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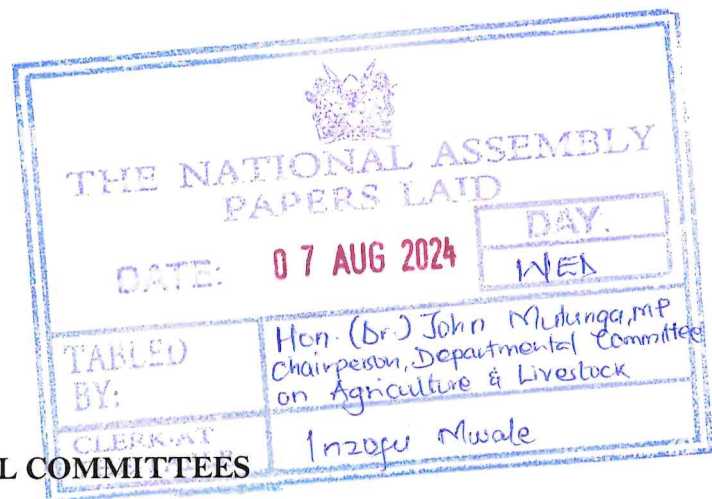
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

.....

REPORT ON:

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



CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

AUGUST 2024

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LIST OF ABBREVIATIONS AND ACRONYMS

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

LIST OF ANNEXURES

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

CHAIRPERSON'S FOREWORD

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Agriculture and Livestock is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
 - iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. ***To study and review all the legislation referred to it;***
 - v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - viii. *To examine treaties, agreements, and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

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

1.3 COMMITTEE MEMBERSHIP

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

Chairperson

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

UDA Party

Vice-Chairperson

Hon. Brighton Leonard Yegon, MP
Konoin Constituency

UDA Party

Hon. Sabina Wanjiru Chege, CBS, MP
Nominated Member
Jubilee Party

Hon. Ferdinand Kevin Wanyonyi, MP
Kwanza Constituency
Ford Kenya Party

Hon. Geoffrey Makokha Odanga, MP
Matayos Constituency
ODM Party

Hon. Justice Kipsang Kemei, MP
Sigowet/Soin Constituency
UDA Party

Hon. Jared Odoyo Okelo, MP
Nyando Constituency
ODM Party

Hon. Lawrence Mpuru Aburi, MP
Tigania East Constituency
NOPEU Party

Hon. David Kiplagat, MP
Soi Constituency
UDA Party

Hon. Gabriel Gathuka Kagombe, MP
Gatundu South Constituency
UDA Party

Hon. Monicah Muthoni Marubu, MP
Lamu County
Independent Member

Hon. Pamela Njoki Njeru, MP
Embu County
UDA Party

Hon. Patrick Kibagendi Osero, MP
Borabu Constituency
ODM Party

Hon. Peter Kalerwa Salasya, MP
Mumias East Constituency
DAP-K Party

Hon. Yussuf Mohamed Farah, MP
Wajir West Constituency
ODM Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

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

Mr. Victor K. Kilimo
Clerk Assistant III

Mr. David Ng'eno
Principal Research Officer II

Ms. Brigitta Mati
Legal Counsel I

CPA. Robert Ng'etich
Fiscal Analyst II

Mr. Gerald Kadede
Legal Counsel II

Ms. Zainabu Sora
Serjeant-at-Arms II

Mr. Muhumed Shillow
Research Officer III

Mr. Erastus Lotuk
Public Relations Officer III

Ms. Edith Chepngeno
Media Relations Officer III

Ms. Diana Chepkemai
Audio Assistant

CHAPTER TWO

2 BACKGROUND OF THE COFFEE INDUSTRY IN KENYA

2.1 INTRODUCTION

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

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

2.2 CURRENT POLICY AND LEGAL FRAMEWORKS OF THE INDUSTRY

18. The National Coffee Policy aims to guide and regulate the activities of stakeholders along the value chain, for development and growth. Key legislations governing the coffee sub-sector are the Crops Act, AFA Act, Cooperative Societies Act, and KALRO Act.

19. The Capital Markets Authority (CMA) Act was amended in 2016, giving the CMA the authority to regulate spot commodity markets such as the Nairobi Coffee Exchange (NCE). CMA has been overseeing the NCE under the Capital Markets (Coffee Exchange) Regulations, 2020.

20. The Warehouse Receipt System Act 2019 provides for the warehousing of agricultural goods in government warehouse facilities.

21. The Coffee Cherry Advance Revolving Fund was established under Section 3 of the Public Finance Management (Coffee Cherry Advance Revolving Fund) Regulations, 2019. The purpose of the Fund is to provide an affordable, sustainable, and accessible cherry advance to smallholder coffee growers.

2.3 SITUATIONAL ANALYSIS

22. Coffee was first planted in Kenya at Bura in Taita Hills in 1893 and thereafter, grown in Kibwezi, under irrigation in 1900, and in Kikuyu in 1904. Currently, coffee is grown in thirty-three (33) Counties in Kenya, and the sector contributes to the livelihoods of over 800,000 smallholder growers and 4,000 coffee estates.

23. It was the leading export commodity in the 1980s but has since fallen to the third position after tea and horticulture. Following the collapse of the International Coffee Agreement in 1989, price stabilization was replaced by a liberal market whose coffee pricing is determined by market forces.

24. Coffee farmers have faced complex challenges that gradually reduced their production levels. Key among them are low earnings from coffee despite its top quality, delayed payments, mismanagement and inefficiencies in cooperatives, high cost of production, and lack of direct access to the NCE trading floor.

25. While Kenya lags behind Ethiopia and Uganda in coffee productivity, the smallholder farmers who account for 70% of Kenyan coffee suffer poorer productivity and higher cost of production as compared to their coffee estates counterparts mainly because of governance issues in cooperatives and inefficiency in cherry processing which burdens smallholder farmers with higher processing costs compared to coffee estates.

26. Additionally, most smallholder farmers sign contracts without understanding the contents giving marketing agents the leverage to exploit them due to the agents' central role in coffee marketing and receiving coffee proceeds on behalf of farmers. These challenges have led to dwindling coffee production despite an increase in the area under coffee farming over the years. Coffee productivity is now estimated at 2 Kgs of cherries per coffee tree per year for smallholder farmers and 4 Kgs of cherries per coffee tree per year for coffee estates.

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

2.4 COMPARATIVE ANALYSIS

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

CHAPTER THREE

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

3.1 INTRODUCTION

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

34. The objectives of the Bill are to:

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

3.2 REVIEW OF THE BILL

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

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

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

Part I: Preliminary

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

Part II: The Coffee Board of Kenya

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

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

Part III: Role of County Governments

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

Part IV: Regulatory Provisions

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

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

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

Part V: Production and Processing

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

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

Part VI: Coffee Trading and Marketing

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

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

Part VII: Quality Assurance

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

Part VIII: Financial Provisions

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

Part IX: Coffee Research and Training Institute of Kenya

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

Part X: Financial Provisions of the Institute

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

Part XI— Miscellaneous Provisions

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

Part XII: Transitional Provisions

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

CHAPTER FOUR

4 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

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

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

60. The stakeholders submitted as follows:

4.1 NAIROBI COFFEE EXCHANGE (NCE)

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

Clause 2

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observations/Recommendation

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

Clause 3

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

Committee's Observations/Recommendation

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

Clause 11

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

Clause 28

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

Committee's Observation/Recommendation

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

Clause 29

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

Committee's Observation/Recommendation

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

Clause 30

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

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

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

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 51

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

Committee's Observation/Recommendation

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

Clause 55

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 56

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

Committee's Observation/Recommendation

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

Clause 63

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

Committee's Observation/Recommendation

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

Clause 64

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

Committee's Observation/Recommendation

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

Clause 99

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

Committee's Observation/Recommendation

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

Second Schedule

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

This proposal was not adopted because it is not necessary.

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

Committee’s Observation/Recommendation

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

4.2 CAPITAL MARKETS AUTHORITY (CMA)

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

Clause 2

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

Committee’s Observation/Recommendation

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

87. Delete definition of “coffee dealer”.

Committee’s Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

Clause 7

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

Committee's Observation/Recommendation

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

Clause 11

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

Clause 49

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

Clause 51

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

Committee's Observation/Recommendation

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

98. Delete sub-clause 51 (2)

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

Clause 55

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

Committee's Observation/Recommendation

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

Clause 56

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 92

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

Committee's Observation/Recommendation

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

Clause 99

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

Committee's Observation/Recommendation

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

4.3 MR. CALEB KIPKIRUI YEGON

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

Clause 7

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

Committee's Observation/Recommendation

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

Clause 25

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

Committee's Observation/Recommendation

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

Clause 27

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

Committee's Observation/Recommendation

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

Clause 46

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

Committee's Observation/Recommendation

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

Clause 60

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

Committee's Observation/Recommendation

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

Clause 61

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

Committee's Observation/Recommendation

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

4.4 COUNCIL OF GOVERNORS (CoG)

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

4.5 KENYA ASSOCIATION OF MANUFACTURERS (KAM)

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

Clause 7

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

Committee's Observation/Recommendation

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

Clause 11

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

Committee's Observations/Recommendation

- 1) **The proposal to insert the new paragraph (q) was rejected by the Committee policies are a function of the ministries.**
- 2) **The proposal to insert the new paragraph (r) was adopted by the Committee because digital platforms have high accessibility.**
- 3) **The proposed new paragraph (s) was rejected by the Committee because it is provided under paragraph 11 (e) of the Bill.**

113. Insert the following new paragraph 11 (q), "Establish a centralised and harmonised licensing system for the issuance and management of licenses within the coffee industry". To harmonise the licensing regime in the Bill and centralizing the issuance and management of the issuance of licences.

Committee's Observation/Recommendation

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

Clause 23

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

Clause 23

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

Committee's Observation/Recommendation

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

Clause 24

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

Committee's Observation/Recommendation

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

Clause 28

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

Committee's Observation/Recommendation

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

Clause 51

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 64

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

Committee's Observation/Recommendation

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

Second Schedule

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

Committee's Observation/Recommendation

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

4.6 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

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

Clause 2

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

This proposal was adopted by the Committee.

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

This proposal was adopted by the Committee.

Clause 3

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

Committee’s Observation/Recommendation

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

Clause 7

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

Committee's Observation/Recommendation

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

Clause 8

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

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 9

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

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 10

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

Committee's Observation/Recommendation

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

Clause 11

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

Clause 14

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

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

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

Committee's Observation/Recommendation

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

Clause 15

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

Committee's Observations/Recommendations

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

Clause 23

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

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

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

Committee's Observation/Recommendation

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

Clause 24

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

Committee's Observation/Recommendation

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

Clause 25

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

Committee's Observations/Recommendation

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

Clause 26

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

Committee's Observation/Recommendation

This proposal was rejected because the provisions are important.

Clause 27

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

Committee's Observation/Recommendation

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

Clause 28

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

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 29

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

Committee's Observation/Recommendation

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

Clause 30

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

Committee's Observation/Recommendation

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

Clause 39

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

Committee's Observation/Recommendation

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

Clause 41

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

Clause 43

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

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

Committee's Observation/Recommendation

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

Clause 44

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

Committee's Observation/Recommendation

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

Clause 45

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 46

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

Committee's Observation/Recommendation

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

Clause 47

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

Committee's Observation/Recommendation

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

Clause 48

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

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 49

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 50

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 51

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

Committee's Observation/Recommendation

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

Clause 53

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

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

Committee's Observation/Recommendation

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

Clause 54

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

Committee's Observation/Recommendation

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

Clause 55

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

Committee's Observation/Recommendation

This proposal was not adopted by the Committee.

Clause 56

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

Committee's Observation/Recommendation

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

Clause 60

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

Committee's Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

Clause 61

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

Committee’s Observation/Recommendation

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

Clause 64

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

Committee’s Observation/Recommendation

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

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

Committee’s Observation/Recommendation

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

Clause 72

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

Clause 75

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

Committee's Observation/Recommendation

This proposal was rejected because pests and diseases are different.

Clause 101

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

Committee's Observation/Recommendation

This proposal was adopted by the Committee.

Clause 102

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

Committee’s Observation/Recommendation

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

Clause 105

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

Committee’s Observation/Recommendation

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

4.7 KENYA EXPORT PROMOTION AND BRANDING AGENCY (KEPROBA)

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

Clause 64

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

Committee’s Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

4.8 THE COFFEE REFORMS STEERING COMMITTEE

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

Clause 2

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

Committee's Observation/Recommendation

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

Clause 11

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

Committee's Observation/Recommendation

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

Clause 23

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

Committee's Observation/Recommendation

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

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

Committee's Observation/Recommendation

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

CHAPTER FIVE

5 COMMITTEE OBSERVATIONS

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

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

CHAPTER SIX

6 COMMITTEE RECOMMENDATION

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

CHAPTER SEVEN

7 SCHEDULE OF PROPOSED AMENDMENTS

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

CLAUSE 2

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

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

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

Justification

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

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

Justification

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

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

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

Justification

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

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

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

Justification

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

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

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

Justification

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

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

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

Justification

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

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

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

Justification

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

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

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

Justification

The terms have been used but not defined in the Bill

CLAUSE 3

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

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

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

Justification

To make the provision clear.

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

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

Justification

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

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

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

Justification

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

CLAUSE 6

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

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

Justification

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

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

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

Justification

For clarity

CLAUSE 7

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

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

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

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

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

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

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

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

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

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

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

Justification

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

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

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

Justification

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

CLAUSE 8

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

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

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

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

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

Justification

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

CLAUSE 9

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

Justification

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

CLAUSE 11

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

(a) in subclause (1)—

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

Justification

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

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

Justification

To research is for market penetration and not just branding.

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

Justification

To provide clarity to the sentence.

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

Justification

To access a bigger audience at a lower cost.

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

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

Justification

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

CLAUSE 12

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

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

Justification

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

CLAUSE 14

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

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

Justification

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

CLAUSE 15

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

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

Justification

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

CLAUSE 23

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

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

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

(b) by deleting subclause (3) and substituting therefor the following new subclause—

“(3) The Cabinet Secretary shall, in consultation with the Board and the respective county government prescribe standards and guidelines for the setting of levies and fees by the county government under subsection (2).”

Justification

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

CLAUSE 24

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

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

Justification

For uniformity of legislation in county governments.

CLAUSE 25

215. **THAT**, Clause 25 be amended—

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

Justification

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

(b) by inserting the following new subclause immediately after subclause (3)—

“(4) County governments shall maintain the necessary statistical information with respect to the coffee sector and avail such information to the Board where necessary for proper planning.”

Justification

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

CLAUSE 26

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

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

Justification

Production and productivity go hand I hand.

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

Justification

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

CLAUSE 27

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

Justification

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

CLAUSE 28

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

Justification

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

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

Justification

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

CLAUSE 30

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

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

Justification

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

CLAUSE 32

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

Justification

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

CLAUSE 33

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

Justification

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

CLAUSE 37

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

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

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

Justification

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

CLAUSE 39

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

- (a) By deleting subclause (1);

Justification

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

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

Justification

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

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

Justification

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

CLAUSE 40

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

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

Justification

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

CLAUSE 42

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

- (a) in subclause (3) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.
- (b) in subclause (4) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.

Justification

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

CLAUSE 43

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

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

Justification

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

CLAUSE 44

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

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

Justification

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

CLAUSE 45

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

Justification

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

CLAUSE 47

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

Justification

It is a repetition of Clause 45.

CLAUSE 48

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

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

Justification

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

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

Justification

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

CLAUSE 49

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

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

Justification

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

CLAUSE 53

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

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

Justification

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

CLAUSE 54

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

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

Justification

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

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

Justification

To provide clarity to the sentence

CLAUSE 57

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

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

Justification

To specify the certificate that one should possess.

CLAUSE 60

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

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

Justification

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

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

Justification

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

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

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

Justification

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

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

Justification

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

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

Justification

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

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

Justification

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

CLAUSE 61

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

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

Justification

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

CLAUSE 64

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

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

Justification

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

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

Justification

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

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

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

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

Justification

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

CLAUSE 67

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

Justification

Parliament means both the Senate and National Assembly.

CLAUSE 71

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

Justification

Not to limit the institute to only one bank account

CLAUSE 72

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

(a) in subclause (1)—

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

Justification

KARI no longer exists. It was replaced by KALRO.

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

Justification

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

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

Justification

To include representation from county governments and coffee traders.

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

Justification

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

(c) by inserting the following new subclause immediately after subclause (3)—

“(4) In making appointments under subclause (1), the appoint authority shall take into consideration the principle of gender balance.”

Justification

To comply with Article 27 of the Constitution.

CLAUSE 73

241. Amend the Bill by deleting Clause 73 and substituting therefor the following new clause—

“The persons appointed under section 72 (1) (a), (e), (f), (g), (ga), (gb) and (h) shall serve for a term of four years renewable for one further term”.

Justification

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

CLAUSE 74

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

(a) by inserting the word “Council” immediately before the word “member” appearing in the opening statement in clause 74;

(b) by deleting the word “his” in paragraph (f) and substituting therefore the word “the”

Justification

To correct grammatical errors and to provide clarity.

CLAUSE 75

243. **THAT**, Bill be amended in Clause 75—

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

(a) *“develop appropriate systems to promote balanced, diversified and sustainable coffee development and to optimise coffee production through adaptive and investigative research;*

(b) *prioritise areas for, and co-ordinate, coffee research including research in coffee diseases and new coffee varieties;*

(c) *facilitate the use of improved production technology and establish adequate feedback systems from agricultural producers in order to achieve and maintain national self-sufficiency and export capacities in agricultural products;*

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

Justification

For proper sequencing of the activities.

(b) in subclause (2)

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

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

Justification

Productivity goes hand in hand with production.

(ii) by deleting paragraph (m) and substituting therefor the following new paragraph—

“(m) provide a climate resilient coffee crop and coffee that is resistant to diseases and pests;”

Justification

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

CLAUSE 76

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

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

Justification

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

CLAUSE 78

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

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

Justification

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

CLAUSE 79

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

“(3) A person is qualified for appointment under subsection (1) if the person—
(a) is a citizen of Kenya;
(b) holds a PhD or its equivalent in a relevant field from a university recognised in Kenya;
(c) has at least ten years’ experience and knowledge in management;
(d) has at least five years’ experience in a position of senior management; and
(e) Meets the requirements of Chapter Six of the Constitution”.

Justification

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

CLAUSE 90

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

Justification

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

CLAUSE 93

248. **THAT**, Clause 93 be amended—

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

Justification

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

CLAUSE 94

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

Justification

To equate the offence with the penalty.

CLAUSE 95

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

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

Justification

To equate the offence with the penalty.

CLAUSE 97

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

Justification

To equate the offence with the penalty.

CLAUSE 99

252. **THAT**, Clause 99 be amended—

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

Justification

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

(ii) by deleting paragraph (a);

Justification

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

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

Justification

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

CLAUSE 101

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

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

Justification

The clause refers to both assets and liabilities.

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

Justification

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

CLAUSE 104

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

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

Justification

Correcting the wrong referencng to the Authority instead of Board.

CLAUSE 105

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

Justification

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

SECOND SCHEDULE

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

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

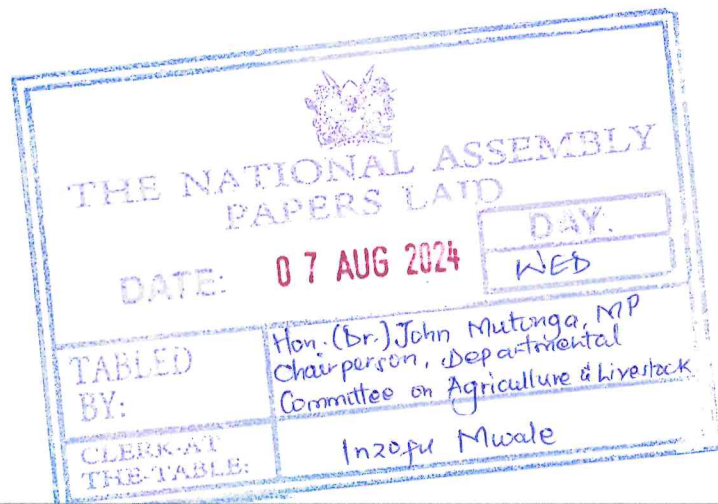
Justifications

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

SIGNED.....  DATE..... 07/08/2024

HON. (DR.) JOHN KANYUTHIA MUTUNGA, PhD, MP
CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK



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