any other law.

#### **CLAUSE 17**

**THAT** the Bill be amended by deleting Clause 17.

#### **CLAUSE 23**

**THAT** clause 23 of Bill be amended in subclause (1) by—

- (a) deleting paragraph (e) and substituting therefor the following new paragraph—
  - (e) offer and co-ordinate the delivery of extension services on sustainable production primary processing of coffee and climate smart agriculture;
- (b) inserting the following new paragraph immediately after paragraph (f) —
  - (fa) regulate the movement of coffee through the issuance of movement permits for *buni*, parchment and clean coffee within the county and from the county to warehouses situated outside the county.

#### **CLAUSE 26**

**THAT** clause 26 of the Bill be amended in subclause (1) by deleting the words “nursery operator” appearing immediately after the words “a coffee grower ” and substituting therefor the words “miller, roaster or warehouse, nursery operator, coffee”.

#### **CLAUSE 27**

**THAT** clause 27 of the Bill be amended by inserting the following new subclause immediately after subclause (8) —

(8A) The holder of a coffee buyer's licence or an entity associated with such holder shall not carry on the business of a commercial miller, broker, roaster, agent or warehouse operator.

(8B) A buyer's licence shall not be construed as authorizing a person to engage in direct sale of coffee or coffee products.

(8C) A holder of a commercial miller's licence or any other entity associated with such holder shall not carry on the business of a buyer, broker, roaster, or agent.

(8D) A licensing authority shall not issue a licence to a person whose effect would result in in the contravention of subsection (8A), (8B) or (8C).

#### **CLAUSE 32**

**THAT** clause 32 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a) —

(aa) monies received from the levy imposed on coffee sales pursuant to section 32A.

#### **CLAUSE 40**

**THAT** clause 40 of the Bill be amended in—

(a) subclause (1) by—

(i) inserting the word "estate" immediately after the word "one person representing" in paragraph (f);

(ii) inserting the following new paragraph immediately after paragraph (f)—

(fa) one person representing small scale coffee growers nominated by the Council of County Governors;

(b) subclause (2) by inserting expression “(fa)” immediately after the words “under subsection (1)(f)”

#### **CLAUSE 41**

**THAT** clause 41 of the Bill be amended by inserting the expression “(fa)” immediately after the words “under section (1)(f)”.

#### **CLAUSE 43**

**THAT** clause 43 of the Bill be amended in—

(a) subclause (1) by inserting the words “and new coffee varieties” immediately after the words “in coffee diseases” in paragraph (b);

(b) subclause (2) by —

(a) inserting the words “demand driven participatory” immediately after the words “and long-term” in paragraph (b);

(b) inserting the following new paragraph immediately after paragraph (d)

—

(da) undertake the propagation of quality coffee planting materials and supervision of registered nursery operators;

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

(e) provide competitive grants to research institutes and persons desirous of carrying out research and training programs which address value chain priorities and are consistent with the national research priorities and plans of the institute;

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

(ka) be the lead scientific agency in coffee breeding for the development of a climate resilient coffee crop and coffee that is resistant to diseases and pests;

- (kb) develop technologies and practices for adoption along the production, processing and value chain that contribute towards climate change adaption, resilience and mitigation;
  - (kc) be the custodian of the Kenyan Coffee Genome and the primary instrument for making modern genomics resources available to researchers working across the coffee production chain;
  - (kd) provide and facilitate access to timely scientific information in a useable format and advisory services to actors in the coffee production chain;
  - (ke) conduct market research and analysis and disseminate information on its findings to relevant stakeholders; and
- (e) deleting the word “Board” appearing before the words “functions as the” and substituting therefor the words “board of the Institute” in paragraph (l).

#### **CLAUSE 53**

**THAT** clause 53 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

- (b) one percent of monies collected from the sale of coffee pursuant to section 32A of this Act;

#### **CLAUSE 62**

**THAT** clause 62 of the Bill be amended by deleting the words “court of competent jurisdiction” appearing before the words “appeal to a” and substituting therefor the words “the High Court” in subclause (2).

#### **CLAUSE 64**

**THAT** clause 64 of the Bill be amended by deleting the words “pursuant to Article 24 of the Constitution, the” appearing in the beginning of the clause and substituting therefor the word “The” in subclause (1).

#### **CLAUSE 66**

**THAT** clause 66 the Bill be amended in subclause (2) by—

- (a) inserting the words “permits, the notification to the direct settlement system provider,” immediately after the words “for registration, licencing” in paragraph (b);
- (b) inserting the words “or levy” immediately after the words “any fee” in paragraph (d);
- (c) inserting the words “and enforcement” immediately after the words “the regulation” in paragraph (e) ;
- (d) inserting the following new paragraphs immediately after paragraph (e) —
  - (f) the process of nomination of members to the Board;
  - (g) the conditions for the issuance of certificates, licenses and permits under this Act;
  - (h) the trade, storage, bulking, packing and roasting of coffee;
  - (i) the regulation of nursery operations, pulping, milling, warehousing and transportation of coffee;
  - (j) the grading and classification of coffee; and
  - (k) the imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers.

#### **NEW CLAUSE 2A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 2—

#### **CLAUSE 2A**

2A. The object of this Act is to —

Objects.

- (a) promote a globally competitive coffee industry;
- (b) provide a framework for the registration and licensing of various players within the coffee sector;
- (c) delineate the roles of the National and County Governments in the regulation, development and promotion of the coffee sector;
- (d) promote the vertical integration of the coffee value chain for the purpose of achieving economies of scale and managing risk;
- (e) promote evidence based coffee research and the delivery of extension services for the development of the coffee sector;
- (f) provide a framework for the establishment of a coffee development levy;
- (g) provide a framework for the sustainable funding of the coffee sector; and
- (h) provide for the establishment of a dispute resolution mechanism within the coffee sector.

## CLAUSE 27

THAT the Bill be amended by inserting the following new clauses immediately after clause 27—

27A. The following licences shall be issued by the Authority under the Capital Markets Act—

Licences issued by the  
Authority.  
Cap 485A.

- (k) coffee exchange licence authorising a person to conduct the business of a coffee exchange;
- (l) a broker's licence authorising a person to offer clean coffee for sale at an exchange on behalf of the grower.

**27B.** (1) A person shall not operate as a cupping laboratory, liquorer, coffee buyer, coffee importer, agent or warehouse operator unless the person is licensed or issued a registration certificate or a permit by the Board upon satisfaction of the prescribed conditions.

Requirements for  
certificates, licenses and  
permits.

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

Cap 485A

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

**27C.** A licence holder shall act in the best interest of coffee growers and adhere to prescribed conditions for the issuance of a licence and contractual obligations.

Obligations of license  
holders .

**27D.** A licence holder provider shall submit monthly returns to the relevant licensing authority in the prescribed form.

Returns.

**27E.** (1) A person shall not transport clean coffee unless such person –

Movement permits.

(a) holds a licence issued pursuant to section 27 of this Act; and

(b) has applied for, and obtained a movement permit issued, in the case of—

(i) buni and parchment, by the respective county of origin;

- (ii) movement of clean coffee from the coffee mills to the warehouses, by the respective county governments; and
- (iii) movement of clean coffee by buyers upon purchase, movement of purchased clean coffee to warehouses by millers, or movement of clean coffee for export or import, by the Board.

(2) A coffee movement permit issued under subsection (1) shall be in the prescribed form.

(3) Subsection (1)(b)(i) shall not apply to a smallholder moving cherry coffee produced by the smallholder between the farm and the pulping station where he or she is registered.

(4) A person transporting coffee under subsection (1) shall –

- (a) have, in his or her possession at the time of transporting the coffee, the original movement permit issued by the respective licensing authority; and
- (b) ensure that the vessel used to transport the coffee conforms to the prescribed coffee standards.

(5) The respective county executive committee member shall monitor the movement of cherry and parchment coffee between farms and stores and the movement of clean coffee and hulled *buni* to the market and shall, for this purpose –

- (a) prescribe, in county legislation, guidelines for the safe movement of cherry and parchment coffee; and
- (b) put in place measures to curb illegal dealings in coffee or coffee products.

(6) A person who moves coffee contrary to this Act commits an offence.

#### **NEW CLAUSE 30A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 30—

**30A.** (1) Each county executive committee member shall submit to the Board a report on the registered and licensed coffee growers and dealers at the end of each month or within such timelines as may be agreed upon with the Board..

(2) The Board shall submit to the respective county executive committee member a report on the registered and licensed dealers and other service providers within the respective county at the end of each month or within such timelines as may be agreed upon with the respective county executive committee member.

#### **NEW HEADING**

**THAT** the Bill be amended by inserting the following new heading immediately after clause 31—

#### **PART IVA— PRODUCTION AND PROCESSING.**

## NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 31—

### CLAUSE 31A

31A (1) The Institute shall—

Coffee production.

- (a) disseminate, in collaboration with the county governments, coffee production and processing technologies;
- (b) undertake the propagation of coffee planting materials;
- (c) supervise, in collaboration with the county governments, nursery operators undertaking the business of propagating planting materials;
- (d) issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export;
- (e) map out areas suitable for coffee production in Kenya; and
- (f) undertake capacity building for the county governments and other players on coffee production and processing.

(2) The respective county executive committee members shall undertake soil mapping and analysis to determine nutritional requirements for coffee production.

31B. (1) A person shall not import coffee planting materials unless such a person been registered by the Board.

Importation of coffee planting materials.

(2) The Board may, upon application and in collaboration with the Kenya Plant Health inspectorate Service and any other

relevant agency, register a person to import coffee planting material for nursery establishment subject to the prescribed conditions.

**31C.** (1) The Institute shall, in collaboration with the respective county executive committee member, undertake analysis of the farm inputs to ascertain compliance with the prescribed standards.

Farm inputs.

(2) The respective county executive committee member shall establish farm inputs schemes to enhance coffee production.

(3) The National government in consultation council of county governors may put in place the infrastructure necessary for the production and availability of quality farm inputs for coffee production;

(4) The county executive committee member shall monitor and oversee the implementation and compliance with standards by farm input stockists.

**31D.** (1) A co-operative society comprising coffee growers shall keep and maintain a register of coffee growers and the number of coffee trees planted or uprooted in the prescribed form.

Notification after  
planting, uprooting  
coffee or change  
of details of farm or  
estate.

(2) A co-operative society shall submit to the respective county executive committee member a record of the information maintained by the society under subsection (1).

(3) Each county executive committee member shall keep and maintain a record, in the prescribed form, of the area under coffee cultivation and information regarding uprooted coffee in the county.

(4) The county executive committee member shall submit to the Board, annually, the record kept under subsection (3).

**31E.** (1) The Board shall register and monitor certification schemes for compliance with Kenyan coffee standards.

Certification of Kenya  
Coffee.

(2) A coffee grower, miller or any other player in the coffee value chain may seek certification by the respective licencing authority to ensure the quality of coffee, the quality of service and secure market confidence.

(3) The Board shall keep and maintain a register of certification scheme operators in each county.

(4) The Board shall, for the purpose of subsection (2), -

(a) keep and maintain a register of certified scheme operators; and

(b) submit, a copy of the register to the respective county executive committee member.

(5) Each county executive committee member shall monitor the operations of certification schemes and periodically advise the coffee growers within the respective county and the Board on best practice and performance of a scheme.

(6) A certification scheme under subsection (1) shall provide the particulars of certification services, competencies of their scheme operators and the benefits of the certification schemes to coffee growers.

(7) Certified coffee shall be identified and labelled according to the respective certification scheme for traceability and marketing.

(8) A miller shall, in the case of certified coffee, specify information relating to the certified coffee in the sales catalogue maintained by the miller.

(9) A coffee miller shall, before offering the coffee for sale in the exchange, provide proof of certification.

**31F.** The processing of coffee shall be conducted at designated, standard approved facilities and in accordance with the National Standards and Industry Code of Practice.

Requirements relating to coffee processing.

**31G.** (1) The Board shall establish a coffee traceability system in the prescribed form.

Requirements relating to coffee traceability and disclosures.

(2) A person who operates a pulping station or coffee mill shall comply with prescribed traceability system established by the Board under subsection (1).

(3) A cooperative society shall, in imposing a fee to its growers, adhere to the societies' budget and not exceed ten percent of the gross earnings from the coffee sales.

(4) Every contract for milling of coffee shall be in writing and shall contain such information as may be prescribed.

(5) A commercial miller shall –

- (a) ensure that the grower or grower's representative is given reasonable notice to be present during the milling process;
- (b) take out comprehensive insurance cover against fire, theft, and other risks for all coffee in its possession and custody;
- (c) account for mill spillage or sweepings and all other coffee by-products to the growers and the Board;
- (d) digitize its operations to ensure weight precision, timely dissemination of information and protection of growers' data;
- (e) submit returns on coffee received and milled to the Board and the respective county government; and
- (f) comply with the prescribed standard coffee grades.

**31H.** (1) A coffee miller may bulk parchment or *buni* coffee of the same quality and characteristics in order to attain millable quantities. Bulking of coffee

(2) A coffee miller who bulks coffee shall avail information, in the prescribed form, to an exchange and the direct settlement system provider on proportions of the bulked coffees for purposes of processing payments.

(3) The respective county executive committee member and the Board shall, separately or jointly undertake regular inspections to ensure compliance with this Act by the coffee millers.

(4) A coffee grower may deliver coffee samples not exceeding five hundred grams of parchment or *buni* for independent quality analysis by a laboratory before delivery to a commercial coffee miller.

(5) A laboratory to which a sample is submitted under subsection (4) shall issue to the coffee grower, a quality report in the prescribed form.

(6) A coffee miller shall remit two hundred grams samples for each grade of an out-turn to the Board for quality analysis and assessment of conformity with coffee standards.

(7) A co-operative society or association comprising smallholder growers that intends to obtain milling services shall competitively procure the services of a miller or other service providers to whom the coffee is intended to be delivered for milling.

(8) Any charges imposed for the delivery of services to a coffee grower shall be communicated in the prescribed form to

the direct settlement system provider before the sale of coffee for the purpose of settlement after the sale has been conducted.

#### **NEW HEADING**

**THAT** the Bill be amended by inserting the following new heading immediately after the proposed new clause 31H.—

### **PART IVB—COFFEE TRADING AND MARKETING**

#### **NEW CLAUSE 31I**

**THAT** the Bill be amended by inserting the following new clauses immediately after the proposed new clause 31H—

**31I.** (1) Kenya Coffee may be offered for sale through—

Coffee trading.

- (a) auction in the exchange;
- (b) direct sales; or
- (c) such other method as the Cabinet Secretary may prescribe.

(2) A buyer, a roaster, or a grower miller licensed by the relevant licensing authority, or a broker appointed by the grower, may trade at an exchange in accordance with this Act and any other law governing trade in an exchange.

**31J.** (1) A licensed grower may undertake, in the prescribed manner, a direct sale in coffee and may, for this purpose, sell own clean coffee to a licensed roaster for local value addition and sale.

International and local direct coffee sales.

(2) The price at which a grower offers coffee for sale under subsection (1) shall bear a favorable comparison to the prices at an exchange.

(3) A licensed grower and a licensed roaster shall submit monthly returns to the Board, in the prescribed form, on sales undertaken under subsection (1) including —

- (a) a copy of the contract;
- (b) the coffee grade;
- (c) the coffee quantity;
- (d) the coffee price;
- (e) details of a certification scheme, where applicable;
- (f) quality report;
- (g) mode of payment; and
- (h) a dispute resolution clause.

**31K.**(1) There is established a body to be known as Nairobi Coffee Exchange for purposes of coffee trading.

Establishment and functions  
of Nairobi coffee Exchange.

(2) The Nairobi Coffee Exchange shall be a body corporate, registered under the Companies Act.

(3) The functions of the Exchange shall be to —

- (a) manage the auction floor, the central sample room, the information registry and the direct settlement system;
- (b) maintain records relating to coffee sales, coffee samples and sweepings;
- (c) avail sales catalogues to interested parties in accordance with the Capital Markets Act; and
- (d) carry out such other function as the Cabinet Secretary may prescribe.

(4) The proceeds of the sale of coffee at an exchange shall be deposited in a direct settlement system established in accordance with the Capital Markets Act.

**31L.** (1) Brokers and agents appointed by growers and other service providers are prohibited from receiving coffee sales proceeds on behalf of the growers.

Management of the exchange and settlement of coffee sales proceeds.

(2) A coffee warrant or a warehouse receipt as the case may be, issued by the warehouse operator to a depositor of coffee shall be transferable to a new holder who has purchased the coffee and is entitled to take its delivery upon presentation of the coffee warrant or the warehouse receipt endorsed by the exchange to the warehouse operator.

(3) The Exchange shall disseminate market information for every auction and an analysis of performance on, weekly and monthly basis.

(4) A person who contravenes the provisions of this section commits an offence.

**31M.** (1) A commercial miller or a broker appointed in consultation with the commercial miller, shall prepare a sales catalogue in consultation with an exchange and growers, for all the coffee in a licensed warehouse in accordance to this Act.

Sales catalogue.

(2) A sales catalogue shall specify the prompt date and contain other particulars prescribed under this Act.

**31N.** (1) All coffee shall be stored in warehouses licensed by the respective county governments.

Coffee warehousing in designated warehouses.

(2) The county executive committee member shall not designate premises as a coffee warehouse unless the premises

have been inspected, approved and licensed by the committee member.

(3) A licensed warehouse shall conform to the standards prescribed by the Kenya Bureau of Standards.

(4) The Board and county governments shall inspect warehouses and warehousing activities on a regular basis.

(5) A warehouse operator shall insure all coffee in his or her warehouse or under his or her custody against fire, theft and other insurable risk.

(6) A warehouse operator shall not remove or cause to be removed from a warehouse, coffee unless the operator has applied for, and obtained an endorsed coffee warrant or warehouse receipt as the case may be.

(7) A warehouse operator shall account for any weight or quality loss to the respective grower, agent, buyer or roaster.

(8) A person who operates a warehouse contrary to this Act commits an offence.

**310. (1)** A person shall not export coffee or cause any coffee to be exported unless such person —

Export and import of coffee.

(a) has applied for, and obtained a phytosanitary certificate from the Kenya Plant Health Inspectorate Service.

(b) has been issued with a coffee buyer's licence, notification and registration of direct sales contracts, certificate of origin and certificate of quality by the Board.

(2) The Board shall authorize the importation of coffee through the issuance of import permits or a buyer's licence:

(3) Clean coffee imports shall be accompanied by the certificate of origin and a phytosanitary certificate issued by the country of origin and comply with the Kenya coffee standards.

(4) Clean coffee which consists only of a sample or a parcel not exceeding twenty kilograms in weight shall not require a buyer's license from the Board provided that it fulfils other relevant licensing and certification requirements

**31P.** (1) A person who blends any or various grades of coffee produced in Kenya with any other coffees produced outside Kenya shall declare the percentage of Kenyan coffee in the blend.

Prohibition against blending.

(2) A person who contravenes subsection (1) commits an offence.

**31Q.** The trading activities at an exchange shall be compliant with relevant laws that deter unfair trading and anti-competitive practices.

Anti-competitive practices.

## **NEW HEADING**

**THAT** the Bill be amended by inserting the following new heading immediately after the proposed new clause 31Q—

## **PART 1VC—QUALITY ASSURANCE**

### **NEW CLAUSE 31R**

**31R.** (1) The Board and county governments shall collaborate in the enforcement of coffee industry standards along the value chain, for purposes of quality assurance.

Quality Assurance for  
Coffee Industry.

- (2) The Board, in consultation with an accredited university of higher learning, and industry stakeholders, may develop a training curriculum, conduct examinations and jointly issue certificates for coffee liquorers.
- (3) The Board may enter into a memorandum of understanding with an accredited university in the training and administration of liquorers' examinations.
- (4) A person certified as a liquorer shall apply for a practicing licence to the Board to offer liquoring services.
- (5) The Board shall, in collaboration with county governments, establish cupping centers in the counties for the purpose of coffee quality analysis and capacity building.
- (6) Coffee quality analysis at the cupping centers shall be carried out by certified liquorers.
- (7) Quality Assurance officers from the Board shall carry out assessments on coffee quality maintenance at any premises that handles coffee along the value chain.
- (8) The Board shall be at liberty to sample coffee at any stage of the value chain to ascertain permissible pesticides residue levels for compliance with set national and international standards.
- (9) The Board, in consultation with the respective county executive committee member, shall monitor maintenance of pesticide spraying records by coffee growers to enforce compliance with the permissible pesticides residue levels in coffee beans.

(10) The Board and the respective county executive committee members shall inspect coffee storage bags, wholesalers, suppliers, manufacturers and importers to check against potential contamination and samples of such coffee bags shall be subjected to relevant tests for possible contaminants.

(11) The Institute shall conduct periodic surveillance on the application of pesticides to ensure compliance with set standards and best practices.

**31S.** (1) The Board and county governments shall, by notice in the Gazette, appoint inspectors for the enforcement of the provisions of this Act.

Inspections.

(2) The Board and the county governments may, separately or jointly, conduct inspection of coffee farms, coffee nurseries, pulping stations, coffee mills, warehouses, cupping laboratories, roasters or coffee buyers' vessels transporting coffee to ascertain compliance with the requirements of this Act.

(3) A smallholder, a grower, a pulping station operator, a transporter, a miller, a warehouse operator or a buyer shall accord an inspector access and necessary assistance for effective inspection.

(4) A person who fails to accord an inspector access to premises and information commits an offence.

**31T.** (1) A person importing coffee into the country shall –

(a) ensure that the coffee complies with the coffee standards and such other quality standards as may be prescribed under this Act or any other law; and

Coffee imports to conform to standards.

- (b) adhere to the safety and health standards prescribed under this Act or any other law.
- (2) The Board shall destroy coffee which does not conform to the coffee standards.
- (3) The Board shall not destroy coffee under subsection (2) unless –
  - (a) it has issued to the importer of the coffee, notice, in the prescribed form, of intention to destroy the coffee;
  - (b) given the importer an opportunity to be heard; and
  - (c) obtained an order of a Court of competent jurisdiction for the destruction of that coffee.
- (4) The Board may, in addition to the action taken under subsection (3), suspend or cancel any licence issued to the importer under this Act.

#### **CLAUSE 32**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 32—

#### **NEW CLAUSE 32A**

**32A.** (1) The Cabinet Secretary shall, in consultation with the Board and the Institute and by notice in the *Gazette*, impose a levy of two percent on the export import value remitted

Coffee  
development  
Levy

by coffee buyers to the Board for the development of the coffee industry.

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

- (a) one percent to the Institute;
- (b) zero-point five percent to the Board for regulatory and coffee promotion purposes; and
- (c) zero-point five percent to the coffee growing County Governments for coffee development as a conditional grant.

**60A.** (1) The Board and each county executive committee member shall automate their operations for the efficient delivery of services and dissemination of information within the coffee sector.

(2) In automating its processes, the Board and the county executive committee member shall ensure that—

- (f) multiple parties can access a common system;
- (g) flow of data takes place seamlessly across the value-chain without interruption;
- (h) the system is safe and secured and protected against unauthorized access;
- (i) there is in place, a mechanism that ensures access to the system is properly regulated and monitored with adequate mechanisms for continued integrity; and
- (j) the records are not lost, destroyed or tampered with, and in the event of any loss or destruction, sufficient back-up is available in a secure place.

## **SECOND SCHEDULE**

**THAT** the Second schedule be amended -

- (a) in item 8 by deleting the words “county government” appearing in the second column and substituting therefor the word “Board;
- (b) by inserting the following the new items immediately after item 15—

16.	Coffee exchange licence	Capital Markets Authority
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**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by inserting the following definitions in their proper alphabetical sequence—

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

- (a) the office or facilities of a coffee buyer or service provider; or
- (b) or the office or facilities of a clearing house;

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

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

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

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

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

“clearing house” means an entity approved by the Authority, and recognized as a clearing institution on behalf of a coffee exchange, providing the services of clearing and settlement of transactions and guaranteeing settlement on behalf of the exchange;

“clearing and settlement” means the procedure by which a clearing house acts as an intermediary between a buyer and seller for exchange traded transactions in order to reconcile orders between transacting parties and ensure the physical or financial settlement of the transaction; “coffee dealer” means a person registered by the Board, a county government or the Authority to deal in coffee as provided under this Act;

“coffee development” means providing assistance to the coffee industry aimed at establishing advanced technologies in the production, processing and marketing of Kenya coffee.

“coffee miller” means a person licensed a county government to carry on the business of coffee milling;

“coffee milling” means mechanical hulling or de-husking of coffee and includes grading of clean coffee;

“coffee research” means systematic investigation into and study of coffee along the value chain to generate solutions in order to improve the productivity, the processing, the marketing, the value addition, logistics, socio-economic affairs and other connected purposes;

“coffee roaster” means a person licensed by a county government to buy clean coffee for value addition for local sale;

“coffee sales proceeds” means monetary consideration received at the direct settlement system in exchange for clean coffee sold at an exchange or, where applicable, through direct sales;

“coffee standards” means the Kenya Coffee Standards issued by the Kenya Bureau of Standards;

“coffee warrant” means an instrument prepared by the warehouseman of which the person named therein, or the last endorsee thereof, shall for all purposes be deemed to be the owner of the coffee to which it relates; “county executive committee member” means the county executive committee member for the time being responsible for matters relating to agriculture;

“direct sale” means a contractual arrangement between a grower, a co-operative society, society, union, grower-miller, estate or an association of coffee growers and an overseas buyer or local roaster for the sale of own clean coffee based on mutually accepted terms and conditions enforceable in law and includes settlement coffee sales proceeds through the direct settlement system on boarded by a coffee exchange; “direct settlement system” means a banking facility provided by commercial banks regulated by the Central Bank of Kenya for clearing and settlement of coffee sales proceeds;

“digitalization” means the use of digital technologies and digitized data upon conversion of current manual processes in the coffee value chain into automated and computerized processes, or paper documents into digital formats;

“estate” means an area of land or group of parcels of land under coffee not being less than five acres in size in aggregate or land under coffee which has been issued with a pulping station licence;

“licensing authority” means the Board, the Authority the county government or the Capital Market Authority as the case may be;

“liquorer” means a person certified and licensed by the Board to offer the services of coffee quality analysis;

“liquoring” means analysis of clean coffee to determine the attributes and quality of coffee for purposes of trade;

“out-turn number” means an identifying number issued by a miller in respect of coffee delivered to a mill for purposes of traceability;

“primary processing” means the process of removal of coffee pulp from cherry, fermentation, washing and drying to the coffee standard moisture content to obtain parchment;

“prompt date” means a date specified in the sales catalogue, not being more than five working days from the date of the sale, for the payment of coffee sales proceeds by a buyer or a roaster;

“pulping station” means a specified place where primary coffee processing is undertaken;

“sale” means the offering of clean coffee for sale at an exchange or through direct sale;

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

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

“small holder” means a grower cultivating coffee in a small parcel of land or in small parcels of land who does not possess his own pulping station;

“sweepings” means the balance of coffee samples in an exchange sample room and spillages collected from millers’ milling activities for sale at the exchange, the proceeds of which are paid to the respective growers on pro-rata basis;

“warehouse” means a facility registered by the Board and licensed by a county government for the storage of coffee, and which is specifically designed to guarantee the quality and safety of the coffee;

“warehouse operator” means any person registered and licensed by the Board who owns, leases or is in charge of a warehouse where coffee is handled and stored for reward or profit; and

“warehousing receipt” means a certificate issued by a licensed coffee warehouse operator in respect of coffee stored in a licensed warehouse for purposes of collateral

## LONG TITLE

**THAT** the Bill be amended by deleting the long title and substituting therefor the following new long title—

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

Dated.....2021.

Sen. Njeru Ndwiga, EGH, MP

*Chairperson,*

*Committee on Agriculture, Livestock and Fisheries.*

# APPENDIX III

The Coffee Bill, (Serate Bills No. 22 of 2020)

**THE COFFEE BILL, 2020**  
**ARRANGEMENT OF CLAUSES**

*Clause*

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- 2—Interpretation.

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- 3—Establishment of the Board.
- 4—Headquarters.
- 5—Powers of the Board.
- 6—Board of Directors.
- 7—Qualification for appointment.
- 8—Term of appointment.
- 9—Vacation of office.
- 10—Functions of the Board.
- 11—Committees of the Board of Directors.
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**FIRST SCHEDULE — CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD**  
**SECOND SCHEDULE — LICENCE, PERMIT OR CERTIFICATE**

AgriStar

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**KENYA GAZETTE SUPPLEMENT**

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**A Bill for**  
**ARRANGEMENT OF CLAUSES**

*Clause*

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OF THE BOARD****SECOND SCHEDULE — LICENCE, PERMIT OR CERTIFICATE**

## THE COFFEE BILL, 2020

### A Bill for

**AN ACT of Parliament to provide for the regulation, development and promotion of the Coffee industry, and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

### PART 1—PRELIMINARY

1. This Act may be cited as the Coffee Act, 2020.

Short title.

2. In this Act—

Interpretation.

“auction” means the system under which clean coffee is offered for sale at a Coffee Exchange;

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

“exchange” means a company incorporated under the Companies Act and licensed by the Capital Markets Authority as an exchange for trading in clean coffee;

No. 17 of 2015.

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

“coffee” means the plant botanically known as *coffea* species (L.) and includes the fruit, whether on the plant or detached therefrom, the seed in form of either buni, parchment coffee, clean coffee, roasted beans or ground coffee;

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

“coffee product” means any product, extract or substance obtained or derived from coffee by any treatment or process; “licensing authority” means the Board or the county government as the case may be; and

“Institute” means the Coffee Research Institute established under section 37.

### PART II—THE COFFEE BOARD OF KENYA

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

Establishment of Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

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

4. (1) The headquarters of the Board shall be in Nairobi City County. Headquarters.

(2) The Board may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.

5. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to— Powers of the Board.

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Board;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and
- (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.

(2) The Board may, if it considers it necessary, create or take part in the creation of, become a member of, or associate with a body or corporation designed to assist or promote the coffee industry.

6. (1) The management of the Board shall vest in a board of directors consisting of—

Board of directors.

- (a) a chairperson appointed by the President by notice in the *Gazette*;
- (b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;
- (c) the Principal Secretary for the time being responsible for trade or a representative nominated by the Principal Secretary in writing;
- (d) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;
- (e) two persons of the opposite gender representing plantation coffee growers nominated by the Council of County Governors;
- (f) one person nominated by the Institute;
- (g) two persons representing an association of farmers coffee nominated by the Cabinet Secretary; and
- (h) a chief executive officer appointed under section 14 who shall be an *ex-officio* member of the Board.

(2) The Cabinet Secretary shall appoint the members under subsection (1)(d), (e), (f) and (g) by notice in the *Gazette*.

7. A person shall be qualified for appointment as a member of the board of directors if that person —

Qualification for appointment.

- (a) holds a degree from a university recognised in Kenya
- (b) has three years' experience in the coffee sector; and
- (c) meets the requirements of Chapter Six of the Constitution.

8. The persons appointed under section 6(1)(d), (e), (f) and (g) shall serve for a term of three years renewable for one further term.

Term of appointment.

9. (1) A person ceases to be a member of the board of directors if that person—

Vacation of office.

- (a) is absent from three consecutive meetings of the board without the permission of the chairperson;
- (b) becomes an officer, agent or member of staff of the board;
- (c) resigns in writing addressed, in the case of the chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months; and
- (e) is declared bankrupt;
- (f) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (g) dies.

10. (1) The board of directors shall—

Functions of the Board.

- (a) regulate and promote the development of the coffee industry;
- (b) consider applications for the issuance of permits and licences under the second schedule to this Act;
- (c) register coffee dealers;
- (d) make recommendations to the Cabinet Secretary for, and oversee the implementation of strategies, plans and policy for the coffee sector;
- (e) collect, collate and maintain a data base and disseminate information on the coffee industry;
- (f) conduct local and international coffee market intelligence and promotional activities including the application of the Kenya Coffee Mark of Origin;
- (g) establish linkages with various government agencies, the Institute and other research

institutions for the development of the coffee industry;

- (h) put in place a framework for the capacity building and interaction of various players in the coffee industry;
- (i) promote the development of regional appellations for Kenyan coffee;
- (j) develop and enforce the coffee industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards;
- (k) maintain and cause to be published an up to date register of coffee dealers, coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in the country; and
- (l) coordinate capacity building activities for players in the coffee value chain.

(2) The board of directors shall, in the performance of its functions under this Act, consult and collaborate with the Council of County Governors.

**11.** (1) The board of directors may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.

Committees of the board of directors.

(2) The board of directors may co-opt to sit in the committees established under subsection (1) such other persons whose knowledge and skills are necessary for the performance of the functions of the Board.

**12.** The board of directors may, by resolution, 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 of the Board under this Act or under any other written law.

Delegation by the board of directors.

**13.** The members of the board of directors shall be paid such remuneration or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, determine.

Remuneration of members of the board of directors.

**14.** (1) There shall be a chief executive officer of the Board who shall be competitively recruited and appointed

Chief executive officer.

by the board of directors on such terms and conditions as the board of directors shall determine.

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

- (a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;
- (b) has at least five years' experience in a position of management; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The chief executive officer shall serve for a term of three years and shall be eligible for appointment for one further term of three years.

**15.** The chief executive officer shall be the secretary to the Board and shall, subject to the direction of the board of directors—

Functions of the chief executive officer.

- (a) be responsible for the day to day management of the affairs of the Board;
- (b) manage the funds, property and affairs of the Board;
- (c) be responsible for the management of the staff of the Board;
- (d) oversee and coordinate the implementation of the policies, programmes and objectives of the Board;
- (e) cause to be prepared for the approval of the board of directors—
  - (i) the strategic plan and annual plan of the Board; and
  - (ii) the annual budget and audited accounts of the Board; and
- (f) perform such other duties as may be assigned to him or her by the board of directors.

**16.** The chief executive officer shall cease to hold office if the person—

Removal of Chief Executive Officer.

- (a) resigns in writing, addressed to the board of directors;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is found liable for gross misconduct or abuse of office in contravention of the Public Officers Ethics Act or any other relevant law; No. 4 of 2003.
- (d) is declared bankrupt;
- (e) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (f) dies.

17.(1) There shall be a corporation secretary who shall be competitively recruited and appointed by the board of directors. Corporation Secretary.

(2) The terms and conditions of service of the corporation secretary shall be determined by the Board in the instrument of appointment on the advice of the Salaries and Remuneration Commission.

(3) A person is qualified for appointment as a corporation secretary if that person—

- (a) holds a degree from a recognised university;
- (b) is registered under the Certified Public Secretaries of Kenya Act;
- (c) is a member of good standing of the Institute of Certified Public Secretaries of Kenya established under section 3 of the Certified Public Secretaries of Kenya Act; Cap 534.
- (d) has at least seven years' experience in a similar position; and
- (e) meets the requirements of Chapter Six of the Constitution.

(4) The corporation secretary shall be the secretary to the Board and shall —

- (a) provide guidance to the board of directors on their duties and responsibilities and on matters of governance;

- (b) ensure timely preparation and circulation of Board and committee papers and minutes;
- (c) maintain and update the register of conflicts of interest; and
- (d) ensure that the annual returns and any other statutory documents required to be filed are promptly filed with the relevant authorities.

18. The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.

Staff of the Board.

19. Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection of members and staff from liability.

20. The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the board of directors.

Common seal of the Board.

21. All letters and instruments written or made by or on behalf of the board of directors, other than those required by law to be under seal, and all decisions of the board of directors, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the Board.

Signing Authority.

22. The business and affairs of the board of directors shall be conducted in accordance with the First Schedule.

Conduct of business of the Board.

### **PART III — ROLE OF COUNTY GOVERNMENTS**

23. (1) Each county government shall—

Role of county governments.

- (a) implement the National Government policy relating to coffee;
- (b) maintain an up to date register of coffee growers, nursery operators, coffee cooperative societies,

coffee associations, and coffee estates in that county;

- (c) consider applications for the certificates, permits and licenses enumerated under the second schedule to this Act;
- (d) enforce national and county legislation on coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions;
- (e) offer extension services on coffee production and primary processing;
- (f) inspect nurseries, pulping stations, warehouses, millers and roasters located within their respective counties;
- (g) in collaboration with law enforcement agencies, enhance security in coffee growing areas; and
- (h) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies.

(2) A county executive committee member may impose such levies and fees as may be necessary for the registration and issuance of licences or the provision of services in accordance with the respective county legislation and such standards as may be prescribed by the Cabinet Secretary under this Act.

(3) The Cabinet Secretary shall, in consultation with the Board and the county executive committee members prescribe standards and guidelines for the setting of levies and fees by county executive committee members under subsection (2).

**24.** Each county government may enact county specific legislation setting out the –

- (a) criteria for registration under section 26;
- (b) criteria for the issuance of permits and licences by an applicant within the respective county;
- (c) information required to be submitted by an applicant for a permit or licence;

Enactment of county specific legislation.

- (d) process of determination of an application for a permit or licence;
- (e) conditions for the issuance or renewal of a licence under this Act;
- (f) grounds for the rejection of an application or cancellation of a licence issued under this Act;
- (g) process of issuance of a licence to an applicant for a permit or licence; and
- (h) process of application for the renewal of permits or licences and revocation of a licence issued to an applicant under this Act.

25. (1) A person shall not operate a –

- (a) pulping station or carry out hulling activities;
- (b) coffee growers' mill; or
- (c) coffee roaster

Licencing of  
coffee  
operations.

unless the person has applied for, and obtained a licence from the respective county government in which the operation is to be undertaken.

(2) An applicant for a licence under subsection (1) shall submit an application in the prescribed form together with the prescribed fees to the respective county executive committee member for consideration.

(3) The county executive committee member shall consider the application and may issue to the applicant a licence in accordance with the respective county legislation.

#### PART IV—REGULATORY PROVISIONS

26. (1) A person or entity shall not carry out the business of a coffee grower, nursery operator, cooperative society, coffee association or coffee estate unless such person is registered by the respective county government in which the business is to be undertaken.

Registration.

(2) A county government shall not charge any fees for the registration of an applicant under subsection (1).

(3) Each county government shall keep and maintain the register under subsection (1) for statistical purposes.

(4) A register under subsection (3), shall include —

- (a) the name of the coffee grower, nursery operator, cooperative society, coffee association or coffee estate;
- (b) the location, size and parcel number of the land on which the business is located; and
- (c) such other information as the Board may prescribe.

(5) Each county government shall submit to the Board a copy of the register under subsection (3).

**27. (1)** A person who intends to perform any function under this Act for which a licence or a permit is required shall submit to the relevant licencing authority specified in the Second Schedule — Licensing.

- (a) an application for a licence or permit, in the prescribed form;
- (b) such information as may be prescribed; and
- (c) the prescribed fees.

(2) A licencing authority shall consider an application within such period, not exceeding fourteen days, as may be prescribed in the respective legislation, and may —

- (a) grant an application for a licence or permit unconditionally;
- (b) grant the application subject to conditions specified in the respective licensing legislation; or
- (c) refuse the application.

(3) A licensing authority shall inform the applicant of its decision under subsection (2) within fourteen days of the decision.

(4) Where a licensing authority refuses to grant an application, the licensing authority shall, in its notification under subsection (3), specify the reasons for the refusal.

(5) A licensing authority shall, at least thirty days before granting a new licence under this Act, give notice of

the proposed grant by notice in the *Gazette* and in such other manner as the authority may determine.

(6) The licensing authority shall, in issuing the notice under subsection (5)—

- (a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;
- (b) state the purpose and the date for which the licence is proposed to be issued; and
- (c) invite objections to the proposed grant of licence and direct that such objections be lodged with the licensing authority within fourteen days from the date of the notice.

(7) The licensing authority shall consider any objection submitted to it under subsection (6) and may grant the licence applied for subject to such terms and conditions as the licensing authority shall consider appropriate.

(8) A licence issued under this Act shall not be transferable.

(9) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or twice the value of the coffee or coffee product, whichever is greater, or to imprisonment for a term not exceeding two years or both.

**28.** A licence or permit issued under this Act shall be in the prescribed form.

Form of licence,  
or permit.

**29.** (1) A licence or permit issued by the licensing authority shall expire on 30th June of every year and a license holder wishing to renew the licence may apply by 1st June preceding the expiry of the licence.

Duration of  
licence.

(2) Notwithstanding the provisions of sub-regulation (1), a late application may be made upon payment of a late application fee as may be prescribed.

**30.** (1) A licensing authority may cancel a licence or permit if the licensee —

Cancellation of  
licence or  
permit

- (a) fails to meet any condition imposed by the licensing authority;

- (b) fails to comply with the provisions of the licencing legislation; or
- (c) surrenders the licence or permit to the relevant licensing authority together with a notice setting out a request that the licence be cancelled.

31. Where an applicant is dissatisfied with the decision of the Cabinet Secretary or the county executive committee member not to issue a licence under this Act, the applicant may make an application for judicial review to the court within thirty days of the decision. Appeals.

#### PART V—FINANCIAL PROVISIONS

32. The funds and assets of the Board shall comprise of— Funds of the Board.

- (a) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;
- (b) such monies as may be payable to the Board pursuant to this Act or any other written law;
- (c) such gifts as may be donated to the Board; and
- (d) monies from any other source granted, donated or lent to the Board.

33. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that year. Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned.

(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in the National Assembly and the Senate.

34. (1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General— Accounts and Audit.

- (a) a balance sheet showing in detail the assets and liabilities of the Board; and
- (b) such other statements of accounts as the Cabinet Secretary may approve.

(2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act. No. 34 of 2015.

(3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.

35. (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report. Annual report and publication.

(2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to the National Assembly and the Senate the reports, balance sheet and statements under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if a House of Parliament is not sitting, within fourteen days of the commencement of its next sitting.

36. The financial year of the Board shall be the period of twelve months ending on the thirty first of March in each financial year. Financial year of the Board.

#### **PART VI-COFFEE RESEARCH INSTITUTE OF KENYA**

37. (1) There is established an Institute to be known as the Coffee Research Institute. Establishment of the Institute.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

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

38.(1) The headquarters of the Institute shall be in Headquarters.  
Kiambu County.

(2) The Institute may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.

39.(1) The Institute shall have all the powers Powers of the  
Institute.  
necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Institute shall have power to—

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Institute;
- (c) receive gifts, grants, donations or endowments made to the Institute and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Institute's funds not immediately required for the purposes of this Act, as it may determine; and
- (e) operate a bank account into which all monies received by the Institute shall be paid in the first instance and out of which all payments made by the Institute shall be made.

(2) The Institute may, if it considers it necessary, create or take part in the creation of, become a member of, or associate with a body or corporation designed to assist or promote the coffee industry.

**40.** (1) The management of the Institute shall vest in a board consisting of—

Membership of  
Board of the  
Institute.

- (a) a chairperson of the board appointed by the President by notice in the *Gazette*;
- (b) the chairperson of the Board appointed by the President under section 6 (1) (a);
- (c) the Principal Secretary responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;
- (d) the Principal Secretary for matters relating to finance or a representative nominated by the Principal Secretary in writing;
- (e) the Secretary to the Science Commission appointed under paragraph 6 of the Second Schedule to the Science and Technology Act or a representative nominated by the Secretary in writing;
- (f) one person representing coffee growers nominated by the Cabinet Secretary;
- (g) one person nominated by Commission on University Education representing the universities nominated by the Cabinet Secretary; and
- (h) a chief executive officer appointed in accordance with section 47 who shall be an *ex-officio* member of the board.

Act No. 28 of  
2013

(2) The Cabinet Secretary shall appoint the members under subsection (1) (f) and (g) by notice in the *Gazette*.

(3) A person is qualified for appointment as a chairperson of the board of the Institute if that person holds a degree in any discipline from an institution recognized in Kenya and has three years' experience in the coffee sector.

**41.** The persons appointed under section 40 (1) (f) and (g) shall serve for a term of four years renewable for one further term.

Term of  
appointment.

**42.** (1) A person shall cease to be a member of the board of the Institute if that person—

Vacation of office.

- (a) is absent from three consecutive meetings of the board of the Institute without the permission of the chairperson;
- (b) becomes an officer, agent or member of staff of the Institute;
- (c) resigns in writing addressed, in the case of the chairperson, to the President and in the case of any other member, to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months; and
- (e) is declared bankrupt;
- (f) is unable to perform the functions of his office by reason of mental or physical infirmity; or
- (g) dies.

**43.** (1) The Institute shall—

Functions of the Institute.

- (a) advise the National and county governments on the resource requirements for coffee research;
- (b) prioritise areas for, and co-ordinate, coffee research including research in coffee diseases;
- (c) develop appropriate systems to promote balanced, diversified and sustained coffee development and to optimise coffee production through adaptive and investigative research;
- (d) disseminate, in collaboration with the Board, the Kenya Agricultural and Livestock Research Organisation established under the Kenya Agricultural and Livestock Research Organisation Act and other organizations, knowledge, information and application of research findings in relation to coffee; and
- (e) facilitate the use of improved production technology and establish adequate feedback systems from agricultural producers in order to achieve and maintain national self-sufficiency and export capacities in agricultural products.

No. 17 of 2013.

(2) For the purpose of carrying out its functions under subsection (1), the Institute shall—

- (a) make policy recommendations to the Cabinet Secretary on coffee research;
- (b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term research programmes within the framework of the national agricultural research system;
- (c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanisation and technology options to improve coffee production and provide answers to foreseeable problems facing coffee;
- (d) collaborate with the extension and education services and other organisations, agencies and institutions including schools, technical institutions and universities, public or private, to disseminate research results and technologies;
- (e) provide grants to research institutes and persons desirous of carrying out research and training programs which are consistent with the national research priorities and plans of the Institute;
- (f) organize, design and carry out on-station and on-farm research for coffee;
- (g) support and promote the training and capacity building in relation to agricultural research;
- (h) establish and maintain regular contact with regional and international agricultural research centres to ensure the rapid introduction, evaluation and use of coffee improved technology;
- (i) establish platforms for the purposes of sharing research information, advancing research and transfer of technology and dissemination of information relating to advancements made in coffee research;
- (j) conduct annual reviews of research results and ensure performance improvement in the field of agricultural research;

- (k) make available to the Science Commission annual reports on research and development activities carried out by or under the auspices of the Institute; and
- (l) perform such other functions as the Board shall determine.

44. The board of the Institute may co-opt two persons with knowledge and experience in matters relating to coffee for the better carrying out of the functions of the board.

Power to co-opt.

45. The business and affairs of the board of the Institute shall be conducted in accordance with the First Schedule.

Conduct of business of the Board of the Institute.

46. The members of the board of the Institute shall be paid such remuneration or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine.

Remuneration of members of the Board of the Institute.

47. (1) There shall be a chief executive officer of the Institute who shall be competitively recruited and appointed by the board of the Institute on such terms and conditions as the board shall determine.

Chief executive officer of the Institute.

(2) The chief executive officer shall be responsible for the day to day management of the affairs of the Institute.

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

- (a) is a citizen of Kenya;
- (b) holds a degree in agriculture, crops science or business administration from a university recognized in Kenya;
- (c) holds a postgraduate degree or its equivalent from a university recognised in Kenya; and
- (d) has at least five years' experience at senior management level in agricultural science; policy formulation; policy-oriented research and analysis; and management of human resource and finance.

(4) The chief executive officer shall serve for a term of five years renewable for a further term of five years.

48. The board of the Institute may remove the chief executive officer in accordance with the terms and conditions of service for—

Removal of chief executive officer of the Institute.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

49. The Institute may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Institute under this Act and upon such terms and conditions of service as the Institute may determine.

Staff of the Institute.

50. Liability shall not attach to the Institute or to any of its members, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection of members and staff from liability.

51. The affixing of the common seal of the Institute shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the board of the Institute.

Common seal of the Institute.

52. All letters and instruments written or made by or on behalf of the board of the Institute, other than those required by law to be under seal, and all decisions of the board of the Institute, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the board of the Institute.

Signing Authority.

#### **PART VII—FINANCIAL PROVISIONS OF THE INSTITUTE**

53. The funds and assets of the Institute shall comprise of—

Funds of the Institute

- (a) such monies or assets as may accrue to or vest in the Institute in the course of the exercise of its

powers or the performance of its functions under this Act including proceeds from patents;

- (b) two and a half percent of monies collected from the sale of coffee;
- (c) such monies as may be payable to the Institute pursuant to this Act or any other written law;
- (d) such gifts as may be donated to the Institute; and
- (e) monies from any other source granted, donated or lent to the Institute.

54. The board of the Institute may, upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act.

Powers to raise or borrow money.

55. The board of the Institute may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the Institute in securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance.

Power to invest.

56. (1) At least three months before the commencement of each financial year, the Institute shall cause to be prepared estimates of the revenue and expenditure of the Institute for that year.

Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Institute for the financial year concerned.

(3) The annual estimates prepared by the Institute under subsection (2) shall be submitted to the Cabinet Secretary for tabling in Parliament.

57. (1) The Institute shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

Accounts and Audit.

- (a) a balance sheet showing in detail the assets and liabilities of the Institute; and
- (b) such other statements of accounts as the Cabinet Secretary may approve.

(4) The accounts of the Institute shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

(5) The Institute shall submit to the Auditor-General all books and accounts of the Institute, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Institute such information and explanation as he may consider necessary for the performance of his duties.

No. 34 of 2015

58. (1) The Institute shall, within a period of seven months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Institute during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.

Annual report  
and publication.

(2) The Institute shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to Parliament the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if Parliament is not sitting, within fourteen days of the commencement of its next sitting.

59. The financial year of the Institute shall be the period of twelve months ending on the thirty first of March in each financial year.

Financial year  
of the Institute.

#### PART VIII—MISCELLANEOUS PROVISIONS

60. (1) The Board shall arbitrate disputes arising between any parties under this Act.

Arbitration of  
disputes.

(2) A party who is not satisfied with the decision of the Board may, within thirty days, appeal to a Court of competent jurisdiction.

61. (1) The chief executive officer of the Institute may, in writing, request any person to furnish the Institute with such information or to produce such documents or records as the chief executive officer deems necessary and relevant for the performance of the functions of the Organization.

Request for information.

(2) A person who—

- (a) refuses or fails, without reasonable cause, to comply with a request under subsection (1) to furnish any information or to produce any documents or records; or
- (b) in furnishing such information, makes a statement which they know to be false, commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

62. (1) Pursuant to Article 24 of the Constitution, the right of access to information under Article 35 of the Constitution shall be limited with respect to information whose disclosure is, in the opinion of the board of the Institute, likely to prejudice the integrity of research or any intellectual property rights held by the Institute.

Limitation of the right to access information.

(2) An officer, member of staff, or agent of the Institute shall not disclose information acquired under this Act except with the written consent of the board of the Institute.

(3) A person who receives information in contravention of subsection (2) shall not disclose or publish the information.

(4) A person who contravenes subsection (2) or (3) commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

63. The Board shall carry out market research and analysis and disseminate information on its findings to all stakeholders.

Dissemination of market information.

**64.** (1) A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine of not less than twenty thousand shillings or a fine not exceeding twice the value of the coffee or coffee products or, to imprisonment for a term not exceeding six months, or to both.

Penalties.

(2) Where an offence under this Act is committed by a partnership, company, association or co-operative society, every person who at the time when the offence was committed—

- (a) was director, partner or officer;
- (b) had knowledge or should have had knowledge of the commission of the offence; and
- (c) did not exercise due diligence to ensure compliance with this Act,

commits an offence and is liable for the offence as if they had committed the offence, unless they prove that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer concerned as aforesaid and to all the circumstances.

**65.** Subject to other applicable laws, the Institute shall be exempted from such taxes, duties, fees, levy, cess or other charges as the Cabinet Secretary for the time being responsible for finance may by notice in the *Gazette*, specify.

Exemptions.

**66.** (1) The Cabinet Secretary may, in consultation with the Board, make Regulations—

Regulations.

- (a) prescribing anything that may be prescribed under this Act; and
- (b) generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations to provide for—

- (a) the regulation of the processing, importation and exportation of coffee and coffee products;

- (b) the forms to be used in the application for registration, licensing, contracts and related activities;
- (c) the process of application for registration, licensing and related activities;
- (d) any fee which may be charged for anything done under this Act; and
- (e) the regulation of contracts between growers, processors and other players in the coffee industry.

#### **PART IX—TRANSITIONAL PROVISIONS**

**67.** (1) All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Agriculture and Food Authority with respect to the coffee sector shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board as the case may be.

Rights and obligations.

(2) All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Kenya Agricultural and Livestock Research Organisation with respect to the Coffee Research Institute shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Institute as the case may be.

**68.** All funds, assets, and other property, moveable and immovable which were immediately before the appointed day vested in Agriculture and Food Authority for the carrying out of and Kenya Agricultural and Livestock Research Organisation for the carrying out of functions relating to coffee, shall, by virtue of this paragraph, vest in the Board or the Institute as the Cabinet Secretary may, by order, determine.

Assets.

**69.** (1) On or after the appointed day, all actions, suits or legal proceedings pending by or against the Agriculture and Food Authority in relation to the coffee sector shall be carried on or prosecuted by or against the Board, and no action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

Legal proceedings.

(2) On or after the appointed day, all actions, suits or legal proceedings pending by or against the Kenya Agricultural and Livestock Research Organisation in relation to the coffee research institute shall be carried on

or prosecuted by or against the Institute, and no action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

70. (1) Any reference to the Agriculture and Food Authority in any written law or in any contract, document or instrument of whatever nature, in relation to coffee, shall, on the appointed day, be read and construed as a reference to the Board.

Reference to  
written laws.

(2) Any reference to the Kenya Agricultural and Livestock Research Organisation in any written law or in any contract, document or instrument of whatever nature, in relation to coffee, shall, on the appointed day Act, be read and construed as a reference to the Institute.

71. (1) All directions, orders and authorizations given, or licenses or permits issued, or registrations made by the Agriculture and Food Authority in relation to coffee, and subsisting or valid immediately before the appointed day, shall be deemed to have been given, issued or made by the Authority as the case may be, under this Act.

Previous  
authorizations.

72. (1) Any person who, at the commencement of this Act, is a member of staff of the Agriculture and Food Authority dealing with the coffee sector shall, on the appointed day, become a member of staff of the Board on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary.

Staff.

(2) Any person who, at the commencement of this Act, is a member of staff of the Kenya Agricultural and Livestock Research Organisation working with the coffee research institute shall, on the appointed day, become a member of staff of the Institute on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary.

73. (1) In this Part—

“appointed day” means the day this Act comes into force.

Interpretation.

74. (1) The Crops Act is amended—

- (a) in section 14 (1) by deleting paragraph (a); and
- (b) in the First Schedule by deleting the term “coffee” appearing in Part 1.

Consequential  
amendments.

No. 16 of 2013

**FIRST SCHEDULE s. 22 and s. 44**

**CONDUCT OF BUSINESS AND AFFAIRS OF THE  
BOARD OF DIRECTORS OR THE BOARD OF THE  
INSTITUTE**

1. (1) The board of directors or the board of the Institute shall meet at least once in every three months to conduct the business of the respective board.

Meetings of the Board.

(2) The chairperson shall convene the ordinary meetings of the board of directors or the board of the Institute at the premises of the respective board.

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the board of directors or the board of the Institute, convene a special meeting of the respective board at any time where he considers it expedient for the transaction of the business of the board.

(4) Unless three quarters of the total number of the members of the board otherwise agree, at least fourteen days written notice of every meeting of the board of directors or the board of the Institute shall be given to every member of the respective board by the Secretary.

(5) The quorum for the conduct of the business of the respective board shall be five members.

(6) The respective chairperson shall preside at every meeting of the board at which the chairperson is present and in the absence of the chairperson, the members of the board present shall elect one person from their number to preside over the meeting of the board of directors or the board of the Institute and that person shall have all the powers of the chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the board of directors or the board of the Institute shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the board of directors or the board of the Institute shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of this Schedule, the board of directors or the board of the Institute may determine its own procedure and the procedure for any committee of the respective board and for the attendance of other persons at its meetings thereof.

2. (1) If a member of the board of directors or the board of the Institute is directly or indirectly interested in any contract, proposed contract or other matter before the board of directors or the board of the Institute and is present at a meeting of the board of directors or the board of the Institute at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the interest of the member in the matter and shall not take part in the deliberations over, or vote on, 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) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of board of directors or the board of the Institute by any person generally or specially authorized by the board of directors or the board of the Institute for that purpose.

**SECOND SCHEDULE****s.10 and s.23****LICENCE, PERMIT OR CERTIFICATE**

<i>No.</i>	<i>Type of Licence/ Permit or Certificate</i>	<i>Issuing Authority</i>
1.	Coffee buyer's licence	Board
2.	Independent cupping laboratory licence	Board
3.	Warehouseman's licence	Board
4.	Coffee liqueur's licence;	Board
5.	Processed coffee import permit	Board
6.	Clean coffee movement permit for exports	Board
7.	Coffee nursery certificate	County government
8.	Commercial coffee miller's licence	County government
9.	Warehouse licence	County government
10.	Coffee nursery certificates	County government
11.	Pulping station licence	County government
12.	Grower's milling licence	County government
13.	Coffee roaster's licence	County government
14.	Parchment permit from the county of origin	County government
15.	Clean coffee movement permit from the county of origin	County government

### **MEMORANDUM OF OBJECTS AND REASONS**

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

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

#### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

#### **Statement of how the Bill concerns county governments**

Paragraph 1 of Part 2 of the Fourth Schedule to the Constitution designates agriculture as a function of county governments. Further, the Bill delineates the roles of the National government vis a vis that of the county governments in relation to the coffee industry in Kenya.

This Bill therefore affects the economic growth of most counties and the country as a whole and is as such a Bill concerning county governments.

#### **Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution.**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 12th October, 2020.

NJERU NDWIGA,  
*Chairperson, Committee on  
Agriculture, Livestock and Fisheries.*

# APPENDIX IV

Copies of the Newspaper advertisements on 13<sup>th</sup> May, 2021

## REPUBLIC OF KENYA


**TWELFTH PARLIAMENT | FIFTH SESSION  
THE SENATE**
**INVITATION FOR PUBLIC PARTICIPATION AND  
SUBMISSION OF MEMORANDA**

At the sitting of the Senate held on Tuesday, 11<sup>th</sup> May, 2021, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 140 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written Memoranda.

The Memoranda may be sent **by email** on the address: [csenate@parliament.go.ke](mailto:csenate@parliament.go.ke) and copied to the respective Committee email addresses indicated at the fourth column below, to be received on or before **Friday, 28<sup>th</sup> May, 2021 at 5.00pm**.

	<b>Bill</b>	<b>Committee Referred To</b>	<b>Email Address</b>
1.	The Coffee Bill (Senate Bills No. 22 of 2020)	Standing Committee on Agriculture, Livestock and Fisheries	<a href="mailto:senatescalf@parliament.go.ke">senatescalf@parliament.go.ke</a>
2.	The Natural Resources (Benefit Sharing) Bill (Senate Bills No. 25 of 2020)	Standing Committee on Land, Environment and Natural Resources	<a href="mailto:senlandenviron@gmail.com">senlandenviron@gmail.com</a>
3.	The Health (Amendment) Bill (Senate Bills No. 26 of 2020)	Standing Committee on Health	<a href="mailto:senatekehealth@gmail.com">senatekehealth@gmail.com</a>
4.	The Basic Education (Amendment) Bill (Senate Bills No. 4 of 2021)	Standing Committee on Education	<a href="mailto:senateeducom@gmail.com">senateeducom@gmail.com</a>
5.	The Kenyan Sign Language Bill (Senate Bills No. 5 of 2011)	Standing Committee on Education	<a href="mailto:senateeducom@gmail.com">senateeducom@gmail.com</a>
6.	The County Vocational Education and Training Bill (Senate Bills No. 6 of 2021)	Standing Committee on Education	<a href="mailto:senateeducom@gmail.com">senateeducom@gmail.com</a>
7.	The Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 7 of 2021)	Standing Committee on Tourism, Trade and Industrialization	<a href="mailto:senatetourismandtrade@gmail.com">senatetourismandtrade@gmail.com</a>
8.	The County Hall of Fame Bill (Senate Bills No. 9 of 2021)	Standing Committee on Labour and Social Welfare	<a href="mailto:senatecommittee.labour@parliament.go.ke">senatecommittee.labour@parliament.go.ke</a>
9.	The Office of The County Printer Bill (Senate Bills No. 13 of 2021)	Standing Committee on Justice, Legal Affairs and Human Rights	<a href="mailto:senatejlhrc@gmail.com">senatejlhrc@gmail.com</a>
10.	The Disaster Risk Management Bill (Senate Bills No. 14 of 2021)	Standing Committee on National Security, Defence and Foreign Relations	<a href="mailto:snsdfr@gmail.com">snsdfr@gmail.com</a>
11.	The Law of Succession (Amendment) Bill (Senate Bills No. 15 of 2021)	Standing Committee on Justice, Legal Affairs and Human Rights	<a href="mailto:senatejlhrc@gmail.com">senatejlhrc@gmail.com</a>
12.	The Prompt Payment Bill (Senate Bills No. 16 of 2021)	Standing Committee on Finance and Budget	<a href="mailto:scfinanceandbudget@gmail.com">scfinanceandbudget@gmail.com</a>

The Bills may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/senate-bills>.

**J.M. NYEGENYE, CBS,  
CLERK OF THE SENATE.**