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**FIRST SCHEDULE — CONDUCT OF BUSINESS AND AFFAIRS
OF THE BOARD****SECOND SCHEDULE — LICENCE, PERMIT OR CERTIFICATE**

THE COFFEE BILL, 2020**A Bill for****AN ACT of Parliament to provide for the regulation, development and promotion of the Coffee industry, and for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

PART 1—PRELIMINARY

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

Short title.

2. In this Act—

Interpretation.

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

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

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

No. 17 of 2015.

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

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

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

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

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

PART II—THE COFFEE BOARD OF KENYA

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

Establishment of Board.

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

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

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

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

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

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

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

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

Board of directors.

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

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

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

Qualification for appointment.

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

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

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

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

10. (1) The board of directors shall— Functions of the Board.

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

institutions for the development of the coffee industry;

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

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

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

Committees of the board of directors.

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

12. The board of directors may, by resolution, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

Delegation by the board of directors.

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

Remuneration of members of the board of directors.

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

Chief executive officer.

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

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

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

(3) The chief executive officer shall serve for a term of three years and shall be eligible for appointment for one further term of three years.

15. The chief executive officer shall be the secretary to the Board and shall, subject to the direction of the board of directors—

Functions of the chief executive officer.

- (a) be responsible for the day to day management of the affairs of the Board;
- (b) manage the funds, property and affairs of the Board;
- (c) be responsible for the management of the staff of the Board;
- (d) oversee and coordinate the implementation of the policies, programmes and objectives of the Board;
- (e) cause to be prepared for the approval of the board of directors—
 - (i) the strategic plan and annual plan of the Board; and
 - (ii) the annual budget and audited accounts of the Board; and
- (f) perform such other duties as may be assigned to him or her by the board of directors.

16. The chief executive officer shall cease to hold office if the person—

Removal of Chief Executive Officer.

- (a) resigns in writing, addressed to the board of directors;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is found liable for gross misconduct or abuse of office in contravention of the Public Officers Ethics Act or any other relevant law; No. 4 of 2003.
- (d) is declared bankrupt;
- (e) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (f) dies.

17.(1) There shall be a corporation secretary who shall be competitively recruited and appointed by the board of directors. Corporation Secretary.

(2) The terms and conditions of service of the corporation secretary shall be determined by the Board in the instrument of appointment on the advice of the Salaries and Remuneration Commission.

(3) A person is qualified for appointment as a corporation secretary if that person—

- (a) holds a degree from a recognised university;
- (b) is registered under the Certified Public Secretaries of Kenya Act;
- (c) is a member of good standing of the Institute of Certified Public Secretaries of Kenya established under section 3 of the Certified Public Secretaries of Kenya Act; Cap 534.
- (d) has at least seven years' experience in a similar position; and
- (e) meets the requirements of Chapter Six of the Constitution.

(4) The corporation secretary shall be the secretary to the Board and shall —

- (a) provide guidance to the board of directors on their duties and responsibilities and on matters of governance;

- (b) ensure timely preparation and circulation of Board and committee papers and minutes;
- (c) maintain and update the register of conflicts of interest; and
- (d) ensure that the annual returns and any other statutory documents required to be filed are promptly filed with the relevant authorities.

18. The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.

Staff of the Board.

19. Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection of members and staff from liability.

20. The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the board of directors.

Common seal of the Board.

21. All letters and instruments written or made by or on behalf of the board of directors, other than those required by law to be under seal, and all decisions of the board of directors, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the Board.

Signing Authority.

22. The business and affairs of the board of directors shall be conducted in accordance with the First Schedule.

Conduct of business of the Board.

PART III — ROLE OF COUNTY GOVERNMENTS

23. (1) Each county government shall—

Role of county governments.

- (a) implement the National Government policy relating to coffee;
- (b) maintain an up to date register of coffee growers, nursery operators, coffee cooperative societies,

coffee associations, and coffee estates in that county;

- (c) consider applications for the certificates, permits and licenses enumerated under the second schedule to this Act;
- (d) enforce national and county legislation on coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions;
- (e) offer extension services on coffee production and primary processing;
- (f) inspect nurseries, pulping stations, warehouses, millers and roasters located within their respective counties;
- (g) in collaboration with law enforcement agencies, enhance security in coffee growing areas; and
- (h) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies.

(2) A county executive committee member may impose such levies and fees as may be necessary for the registration and issuance of licences or the provision of services in accordance with the respective county legislation and such standards as may be prescribed by the Cabinet Secretary under this Act.

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

24. Each county government may enact county specific legislation setting out the –

- (a) criteria for registration under section 26;
- (b) criteria for the issuance of permits and licences by an applicant within the respective county;
- (c) information required to be submitted by an applicant for a permit or licence;

Enactment of county specific legislation.

- (d) process of determination of an application for a permit or licence;
- (e) conditions for the issuance or renewal of a licence under this Act;
- (f) grounds for the rejection of an application or cancellation of a licence issued under this Act;
- (g) process of issuance of a licence to an applicant for a permit or licence; and
- (h) process of application for the renewal of permits or licences and revocation of a licence issued to an applicant under this Act.

25. (1) A person shall not operate a –

- (a) pulping station or carry out hulling activities;
- (b) coffee growers' mill; or
- (c) coffee roaster

Licencing of
coffee
operations.

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

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

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

PART IV – REGULATORY PROVISIONS

26. (1) A person or entity shall not carry out the business of a coffee grower, nursery operator, cooperative society, coffee association or coffee estate unless such person is registered by the respective county government in which the business is to be undertaken.

Registration.

(2) A county government shall not charge any fees for the registration of an applicant under subsection (1).

(3) Each county government shall keep and maintain the register under subsection (1) for statistical purposes.

(4) A register under subsection (3), shall include—

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

(5) Each county government shall submit to the Board a copy of the register under subsection (3).

27. (1) A person who intends to perform any function under this Act for which a licence or a permit is required shall submit to the relevant licencing authority specified in the Second Schedule –

Licensing.

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

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

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

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

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

(5) A licensing authority shall, at least thirty days before granting a new licence under this Act, give notice of

the proposed grant by notice in the *Gazette* and in such other manner as the authority may determine.

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

- (a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;
- (b) state the purpose and the date for which the licence is proposed to be issued; and
- (c) invite objections to the proposed grant of licence and direct that such objections be lodged with the licensing authority within fourteen days from the date of the notice.

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

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

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

28. A licence or permit issued under this Act shall be in the prescribed form.

Form of licence, or permit.

29. (1) A licence or permit issued by the licensing authority shall expire on 30th June of every year and a license holder wishing to renew the licence may apply by 1st June preceding the expiry of the licence.

Duration of licence.

(2) Notwithstanding the provisions of sub-regulation (1), a late application may be made upon payment of a late application fee as may be prescribed.

30. (1) A licensing authority may cancel a licence or permit if the licensee –

Cancellation of licence or permit

- (a) fails to meet any condition imposed by the licencing authority;

- (b) fails to comply with the provisions of the licencing legislation; or
- (c) surrenders the licence or permit to the relevant licensing authority together with a notice setting out a request that the licence be cancelled.

31. Where an applicant is dissatisfied with the decision of the Cabinet Secretary or the county executive committee member not to issue a licence under this Act, the applicant may make an application for judicial review to the court within thirty days of the decision.

Appeals.

PART V—FINANCIAL PROVISIONS

32. The funds and assets of the Board shall comprise of—

Funds of the Board.

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

33. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that year.

Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned.

(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in the National Assembly and the Senate.

34. (1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

Accounts and Audit.

- (a) a balance sheet showing in detail the assets and liabilities of the Board; and
- (b) such other statements of accounts as the Cabinet Secretary may approve.

(2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

No. 34 of 2015.

(3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.

35. (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.

Annual report and publication.

(2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to the National Assembly and the Senate the reports, balance sheet and statements under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if a House of Parliament is not sitting, within fourteen days of the commencement of its next sitting.

36. The financial year of the Board shall be the period of twelve months ending on the thirty first of March in each financial year.

Financial year of the Board.

PART VI-COFFEE RESEARCH INSTITUTE OF KENYA

37. (1) There is established an Institute to be known as the Coffee Research Institute.

Establishment of the Institute.

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

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

38.(1) The headquarters of the Institute shall be in Kiambu County. Headquarters.

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

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

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

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

40. (1) The management of the Institute shall vest in a board consisting of—

Membership of Board of the Institute.

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

Act No. 28 of 2013

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

(3) A person is qualified for appointment as a chairperson of the board of the Institute if that person holds a degree in any discipline from an institution recognized in Kenya and has three years' experience in the coffee sector.

41. The persons appointed under section 40 (1) (f) and (g) shall serve for a term of four years renewable for one further term.

Term of appointment.

42. (1) A person shall cease to be a member of the board of the Institute if that person—

Vacation of office.

- (a) is absent from three consecutive meetings of the board of the Institute without the permission of the chairperson;
- (b) becomes an officer, agent or member of staff of the Institute;
- (c) resigns in writing addressed, in the case of the chairperson, to the President and in the case of any other member, to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months; and
- (e) is declared bankrupt;
- (f) is unable to perform the functions of his office by reason of mental or physical infirmity; or
- (g) dies.

43. (1) The Institute shall—

Functions of the Institute.

- (a) advise the National and county governments on the resource requirements for coffee research;
- (b) prioritise areas for, and co-ordinate, coffee research including research in coffee diseases;
- (c) develop appropriate systems to promote balanced, diversified and sustained coffee development and to optimise coffee production through adaptive and investigative research;
- (d) disseminate, in collaboration with the Board, the Kenya Agricultural and Livestock Research Organisation established under the Kenya Agricultural and Livestock Research Organisation Act and other organizations, knowledge, information and application of research findings in relation to coffee; and
- (e) facilitate the use of improved production technology and establish adequate feedback systems from agricultural producers in order to achieve and maintain national self-sufficiency and export capacities in agricultural products.

No. 17 of 2013.

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

- (a) make policy recommendations to the Cabinet Secretary on coffee research;
- (b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term research programmes within the framework of the national agricultural research system;
- (c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanisation and technology options to improve coffee production and provide answers to foreseeable problems facing coffee;
- (d) collaborate with the extension and education services and other organisations, agencies and institutions including schools, technical institutions and universities, public or private, to disseminate research results and technologies;
- (e) provide grants to research institutes and persons desirous of carrying out research and training programs which are consistent with the national research priorities and plans of the Institute;
- (f) organize, design and carry out on-station and on-farm research for coffee;
- (g) support and promote the training and capacity building in relation to agricultural research;
- (h) establish and maintain regular contact with regional and international agricultural research centres to ensure the rapid introduction, evaluation and use of coffee improved technology;
- (i) establish platforms for the purposes of sharing research information, advancing research and transfer of technology and dissemination of information relating to advancements made in coffee research;
- (j) conduct annual reviews of research results and ensure performance improvement in the field of agricultural research;

- (k) make available to the Science Commission annual reports on research and development activities carried out by or under the auspices of the Institute; and
- (l) perform such other functions as the Board shall determine.

44. The board of the Institute may co-opt two persons with knowledge and experience in matters relating to coffee for the better carrying out of the functions of the board.

Power to co-opt.

45. The business and affairs of the board of the Institute shall be conducted in accordance with the First Schedule.

Conduct of business of the Board of the Institute.

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

Remuneration of members of the Board of the Institute.

47. (1) There shall be a chief executive officer of the Institute who shall be competitively recruited and appointed by the board of the Institute on such terms and conditions as the board shall determine.

Chief executive officer of the Institute.

(2) The chief executive officer shall be responsible for the day to day management of the affairs of the Institute.

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

- (a) is a citizen of Kenya;
- (b) holds a degree in agriculture, crops science or business administration from a university recognized in Kenya;
- (c) holds a postgraduate degree or its equivalent from a university recognised in Kenya; and
- (d) has at least five years' experience at senior management level in agricultural science; policy formulation; policy-oriented research and analysis; and management of human resource and finance.

(4) The chief executive officer shall serve for a term of five years renewable for a further term of five years.

48. The board of the Institute may remove the chief executive officer in accordance with the terms and conditions of service for—

Removal of chief executive officer of the Institute.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

49. The Institute may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Institute under this Act and upon such terms and conditions of service as the Institute may determine.

Staff of the Institute.

50. Liability shall not attach to the Institute or to any of its members, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection of members and staff from liability.

51. The affixing of the common seal of the Institute shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the board of the Institute.

Common seal of the Institute.

52. All letters and instruments written or made by or on behalf of the board of the Institute, other than those required by law to be under seal, and all decisions of the board of the Institute, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the board of the Institute.

Signing Authority.

PART VII—FINANCIAL PROVISIONS OF THE INSTITUTE

53. The funds and assets of the Institute shall comprise of—

Funds of the Institute

- (a) such monies or assets as may accrue to or vest in the Institute in the course of the exercise of its

powers or the performance of its functions under this Act including proceeds from patents;

- (b) two and a half percent of monies collected from the sale of coffee;
- (c) such monies as may be payable to the Institute pursuant to this Act or any other written law;
- (d) such gifts as may be donated to the Institute; and
- (e) monies from any other source granted, donated or lent to the Institute.

54. The board of the Institute may, upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act.

Powers to raise or borrow money.

55. The board of the Institute may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the Institute in securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance.

Power to invest.

56. (1) At least three months before the commencement of each financial year, the Institute shall cause to be prepared estimates of the revenue and expenditure of the Institute for that year.

Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Institute for the financial year concerned.

(3) The annual estimates prepared by the Institute under subsection (2) shall be submitted to the Cabinet Secretary for tabling in Parliament.

57. (1) The Institute shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

Accounts and Audit.

- (a) a balance sheet showing in detail the assets and liabilities of the Institute; and
- (b) such other statements of accounts as the Cabinet Secretary may approve.

(4) The accounts of the Institute shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

(5) The Institute shall submit to the Auditor-General all books and accounts of the Institute, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Institute such information and explanation as he may consider necessary for the performance of his duties.

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58. (1) The Institute shall, within a period of seven months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Institute during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.

Annual report and publication.

(2) The Institute shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to Parliament the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if Parliament is not sitting, within fourteen days of the commencement of its next sitting.

59. The financial year of the Institute shall be the period of twelve months ending on the thirty first of March in each financial year.

Financial year of the Institute.

PART VIII—MISCELLANEOUS PROVISIONS

60. (1) The Board shall arbitrate disputes arising between any parties under this Act.

Arbitration of disputes.

(2) A party who is not satisfied with the decision of the Board may, within thirty days, appeal to a Court of competent jurisdiction.

61.(1) The chief executive officer of the Institute may, in writing, request any person to furnish the Institute with such information or to produce such documents or records as the chief executive officer deems necessary and relevant for the performance of the functions of the Organization.

Request for information.

(2) A person who—

- (a) refuses or fails, without reasonable cause, to comply with a request under subsection (1) to furnish any information or to produce any documents or records; or
- (b) in furnishing such information, makes a statement which they know to be false, commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

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

Limitation of the right to access information.

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

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

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

63.The Board shall carry out market research and analysis and disseminate information on its findings to all stakeholders.

Dissemination of market information.

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

Penalties.

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

- (a) was director, partner or officer;
- (b) had knowledge or should have had knowledge of the commission of the offence; and
- (c) did not exercise due diligence to ensure compliance with this Act,

commits an offence and is liable for the offence as if they had committed the offence, unless they prove that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer concerned as aforesaid and to all the circumstances.

65. Subject to other applicable laws, the Institute shall be exempted from such taxes, duties, fees, levy, cess or other charges as the Cabinet Secretary for the time being responsible for finance may by notice in the *Gazette*, specify.

Exemptions.

66. (1) The Cabinet Secretary may, in consultation with the Board, make Regulations—

Regulations.

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

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations to provide for—

- (a) the regulation of the processing, importation and exportation of coffee and coffee products;

- (b) the forms to be used in the application for registration, licensing, contracts and related activities;
- (c) the process of application for registration, licensing and related activities;
- (d) any fee which may be charged for anything done under this Act; and
- (e) the regulation of contracts between growers, processors and other players in the coffee industry.

PART IX—TRANSITIONAL PROVISIONS

67. (1) All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Agriculture and Food Authority with respect to the coffee sector shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board as the case may be.

Rights and obligations.

(2) All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Kenya Agricultural and Livestock Research Organisation with respect to the Coffee Research Institute shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Institute as the case may be.

68. All funds, assets, and other property, moveable and immovable which were immediately before the appointed day vested in Agriculture and Food Authority for the carrying out of and Kenya Agricultural and Livestock Research Organisation for the carrying out of functions relating to coffee, shall, by virtue of this paragraph, vest in the Board or the Institute as the Cabinet Secretary may, by order, determine.

Assets.

69. (1) On or after the appointed day, all actions, suits or legal proceedings pending by or against the Agriculture and Food Authority in relation to the coffee sector shall be carried on or prosecuted by or against the Board, and no action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

Legal proceedings.

(2) On or after the appointed day, all actions, suits or legal proceedings pending by or against the Kenya Agricultural and Livestock Research Organisation in relation to the coffee research institute shall be carried on

or prosecuted by or against the Institute, and no action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

70. (1) Any reference to the Agriculture and Food Authority in any written law or in any contract, document or instrument of whatever nature, in relation to coffee, shall, on the appointed day, be read and construed as a reference to the Board.

Reference to written laws.

(2) Any reference to the Kenya Agricultural and Livestock Research Organisation in any written law or in any contract, document or instrument of whatever nature, in relation to coffee, shall, on the appointed day Act, be read and construed as a reference to the Institute.

71. (1) All directions, orders and authorizations given, or licenses or permits issued, or registrations made by the Agriculture and Food Authority in relation to coffee, and subsisting or valid immediately before the appointed day, shall be deemed to have been given, issued or made by the Authority as the case may be, under this Act.

Previous authorizations.

72. (1) Any person who, at the commencement of this Act, is a member of staff of the Agriculture and Food Authority dealing with the coffee sector shall, on the appointed day, become a member of staff of the Board on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary.

Staff.

(2) Any person who, at the commencement of this Act, is a member of staff of the Kenya Agricultural and Livestock Research Organisation working with the coffee research institute shall, on the appointed day, become a member of staff of the Institute on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary.

73. (1) In this Part—

Interpretation.

“appointed day” means the day this Act comes into force.

74. (1) The Crops Act is amended—

Consequential amendments.

(a) in section 14 (1) by deleting paragraph (a); and

(b) in the First Schedule by deleting the term “coffee” appearing in Part 1.

No. 16 of 2013

FIRST SCHEDULE s. 22 and s. 44

**CONDUCT OF BUSINESS AND AFFAIRS OF THE
BOARD OF DIRECTORS OR THE BOARD OF THE
INSTITUTE**

1. (1) The board of directors or the board of the Institute shall meet at least once in every three months to conduct the business of the respective board.

Meetings of the Board.

(2) The chairperson shall convene the ordinary meetings of the board of directors or the board of the Institute at the premises of the respective board.

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the board of directors or the board of the Institute, convene a special meeting of the respective board at any time where he considers it expedient for the transaction of the business of the board.

(4) Unless three quarters of the total number of the members of the board otherwise agree, at least fourteen days written notice of every meeting of the board of directors or the board of the Institute shall be given to every member of the respective board by the Secretary.

(5) The quorum for the conduct of the business of the respective board shall be five members.

(6) The respective chairperson shall preside at every meeting of the board at which the chairperson is present and in the absence of the chairperson, the members of the board present shall elect one person from their number to preside over the meeting of the board of directors or the board of the Institute and that person shall have all the powers of the chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the board of directors or the board of the Institute shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the board of directors or the board of the Institute shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of this Schedule, the board of directors or the board of the Institute may determine its own procedure and the procedure for any committee of the respective board and for the attendance of other persons at its meetings thereof.

2. (1) If a member of the board of directors or the board of the Institute is directly or indirectly interested in any contract, proposed contract or other matter before the board of directors or the board of the Institute and is present at a meeting of the board of directors or the board of the Institute at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the interest of the member in the matter and shall not take part in the deliberations over, or vote on, the matter.

Disclosure of
interest.

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

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of board of directors or the board of the Institute by any person generally or specially authorized by the board of directors or the board of the Institute for that purpose.

SECOND SCHEDULE **s.10 and s.23**
LICENCE, PERMIT OR CERTIFICATE

<i>No.</i>	<i>Type of Licence/ Permit or Certificate</i>	<i>Issuing Authority</i>
1.	Coffee buyer's licence	Board
2.	Independent cupping laboratory licence	Board
3.	Warehouseman's licence	Board
4.	Coffee liqueur's licence;	Board
5.	Processed coffee import permit	Board
6.	Clean coffee movement permit for exports	Board
7.	Coffee nursery certificate	County government
8.	Commercial coffee miller's licence	County government
9.	Warehouse licence	County government
10.	Coffee nursery certificates	County government
11.	Pulping station licence	County government
12.	Grower's milling licence	County government
13.	Coffee roaster's licence	County government
14.	Parchment permit from the county of origin	County government
15.	Clean coffee movement permit from the county of origin	County government

MEMORANDUM OF OBJECTS AND REASONS

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

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

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

Paragraph 1 of Part 2 of the Fourth Schedule to the Constitution designates agriculture as a function of county governments. Further, the Bill delineates the roles of the National government vis a vis that of the county governments in relation to the coffee industry in Kenya.

This Bill therefore affects the economic growth of most counties and the country as a whole and is as such a Bill concerning county governments.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution.

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 12th October, 2020.

NJERU NDWIGA,
*Chairperson, Committee on
Agriculture, Livestock and Fisheries.*