

Approved for tabling in the House.



Pat
SNA
17/2/2022

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SIXTH SESSION 2022

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

REPORT ON THE CONSIDERATION OF THE COFFEE BILL (SENATE BILL NO. 22
OF 2020)

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2022


 THE NATIONAL ASSEMBLY PARLIAMENT BUILDINGS NAIROBI	
DATE: 17 FEB 2022	
DAY: Thurs	
TABLED BY:	Chair, Agriculture Hon. Silas Tinen
CLERK-AT THE-TABLE:	C. Ndlovu

TABLE OF CONTENTS

APPENDIX.....	2
CHAIRPERSON’S FOREWORD.....	3
PART 1	4
1.0 PREFACE.....	4
1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE	4
1.2 MANDATE OF THE COMMITTEE.....	4
a. The State Department for Crop Development & Agricultural Research	4
b. The State Department for Livestock	4
c. The State Department for Fisheries, Aquaculture and the Blue Economy.....	4
1.3 COMMITTEE MEMBERSHIP	5
1.4 COMMITTEE SECRETARIAT	6
PART II.....	7
2.0 ANALYSIS OF THE SENATE BILL.....	7
2.1 Introduction.....	7
2.2 Overview of the Bill.....	7
2.2 THE COFFEE BILL, 2021 (NATIONAL ASSEMBLY BILLS NO. 17 OF 2021)	10
2.3 Overview of the Bill.....	10
2.4 Public Participation on the National Assembly Bill	12
3.0 STAKEHOLDERS SUBMISSIONS.....	13
3.1 The Coffee Sub-Sector Reforms Implementation Standing Committee (CSRISC).	13
4.0 COMMITTEE OBSERVATIONS	23
5.0 COMMITTEE RECOMMENDATION	24

APPENDIX

1. ADOPTION LIST
2. MINUTES

2.1 CHAIRPERSON'S FOREWORD

This report contains the Committee's proceedings on the consideration of the Coffee Bill (Senate Bill No. 22 of 2020). The Bill was read a First Time on Thursday, September 30, 2021 and subsequently committed to the Departmental Committee on Agriculture and Livestock for facilitation of public participation pursuant to Article 118 of the Constitution of Kenya and Standing order 127.

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

The Bill seeks to revive the previous Coffee Board of Kenya that was repealed by the Agriculture and Food Authority Act.

The Committee, pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), called for invitation of Memoranda through the Print Media on Friday 12th November, 2021 which were to be submitted on or before 20th November, 2021.

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.

Finally, I wish to commend the Honourable Members of the Committee who dedicated their time and made useful contributions towards the preparation and production of this addendum 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. 22 of 2020)

The Hon. Silas Kipkoech Tiren, MP

Chairperson of the Departmental Committee on Agriculture and Livestock

PART 1

1.0 PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Agriculture and Livestock is one of the fifteen (15) Departmental Committees of the National Assembly established under Standing Order 216 and mandated to:-
 - a) 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;
 - b) To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
 - c) **To study and review all the legislation referred to it;**
 - d) To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - e) 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;
 - f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
 - g) To examine treaties, agreements and conventions;
 - h) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - i) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - j) 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 of the Standing Orders, the Committee is mandated to consider matters of; Agriculture, Livestock, Irrigation, Fisheries development, production and Marketing.
3. In executing its mandate, the Committee oversees the following government Departments;
 - a. The State Department for Crop Development & Agricultural Research
 - b. The State Department for Livestock
 - c. The State Department for Fisheries, Aquaculture and the Blue Economy

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Agriculture and Livestock was reconstituted by the House in July, 2020 and comprises of the following Members:

Hon. Silas Kipkoech Tiren, MP- Chairperson

Moiben Constituency

KANU

Hon. Abdikhaim Osman M.P – Vice - Chairperson

Fafi Constituency

Jubilee Party

Hon. Ole Metito Katoo, MP

Kajiado South

Jubilee Party

Hon. Ferdinand Wanyonyi, M.P

Kwanza Constituency

FORD Kenya Party

Hon. Maison Leshomo, M.P

Samburu County

KANU

Hon. Dr. Chrisantus Wamalwa, CBS, M.P

Kiminini Constituency

FORD Kenya Party

Hon. Simba Arati, M.P

Dagoreti North Constituency

Orange Democratic Movement Party

Hon. Cecily Mbarire, MGH, M.P

Nominated Member

Jubilee Party

Hon. Adan Haji Yusuf, M.P

Mandera West Constituency

EFP Party

Hon. Jude Njomo, M.P

Kiambu Constituency

Jubilee Party

Hon. Gabriel Kago Mukuha, M.P

Githunguri Constituency

Jubilee Party

Hon. Janet Jepkemboi Sitienei, M.P

Turbo Constituency

Independent

Hon. Julius Kibiwott Melly, M.P

Tinderet Constituency

Jubilee Party

Hon. (Dr.) John Mutunga, M.P

Tigania West Constituency

Jubilee Party

Hon. Geoffrey Odanga, M.P

Matayos Constituency

Orange Democratic Movement Party

Hon. Majimbo Kalasinga, MP

Kabuchai Constituency

Ford Kenya Party

Hon. Joyce Kamene, MP

Machakos County

Wiper Democratic Movement Party

Hon. Brighton Yegon, MP

Konoin Constituency

Jubilee Party

Hon. Martin Peters Owino, MP

Ndhiwa Constituency

Orange Democratic Movement

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Members of the Secretariat:

Mr. Ahmad Kadhi
Senior Clerk Assistant – Head of Secretariat

Mr. Nicodemus Maluki
Second Clerk Assistant

Ms. Clara Kimeli
Senior Legal Counsel

Ms. Faith Makena
Sergeant At Arms

Mr. Moses Musembi
Office Assistant

Mr. Eugene Luteshi
Audio Officer

Mr. Robert Ngetich
Fiscal Analyst II

Mr. David Ngeno
Research Officer II

Mr. Ahmad Yakubu
Media Relations Officer

PART II

2.0 ANALYSIS OF THE SENATE BILL

2.1 Introduction

6. The Coffee Bill, 2020 (Senate Bills No. 22 of 2020), sponsored by Sen. Njeru-Ndwiga, Chairperson of the Senate Committee on Agriculture, Livestock and Fisheries, was passed by the Senate with amendments on 5th August, 2020 and transmitted to the National Assembly.
7. 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.
8. 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.

2.2 Overview of the Bill

9. **PART I** of the Bill provides for preliminaries and sets out the objects of the Bill.
10. **PART II** of the Bill (**Clause 4-22**) establishes the **Coffee Board of Kenya**, its membership, functions and powers, the chief executive office and the staff of the Board. **Clause 7** provides for a **membership of 10**.
11. **PART III** of the Bill (**Clause 23-25**) provides for the **role of county governments**. **Clause 23** provides that a county government shall implement the national government policy relating to coffee, maintain an up to date register of coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in that county; consider applications for the certificates, permits and licenses enumerated under the second schedule to the Act; enforce national and county legislation on coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions; offer and coordinate the delivery of extension services on sustainable production, primary processing of coffee and climate smart agriculture; among others. **Clause 24** provides that each county government may enact county specific legislation. **Clause 25** provides that a person shall not operate a pulping station or carry out hulling activities; coffee growers' mill; or coffee roaster unless the person has applied for, and obtained a licence from the respective county government in which the operation is undertaken.
12. **PART IV** of the Bill (**Clauses 26-37**) provides for regulatory provisions. **Clause 26** provides for registration. It provides that a person or entity shall not carry out the

business of a coffee grower, nursery operator, miller, coffee roaster, 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. Clause 27 provides that a person who intends to perform any function under the Act for which a licence or a permit is required shall submit to the relevant licensing authority specified in the Second Schedule an application for a licence or permit, in the prescribed form; such information as may be prescribed; and the prescribed fees.

13. **Clause 28** provides that the following license shall be issued by the Authority under the Capital Markets Act: coffee exchange licence authorising a person to conduct the business of a coffee exchange; a broker's licence authorising a person to offer clean coffee for sale at an exchange on behalf of the grower. Clause 29 provides that a person shall not operate as a cupping laboratory, liquorer, coffee buyer, coffee importer, agent or warehouse operator unless the person is licensed or issued a registration certificate or a permit by the Board upon satisfaction of the prescribed conditions.
14. **PART V of the Bill (Clause 38-45)** provides for production and processing. It seeks to ensure that all coffee produced and processed in the country shall conform to the Kenya Coffee production standards. The Board shall be required to register and monitor the certification schemes for compliance with protocols for Kenyan coffee.
15. **PART VI of the Bill (Clause 46-54)** provides for coffee trading and marketing. **Clause 46** provides that Kenya Coffee may be offered for sale through auction in the Exchange, direct sales or such other method as the Cabinet Secretary may prescribe. **Clause 47** provides that a licensed coffee grower may undertake, in the prescribed manner, a direct sale in coffee and may, for this purpose, sell own clean coffee to a licensed roaster for local value addition and sale. **Clause 48** provides for the establishment of the Nairobi Coffee Exchange for purposes of coffee trading. **Clause 49** provides that a broker or agent appointed by growers and other service providers shall not receive coffee sale proceeds on behalf of the growers. **Clause 50** provides that a commercial miller or a broker appointed in consultation with the commercial miller, shall prepare a sales catalogue in consultation with the Exchange and growers, for all the coffee in a licensed warehouse in accordance with the Act. **Clause 51** provides that all coffee shall be stored in warehouses licensed by the respective county governments. **Clause 52** provides for export and import of coffee. **Clause 53** provides that a person who blends any or various grades of coffee produced in Kenya with any other coffees produced outside Kenya shall declare the percentage of Kenyan coffee in the blend. It provides that contravention of the provision is an offence. **Clause 54** provides against anti-competitive practices. It provides that the trading activities at an exchange shall be compliant with relevant laws that deter unfair trading and anti-competitive practices.
16. **Part VII (Clauses 55-57)** provides for Quality Assurance. **Clause 55** provides that the Board and the respective county executive committee members shall collaborate in the enforcement of coffee industry standards along the value chain for purposes of quality assurance. **Clause 56** provides for inspections. It provides that the Board and the respective county executive committee members shall, by notice in the *Gazette*, appoint

inspectors for the enforcement of the provisions of the Act. Clause 57 provides that a person importing coffee into the country shall ensure that the coffee complies with the coffee standards and such other quality standards as may be prescribed under the Act or any other law; and adhere to the safety and health standards prescribed under this Act or any other law.

17. **PART VIII** of the Bill (**Clauses 58-63**) provide for financial provisions. **Clause 59** provides that the Cabinet Secretary shall, in consultation with the Board and the Institute and by notice in the Gazette, impose a levy of 2% on the export import value remitted by coffee buyers to the Board for the development of the coffee industry. It further provides that the levy shall be apportioned as follows:

1% - to the Institute

0.5% -to the Board for regulatory and coffee promotion purposes

0.5%-to the coffee growing county governments for coffee development as a conditional grant

18. **PART IX** of the Bill (**Clauses 64-79**) provides for the establishment of the Coffee Research Institute of Kenya.

19. **PART X** of the Bill (**Clauses 80-86**) provides for the financial provisions of the Institute.

20. **PART XI** of the Bill (**Clauses 87-94**) provides for miscellaneous provisions. Clause 94 provides that the Cabinet Secretary may, in consultation with the Board, make Regulations to provide for:

- i) The regulation of the processing, importation and exportation of coffee and coffee products
- ii) The forms to be used in the application for registration, licensing, permits, the notification to the direct settlement system provider, contracts and related activities
- iii) The process of application for registration, licensing and related activities
- iv) Any fee or levy which may be charged for anything done under the Act
- v) The regulation and enforcement of contracts between growers, processors and other players in the coffee industry
- vi) The process of nomination of members to the Board
- vii) The conditions for the issuance of certificates, licenses and permits under the Act
- viii) The trade, storage, bulking, packing and roasting of coffee
- ix) The regulation of nursery operations, pulping, milling, warehousing and transportation of coffee
- x) The grading and classification of coffee
- xi) The imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers

21. **PART XII** of the Bill (**Clauses 95-102**) provides for transitional provisions.

22. **The First Schedule to the Bill** provides for provisions on the conduct of the Business and Affairs of the Coffee Board of Kenya.

23. **The Second Schedule to the Bill** provides for licence, permit or certificate.

2.2 THE COFFEE BILL, 2021 (NATIONAL ASSEMBLY BILLS NO. 17 OF 2021)

24. The Coffee Bill, 2021 (National Assembly Bills No. 17 of 2021), sponsored by the Leader of Majority Party, Hon. (Dr.) Amos Kimunya, MP, was read a first time on 8th June 2021 and was committed to the Committee.

25. The principal object of the Bill is to provide for the development, regulation and promotion of the coffee industry, to provide for establishment, powers and functions of the Coffee Board of Kenya.

2.3 Overview of the Bill

26. **PART I** of the Bill provides for preliminaries and sets out the objects and purposes of the Bill.

27. **PART II** of the Bill (Clause 3-21) establishes the Coffee Board of Kenya, its membership, functions and powers, the managing director and the staff of the Board. Clause 4 provides for a membership of 12. Clause 7 provides that the Coffee Board of Kenya, in consultation with the county governments, shall promote competition in the coffee industry, production, processing and branding of Kenya coffee locally and internationally, and generally to regulate the coffee industry in the public interest.

28. **PART III** of the Bill (Clause 22-28) provides for the Coffee Research Institute, its functions, operations, its Council and the role of the Council.

29. **PART IV** of the Bill (Clause 29) provides for the role of county governments. Pursuant to the Fourth Schedule to the Constitution, the county governments shall implement the national government policies to the extent that the policies relate to the county and the county shall be responsible for inter-alia the development of coffee grown within the county, issuance of coffee movement permits. Enforcement of county and national legislation on coffee, industry code of practice and other industry standards.

30. **PART V** of the Bill (Clause 30-35) provides for licensing provisions. It provides that the Board shall issue a coffee buyer's licence, commercial coffee miller's licence, grower miller's licence, warehouseman's licence, independent cupping laboratory licence, coffee management agency certificate, coffee roaster's licence. A County Government shall issue a pulping station licence, warehouse licence.

31. **PART VI** of the Bill (Clause 36-39) provides for registration provisions. Registration for persons carrying out businesses that relate to coffee shall be done by the Board. It also provides for registration of co-operative societies, and the registration of distinguishing marks.
32. **PART VII** of the Bill (Clause 40-46) provides for production and processing. It seeks to ensure that all coffee produced and processed in the country shall conform to the Kenya Coffee production standards. The Board shall be required to register and monitor the certification schemes for compliance with protocols for Kenyan coffee.
33. **PART VIII** of the Bill (Clause 47-60) provides for coffee trading and marketing and it provides that Kenyan coffee shall be offered for sale through auction or direct sale. This part also establishes the Nairobi Coffee Exchange whose purpose will be to conduct coffee auctions. It contains provisions that provides for the funds of the Nairobi Coffee Exchange, and its operations.
34. **PART IX** of the Bill (Clause 61) provides for quality assurance which entails quality, safety and health control measures.
35. **PART X and PART XI** of the Bill (Clause 62-68) provide for financial provisions, reporting mechanisms and management of funds of the Board. Clause 62 provides for the imposition of the Coffee Levy. It will be 1.5% of the Nairobi Coffee Exchange value for all the coffee sold.
- It shall be apportioned as follows:
- 1% - Operations of the Board
 - 0.5% - Coffee Research Institute
36. **PART XII** of the Bill (Clause 69-75) provides for general provisions which provides for appeals, dispute resolution, fiduciary duties of directors, general penalty and regulations.
37. **PART XIII** of the Bill (Clause 76) provides for consequential amendments.
38. **PART XIV** of the Bill (Clause 77-83) provides for saving and transitional provisions.
39. The First Schedule to the Bill provides for provisions on the conduct of the Business and Affairs of the Coffee Board of Kenya.
40. The Second Schedule to the Bill provides for provisions on the conduct of the Business and Affairs of the Coffee Council.

2.4 Public Participation on the National Assembly Bill

41. The Committee conducted public participation on the Coffee Bill, 2021 (National Assembly Bills No. 17 of 2021). Invitation to submit comments on the Bill was placed in the newspapers on 12th June, 2021. The Committee then conducted public hearings on 3rd and 4th of September, 2021 in Machakos, Nandi, Kericho, Kirinyaga and Bungoma Counties.
42. In Machakos County, the Committee conducted public hearings and received written submissions from the following stakeholders: National Coffee Cooperative Limited, Machakos Cooperative Union Limited, Muisuini Farmers Cooperative Society, Kwamatingi Farmers Cooperative Society, Kilalani Farmers Cooperative Society, Kailuni Farmers Cooperative Society, Mwatati Farmers Cooperative Society, Ithaeni Farmers Cooperative Society, Kamuthanga Farmers Cooperative Society, Kakuyuni Farmers Cooperative Society, Kitwi Farmers Cooperative Society, Kikima Farmers Cooperative Society, Mathunzuuni Farmers Cooperative Society, Mupati Farmers Cooperative Society, Musilili Farmers Cooperative Society, Tendolyani Farmers Cooperative Farmers, Musokari Farmers Cooperative Society, Kasinga Farmers Cooperative Society, Misakwani Farmers Cooperative Farmers, Kithangani Farmers Cooperative Society, Mung'ala Farmers Cooperative Society, Mililini Farmers Cooperative Society, Kwa Kiinaya Farmers Cooperative Society, and Kenya Coffee Producers Association. The matrix and memoranda of the submissions are annexed to this report.
43. In Nandi, Kericho and Bungoma Counties, the Committee conducted public hearings and received submissions from the following stakeholders: National Coffee Cooperative Union Ltd, Coffee Estates Producers and Processors Association (Kericho, Bomet and Koru Coffee Growing Zones), Mt. Elgon Farmers' Cooperative Union Limited, Cooperative Leaders from Bungoma County, and Kenya Coffee Producers Association. The matrix and memoranda of the submissions are annexed to this report.
44. The Committee was still considering the Bill when it received the Coffee Bill, 2020 (Senate Bills No. 22 of 2020). The Committee then proceeded to consider the Senate Bill.

PART III

3.0 STAKEHOLDERS SUBMISSIONS

45. The Members of the public had been invited through a newspaper advertisement to submit their comments on the Bill 12th November, 2021. One stakeholder submitted comments on the Bill.

3.1 The Coffee Sub-Sector Reforms Implementation Standing Committee (CSRISC).

46. The Coffee Sub- Sector Reforms Implementation Standing Committee through the Executive Office of the President submitted their comments to Parliament vide a letter Ref. OP/CAB/17/38 dated 23rd November, 2021. They proposed amendments as follows:

Clause 2

THAT, the Bill be amended by inserting new definitions.

“auction levy” “Authority” “bid” “buyers levy” “coffee business” “coffee development” “coffee research” “coffee roaster” “milling statement” “out-turn statement”

Justification:

Align the definitions with the published Crops (Coffee)(General) Regulations 2019 and Capital Markets (Coffee Exchange) Regulations, 2020 (hereinafter referred to as the regulations)

Committee Observation

The interpretation clause provides definitions of terms as used in the Bill. The appearance of the definitions in the Crops (Coffee) (General) Regulations 2019 and Capital Markets (Coffee Exchange) Regulations, 2020 does not necessarily mean that they must also be provided in the Bill. However, arising from the Committee's proposed amendments, the definitions “auction levy” and “Authority” have been proposed to be inserted to clause 2 of the Bill.

Clause 3

THAT, Clause 3 of the Bill be amended to include the following objects:

- (a) establish a framework for the regulation of the coffee subsector;
- (b) provide for a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality promotion of the coffee subsector;
- (c) promote the vertical integration of the coffee value chain for the purpose of achieving economies of scale and managing risk;
- (d) promote evidence based coffee research and the delivery of extension services for the development of the coffee subsector;
- (e) provide framework for—
 - i) the establishment of a coffee development levy; and

(ii) the sustainable funding of the coffee sector; and (provide a mechanism for dispute resolution within the coffee sector.

Justification:

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

Committee Observation

The Committee observed that the proposed new objects reiterate what is already provided for in clause 3 of the Bill. However, the Committee agreed to amend paragraph (b) by inserting the word “regulatory” immediately after the word “provide a”.

Clause 7

THAT, Clause 7 of the Bill be amended to amend the composition of the Board to consist of

(a) ... (as before)

(b).....(as before)

(c) consider amendments to the other provisions in this subsection to include:

(i) Principal Secretary in charge of cooperatives or the Commissioner for Cooperatives;

(ii) the Principal Secretary for the time being responsible for finance or a representative nominated by the Principal Secretary in writing;

(iii) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;

(iv) one person representing coffee estate growers nominated by the Council of County Governors;

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

(vi) one person representing the Attorney General;

(h).... (as before)

Justification:

To align with the provisions of Mwongozo and ensure all players along the value chain have been represented in the Board.

The membership should not exceed the proposed number under Mwongozo which provides for 7-9 members.

Committee Observations and recommendations

The Committee made the following observations:

- (a) Clause 7 of the Bill provides for the composition of Board of directors;*
- (b) The clause provides for 10 persons.*

The Committee recommended that subclause (1) of the clause be amended as follows:

~~*(a) Insert a new paragraph to provide for Principal Secretary for the time being responsible for cooperatives or the Commissioner for Cooperatives;*~~

(b) Amend paragraph (d) by reducing the number from two persons to one person;

(c) Delete paragraph (e) and substitute therefor the following new paragraph—

“(e) two persons of the opposite gender nominated by the umbrella body representing largescale coffee growers;”

(d) Delete paragraph (g) and substitute therefor the following new paragraph—

“(g) one person nominated by the umbrella body representing medium scale coffee growers;”

(e) Amend paragraph (h) as follows:

“(h) two persons of the opposite gender nominated by the cooperative society representing the largest number of small-scale coffee associations in Kenya; and”

The Committee further recommended that the following new subclause be inserted immediately after subclause (2)—

“(3) The Board may from time to time co-opt professional experts in financial management, international commodity trade or in any other area they need support.”

(4) The appointment of the chairperson or members of the Board under subsection (1) (a), (d), (e), (f) and (g) and shall take into account the gender, regional and other diversities of the people of Kenya.”

Clause 11

THAT, Clause 11 of the Bill be amended to include the following functions

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

Undertake capacity building activities and provide advisory services for players along the coffee value chain;

Justification:

For clarity on the certificates, licences and permits that are to be issued by the Board as stipulated in the regulations. To enhance the functions of the Board so as to ensure development and promotion of the coffee sector.

Committee Observation

The Committee observed that clause 11 provides for the functions of the Board. The functions proposed are already provided for in clause 11 specifically in paragraphs (b) and (h) which provide as follows:

(b) consider applications for issuance of permits and licences under the second schedule to this Act;

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

Clause 15

THAT, Clause 15 of the Bill be amended in subsection (2) to read

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

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

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

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

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

Justification:

To align with the provisions of Mwongozo

Committee Observation

The Committee observed that the proposed amendment elevates the qualification requirements of the CEO which might deny the Board from CEOs who may not necessarily have been in the coffee sector but whose similar experience might be of great benefit to the Board.

Clause 25

THAT, Clause 25 of the Bill be amended in subsection (1) to read as follows

1) A person shall not operate a—

(a) pulping station or carry out hulling activities;

(b) coffee growers' mill;

(c) commercial mill;

(d) warehouse; or

(e) coffee roaster.

Justification:

To align with coffee regulations on licensing

Committee Observations

The Committee agreed to the proposed amendment to include warehouse but rejected insertion of commercial mill. The Committee observed that the Second Schedule to the Bill provides for warehouse licence and commercial coffee miller's licence. However, there was need to clearly provide in the substantive provisions the different licences and permits as issued by different licensing authorities.

Clause 48

THAT, Clause 48 of the Bill be amended in subsection (1) and (2) to remove reference to specific entity

(1) A person shall not carry on the business of a coffee exchange unless he has applied for approval and has been licensed as a coffee exchange by the Authority in accordance with the Capital Markets Act.

3) as before...

4) As before...

Justification:

To align with the coffee regulations and the Capital Markets Act.

Define Authority in the interpretation section to mean the Capital Markets Authority.

Committee Observations

The Committee agreed to the proposed amendment.

Clause 59

Amend clause 59 to include the following:

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

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

(a) 1% to the Institute;

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

(c) 0.5% to the coffee growing county governments for coffee development as conditional grants.

Justification:

To provide for a levy and the apportionment of the same

Committee Observation

The Committee observed that clause 59 of the Bill provides for coffee development levy. It is under Part VIII on financial provisions. The Committee noted that the proposed amendment is fully provided for in clause 59 of the Bill.

Clause 67

THAT, Clause 67 of the Bill be amended to include

The Principal Secretary for matters relating to trade or a representative nominated by the Principal Secretary in writing

One person representing the Chief Executive Officer of the Kenya Phytosanitary Plant Health Services;

One person representing smallholder coffee growers nominated by the Council of County Governors;

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

Consider amending subsection (3) to read as follows—

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

(a) holds a doctorate degree in economics, agriculture, business, law, administration or other relevant degree from a university

b) has at least five years' experience in the coffee sector.

Justification

To upgrade the qualifications for the Board Chairman and members and add representation of coffee growers.

Committee Observation

The Committee made the following observations:

(a) *Clause 67 of the Bill provides for the membership of the Board of the Coffee Research Institute. It provides for 8 persons;*

(b) *The proposed amendments were untenable since if the proposed amendments were to be adopted, this would increase the membership to 12;*

(c) *There was need to amend subclause (1) by deleting paragraph (f) and substituting therefor the following new paragraph—*

“(f) one person nominated by the umbrella body of estate coffee growers;”

- (d) *There was a need to delete the words “nominated by the Cabinet Secretary” in paragraph (f) to correct an error.*
- (e) *The proposed amendment to subclause (3) was considered and the Committee recommended that it be amended as follows:*

“(3) A person is qualified for appointment as chairperson of the Board of the Institute if that person holds a master’s degree in agriculture, crops science, or other relevant degree from a university recognized in Kenya.”

Clause 70

THAT, Clause 70 of the Bill be amended to read as follows

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

(a) undertake policy and social economic analysis and make recommendations to the Cabinet Secretary on coffee research;

b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes;

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

(h) Support and promote the training and capacity building in relation to coffee research; Consider including the following functions

Be the premier national and regional institute in research into and development of new coffee varieties and improvement of existing varieties; Facilitate the use of improved production and processing technologies and to establish adequate feedback systems from coffee farmers and processors in order to achieve the highest possible quality of coffee in Kenya;

Organize national and regional bi-annual conference with coffee producers, processors and key stakeholders to share research findings and receive feedback.

Justification:

To provide for some functions more specifically

Committee Observation

The Committee observed that clause 70 of the Bill provides for the functions of the Coffee Research Institute. The proposed amendment is to subclause (2) which provides comprehensively the functions of the Coffee Research Institute. It provides for 18 functions which accommodate the proposed amendments.

Clause 74

THAT, Clause 74 of the Bill be amended in subsection (3) (b) to read as follows

(3) (b) holds a **minimum doctorate degree in agriculture, crops science, economics or business administration** or its equivalent from a university recognized in Kenya; and

Justification:

To enhance the qualifications of the Chief Executive Officer

Committee Observation

The Committee partly agreed to the proposed amendment and recommended that instead of the proposed doctorate degree, it should be a master's degree in agriculture or crops science from a university recognized in Kenya.

New Clause

Consider including the following new provision on surveillance—

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

Committee Observation

The Committee observed that the proposed new provision is already provided for in the Bill under clause 56 on inspections, specifically subclause (2).

Clause 88

Amend clause 88 of the Bill to provide for a new subclause (3) as follows:

(3) The digitalization referred to in sub-section (1) shall require the conversion of the entire value chain into a digital platform based on automation, computerization, integration across the value chain and digital instrument usage including weigh scales, digital scanners, storage and inventory management

Justification:

To align with the coffee regulations

Committee Observation

The Committee observed that clause 88 of the Bill provides for digitization: that the Board and each county executive committee member shall automate their operations for the efficient delivery of services and dissemination of information within the coffee sector. The proposed new subclause (3) is an explanation and a detail on how the digitization shall operate. This does not need to be provided in the Bill since it is administrative.

New clause

Provision on sharing of information between the Board and county governments

Justifications:

To align with the coffee regulations and enhance harmony in regulation of the coffee industry

Committee Observations

The Committee made the following observations:

(a) Regulation 39 of the Crops (Coffee) (General) Regulations, 2019 provides as follows:

39. (1) The county governments shall share the information on registered and licensed growers and dealers with the Authority [Agriculture and Food Authority] on a monthly basis or other agreed timelines.

(b) The Authority shall share the information with the respective county governments on registered and licensed dealers and other service providers within their county on a monthly basis or other agreed timelines.

(c) Clause 26(5) of the Bill provides that each county shall submit to the Board a copy of the register under subsection (3).

(d) Therefore, sharing of information has been provided for in the Bill.

Clause 94

THAT, Clause 94 of the Bill be amended in subsection (1) as follows

(1) The Cabinet Secretary may, **in consultation with the Board** and county governments, make Regulations—

Justification:

To provide for consultation with the county governments

Committee Observation

The Committee agreed to the proposed amendment.

PART IV

4.0 COMMITTEE OBSERVATIONS

47. The Committee made the following observations:

1) The Crops Act (No. 16 of 2013) repealed a number of Acts in its Second Schedule; ~~these included the Crop Production and Livestock Act (Cap. 321); the Canning Crops Act (Cap. 328); the Cereals and Sugar Finance Corporation (Cap. 329); the Coconut Industry Act (Cap. 331); the Coconut Preservation Act (Cap. 332); the Cotton Act (Cap. 335); the Pyrethrum Act (Cap. 340); the Sisal Industry Act (Cap. 341); the Tea Act (Cap. 343); the Coffee Act (No. 9 of 2001); and the Sugar Act (No. 10 of 2001);~~

2) The Coffee Act (No. 9 of 2001) was among the Acts that were repealed by the Crops Act (No. 16 of 2013);

3) The First Schedule to the Agriculture and Food Authority Act (No. 13 of 2013) provides for transitional provisions and lists former institutions; these are the Coconut Development Authority; the Kenya Sugar Board; the Tea Board of Kenya; the Coffee Board of Kenya; the Horticultural Crops Development Authority; the Pyrethrum Regulatory Authority; the Cotton Development Authority; and the Sisal Board of Kenya;

4) The Agriculture and Food Authority Act (No. 13 of 2013) establishes the Agriculture and Food Authority; Section 4 of the Act provides for the functions of the Authority; The Agriculture and Food Authority administers the Crops Act which consolidates and repeals various statutes relating to crops; and provides for the growth and development of agricultural crops;

5) However, despite these changes in the legal regime, there have been challenges raised by coffee farmers and other stakeholders which necessitated the reversion to the old regime which provides for a dedicated Coffee Board of Kenya and Coffee Research Institute whose primary focus will be to address the peculiar challenges faced in the coffee subsector;

6) The Bill, if enacted, will address most of the challenges raised by various stakeholders; the amendments, borne of stakeholder engagements, seek to enrich the Bill to respond to the peculiar needs of the coffee subsector, including the proposed establishment of the Coffee Stabilization Fund;

7) There was a need to have adequate representation of coffee farmers in the proposed Coffee Board of Kenya and the Coffee Research Institute provided for in clauses 6 and 67 respectively.

PART V

5.0 COMMITTEE RECOMMENDATION

Having considered the Bill the Committee recommends the following amendments:

CLAUSE 2

THAT, Clause 2 of the Bill be amended—

(a) by inserting the following definition in its proper alphabetical sequence—

“auction levy” means such fee per sixty-kilogram bag of coffee sold at the Exchange as shall be determined by the Cabinet Secretary responsible for matters relating to finance payable by growers to the Exchange;

“Authority” means the Capital Markets Authority;

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

“coffee plantation: means any large area of land or group of contiguous areas of land under the same management on which coffee is grown and produced for sale;

“co-operative society” means a c-operative society registered under the Co-operative Societies Act, Cap. 490;

“Fund” means the Coffee Stabilization Fund established under section 58A;

“grower miller” means a grower who mills own parchment or buni or its members’ coffee and includes an individual farmer, co-operative society, union, association, estate or any other legal entity;

“large scale coffee grower” means a person cultivating coffee in a parcel of land above fifty acres;

“medium scale coffee grower” means a person cultivating coffee in a parcel of land of between ten and fifty acres;

“small scale coffee grower” means a grower cultivating coffee in a parcel of land of less than ten acres;

“secondary market” means a post-auction transaction of clean coffee between a licensed buyer or roaster and any other party for the purpose of local sale or export;

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

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

(b) by deleting the definition “direct settlement system”;

- (c) by amending the definition “estate” by deleting the word “five” appearing immediately after the words “not being less than” and substituting therefor the word “ten”

Justification:

The proposed insertion of new definitions seeks to provide for definitions of new terms as proposed in the amendments. Further, from the stakeholder engagements, the coffee farmers were opposed to the direct settlement system hence the proposed deletion.

CLAUSE 3

THAT, Clause 3 of the Bill be amended in paragraph (b) by inserting the word “regulatory” immediately after the word “provide a”.

Justification:

The proposed amendment seeks to enrich the paragraph.

CLAUSE 6

THAT, Clause 6 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (d)—

“(da) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;

(db) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate in furtherance of the purpose for which the Board is established;”

Justification:

The proposed amendment seeks to provide for additional powers of the Coffee Board of Kenya. These powers will further enhance the functions of the Board.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 6—

Authority to raise or borrow money.

6A. The Cabinet Secretary, after consultation with the Cabinet Secretary responsible for finance, may authorize the Board to raise or borrow such sums of money to finance its operations as it may think fit and the Board may secure the repayment of such sums.

Justification:

The proposed amendment will ensure that the Board's operations cannot be hindered for lack of funds. Further, the involvement of both the Cabinet Secretary for the time being responsible for finance and the Cabinet Secretary for the time being responsible for agriculture provides necessary safeguards in the authorization to raise or borrow money.

CLAUSE 7

THAT, Clause 7 of the Bill be amended—

- (a) In subclause (1)—
 - (i) by inserting the following new paragraph immediately after paragraph (c)—
“(ca) Principal Secretary for the time being responsible for cooperatives or the Commissioner for Cooperatives;”
 - (ii) by deleting paragraph (d) and substituting therefor the following new paragraph—
“(d) one person representing smallscale coffee growers nominated by the Council of County Governors;”
 - (iii) by deleting paragraph (e) and substitute therefor the following new paragraph—
“(e) two persons of the opposite gender nominated by the umbrella body representing largescale coffee growers;”
 - (iv) by deleting paragraph (g) and substituting therefor the following new paragraph—
“(g) one person nominated by the umbrella body representing medium scale coffee growers;”
 - (v) by deleting paragraph (h) and substituting therefor the following new paragraph—
“(h) two persons of the opposite gender nominated by the cooperative society representing the largest number of small-scale coffee associations in Kenya; and”
- (b) by inserting the following new subclause immediately after subclause (2)—
 - “(3) The Board may from time to time co-opt professional experts in financial management, international commodity trade or in any other area they need support.”
 - (4) The appointment of the chairperson or members of the Board under subsection (1) (a), (d), (e), (f) and (g) and shall take into account the gender, regional and other diversities of the people of Kenya.”

Justification:

Clause 7 of the Bill provides for the composition of the Coffee Board of Kenya. The amendment provides for an additional member: Principal Secretary for the time being responsible for cooperatives or the Commissioner for Cooperatives. In order to achieve this, paragraph (d) has been amended by reducing the number from two persons to one person. The composition has also been rationalized to provide for representation of small scale, medium scale and large scale coffee growers which ensures adequate coffee farmers representation. Further, the amendment provides for co-option of professional experts to benefit the Board. Finally, appointments should take into account gender, regional and other diversities of the people of Kenya.

CLAUSE 9

THAT, the Bill be amended by deleting clause 9 of the Bill and substituting therefor the following new clause—

Term of appointment.

9. (1) The persons appointed under section 7(1) (a), (d), (e), (f) and (g) shall serve for a term of three years renewable for one further term.

(2) The persons appointed under section 7(1) (a), (d), (e), (f) and (g) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.

Justification:

Further, the amendment seeks to provide for different appointment dates to ensure there is continuity in Board operations at all times since it is best practice to have different expiry periods for terms of office of members of the Board.

CLAUSE 11

THAT, Clause 11 of the Bill be amended in subclause (1)—

- (a) by deleting paragraph (c);
- (b) by deleting paragraph (j);
- (c) by deleting paragraph (m) and substituting therefor the following new paragraph—
“(m) develop, conduct surveillance and enforce compliance with relevant policies, standards and legislation on the coffee sector;”

Justification:

Clause 11 provides for the functions of the Board. Paragraph (c) is a repetition of paragraph (c), hence the proposed deletion. Paragraphs (j) and (m) have been merged since the two functions overlap.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 17—

Corporation Secretary.

17A. (1) There shall be a Corporation Secretary who shall be the Secretary to the Board.

(2) The terms and conditions of service of the Corporation Secretary shall be determined by the Board.

Justification:

The Corporation Secretary will enhance the Board's operations. Further, the Mwongozo Code of Governance provides for it. The proposed amendment therefore seeks to provide for it.

CLAUSE 25

THAT, Clause 25 of the Bill be deleted.

Justification:

The proposed amendment to clause 26 and the proposed new clauses 26A, 26B, 26C, and 26D have clearly delineated the functions of the county governments and the Board on issuance of licence and permits, and registrations. Clause 25 is proposed to be deleted and consolidated in the proposed new clauses for logical flow.

CLAUSE 26

THAT, the Bill be amended by deleting Clause 26 and substituting therefor the following new clause—

Licenses issued by the Board.

26. The following licences shall be issued by the Board—

- (a) a coffee buyer's licence, authorizing the holder to—
 - (i) buy or deal in clean coffee produced in Kenya or to import clean coffee from outside Kenya, and to process, in Kenya for local sale or export, coffee of any country of origin; and
 - (ii) deal in roasting, blending and packaging coffee for the local market or for export.
- (b) a commercial coffee miller's licence authorizing the holder to conduct the business of milling and marketing of coffee;
- (c) a grower miller's licence, authorizing the grower to mill and market his or her own coffee;

- (d) a warehouseman's licence, authorizing the holder to conduct the business of warehousing coffee;
- (e) independent cupping laboratory licence, authorizing the holder to offer coffee quality analysis services;
- (f) a coffee roaster's licence authorizing the holder to buy at the auction or secondary market, roast or grind and package clean coffee for local sale or export and for importing clean coffee for value addition either for local sale or for export.
- (g) coffee liqueur's licence;
- (h) processed coffee import permit;
- (i) clean coffee movement permit for exports;

Justification:

The proposed amendment seeks to clearly delineate the role of the Board in issuance of different licences. The existing clause 26 has been rearranged in the subsequent proposed amendments for logical flow.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 26—

Licenses issued by county governments.

26A. (1) The following licences shall be issued by the respective county government—

- (a) pulping station licence authorizing the holder to operate a pulping station and may undertake hulling;
- (b) coffee nursery certificate;
- (c) warehouse licence;
- (d) parchment permit from the county of origin; and
- (e) clean coffee movement permit from the county of origin.

(2) A person intending to carry out any of the activities listed in section 26A shall apply for and obtain a licence or permit from the respective county government in which the operation is undertaken.

(3) An applicant for a licence or permit 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.

(4) The county executive committee member shall consider the application and may issue to the

Registration by the Board.

applicant a licence in accordance with the respective county legislation.

26B. (1) The Board shall register warehousemen, coffee buyers, commercial coffee millers, grower millers, independent cupping laboratories, coffee roasters, coffee liqueurs, processed coffee importers, clean coffee importers, marketing agents, coffee bags suppliers, and certification companies.

(2) The Board shall issue a certificate of registration upon registration of the applicants.

(3) The Board shall not charge any fee for the registration of an applicant under subsection (1).

(4) Registration of the players under this section shall only be done once.

(5) The Board shall maintain a register of all registered players and share the register with the respective county government.

(6) All registered players shall complete and submit to the Board annual returns as shall be specified in regulations under this Act.

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

Registration by the county government.

26C. (1) A person shall not carry out the business of a pulping station, coffee nursery operator, parchment movement from one county to another, warehouse or clean coffee movement from one county to another unless such person is registered by the respective county government in which the business is undertaken.

(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 pulping station operator, coffee nursery operator, warehouse, parchment mover or clean coffee mover;

(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.

Registration by co-operative societies.

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

26D. (1) A smallholder coffee grower shall have the freedom to register with the co-operative society, association or company to which he or she delivers coffee.

(2) The directors of a coffee co-operative shall serve for a period of two-three-year term.

(3) In electing directors under this section, a co-operative society shall ensure that not more than two thirds of the members are of one gender and that nominees for the Board meet the requirements of Chapter Six of the Constitution.

(4) Notwithstanding the provisions of any other law, every coffee factory may, by resolution of its members in the Annual General Meeting, apply for registration as a co-operative society under the Co-operatives Societies Act.

(5) Every producer co-operative society, association or company, coffee plantation and nursery operator shall register with the county government by supplying such particulars as shall be prescribed in Regulations made under this Act.

(6) Where a person starts growing coffee at any time after the commencement of this Act, such person shall, within six months register with—

(a) a co-operative society, association or company in accordance with subsection (1) if such a person is a small scale grower; or

(b) his or her respective county government in accordance with provisions of this Act if such a person is a plantation grower or a co-operative society.

(7) The co-operative society, association, company and the county government shall each maintain a register for the purpose of this section and shall record the particulars supplied in accordance with this section.

(8) The county government shall share the data captured in this section with the Board on an annual basis.

(9) Where a co-operative society, association, company or the county government has reasonable cause to believe that a person whose particulars are recorded has ceased to be a grower, it may, after giving that person written notice by registered post of its intention to do so, remove the name of such person from the register.

Prohibition of certain acts
without a licence.

(10) The register referred to in subsection (7) shall be proof that a person is a registered coffee grower and a co-operative society shall furnish the county government with particulars of all registered coffee growers in such manner as the county government may prescribe.

26E. (1) No person shall buy, sell, mill, warehouse, export or otherwise deal in or transact any business in coffee unless he or she is a holder of a current licence issued by the licensing authority for that purpose.

(2) This section shall not apply to—

(a) any person who purchases coffee for consumption or for planting on his or her land;

(b) any grower who mills coffee produced by such grower.

(3) Any person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of any licence granted commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(4) Where a person is convicted of an offence under this section, the court may order that any licence issued to such person be suspended for the subsequent coffee year or for such period as the Cabinet Secretary may, by Regulations, prescribe.

Justification:

The proposed new clauses 26A, 26B, 26C, 26D and 26E seek to provide clearly for the licenses issued by county governments, registration by the Board (which was missing in the Bill), registration by the county governments, registration by co-operative societies (which was missing in the Bill), prohibition of certain acts without a licence. The proposed new clauses enrich the regulatory part of the Bill.

CLAUSE 34

THAT, Clause 34 of the Bill be amended in subclause (2) by deleting the word “sub-regulation” and substituting therefor the word “subsection”.

Justification:

The proposed amendment corrects a typographical error.

CLAUSE 35

THAT, the Bill be amended by deleting Clause 35 and substituting therefor the following new Clause—

Revocation or
alteration of a
licence or
permit.

35. The licensing authority may revoke, alter or suspend a licence or permit issued under this Act if in its opinion—

- (a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence or permit holder or any employee of the licence or permit holder; or
- (b) a condition of the licence or permit has been contravened or not complied with.

Justification:

The proposed amendment seeks to provide for the circumstances under which a licence or a permit may be altered, suspended or revoked. It further seeks to separate the aspect of surrender of licence or permit to be provided for in a proposed new clause 35A.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 35—

Surrender
licence
permit.

of
or

35A. (1) The holder of a licence or permit which is revoked shall immediately surrender it to the Board.

(2) A licence or permit holder may at any time surrender the licence or permit to the Board and the licence or permit shall cease to have effect immediately.

Justification:

The proposed new clause 35A seeks to provide separately on the surrender of licence or permit which had been lumped together in clause 35 of the Bill.

CLAUSE 37

THAT, the Bill be amended by deleting Clause 37 and substituting therefor the following new Clause—

Appeals to the
High Court.

37. (1) An applicant for or holder of a licence or permit who is aggrieved by a decision of the licensing authority may appeal to the High Court on or in respect of—

- (a) the grant, refusal, renewal, variation or revocation; or
- (b) the conditions imposed on the grant, renewal or variation, of a licence or permit.

(2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision.

Justification:

The proposed amendment seeks to enrich the provision by providing for the circumstances under which a person may appeal to the High Court.

CLAUSE 38

THAT, Clause 38 of the Bill be deleted.

Justification:

The proposed deletion of clause 38 was necessary since there was an overlap between the provisions in the clause and clause 70 of the Bill providing comprehensively for the functions of the Coffee Research Institute. However, Clause 38(1) (d) was transferred to clause 70 and is captured in the amendments to clause 70.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 42—

Branding and geographical indications.

42A. The Board shall promote and register all coffees produced in Kenya in accordance with geographical or regional markers styled as 'Authentic Mark of Origin.'

Coffee development.

42B. (1) The Cabinet Secretary may, on the advice of the Board, make policies and take steps to ensure that the coffee farmers receive appropriate technologies, credit, farm inputs and marketing support.

(2) The Board shall conduct training programs aimed at strengthening the capacities of county officers in terms of knowledge and skills in coffee production, processing technologies and marketing for different types of coffee.

(3) The Board shall, in consultation with the relevant standards bodies, coffee stakeholders, county governments and research institutions, develop the Kenya Coffee Production Standards and formulate a binding Code of Good Coffee Practice.

(4) Where a farmer has entered into an agreement with an organization representing the interest of such farmer, the Board and every dealer in coffee shall respect and enable the carrying out of the terms of such agreement, including the remission to such organization of any contributions that may, pursuant to such agreement, be deductible from the farmer.

Primary processing of coffee

42C. (1) The primary processing of coffee shall be carried out at a pulping station or by a grower's co-operative society or other

association of growers under a pulping station licence.

(2) The pulping station licence may include authority to undertake hulling of own parchment or buni.

(3) The huller shall be registered with the county government and such registration information shared with the Board.

Appointment of millers.

42D. (1) Coffee milling shall only be conducted at premises that are specified under the licence issued by the Board.

(2) Every coffee factory shall, by resolution of its members in Annual General Meeting, designate a registered miller for its parchment coffee.

(3) The manager of every coffee factory shall, within two months of the end of the crop year, call a meeting of outgrowers to choose the registered miller referred to in subsection (2) from amongst at least three millers invited to make representations to the outgrowers.

(4) The county executive committee member responsible for coffee shall attend or designate a representative to attend the meeting referred to subsection (3).

(5) Each registered miller participating in the meeting to choose a miller shall make all disclosures necessary to enable farmers make an informed decision.

(6) A miller shall be a bailee of all parchment received for milling and shall be responsible for any loss or damage to the coffee in his or her custody.

(7) The milling losses allowable under this section shall be capped at nineteen percent of coffee milled.

(8) The Cabinet Secretary may, by Regulations and upon submission of empirical evidence, vary the milling losses allowable under subsection (7).

(9) Every resolution made under this section shall, within fourteen days, be filed with the Board and copied to the relevant department of the county government and to the Commissioner of Co-operatives.

(10) Any person involved in the management of a coffee factory who contravenes the provisions of this section commits an offence.

(11) For the better carrying out of the provisions of this section, the Cabinet Secretary may by regulations, prescribe the manner for the appointment and remuneration of millers and for composition and attendance at the annual general meetings at which such millers are appointed.

Justification:

The proposed new clauses 42A, 42B, 42C, 42D seek to provide for branding and geographical indications in relation to coffee, roles of the Board and the Cabinet Secretary on coffee development, the primary processing of coffee and the appointment of millers. These provisions were missing in the Bill.

CLAUSE 45

THAT, Clause 45 of the Bill be amended by—

- (a) in subclause (2) by deleting the words “and the direct settlement system provider”;
- (b) by deleting subclause (8).

Justification:

The proposed deletion of references to direct settlement system provider arose from stakeholder engagements the Committee had and the representations were opposed to the system.

CLAUSE 46

THAT, Clause 46 of the Bill be deleted and substituted therefor with the following new clause—

Coffee trading.

- 46.** (1) Kenyan coffee shall be offered for sale through—
- (a) auction in the Exchange; or
 - (b) direct sales.
- (2) All direct coffee sales shall be subject to price competition at the Coffee Exchange whereby the direct sale price shall serve as the reserve price.
- (3) Where the coffee referred to in subsection (2) fetches a higher price at the Coffee Exchange than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the Coffee Exchange price.
- (4) Despite subsection (3), if the prospective direct sales buyer refuses to buy the coffee at the Coffee Exchange price, the coffee shall be sold

to the person who makes the best offer above the reserve price at the Coffee Exchange.

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

(6) It shall be an offence for a holder of a miller's marketing licence to participate by himself or herself or by his or her agent in the buying of coffee.

Justification:

The amendment substantially retains what is contained in clause 46 of the Bill but seeks to enrich it by providing more on direct coffee sales at the Coffee Exchange. The clause deletes clause 46(1) (c) which provides for "such other method as the Cabinet Secretary may prescribe" which is unclear.

CLAUSE 48

THAT, the Bill be amended by deleting Clause 48 of the Bill and substituting therefor the following new Clause—

Application as coffee
exchange.

No. 17 of 2015.

48. (1) A person shall not carry on the business of a coffee exchange unless he or she has applied for approval and has been licensed as a coffee exchange by the Authority in accordance with the Capital Markets Act.

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

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

(a) manage the auction floor, the central sample room and the information registry ;

(b) maintain records relating to coffee sales, coffee samples and sweepings;

(c) avail sales catalogues to interested parties in accordance with the Capital Markets Act; and

(d) carry out such other function as the Cabinet Secretary for matters responsible for finance may prescribe.

(4) The funds of the Exchange shall consist of—

(a) auction levy;

(b) registration fees payable by a coffee buyer, a roaster, a grower miller or broker;

(c) government grants and donations made to the Exchange;

(d) any interest from fixed deposits;

(e) monies from a source approved by the Exchange; and

(f) sample fee.

Justification:

The proposed amendment clarifies that the Cabinet Secretary responsible for matters relating to finance will make regulations governing the operations of the Exchange. Further, the proposed deletion of subclause (4) arose from comments received from stakeholders who were opposed to the direct settlement system. Lastly, the amendments seek to provide for the sources of funds for the exchange.

CLAUSE 54

THAT, Clause 54 of the Bill be amended—

- (a) By numbering the existing provision as subclause (1);
- (b) By inserting the following subclauses immediately after subclause (1)—
 - (2) In this section, anti-competitive conduct means any act, conduct, practice or behavior by the Exchange organizer or any other licensee operating at the Exchange, individually or in concert that directly or indirectly impedes, frustrates, undermines, or reduces competition at the Exchange.
 - (3) For the purpose of subsection (2), anti-competitive conduct includes but is not limited to margin squeeze, market sharing, transfer pricing, abuse of dominance, preferential contracts that give advantageous terms to affiliates and partners relative to competitors, imposition of unfair purchase or selling conditions or other, predatory practices, application of dissimilar conditions to equivalent transactions with other trading parties and other conduct that undermine competitive operations of the Exchange.
 - (4) The Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of this section.

Justification:

Clause 54 provides for prohibition against anti-competitive practices. The proposed amendment seeks to enrich the provision by defining what constitutes anti-competitive conduct and to provide that the Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of the section.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new clauses immediately after clause 54—

Classification of coffee.

54A. (1) Where a miller draws a sample of coffee for the purpose of grading the coffee, the miller shall within seven days of such grading notify the grower to whom the coffee belongs of the classification of the coffee.

(2) Any grower who is aggrieved by classification of his or her coffee under subsection (1) may, within fourteen days of the notification, appeal against such classification to the Board.

Promotion of coffee.

54B. (1) The Cabinet Secretary shall in accordance with regulations made under this

Act and in consultation with the Board, put in place programmes for the establishment of special economic zones in the coffee sub-sector.

(2) The Board may co-ordinate coffee stakeholders, including county governments, growers and buyers at the national and international events for the purpose of promoting Kenya coffee.

(3) A county government in the coffee growing areas may, separately or in unison with the Board, support coffee growers' participation in local and international coffee promotion and marketing events.

No lending by millers and marketing agents.

54C. (1) It shall be illegal for coffee millers and marketing agents to lend to farmers on interest.

(2) A miller or marketing agent who violates the provision of subsection (1) commits an offence.

(3) Any miller or marketing agent convicted of an offence under subsection (2) shall have his or her licence revoked or suspended for such duration as the Cabinet Secretary may, by regulations, determine.

Loans against growers' assets.

54D. (1) The interest rate on borrowing by factory management against growers' assets held in trust by the coffee factories and coffee co-operative societies shall be capped at five per cent per annum.

(2) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growers to that effect.

(3) Any factory or society that violates the provisions of subsection (1) commits an offence and any loans borrowed in breach of this provision shall be statutorily converted into personal loans of the officials of the offending factory or society.

(4) Nothing in this section shall be interpreted as prohibiting coffee farmers from directly borrowing money from banks or any government established funds against their deliveries of cherry, parchment and clean coffee.

Justification:

The proposed new clauses 54A, 54B, 54C and 54D provide for matters that have not been provided for in the Bill. Clause 54A seeks to provide for the procedure and appeals on classification of coffee, the role of the Cabinet Secretary and the Board in the promotion of coffee, prohibition for coffee millers and marketing agents from lending to farmers on interest, and safeguards on loans against growers' assets.

CLAUSE 58

THAT, Clause 58 of the Bill be amended by—

- (a) inserting the following paragraph immediately after the introductory statement—
“(a) such monies as may be appropriated by the National Assembly;”
- (b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

Justification:

The proposed amendment seeks to provide for monies appropriated by the National Assembly as one of the sources of funds for the Board.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after Clause 58—

Coffee Stabilization Fund.

58A. (1) There is established a Fund to be known as the Coffee Stabilization Fund which shall be managed by the Board.

(2) The Fund shall consist of—

- (a) monies appropriated by the National Assembly;
- (b) monies from any source approved by the Board;

(c) grants and donations made to the Board.

(3) The Board shall apply the monies received into the Fund to—

- (a) income and price stabilization; and
- (b) any investments that further the objective of stabilizing the prices paid to farmers.

Justification:

The proposed new clause 58A seeks to provide for Coffee Stabilization Fund. The Fund will help coffee farmers in income and price stabilization especially during years when coffee prices have plummeted.

CLAUSE 63

THAT, the Bill be amended by deleting Clause 63 and substituting therefor the following new Clause—

Financial Year of the Board.

63. The financial year of the Board shall be the period of twelve months ending on the 30th June of every year.

Justification:

The proposed amendments seeks to clarify the financial year of the Board.

CLAUSE 67

THAT, Clause 67 of the Bill be amended—

(a) in subclause (1)—

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

“(f) one person nominated by the umbrella body of estate coffee growers;”

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

“(3) A person is qualified for appointment as chairperson of the Board of the Institute if that person holds a master’s degree in agriculture, crops science, or other relevant degree from a university recognized in Kenya.”

Justification:

Clause 67 provides for the membership of the Coffee Research Institute. The proposed amendment to subclause (1) (f) seeks to provide clarity on the nominating body. Further, the proposed amendment to subclause (3) enhances the qualification for appointment of a person as a chairperson of the Board from a degree to a master’s degree which will enhance the effectiveness of the Institute.

CLAUSE 70

THAT, Clause 70 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (e)—

“(ea) issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export;”

Justification:

The proposed amendment arose during consideration of clause 38(1) (d) of the Bill which provides for one of the functions of the Coffee Research Institute as to “issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export”. The proposed amendment rightly places the function in clause 70 which comprehensively provides for the functions of the Institute.

CLAUSE 74

THAT, Clause 74 of the Bill be amended in subclause (3) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) holds a master’s degree in agriculture or crops science from a university recognized in Kenya;”

Justification:

Clause 74(3) provides for the qualifications for a person to be appointed as a chief executive officer of the Coffee Research Institute. The proposed amendment enhances the educational qualifications from a degree to a master’s degree in agriculture or crops

science from a university recognized in Kenya. This will in turn enhance the Institute's effectiveness.

CLAUSE 80

THAT, Clause 80 of the Bill be amended by—

- (a) inserting the following paragraph immediately after the introductory statement—
“(a) such monies as may be appropriated by the National Assembly;”
- (b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

Justification:

The proposed amendment seeks to provide for monies appropriated by the National Assembly as one of the sources of funds for the Institute.

CLAUSE 84

THAT, Clause 84 of the Bill be amended in subclause (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) a statement showing in detail the assets and liabilities of the Institute;”

Justification:

Financial statements are prepared in accordance with the International Public Sector Accounting Standards (IPSAS Accrual). The term “balance sheet” is no longer used in accounting hence the proposed amendment.

CLAUSE 85

THAT, Clause 85 of the Bill be amended—

- (a) in subclause (1) by deleting the words “balance sheet and such other statements of accounts” and substituting therefor the words “statements of account”;
- (b) in subclause (2) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;
- (c) in subclause (3) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;

Justification:

Financial statements are prepared in accordance with the International Public Sector Accounting Standards (IPSAS Accrual). The term “balance sheet” is no longer used in accounting hence the proposed amendment.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 87—

Conflict of laws.

87A. If any conflict arises between the provisions of this Act and any other Act with respect to the regulation of coffee, the provisions of this Act shall prevail.

Justification:

The proposed new clause 87A provides clarity in case there is conflict between the provisions of the Act and any other Act.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 91—

Offences
penalties.

and

91A. (1) A person commits an offence if the person—

- (a) without lawful excuse ignores or fails to obey any instruction issued by a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act;
- (b) willfully obstructs a member of the Board or an employee or agent of the Board in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act.

(2) A person who contravenes subsection (1) is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding five years, or to both.

(3) A person who is convicted of an offence under this Act shall in addition to any other penalty have his or her licence or registration suspended or cancelled for such a period as the Board may decide.

Justification:

The Bill had not made provision for a number of important offences which would have the effect of enabling the Board run effectively. The amendment provides for these offences.

CLAUSE 92

THAT, the Bill be amended by deleting clause 92 and substituting the following new clause—

General penalty.

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

(2) Where the person convicted under this section is also a licence or permit holder under this Act, the licensing authority may, in addition, cancel such person's licence.

Justification:

In the Bill, the proposed general penalty had both provided for offences by an individual and a body corporate. Further, penalty was not punitive. The proposed amendment has provided for a higher penalty for deterrence and proposes to provide for offences relating to body corporate in a separate clause (proposed new clause 92A).

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 92—

Offences relating
to body corporate.

92A. If an offence under this Act is committed by a body corporate, any other association of individuals or a co-operative society, a director, partner or any other person involved in, or acting or purporting to act in the management of its affairs commits an offence unless that person proves that—

- (a) the act or omission constituting the offence took place without the person's knowledge; or
- (b) the person took reasonable steps to prevent the commission of the offence.

Justification:

The proposed new clause 92A provides for offences relating to body corporate. Clause 92(2) of the Bill provides for it but the amendment seeks to provide for it separately.

CLAUSE 94

THAT, the Bill be amended by deleting Clause 94 and substituting therefor the following new Part—

PART XIA- PROVISIONS ON DELEGATED LEGISLATION

Regulations.

94. (1) The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations—

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

(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, permits, contracts and related activities;
- (c) the process of application for registration, licensing and related activities;

- (d) any fee or levy which may be charged for anything done under this Act;
- (e) the regulation and enforcement of contracts between growers, processors and other players in the coffee industry;
- (f) the process of nomination of members to the Board
- (g) the conditions for the issuance of certificates, licenses and permits under this Act;
- (h) the trade, storage, bulking, packing and roasting of coffee;
- (i) the regulation of nursery operations, pulping, milling, warehousing and transportation of coffee;
- (j) value addition of coffee exports and imports;
- (k) the grading and classification of coffee; and
- (l) the imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers.
- (m) anything required to be prescribed under this Act;

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;
- (b) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

Cap. 2

No. 23 of 2013

Justification:

The proposed amendment seeks to align the provision to Standing Order 118 of the National Assembly Standing Orders which requires that provisions on delegated powers be in a separate and distinct part of the Bill under the title “Provisions on Delegated Powers”. It further includes value addition of coffee exports and imports as one of the aspects to be provided for in regulations.

CLAUSE 96

THAT, the Bill be amended by deleting Clause 96 and substituting therefor the following new Clause—

Transfer
assets
and
liabilities.

96. 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 and the Coffee Research Institute of the Kenya Agricultural and Livestock Research Organization, shall, on the date of commencement of this Act, vest in the Board and the Institute, respectively, subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Justification:

The proposed amendment seeks to provide clarity on the transfer of assets and liabilities.

CLAUSE 102

THAT, the Bill be amended by deleting Clause 102 and substituting therefor the following new Clause—

Consequential
amendments.
No. 16 of 2013.

102. The Crops Act is amended in—

- (a) section 14(1) by deleting paragraph (a); and
- (b) Part I of the First Schedule by deleting the expression
“Coffee.....*Coffea* spp.”

Justification:

The proposed amendments seeks to provide clarity on the proposed amendment specifically under subclause (1) (b).

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 102—

Consequential
amendments.
No. 12 of 1997.

102A. The Co-operatives Act is amended in—

- (a) Section 43—
 - (i) by numbering the existing provision as subsection (1)
 - (ii) by inserting the following new subsection—
- (2) Despite subsection (1), a coffee cooperative shall not lend to farmers on interest.
- (b) Section 44—
 - (i) by numbering the existing provision as subsection (1)
 - (ii) by inserting the following new subsections—
- (2) The interest rate on borrowing by factory management against growers’ assets held in trust by coffee co-operative societies shall be capped at five per cent per annum.
- (3) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growers to that effect.

Justification

The proposed consequential amendment to the Cooperative Act seeks to align the Act to the Bill proposed to New Clauses 54B, 54D

SECOND SCHEDULE

THAT, the Bill be amended by deleting the Second Schedule and substituting therefor the following new Schedule—

SECOND SCHEDULE (s. 11, s. 23, s. 26, s. 26A, s.27, s. 28, s. 32, s.67)

LICENCE, PERMIT OR CERTIFICATE

No.	Type of Licence/Permit or Certificate	Issuing Authority
1.	Coffee buyer's licence	Board
2.	Independent cupping laboratory licence	Board
3.	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.	Commercial coffee miller's licence	Board
8.	Coffee roaster's licence	Board
9.	Grower miller's licence	Board
10.	Marketing agent licence	Board
11.	Coffee nursery certificate	County government
12.	Warehouse licence	County government
13.	Pulping station licence	County government
14.	Parchment permit from the county of origin	County government
15.	Clean coffee movement permit from the county of origin	County government
16.	Coffee exchange licence	Capital Markets Authority
17.	Broker's licence	Capital Markets Authority

Justification:

The proposed amendment to the Second Schedule to the Bill seeks to align it to the proposed amendments to various clauses of the Bill.

SIGNED..... DATE.....

HON. SILAS TIREN, MP

(CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK)

THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK

MEMBERS ATTENDANCE SCHEDULE

DATE: 15/02/2022 START: 10:00am END: 12:00pm

VENUE: MEDIA CENTRE

AGENDA: Adoption of the Committee Report
on Coffee Bill (Senate Bill No 22 of 2020)

	NAME	TITLE	SIGNATURE
1.	Hon. Silas Kipkoech Tiren, MP.	CHAIRPERSON	
2.	Hon. Abdikhaim Osman, MP	Vice – Chairperson	
3.	Hon. Maison Leshoomo, MP.	Member	
4.	Hon. Ole Metito Katoo, MP		
5.	Hon. Ferdinard Wanyonyi, MP.	Member	
6.	Hon. Dr. Chrisantus Wamalwa, CBS, MP.	Member	
7.	Hon. Simba Arati, MP.	Member	
8.	Hon. Cecily Mbarire, MGH, MP.	Member	
9.	Hon. Jude Njomo, MP.	Member	
10.	Hon. Adan Haji Yussuf, MP.	Member	
11.	Hon. Janet Jepkemboi Sitienei, MP.	Member	
12.	Hon. Julius Kibiwott Melly, MP.	Member	
13.	Hon. Geoffrey Odanga, MP.	Member	
14.	Hon. Martin Peters Owino, MP.	Member	
15.	Hon. Joyce Kamene, MP.	Member	
16.	Hon. Yegon Brighton Leonard, MP.	Member	
17.	Hon. Dr. John Kanyuithia Mutunga, MP.	Member	
18.	Hon. Gabriel Kago Mukuha, MP.	Member	
19.	Hon. Majimbo Kalasinga, MP	Member	

COMMITTEE CLERK Adnan KADHI 15/02/2022

DIRECTOR.....

1

2

3

4

5

6

7

MINUTES OF THE 12TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD ON TUESDAY 15TH FEBRUARY, 2022 IN THE MEDIA CENTRE, MAIN PARLIAMENT BUILDING, AT 1.00PM

PRESENT

- | | |
|--|--------------------|
| 1. Hon. Silas Kipkoech Tiren, MP. | Chairperson |
| 2. Hon. Abdikhaim Osman, MP | Vice Chairperson |
| 3. Hon. Dr. Chrisantus Wamalwa, CBS. MP. | |
| 4. Hon. Cecily Mbarire, MGH, MP. | |
| 5. Hon. Janet Jepkemboi Sitienei, MP | |
| 6. Hon. Ferdinand Wanyonyi, MP. | |
| 7. Hon. Dr. John Kanyuithia Mutunga, MP. | |
| 8. Hon. Julius Kibiwott Melly, MP. | |
| 9. Hon. Yegon Brighton Leonard, MP. | |
| 10. Hon. Gabriel Kago Mukuha, MP. | |
| 11. Hon. Adan Haji Yussuf, MP. | |
| 12. Hon. Joyce Kamene, MP. | |
| 13. Hon. Martin Peters Owino, MP. | |
| 14. Hon. Majimbo Kalasinga, MP. | |

APOLOGIES

1. Hon. Ole Metito Katoo, MP
2. Hon. Maison Leshoomo, MP.
3. Hon. Geoffrey Odanga, MP.
4. Hon. Jude Njomo, MP.
5. Hon. Simba Arati, MP.

COMMITTEE SECRETARIAT

- | | | |
|----------------------------|---|------------------------|
| 1. Mr. Nicodemus K. Maluki | - | Second Clerk Assistant |
| 2. Mr. Robert Ng'etich | - | Fiscal Analyst |
| 3. Mr. Wilson Angatangoria | - | Sergeant At Arms |
| 4. Mr. Luteshi Eugene | - | Audio Officer |
| 5. Mr. Moses Musembi | - | Office Assistant |

MIN.NO. DDC/A&L/031/2022: PRELIMINARIES

The Chairperson called the meeting to order at twenty five minutes past one o'clock. The proceedings began with prayers followed by brief introductions.

MIN.NO. DC/A&L032 /2022: ADOPTION OF THE COMMITTEE REPORT ON ITS CONSIDERATION OF THE COFFEE BILL, SENATE BILL NO. 22 OF 2020

The Committee unanimously adopted its report with the following observations and Recommendation (Senate Bill No. 22 of 2020) as follows:

The Committee made the following observations:

1) The Crops Act (No. 16 of 2013) repealed a number of Acts in its Second Schedule; these included the Crop Production and Livestock Act (Cap. 321); the Canning Crops Act (Cap. 328); the Cereals and Sugar Finance Corporation (Cap. 329); the Coconut Industry Act (Cap. 331); the Coconut Preservation Act (Cap. 332); the Cotton Act (Cap. 335); the Pyrethrum Act (Cap. 340); the Sisal Industry Act (Cap. 341); the Tea Act (Cap. 343); the Coffee Act (No. 9 of 2001); and the Sugar Act (No. 10 of 2001);

2) The Coffee Act (No. 9 of 2001) was among the Acts that were repealed by the Crops Act (No. 16 of 2013);

3) The First Schedule to the Agriculture and Food Authority Act (No. 13 of 2013) provides for transitional provisions and lists former institutions; these are the Coconut Development Authority; the Kenya Sugar Board; the Tea Board of Kenya; the Coffee Board of Kenya; the Horticultural Crops Development Authority; the Pyrethrum Regulatory Authority; the Cotton Development Authority; and the Sisal Board of Kenya;

4) The Agriculture and Food Authority Act (No. 13 of 2013) establishes the Agriculture and Food Authority; Section 4 of the Act provides for the functions of the Authority; The Agriculture and Food Authority administers the Crops Act which consolidates and repeals various statutes relating to crops; and provides for the growth and development of agricultural crops;

5) However, despite these changes in the legal regime, there have been challenges raised by coffee farmers and other stakeholders which necessitated the reversion to the old regime which provides for a dedicated Coffee Board of Kenya and Coffee Research Institute whose primary focus will be to address the peculiar challenges faced in the coffee subsector;

6) The Bill, if enacted, will address most of the challenges raised by various stakeholders; the amendments, borne of stakeholder engagements, seek to enrich the Bill to respond to the peculiar needs of the coffee subsector, including the proposed establishment of the Coffee Stabilization Fund;

7) There was a need to have adequate representation of coffee farmers in the proposed Coffee Board of Kenya and the Coffee Research Institute provided for in clauses 6 and 67 respectively.

The Committee made the following recommendations

CLAUSE 2

THAT, Clause 2 of the Bill be amended—

(a) by inserting the following definition in its proper alphabetical sequence—

“auction levy” means such fee per sixty-kilogram bag of coffee sold at the Exchange as shall be determined by the Cabinet Secretary responsible for matters relating to finance payable by growers to the Exchange;

“Authority” means the Capital Markets Authority;

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

“coffee plantation: means any large area of land or group of contiguous areas of land under the same management on which coffee is grown and produced for sale;

“co-operative society” means a c-operative society registered under the Co-operative Societies Act, Cap. 490;

“Fund” means the Coffee Stabilization Fund established under section 58A;

“grower miller” means a grower who mills own parchment or buni or its members’ coffee and includes an individual farmer, co-operative society, union, association, estate or any other legal entity;

“large scale coffee grower” means a person cultivating coffee in a parcel of land above fifty acres;

“medium scale coffee grower” means a person cultivating coffee in a parcel of land of between ten and fifty acres;

“small scale coffee grower” means a grower cultivating coffee in a parcel of land of less than ten acres;

“secondary market” means a post-auction transaction of clean coffee between a licensed buyer or roaster and any other party for the purpose of local sale or export;

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

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

(b) by deleting the definition “direct settlement system”.

Justification:

The proposed insertion of new definitions seeks to provide for definitions of new terms as proposed in the amendments. Further, from the stakeholder engagements, the coffee farmers were opposed to the direct settlement system hence the proposed deletion.

CLAUSE 3

THAT, Clause 3 of the Bill be amended in paragraph (b) by inserting the word “regulatory” immediately after the word “provide a”.

Justification:

The proposed amendment seeks to enrich the paragraph.

CLAUSE 6

THAT, Clause 6 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (d)—

“(da) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
(db) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate in furtherance of the purpose for which the Board is established;”

Justification:

The proposed amendment seeks to provide for additional powers of the Coffee Board of Kenya. These powers will further enhance the functions of the Board.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 6—

Authority to raise or borrow money.

6A. The Cabinet Secretary, after consultation with the Cabinet Secretary responsible for finance, may authorize the Board to raise or borrow such sums of money to finance its operations as it may think fit and the Board may secure the repayment of such sums.

Justification:

The proposed amendment will ensure that the Board's operations cannot be hindered for lack of funds. Further, the involvement of both the Cabinet Secretary for the time being responsible for finance and the Cabinet Secretary for the time being responsible for agriculture provides necessary safeguards in the authorization to raise or borrow money.

CLAUSE 7

THAT, Clause 7 of the Bill be amended—

(a) In subclause (1)—

- (i) by inserting the following new paragraph immediately after paragraph (c)—
“(ca) Principal Secretary for the time being responsible for cooperatives or the Commissioner for Cooperatives;”
 - (ii) by deleting paragraph (d) and substituting therefor the following new paragraph—
“(d) one person representing smallscale coffee growers nominated by the Council of County Governors;”
 - (iii) by deleting paragraph (e) and substitute therefor the following new paragraph—
“(e) two persons of the opposite gender nominated by the umbrella body representing largescale coffee growers;”
 - (iv) by deleting paragraph (g) and substituting therefor the following new paragraph—
“(g) one person nominated by the umbrella body representing medium scale coffee growers;”
 - (v) by deleting paragraph (h) and substituting therefor the following new paragraph—
“(h) two persons of the opposite gender nominated by the cooperative society representing the largest number of small-scale coffee associations in Kenya; and”
- (b) by inserting the following new subclause immediately after subclause (2)—
“(3) The Board may from time to time co-opt professional experts in financial management, international commodity trade or in any other area they need support.”
- (4) The appointment of the chairperson or members of the Board under subsection (1) (a), (d), (e), (f) and (g) and shall take into account the gender, regional and other diversities of the people of Kenya.”

Justification:

Clause 7 of the Bill provides for the composition of the Coffee Board of Kenya. The amendment provides for an additional member: Principal Secretary for the time being responsible for cooperatives or the Commissioner for Cooperatives. In order to achieve this, paragraph (d) has been amended by reducing the number from two persons to one person. The composition has also been rationalized to provide for representation of small scale, medium scale and large scale coffee growers which ensures adequate coffee farmers representation. Further, the amendment provides for co-option of professional experts to benefit the Board. Finally, appointments should take into account gender, regional and other diversities of the people of Kenya.

CLAUSE 9

THAT, the Bill be amended by deleting clause 9 of the Bill and substituting therefor the following new clause—

Term of appointment.

9. (1) The persons appointed under section 7(1) (a), (d), (e), (f) and (g) shall serve for a term of three years renewable for one further term.

(2) The persons appointed under section 7(1) (a), (d), (e), (f) and (g) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.

Justification:

Further, the amendment seeks to provide for different appointment dates to ensure there is continuity in Board operations at all times since it is best practice to have different expiry periods for terms of office of members of the Board.

CLAUSE 11

THAT, Clause 11 of the Bill be amended in subclause (1)—

- (a) by deleting paragraph (c);
- (b) by deleting paragraph (j);
- (c) by deleting paragraph (m) and substituting therefor the following new paragraph—
“(m) develop, conduct surveillance and enforce compliance with relevant policies, standards and legislation on the coffee sector;”

Justification:

Clause 11 provides for the functions of the Board. Paragraph (c) is a repetition of paragraph (c), hence the proposed deletion. Paragraphs (j) and (m) have been merged since the two functions overlap.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 17—

Corporation Secretary.

17A. (1) There shall be a Corporation Secretary who shall be the Secretary to the Board.

(2) The terms and conditions of service of the Corporation Secretary shall be determined by the Board.

Justification:

The Corporation Secretary will enhance the Board's operations. Further, the Mwongozo Code of Governance provides for it. The proposed amendment therefore seeks to provide for it.

CLAUSE 25

THAT, Clause 25 of the Bill be deleted.

Justification:

The proposed amendment to clause 26 and the proposed new clauses 26A, 26B, 26C, and 26D have clearly delineated the functions of the county governments and the Board on issuance of licence and permits, and registrations. Clause 25 is proposed to be deleted and consolidated in the proposed new clauses for logical flow.

CLAUSE 26

THAT, the Bill be amended by deleting Clause 26 and substituting therefor the following new clause—

Licenses issued by the Board.

26. The following licences shall be issued by the Board—

- (a) a coffee buyer's licence, authorizing the holder to—
 - (i) buy or deal in clean coffee produced in Kenya or to import clean coffee from outside Kenya, and to process, in Kenya for local sale or export, coffee of any country of origin; and
 - (ii) deal in roasting, blending and packaging coffee for the local market or for export.
- (b) a commercial coffee miller's licence authorizing the holder to conduct the business of milling and marketing of coffee;
- (c) a grower miller's licence, authorizing the grower to mill and market his or her own coffee;
- (d) a warehouseman's licence, authorizing the holder to conduct the business of warehousing coffee;

- (e) independent cupping laboratory licence, authorizing the holder to offer coffee quality analysis services;
- (f) a coffee roaster's licence authorizing the holder to buy at the auction or secondary market, roast or grind and package clean coffee for local sale or export and for importing clean coffee for value addition either for local sale or for export.
- (g) coffee liqueur's licence;
- (h) processed coffee import permit;
- (i) clean coffee movement permit for exports;

Justification:

The proposed amendment seeks to clearly delineate the role of the Board in issuance of different licences. The existing clause 26 has been rearranged in the subsequent proposed amendments for logical flow.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 26—

Licenses issued by county governments.

26A. (1) The following licences shall be issued by the respective county government—

- (a) pulping station licence authorizing the holder to operate a pulping station and may undertake hulling;
- (b) coffee nursery certificate;
- (c) warehouse licence;
- (d) parchment permit from the county of origin; and
- (e) clean coffee movement permit from the county of origin.

(2) A person intending to carry out any of the activities listed in section 26A shall apply for and obtain a licence or permit from the respective county government in which the operation is undertaken.

(3) An applicant for a licence or permit 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.

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

Registration by the Board.

26B. (1) The Board shall register warehousemen, coffee buyers, commercial coffee millers, grower millers, independent cupping laboratories, coffee roasters, coffee liqueurs, processed coffee importers, clean coffee importers, marketing agents, coffee bags suppliers, and certification companies.

(2) The Board shall issue a certificate of registration upon registration of the applicants.

(3) The Board shall not charge any fee for the registration of an applicant under subsection (1).

(4) Registration of the players under this section shall only be done once.

(5) The Board shall maintain a register of all registered players and share the register with the respective county government.

(6) All registered players shall complete and submit to the Board annual returns as shall be specified in regulations under this Act.

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

Registration by the county government.

26C. (1) A person shall not carry out the business of a pulping station, coffee nursery operator, parchment movement from one county to another, warehouse or clean coffee movement from one county to another unless such person is registered by the

respective county government in which the business is undertaken.

(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 pulping station operator, coffee nursery operator, warehouse, parchment mover or clean coffee mover;

(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).

Registration by co-operative societies.

26D. (1) A smallholder coffee grower shall have the freedom to register with the co-operative society, association or company to which he or she delivers coffee.

(2) The directors of a coffee co-operative shall serve for a period of two three-year term.

~~(3) In electing directors under this section, a co-operative society shall ensure that not more than two thirds of the members are of one gender and that nominees for the Board meet the requirements of Chapter Six of the Constitution.~~

(4) Notwithstanding the provisions of any other law, every coffee factory may, by resolution of its members in the Annual General Meeting, apply for registration as a co-operative society under the Co-operatives Societies Act.

(5) Every producer co-operative society, association or company, coffee plantation and nursery operator shall register with the county government by supplying such particulars as shall be prescribed in Regulations made under this Act.

(6) Where a person starts growing coffee at any time after the commencement of this Act, such person shall, within six months register with—

- (a) a co-operative society, association or company in accordance with subsection (1) if such a person is a small scale grower; or
- (b) his or her respective county government in accordance with provisions of this Act if such a person is a plantation grower or a co-operative society.

(7) The co-operative society, association, company and the county government shall each maintain a register for the purpose of this section and shall record the particulars supplied in accordance with this section.

(8) The county government shall share the data captured in this section with the Board on an annual basis.

(9) Where a co-operative society, association, company or the county government has reasonable cause to believe that a person whose particulars are recorded has ceased to be a grower, it may, after giving that person written notice by registered post of its intention to do so, remove the name of such person from the register.

(10) The register referred to in subsection (7) shall be proof that a person is a registered coffee grower and a co-operative society shall furnish the county government with particulars of all registered coffee growers in such manner as the county government may prescribe.

Prohibition of certain acts without a licence.

26E. (1) No person shall buy, sell, mill, warehouse, export or otherwise deal in or transact any business in coffee unless he or she is a holder of a current licence issued by the licensing authority for that purpose.

(2) This section shall not apply to—

- (a) any person who purchases coffee for consumption or for planting on his or her land;
- (b) any grower who mills coffee produced by such grower.

(3) Any person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of any licence granted commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(4) Where a person is convicted of an offence under this section, the court may order that any licence issued to such person be suspended for the subsequent coffee year or for such period as the Cabinet Secretary may, by Regulations, prescribe.

Justification:

The proposed new clauses 26A, 26B, 26C, 26D and 26E seek to provide clearly for the licenses issued by county governments, registration by the Board (which was missing in the Bill), registration by the county governments, registration by co-operative societies (which was missing in the Bill), prohibition of certain acts without a licence. The proposed new clauses enrich the regulatory part of the Bill.

CLAUSE 34

THAT, Clause 34 of the Bill be amended in subclause (2) by deleting the word “sub-regulation” and substituting therefor the word “subsection”.

Justification:

The proposed amendment corrects a typographical error.

CLAUSE 35

THAT, the Bill be amended by deleting Clause 35 and substituting therefor the following new Clause—

Revocation or
alteration of a
licence or
permit.

35. The licensing authority may revoke, alter or suspend a licence or permit issued under this Act if in its opinion—

- (a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence or permit holder or any employee of the licence or permit holder; or
- (b) a condition of the licence or permit has been contravened or not complied with.

Justification:

The proposed amendment seeks to provide for the circumstances under which a licence or a permit may be altered, suspended or revoked. It further seeks to separate the aspect of surrender of licence or permit to be provided for in a proposed new clause 35A.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 35—

Surrender of
licence or
permit.

35A. (1) The holder of a licence or permit which is revoked shall immediately surrender it to the Board.

(2) A licence or permit holder may at any time surrender the licence or permit to the Board and the licence or permit shall cease to have effect immediately.

Justification:

The proposed new clause 35A seeks to provide separately on the surrender of licence or permit which had been lumped together in clause 35 of the Bill.

CLAUSE 37

THAT, the Bill be amended by deleting Clause 37 and substituting therefor the following new Clause—

Appeals to the
High Court.

37. (1) An applicant for or holder of a licence or permit who is aggrieved by a decision of the licensing authority may appeal to the High Court on or in respect of—

- (a) the grant, refusal, renewal, variation or revocation; or
- (b) the conditions imposed on the grant, renewal or variation, of a licence or permit.

(2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision.

Justification:

The proposed amendment seeks to enrich the provision by providing for the circumstances under which a person may appeal to the High Court.

CLAUSE 38

THAT, Clause 38 of the Bill be deleted.

Justification:

The proposed deletion of clause 38 was necessary since there was an overlap between the provisions in the clause and clause 70 of the Bill providing comprehensively for the functions of the Coffee Research Institute. However, Clause 38(1) (d) was transferred to clause 70 and is captured in the amendments to clause 70.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 42—

Branding and geographical indications.

42A. The Board shall promote and register all coffees produced in Kenya in accordance with geographical or regional markers styled as ‘Authentic Mark of Origin.’

Coffee development.

42B. (1) The Cabinet Secretary may, on the advice of the Board, make policies and take steps to ensure that the coffee farmers receive appropriate technologies, credit, farm inputs and marketing support.

(2) The Board shall conduct training programs aimed at strengthening the capacities of county officers in terms of knowledge and skills in coffee production, processing technologies and marketing for different types of coffee.

(3) The Board shall, in consultation with the relevant standards bodies, coffee stakeholders, county governments and research institutions, develop the Kenya Coffee Production Standards

and formulate a binding Code of Good Coffee Practice.

(4) Where a farmer has entered into an agreement with an organization representing the interest of such farmer, the Board and every dealer in coffee shall respect and enable the carrying out of the terms of such agreement, including the remission to such organization of any contributions that may, pursuant to such agreement, be deductible from the farmer.

Primary processing of coffee

42C. (1) The primary processing of coffee shall be carried out at a pulping station or by a grower's co-operative society or other association of growers under a pulping station licence.

(2) The pulping station licence may include authority to undertake hulling of own parchment or buni.

(3) The huller shall be registered with the county government and such registration information shared with the Board.

Appointment of millers.

42D. (1) Coffee milling shall only be conducted at premises that are specified under the licence issued by the Board.

(2) Every coffee factory shall, by resolution of its members in Annual General Meeting, designate a registered miller for its parchment coffee.

(3) The manager of every coffee factory shall, within two months of the end of the crop year, call a meeting of outgrowers to choose the registered miller referred to in subsection (2) from amongst at least three millers invited to make representations to the outgrowers.

(4) The county executive committee member responsible for coffee shall attend or designate a

representative to attend the meeting referred to subsection (3).

(5) Each registered miller participating in the meeting to choose a miller shall make all disclosures necessary to enable farmers make an informed decision.

(6) A miller shall be a bailee of all parchment received for milling and shall be responsible for any loss or damage to the coffee in his or her custody.

(7) The milling losses allowable under this section shall be capped at nineteen percent of coffee milled.

(8) The Cabinet Secretary may, by Regulations and upon submission of empirical evidence, vary the milling losses allowable under subsection (7).

(9) Every resolution made under this section shall, within fourteen days, be filed with the Board and copied to the relevant department of the county government and to the Commissioner of Co-operatives.

(10) Any person involved in the management of a coffee factory who contravenes the provisions of this section commits an offence.

(11) For the better carrying out of the provisions of this section, the Cabinet Secretary may by regulations, prescribe the manner for the appointment and remuneration of millers and for composition and attendance at the annual general meetings at which such millers are appointed.

Justification:

The proposed new clauses 42A, 42B, 42C, 42D seek to provide for branding and geographical indications in relation to coffee, roles of the Board and the Cabinet Secretary on coffee development, the primary processing of coffee and the appointment of millers. These provisions were missing in the Bill.

CLAUSE 45

THAT, Clause 45 of the Bill be amended by—

- (a) in subclause (2) by deleting the words “and the direct settlement system provider”;
- (b) by deleting subclause (8).

Justification:

The proposed deletion of references to direct settlement system provider arose from stakeholder engagements the Committee had and the representations were opposed to the system.

CLAUSE 46

THAT, Clause 46 of the Bill be deleted and substituted therefor with the following new clause—

Coffee trading.

46. (1) Kenyan coffee shall be offered for sale through—

(a) auction in the Exchange; or

(b) direct sales.

(2) All direct coffee sales shall be subject to price competition at the Coffee Exchange whereby the direct sale price shall serve as the reserve price.

(3) Where the coffee referred to in subsection (2) fetches a higher price at the Coffee Exchange than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the Coffee Exchange price.

(4) Despite subsection (3), if the prospective direct sales buyer refuses to buy the coffee at the Coffee Exchange price, the coffee shall be sold to the person who makes the best offer above the reserve price at the Coffee Exchange.

(5) A buyer, a roaster, or a grower miller licensed by the relevant licensing authority, or a broker appointed by the grower, may trade at an exchange

in accordance with this Act and any other laws governing trade in an exchange.

(6) It shall be an offence for a holder of a miller's marketing licence to participate by himself or herself or by his or her agent in the buying of coffee.

Justification:

The amendment substantially retains what is contained in clause 46 of the Bill but seeks to enrich it by providing more on direct coffee sales at the Coffee Exchange. The clause deletes clause 46(1) (c) which provides for "such other method as the Cabinet Secretary may prescribe" which is unclear.

CLAUSE 48

THAT, the Bill be amended by deleting Clause 48 of the Bill and substituting therefor the following new Clause—

Application as coffee
exchange.

No. 17 of 2015.

48. (1) A person shall not carry on the business of a coffee exchange unless he or she has applied for approval and has been licensed as a coffee exchange by the Authority in accordance with the Capital Markets Act.

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

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

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

(4) The funds of the Exchange shall consist of—

- (a) auction levy;
- (b) registration fees payable by a coffee buyer, a roaster, a grower miller or broker;
- (c) government grants and donations made to the Exchange;

- (d) any interest from fixed deposits;
- (e) monies from a source approved by the Exchange; and
- (f) sample fee.

Justification:

The proposed amendment clarifies that the Cabinet Secretary responsible for matters relating to finance will make regulations governing the operations of the Exchange. Further, the proposed deletion of subclause (4) arose from comments received from stakeholders who were opposed to the direct settlement system. Lastly, the amendments seek to provide for the sources of funds for the exchange.

CLAUSE 54

THAT, Clause 54 of the Bill be amended—

- (a) By numbering the existing provision as subclause (1);
- (b) By inserting the following subclauses immediately after subclause (1)—
 - (2) In this section, anti-competitive conduct means any act, conduct, practice or behavior by the Exchange organizer or any other licensee operating at the Exchange, individually or in concert that directly or indirectly impedes, frustrates, undermines, or reduces competition at the Exchange.
 - (3) For the purpose of subsection (2), anti-competitive conduct includes but is not limited to margin squeeze, market sharing, transfer pricing, abuse of dominance, preferential contracts that give advantageous terms to affiliates and partners relative to competitors, imposition of unfair purchase or selling conditions or other, predatory practices, application of dissimilar conditions to equivalent transactions with other trading parties and other conduct that undermine competitive operations of the Exchange.
 - (4) The Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of this section.

Justification:

Clause 54 provides for prohibition against anti-competitive practices. The proposed amendment seeks to enrich the provision by defining what constitutes anti-competitive conduct and to provide that the Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of the section.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new clauses immediately after clause 54—

Classification of coffee.

54A. (1) Where a miller draws a sample of coffee for the purpose of grading the coffee, the miller shall within seven days of such grading notify the grower to whom the coffee belongs of the classification of the coffee.

(2) Any grower who is aggrieved by classification of his or her coffee under subsection (1) may, within fourteen days of the notification, appeal against such classification to the Board.

Promotion of coffee.

54B. (1) The Cabinet Secretary shall in accordance with regulations made under this Act and in consultation with the Board, put in place programmes for the establishment of special economic zones in the coffee sub-sector.

(2) The Board may co-ordinate coffee stakeholders, including county governments, growers and buyers at the national and international events for the purpose of promoting Kenya coffee.

(3) A county government in the coffee growing areas may, separately or in unison with the Board, support coffee growers' participation in local and international coffee promotion and marketing events.

No lending by millers and marketing agents.

54C. (1) It shall be illegal for coffee millers and marketing agents to lend to farmers on interest.

(2) A miller or marketing agent who violates the provision of subsection (1) commits an offence.

(3) Any miller or marketing agent convicted of an offence under subsection (2) shall have his or her licence revoked or suspended for such duration as the Cabinet Secretary may, by regulations, determine.

Loans against growers' assets.

54D. (1) The interest rate on borrowing by factory management against growers' assets held in trust by the coffee factories and coffee

co-operative societies shall be capped at five per cent per annum.

(2) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growers to that effect.

(3) Any factory or society that violates the provisions of subsection (1) commits an offence and any loans borrowed in breach of this provision shall be statutorily converted into personal loans of the officials of the offending factory or society.

(4) Nothing in this section shall be interpreted as prohibiting coffee farmers from directly borrowing money from banks or any government established funds against their deliveries of cherry, parchment and clean coffee.

Justification:

The proposed new clauses 54A, 54B, 54C and 54D provide for matters that have not been provided for in the Bill. Clause 54A seeks to provide for the procedure and appeals on classification of coffee, the role of the Cabinet Secretary and the Board in the promotion of coffee, prohibition for coffee millers and marketing agents from lending to farmers on interest, and safeguards on loans against growers' assets.

CLAUSE 58

THAT, Clause 58 of the Bill be amended by—

(a) inserting the following paragraph immediately after the introductory statement—

“(a) such monies as may be appropriated by the National Assembly;”

(b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

Justification:

The proposed amendment seeks to provide for monies appropriated by the National Assembly as one of the sources of funds for the Board.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after Clause 58—

Coffee Stabilization Fund.

58A. (1) There is established a Fund to be known as the Coffee Stabilization Fund which shall be managed by the Board.

(2) The Fund shall consist of—

(a) ~~monies appropriated by the National Assembly;~~

(b) monies from any source approved by the Board;

(c) grants and donations made to the Board.

(3) The Board shall apply the monies received into the Fund to—

(a) income and price stabilization; and

(b) any investments that further the objective of stabilizing the prices paid to farmers.

Justification:

The proposed new clause 58A seeks to provide for Coffee Stabilization Fund. The Fund will help coffee farmers in income and price stabilization especially during years when coffee prices have plummeted.

CLAUSE 63

THAT, the Bill be amended by deleting Clause 63 and substituting therefor the following new Clause—

Financial Year of the Board.

63. The financial year of the Board shall be the period of twelve months ending on the 30th June of every year.

Justification:

The proposed amendments seeks to clarify the financial year of the Board.

CLAUSE 67

THAT, Clause 67 of the Bill be amended—

(a) in subclause (1)—

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

“(f) one person nominated by the umbrella body of estate coffee growers;”

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

“(3) A person is qualified for appointment as chairperson of the Board of the Institute if that person holds a master’s degree in agriculture, crops science, or other relevant degree from a university recognized in Kenya.”

Justification:

Clause 67 provides for the membership of the Coffee Research Institute. The proposed amendment to subclause (1) (f) seeks to provide clarity on the nominating body. Further, the proposed amendment to subclause (3) enhances the qualification for appointment of a person as a chairperson of the Board from a degree to a master’s degree which will enhance the effectiveness of the Institute.

CLAUSE 70

THAT, Clause 70 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (e)—

“(ea) issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export;”

Justification:

The proposed amendment arose during consideration of clause 38(1) (d) of the Bill which provides for one of the functions of the Coffee Research Institute as to “issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export”. The proposed amendment rightly places the function in clause 70 which comprehensively provides for the functions of the Institute.

CLAUSE 74

THAT, Clause 74 of the Bill be amended in subclause (3) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) holds a master’s degree in agriculture or crops science from a university recognized in Kenya;”

Justification:

Clause 74(3) provides for the qualifications for a person to be appointed as a chief executive officer of the Coffee Research Institute. The proposed amendment enhances the educational qualifications from a degree to a master’s degree in agriculture or crops science from a university recognized in Kenya. This will in turn enhance the Institute’s effectiveness.

CLAUSE 80

THAT, Clause 80 of the Bill be amended by—

(a) inserting the following paragraph immediately after the introductory statement—

“(a) such monies as may be appropriated by the National Assembly;”

(b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

Justification:

The proposed amendment seeks to provide for monies appropriated by the National Assembly as one of the sources of funds for the Institute.

CLAUSE 84

THAT, Clause 84 of the Bill be amended in subclause (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

~~“(a) a statement showing in detail the assets and liabilities of the Institute;”~~

Justification:

Financial statements are prepared in accordance with the International Public Sector Accounting Standards (IPSAS Accrual). The term “balance sheet” is no longer used in accounting hence the proposed amendment.

CLAUSE 85

THAT, Clause 85 of the Bill be amended—

- (a) in subclause (1) by deleting the words “balance sheet and such other statements of accounts” and substituting therefor the words “statements of account”;
- (b) in subclause (2) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;
- (c) in subclause (3) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;

Justification:

Financial statements are prepared in accordance with the International Public Sector Accounting Standards (IPSAS Accrual). The term “balance sheet” is no longer used in accounting hence the proposed amendment.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 87—

Conflict of laws. **87A.** If any conflict arises between the provisions of this Act and any other Act with respect to the regulation of coffee, the provisions of this Act shall prevail.

Justification:

The proposed new clause 87A provides clarity in case there is conflict between the provisions of the Act and any other Act.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 91—

Offences and **91A.** (1) A person commits an offence if the person—
penalties. (a) without lawful excuse ignores or fails to obey any instruction issued by a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act;

- (b) willfully obstructs a member of the Board or an employee or agent of the Board in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act.

(2) A person who contravenes subsection (1) is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding five years, or to both.

(3) A person who is convicted of an offence under this Act shall in addition to any other penalty have his or her licence or registration suspended or cancelled for such a period as the Board may decide.

Justification:

The Bill had not made provision for a number of important offences which would have the effect of enabling the Board run effectively. The amendment provides for these offences.

CLAUSE 92

THAT, the Bill be amended by deleting clause 92 and substituting the following new clause—

General penalty.

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

(2) Where the person convicted under this section is also a licence or permit holder under this Act, the licensing authority may, in addition, cancel such person's licence.

Justification:

In the Bill, the proposed general penalty had both provided for offences by an individual and a body corporate. Further, penalty was not punitive. The proposed amendment has provided for a higher penalty for deterrence and proposes to provide for offences relating to body corporate in a separate clause (proposed new clause 92A).

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 92—

Offences relating
to body corporate.

92A. If an offence under this Act is committed by a body corporate, any other association of individuals or a co-operative

society, a director, partner or any other person involved in, or acting or purporting to act in the management of its affairs commits an offence unless that person proves that—

- (a) the act or omission constituting the offence took place without the person's knowledge; or
- (b) the person took reasonable steps to prevent the commission of the offence.

Justification:

The proposed new clause 92A provides for offences relating to body corporate. Clause 92(2) of the Bill provides for it but the amendment seeks to provide for it separately.

CLAUSE 94

THAT, the Bill be amended by deleting Clause 94 and substituting therefor the following new Part—

PART XIA- PROVISIONS ON DELEGATED LEGISLATION

Regulations.

94. (1) The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations—

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

(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, permits, contracts and related activities;
- (c) the process of application for registration, licensing and related activities;
- (d) any fee or levy which may be charged for anything done under this Act;
- (e) the regulation and enforcement of contracts between growers, processors and other players in the coffee industry;
- (f) the process of nomination of members to the Board
- (g) the conditions for the issuance of certificates, licenses and permits under this Act;
- (h) the trade, storage, bulking, packing and roasting of coffee;
- (i) the regulation of nursery operations, pulping, milling, warehousing and transportation of coffee;
- (j) value addition of coffee exports and imports;
- (k) the grading and classification of coffee; and

Cap. 2

No. 23 of 2013

- (l) the imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers.
- (m) anything required to be prescribed under this Act;
- (3) For the purposes of Article 94(6) of the Constitution—
 - (a) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;
 - (b) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

Justification:

The proposed amendment seeks to align the provision to Standing Order 118 of the National Assembly Standing Orders which requires that provisions on delegated powers be in a separate and distinct part of the Bill under the title “Provisions on Delegated Powers”. It further includes value addition of coffee exports and imports as one of the aspects to be provided for in regulations.

CLAUSE 96

THAT, the Bill be amended by deleting Clause 96 and substituting therefor the following new Clause—

Transfer of
assets and
liabilities.

96. 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 and the Coffee Research Institute of the Kenya Agricultural and Livestock Research Organization, shall, on the date of commencement of this Act, vest in the Board and the Institute, respectively, subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Justification:

The proposed amendment seeks to provide clarity on the transfer of assets and liabilities.

CLAUSE 102

THAT, the Bill be amended by deleting Clause 102 and substituting therefor the following new Clause—

Consequential
amendments.

102. The Crops Act is amended in—

No. 16 of 2013.

- (a) section 14(1) by deleting paragraph (a); and
- (b) Part I of the First Schedule by deleting the expression
“Coffee.....*Coffea* spp.”

Justification:

The proposed amendments seeks to provide clarity on the proposed amendment specifically under subclause (1) (b).

SECOND SCHEDULE

THAT, the Bill be amended by deleting the Second Schedule and substituting therefor the following new Schedule—

SECOND SCHEDULE (s. 11, s. 23, s. 26, s. 26A, s.27, s. 28, s. 32, s.67)

LICENCE, PERMIT OR CERTIFICATE

No.	Type of Licence/Permit or Certificate	Issuing Authority
1.	Coffee buyer’s licence	Board
2.	Independent cupping laboratory licence	Board
3.	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.	Commercial coffee miller’s licence	Board
8.	Coffee roaster’s licence	Board
9.	Grower miller’s licence	Board
10.	Marketing agent licence	Board
11.	Coffee nursery certificate	County government
12.	Warehouse licence	County government
13.	Pulping station licence	County government
14.	Parchment permit from the county of origin	County government


- | | | |
|-----|--|---------------------------|
| 15. | Clean coffee movement permit from the county of origin | County government |
| 16. | Coffee exchange licence | Capital Markets Authority |
| 17. | Broker's licence | Capital Markets Authority |

Justification:

The proposed amendment to the Second Schedule to the Bill seeks to align it to the proposed amendments to various clauses of the Bill.

MIN.NO. DC/A&L/ 033/2022: ADJOURNEMENT

The meeting thereafter was adjourned at forty minutes past one o'clock.

Signed.....

**HON. SILAS KIPKOECH TIREN, MP
(CHAIRPERSON)**

Date.....

MINUTES OF THE 11TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD ON TUESDAY 15TH FEBRUARY , 2022 IN THE MEDIA CENTRE, MAIN PARLIAMENT BUILDING, AT 10.00 AM.

PRESENT

- | | |
|--|-------------------------|
| 1. Hon. Silas Kipkoech Tiren, MP. | Chairperson |
| 2. Hon. Abdikhaim Osman, MP | Vice Chairperson |
| 3. Hon. Dr. Chrisantus Wamalwa, CBS. MP. | |
| 4. Hon. Cecily Mbarire, MGH, MP. | |
| 5. Hon. Janet Jepkemboi Sitienei, MP | |
| 6. Hon. Ferdinand Wanyonyi, MP. | |
| 7. Hon. Dr. John Kanyuithia Mutunga, MP. | |
| 8. Hon. Julius Kibiwott Melly, MP. | |
| 9. Hon. Yegon Brighton Leonard, MP. | |
| 10. Hon. Gabriel Kago Mukuha, MP. | |
| 11. Hon. Adan Haji Yussuf, MP. | |
| 12. Hon. Joyce Kamene, MP. | |
| 13. Hon. Martin Peters Owino, MP. | |
| 14. Hon. Majimbo Kalasinga, MP. | |

APOLOGIES

1. Hon. Ole Metito Katoo, MP
2. Hon. Maison Leshoomo, MP.
3. Hon. Geoffrey Odanga, MP.
4. Hon. Jude Njomo, MP.
5. Hon. Simba Arati, MP.

COMMITTEE SECRETARIAT

- | | | |
|----------------------------|---|------------------------|
| 1. Mr. Nicodemus K. Maluki | - | Second Clerk Assistant |
| 2. Mr. Robert Ng'etich | - | Fiscal Analyst |
| 3. Mr. Wilson Angatangoria | - | Sergeant At Arms |
| 4. Mr. Luteshi Eugene | - | Audio Officer |
| 5. Mr. Moses Musembi | - | Office Assistant |

STATE DEPARTMENT FOR CROP DEVELOPMENT

- | | | |
|-----------------------|---|--------------------------|
| 1. Mr. Joseph Kirubi | - | Administrative Secretary |
| 2. Mr. Joseph Komu | - | Program Coordinator |
| 3. Mr. Tobias Osano | - | Chief Finance Officer |
| 4. Mr. David Kingi | - | Director |
| 5. Mr. Richard Magero | - | Deputy Director |
| 6. Ms. Maureen Okengo | - | Finance Officer |

MIN.NO. DDC/A&L/025/2022: PRELIMINARIES

The Chairperson called the meeting to order at twenty minutes past ten o'clock. The proceedings began with prayers followed by brief introductions.

MIN.NO. DDC/A&L/026/2022: MEETING WITH STATE DEPARTMENT FOR CROP DEVELOPMENT TO CONSIDER SUPPLEMENTARY BUDGET ESTIMATES 1

The Committee deliberated on the letter by the Cabinet Secretary indulging it to allow Secretary Administration, Mr. Joseph Kirubi, Mr. Josephat Muhunyu, Agriculture Secretary and Senior Finance Officer, Mr. Tobias Osano to represent him and make presentation on the Supplementary Budget Estimates I for the Ministry. However the Committee declined and stepped down the delegation until such a time when the Cabinet Secretary appeared himself.

MIN.NO. DC/A&L027 /2022: CONSIDERATION OF THE COMMITTEE STAGE AMENDMENTS TO THE COFFEE BILL, SENATE BILL NO. 22 OF 2020

The Legal Counsel took Members through the Committee Stage amendments to the Coffee Bill (Senate Bill No. 22 of 2020) as follows:

CLAUSE 2

THAT, Clause 2 of the Bill be amended—

(a) by inserting the following definition in its proper alphabetical sequence—

“auction levy” means such fee per sixty-kilogram bag of coffee sold at the Exchange as shall be determined by the Cabinet Secretary responsible for matters relating to finance payable by growers to the Exchange;

“Authority” means the Capital Markets Authority;

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

“coffee plantation: means any large area of land or group of contiguous areas of land under the same management on which coffee is grown and produced for sale;

“co-operative society” means a c-operative society registered under the Co-operative Societies Act, Cap. 490;

“Fund” means the Coffee Stabilization Fund established under section 58A;

“grower miller” means a grower who mills own parchment or buni or its members’ coffee and includes an individual farmer, co-operative society, union, association, estate or any other legal entity;

“large scale coffee grower” means a person cultivating coffee in a parcel of land above fifty acres;

“medium scale coffee grower” means a person cultivating coffee in a parcel of land of between ten and fifty acres;

“small scale coffee grower” means a grower cultivating coffee in a parcel of land of less than ten acres;

“secondary market” means a post-auction transaction of clean coffee between a licensed buyer or roaster and any other party for the purpose of local sale or export;

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

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

(b) by deleting the definition “direct settlement system”.

Justification:

The proposed insertion of new definitions seeks to provide for definitions of new terms as proposed in the amendments. Further, from the stakeholder engagements, the coffee farmers were opposed to the direct settlement system hence the proposed deletion.

CLAUSE 3

THAT, Clause 3 of the Bill be amended in paragraph (b) by inserting the word “regulatory” immediately after the word “provide a”.

Justification:

The proposed amendment seeks to enrich the paragraph.

CLAUSE 6

THAT, Clause 6 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (d)—

“(da) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;

(db) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate in furtherance of the purpose for which the Board is established;”

Justification:

The proposed amendment seeks to provide for additional powers of the Coffee Board of Kenya. These powers will further enhance the functions of the Board.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 6—

Authority to raise or borrow money.

6A. The Cabinet Secretary, after consultation with the Cabinet Secretary responsible for finance, may authorize the Board to raise or borrow such sums of money to finance its operations as it may think fit and the Board may secure the repayment of such sums.

Justification:

The proposed amendment will ensure that the Board's operations cannot be hindered for lack of funds. Further, the involvement of both the Cabinet Secretary for the time being responsible for finance and the Cabinet Secretary for the time being responsible for agriculture provides necessary safeguards in the authorization to raise or borrow money.

CLAUSE 7

THAT, Clause 7 of the Bill be amended—

(a) In subclause (1)—

- (i) by inserting the following new paragraph immediately after paragraph (c)—
“(ca) Principal Secretary for the time being responsible for cooperatives or the Commissioner for Cooperatives;”
- (ii) ~~by deleting paragraph (d) and substituting therefor the following new paragraph—~~
“(d) one person representing smallscale coffee growers nominated by the Council of County Governors;”
- (iii) by deleting paragraph (e) and substitute therefor the following new paragraph—
“(e) two persons of the opposite gender nominated by the umbrella body representing largescale coffee growers;”
- (iv) by deleting paragraph (g) and substituting therefor the following new paragraph—
“(g) one person nominated by the umbrella body representing medium scale coffee growers;”
- (v) by deleting paragraph (h) and substituting therefor the following new paragraph—

“(h) two persons of the opposite gender nominated by the cooperative society representing the largest number of small-scale coffee associations in Kenya; and”

(b) by inserting the following new subclause immediately after subclause (2)—

“(3) The Board may from time to time co-opt professional experts in financial management, international commodity trade or in any other area they need support.”

(4) The appointment of the chairperson or members of the Board under subsection (1) (a), (d), (e), (f) and (g) and shall take into account the gender, regional and other diversities of the people of Kenya.”

Justification:

Clause 7 of the Bill provides for the composition of the Coffee Board of Kenya. The amendment provides for an additional member: Principal Secretary for the time being responsible for cooperatives or the Commissioner for Cooperatives. In order to achieve this, paragraph (d) has been amended by reducing the number from two persons to one person. The composition has also been rationalized to provide for representation of small scale, medium scale and large scale coffee growers which ensures adequate coffee farmers representation. Further, the amendment provides for co-option of professional experts to benefit the Board. Finally, appointments should take into account gender, regional and other diversities of the people of Kenya.

CLAUSE 9

THAT, the Bill be amended by deleting clause 9 of the Bill and substituting therefor the following new clause—

Term of appointment.

9. (1) The persons appointed under section 7(1) (a), (d), (e), (f) and (g) shall serve for a term of three years renewable for one further term.

(2) The persons appointed under section 7(1) (a), (d), (e), (f) and (g) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.

Justification:

Further, the amendment seeks to provide for different appointment dates to ensure there is continuity in Board operations at all times since it is best practice to have different expiry periods for terms of office of members of the Board.

CLAUSE 11

THAT, Clause 11 of the Bill be amended in subclause (1)—

- (a) by deleting paragraph (c);
- (b) by deleting paragraph (j);
- (c) by deleting paragraph (m) and substituting therefor the following new paragraph—
“(m) develop, conduct surveillance and enforce compliance with relevant policies, standards and legislation on the coffee sector;”

Justification:

Clause 11 provides for the functions of the Board. Paragraph (c) is a repetition of paragraph (c), hence the proposed deletion. Paragraphs (j) and (m) have been merged since the two functions overlap.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 17—

Corporation Secretary. **17A.** (1) There shall be a Corporation Secretary who shall be the Secretary to the Board.

~~(2) The terms and conditions of service of the Corporation Secretary shall be determined by the Board.~~

Justification:

The Corporation Secretary will enhance the Board's operations. Further, the Mwongozo Code of Governance provides for it. The proposed amendment therefore seeks to provide for it.

CLAUSE 25

THAT, Clause 25 of the Bill be deleted.

Justification:

The proposed amendment to clause 26 and the proposed new clauses 26A, 26B, 26C, and 26D have clearly delineated the functions of the county governments and the Board on issuance of licence and permits, and registrations. Clause 25 is proposed to be deleted and consolidated in the proposed new clauses for logical flow.

CLAUSE 26

THAT, the Bill be amended by deleting Clause 26 and substituting therefor the following new clause—

Licenses issued by the Board.

26. The following licences shall be issued by the Board—

- (a) a coffee buyer's licence, authorizing the holder to—
 - (i) buy or deal in clean coffee produced in Kenya or to import clean coffee from outside Kenya, and to process, in Kenya for local sale or export, coffee of any country of origin; and
 - (ii) deal in roasting, blending and packaging coffee for the local market or for export.
- (b) a commercial coffee miller's licence authorizing the holder to conduct the business of milling and marketing of coffee;
- (c) a grower miller's licence, authorizing the grower to mill and market his or her own coffee;
- (d) a warehouseman's licence, authorizing the holder to conduct the business of warehousing coffee;

- (e) independent cupping laboratory licence, authorizing the holder to offer coffee quality analysis services;
- (f) a coffee roaster's licence authorizing the holder to buy at the auction or secondary market, roast or grind and package clean coffee for local sale or export and for importing clean coffee for value addition either for local sale or for export.
- (g) coffee liqueur's licence;
- (h) processed coffee import permit;
- (i) clean coffee movement permit for exports;

Justification:

The proposed amendment seeks to clearly delineate the role of the Board in issuance of different licences. The existing clause 26 has been rearranged in the subsequent proposed amendments for logical flow.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 26—

Licenses issued by county governments.

26A. (1) The following licences shall be issued by the respective county government—

- (a) pulping station licence authorizing the holder to operate a pulping station and may undertake hulling;
- (b) coffee nursery certificate;
- (c) warehouse licence;
- (d) parchment permit from the county of origin; and
- (e) clean coffee movement permit from the county of origin.

(2) A person intending to carry out any of the activities listed in section 26A shall apply for and obtain a licence or permit from the respective county government in which the operation is undertaken.

(3) An applicant for a licence or permit 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.

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

Registration by the Board.

26B. (1) The Board shall register warehousemen, coffee buyers, commercial coffee millers, grower millers, independent cupping laboratories, coffee roasters, coffee liqueurs, processed coffee importers, clean coffee importers, marketing agents, coffee bags suppliers, and certification companies.

(2) The Board shall issue a certificate of registration upon registration of the applicants.

(3) The Board shall not charge any fee for the registration of an applicant under subsection (1).

(4) Registration of the players under this section shall only be done once.

(5) The Board shall maintain a register of all registered players and share the register with the respective county government.

(6) All registered players shall complete and submit to the Board annual returns as shall be specified in regulations under this Act.

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

Registration by the county government.

26C. (1) A person shall not carry out the business of a pulping station, coffee nursery operator, parchment movement from one county to another, warehouse or clean coffee movement from one county

to another unless such person is registered by the respective county government in which the business is undertaken.

(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 pulping station operator, coffee nursery operator, warehouse, parchment mover or clean coffee mover;

(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).

Registration by co-operative societies.

26D. (1) A smallholder coffee grower shall have the freedom to register with the co-operative society, association or company to which he or she delivers coffee.

(2) The directors of a coffee co-operative shall serve for a period of two three-year term.

(3) In electing directors under this section, a co-operative society shall ensure that not more than two thirds of the members are of one gender and that nominees for the Board meet the requirements of Chapter Six of the Constitution.

(4) Notwithstanding the provisions of any other law, every coffee factory may, by resolution of its members in the Annual General Meeting, apply for registration

as a co-operative society under the Co-operatives Societies Act.

(5) Every producer co-operative society, association or company, coffee plantation and nursery operator shall register with the county government by supplying such particulars as shall be prescribed in Regulations made under this Act.

(6) Where a person starts growing coffee at any time after the commencement of this Act, such person shall, within six months register with—

(a) a co-operative society, association or company in accordance with subsection (1) if such a person is a small scale grower; or

(b) his or her respective county government in accordance with provisions of this Act if such a person is a plantation grower or a co-operative society.

(7) The co-operative society, association, company and the county government shall each maintain a register for the purpose of this section and shall record the particulars supplied in accordance with this section.

(8) The county government shall share the data captured in this section with the Board on an annual basis.

(9) Where a co-operative society, association, company or the county government has reasonable cause to believe that a person whose particulars are recorded has ceased to be a grower, it may, after giving that person written notice by registered post of its intention to do so, remove the name of such person from the register.

(10) The register referred to in subsection (7) shall be proof that a person is a registered coffee grower and a co-operative society shall furnish the county government with particulars of all registered coffee

growers in such manner as the county government may prescribe.

Prohibition of certain acts without a licence.

26E. (1) No person shall buy, sell, mill, warehouse, export or otherwise deal in or transact any business in coffee unless he or she is a holder of a current licence issued by the licensing authority for that purpose.

(2) This section shall not apply to—

- (a) any person who purchases coffee for consumption or for planting on his or her land;
- (b) any grower who mills coffee produced by such grower.

(3) Any person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of any licence granted commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(4) Where a person is convicted of an offence under this section, the court may order that any licence issued to such person be suspended for the subsequent coffee year or for such period as the Cabinet Secretary may, by Regulations, prescribe.

Justification:

The proposed new clauses 26A, 26B, 26C, 26D and 26E seek to provide clearly for the licenses issued by county governments, registration by the Board (which was missing in the Bill), registration by the county governments, registration by co-operative societies (which was missing in the Bill), prohibition of certain acts without a licence. The proposed new clauses enrich the regulatory part of the Bill.

CLAUSE 34

THAT, Clause 34 of the Bill be amended in subclause (2) by deleting the word “sub-regulation” and substituting therefor the word “subsection”.

Justification:

The proposed amendment corrects a typographical error.

CLAUSE 35

THAT, the Bill be amended by deleting Clause 35 and substituting therefor the following new Clause—

Revocation **35.** The licensing authority may revoke, alter or suspend a
or alteration licence or permit issued under this Act if in its opinion—
of a licence
or permit.

- (a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence or permit holder or any employee of the licence or permit holder; or
- (b) a condition of the licence or permit has been contravened or not complied with.

Justification:

The proposed amendment seeks to provide for the circumstances under which a licence or a permit may be altered, suspended or revoked. It further seeks to separate the aspect of surrender of licence or permit to be provided for in a proposed new clause 35A.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 35—

Surrender of **35A. (1)** The holder of a licence or permit which is revoked
licence or shall immediately surrender it to the Board.
permit.

(2) A licence or permit holder may at any time surrender the licence or permit to the Board and the licence or permit shall cease to have effect immediately.

Justification:

The proposed new clause 35A seeks to provide separately on the surrender of licence or permit which had been lumped together in clause 35 of the Bill.

CLAUSE 37

THAT, the Bill be amended by deleting Clause 37 and substituting therefor the following new Clause—

Appeals to **37.** (1) An applicant for or holder of a licence or permit who
the High is aggrieved by a decision of the licensing authority may appeal to
Court. the High Court on or in respect of—

- (a) the grant, refusal, renewal, variation or revocation; or
- (b) the conditions imposed on the grant, renewal or variation, of a licence or permit.

(2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision.

Justification:

The proposed amendment seeks to enrich the provision by providing for the circumstances under which a person may appeal to the High Court.

CLAUSE 38

THAT, Clause 38 of the Bill be deleted.

Justification:

The proposed deletion of clause 38 was necessary since there was an overlap between the provisions in the clause and clause 70 of the Bill providing comprehensively for the functions of the Coffee Research Institute. However, Clause 38(1) (d) was transferred to clause 70 and is captured in the amendments to clause 70.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 42—

Branding and geographical indications.

42A. The Board shall promote and register all coffees produced in Kenya in accordance with geographical or regional markers styled as ‘Authentic Mark of Origin.’

Coffee development.

42B. (1) The Cabinet Secretary may, on the advice of the Board, make policies and take steps to ensure that the coffee farmers receive appropriate technologies, credit, farm inputs and marketing support.

(2) The Board shall conduct training programs aimed at strengthening the capacities of county officers in terms of knowledge and skills in coffee production, processing technologies and marketing for different types of coffee.

(3) The Board shall, in consultation with the relevant standards bodies, coffee stakeholders, county governments and research institutions, develop the Kenya Coffee Production Standards and formulate a binding Code of Good Coffee Practice.

(4) Where a farmer has entered into an agreement with an organization representing the interest of such farmer, the Board and every dealer in coffee shall respect and enable the carrying out of the

terms of such agreement, including the remission to such organization of any contributions that may, pursuant to such agreement, be deductible from the farmer.

Primary processing of coffee

42C. (1) The primary processing of coffee shall be carried out at a pulping station or by a grower's co-operative society or other association of growers under a pulping station licence.

(2) The pulping station licence may include authority to undertake hulling of own parchment or buni.

(3) The huller shall be registered with the county government and such registration information shared with the Board.

Appointment of millers.

42D. (1) Coffee milling shall only be conducted at premises that are specified under the licence issued by the Board.

(2) Every coffee factory shall, by resolution of its members in Annual General Meeting, designate a registered miller for its parchment coffee.

(3) The manager of every coffee factory shall, within two months of the end of the crop year, call a meeting of outgrowers to choose the registered miller referred to in subsection (2) from amongst at least three millers invited to make representations to the outgrowers.

(4) The county executive committee member responsible for coffee shall attend or designate a representative to attend the meeting referred to subsection (3).

(5) Each registered miller participating in the meeting to choose a miller shall make all disclosures necessary to enable farmers make an informed decision.

(6) A miller shall be a bailee of all parchment received for milling and shall be responsible for any loss or damage to the coffee in his or her custody.

(7) The milling losses allowable under this section shall be capped at nineteen percent of coffee milled.

(8) The Cabinet Secretary may, by Regulations and upon submission of empirical evidence, vary the milling losses allowable under subsection (7).

(9) Every resolution made under this section shall, within fourteen days, be filed with the Board and copied to the relevant department of the county government and to the Commissioner of Co-operatives.

(10) Any person involved in the management of a coffee factory who contravenes the provisions of this section commits an offence.

(11) For the better carrying out of the provisions of this section, the Cabinet Secretary may by regulations, prescribe the manner for the appointment and remuneration of millers and for composition and attendance at the annual general meetings at which such millers are appointed.

Justification:

The proposed new clauses 42A, 42B, 42C, 42D seek to provide for branding and geographical indications in relation to coffee, roles of the Board and the Cabinet Secretary on coffee development, the primary processing of coffee and the appointment of millers. These provisions were missing in the Bill.

CLAUSE 45

THAT, Clause 45 of the Bill be amended by—

- (a) in subclause (2) by deleting the words “and the direct settlement system provider”;
- (b) by deleting subclause (8).

Justification:

The proposed deletion of references to direct settlement system provider arose from stakeholder engagements the Committee had and the representations were opposed to the system.

CLAUSE 46

THAT, Clause 46 of the Bill be deleted and substituted therefor with the following new clause—

Coffee trading.

46. (1) Kenyan coffee shall be offered for sale through—

(a) auction in the Exchange; or

(b) direct sales.

(2) All direct coffee sales shall be subject to price competition at the Coffee Exchange whereby the direct sale price shall serve as the reserve price.

(3) Where the coffee referred to in subsection (2) fetches a higher price at the Coffee Exchange than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the Coffee Exchange price.

(4) Despite subsection (3), if the prospective direct sales buyer refuses to buy the coffee at the Coffee Exchange price, the coffee shall be sold to the person who makes the best offer above the reserve price at the Coffee Exchange.

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

(6) It shall be an offence for a holder of a miller's marketing licence to participate by himself or

herself or by his or her agent in the buying of coffee.

Justification:

The amendment substantially retains what is contained in clause 46 of the Bill but seeks to enrich it by providing more on direct coffee sales at the Coffee Exchange. The clause deletes clause 46(1) (c) which provides for “such other method as the Cabinet Secretary may prescribe” which is unclear.

CLAUSE 48

THAT, the Bill be amended by deleting Clause 48 of the Bill and substituting therefor the following new Clause—

Application as coffee
exchange.

No. 17 of 2015.

48. (1) A person shall not carry on the business of a coffee exchange unless he or she has applied for approval and has been licensed as a coffee exchange by the Authority in accordance with the Capital Markets Act.

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

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

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

(4) The funds of the Exchange shall consist of—

- (a) auction levy;
- (b) registration fees payable by a coffee buyer, a roaster, a grower miller or broker;
- (c) government grants and donations made to the Exchange;

- (d) any interest from fixed deposits;
- (e) monies from a source approved by the Exchange; and
- (f) sample fee.

Justification:

The proposed amendment clarifies that the Cabinet Secretary responsible for matters relating to finance will make regulations governing the operations of the Exchange. Further, the proposed deletion of subclause (4) arose from comments received from stakeholders who were opposed to the direct settlement system. Lastly, the amendments seek to provide for the sources of funds for the exchange.

CLAUSE 54

THAT, Clause 54 of the Bill be amended—

- (a) By numbering the existing provision as subclause (1);
- (b) By inserting the following subclauses immediately after subclause (1)—
 - (2) In this section, anti-competitive conduct means any act, conduct, practice or behavior by the Exchange organizer or any other licensee operating at the Exchange, individually or in concert that directly or indirectly impedes, frustrates, undermines, or reduces competition at the Exchange.
 - (3) For the purpose of subsection (2), anti-competitive conduct includes but is not limited to margin squeeze, market sharing, transfer pricing, abuse of dominance, preferential contracts that give advantageous terms to affiliates and partners relative to competitors, imposition of unfair purchase or selling conditions or other, predatory practices, application of dissimilar conditions to equivalent transactions with other trading parties and other conduct that undermine competitive operations of the Exchange.
- (4) The Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of this section.

Justification:

Clause 54 provides for prohibition against anti-competitive practices. The proposed amendment seeks to enrich the provision by defining what constitutes anti-competitive conduct and to provide that the Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of the section.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new clauses immediately after clause 54—

Classification of coffee.

54A. (1) Where a miller draws a sample of coffee for the purpose of grading the coffee, the miller shall within seven days of such grading notify the grower to whom the coffee belongs of the classification of the coffee.

(2) Any grower who is aggrieved by classification of his or her coffee under subsection (1) may, within fourteen days of the notification, appeal against such classification to the Board.

Promotion of coffee.

54B. (1) The Cabinet Secretary shall in accordance with regulations made under this Act and in consultation with the Board, put in place programmes for the establishment of special economic zones in the coffee sub-sector.

(2) The Board may co-ordinate coffee stakeholders, including county governments, growers and buyers at the national and international events for the purpose of promoting Kenya coffee.

(3) A county government in the coffee growing areas may, separately or in unison with the Board, support coffee growers' participation in local and international coffee promotion and marketing events.

No lending by millers and marketing agents.

54C. (1) It shall be illegal for coffee millers and marketing agents to lend to farmers on interest.

(2) A miller or marketing agent who violates the provision of subsection (1) commits an offence.

(3) Any miller or marketing agent convicted of an offence under subsection (2) shall have his or her licence revoked or suspended for such duration as the Cabinet Secretary may, by regulations, determine.

Loans against growers' assets.

54D. (1) The interest rate on borrowing by factory management against growers' assets held in trust by the coffee factories and coffee co-operative societies shall be capped at five per cent per annum.

(2) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growers to that effect.

(3) Any factory or society that violates the provisions of subsection (1) commits an offence and any loans borrowed in breach of this provision shall be statutorily converted into personal loans of the officials of the offending factory or society.

(4) Nothing in this section shall be interpreted as prohibiting coffee farmers from directly borrowing money from banks or any government established funds against their deliveries of cherry, parchment and clean coffee.

Justification:

The proposed new clauses 54A, 54B, 54C and 54D provide for matters that have not been provided for in the Bill. Clause 54A seeks to provide for the procedure and appeals on classification of coffee, the role of the Cabinet Secretary and the Board in the promotion of coffee, prohibition for coffee millers and marketing agents from lending to farmers on interest, and safeguards on loans against growers' assets.

CLAUSE 58

THAT, Clause 58 of the Bill be amended by—

- (a) inserting the following paragraph immediately after the introductory statement—
“(a) such monies as may be appropriated by the National Assembly;”
- (b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f),
respectively.

Justification:

The proposed amendment seeks to provide for monies appropriated by the National Assembly as one of the sources of funds for the Board.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after Clause 58—

Coffee Stabilization Fund.

58A. (1) There is established a Fund to be known as the Coffee Stabilization Fund which shall be managed by the Board.

(2) The Fund shall consist of—

- (a) monies appropriated by the National Assembly;
- (b) monies from any source approved by the Board;
- (c) grants and donations made to the Board.

(3) The Board shall apply the monies received into the Fund to—

- (a) income and price stabilization; and
- (b) any investments that further the objective of stabilizing the prices paid to farmers.

Justification:

The proposed new clause 58A seeks to provide for Coffee Stabilization Fund. The Fund will help coffee farmers in income and price stabilization especially during years when coffee prices have plummeted.

CLAUSE 63

THAT, the Bill be amended by deleting Clause 63 and substituting therefor the following new Clause—

Financial Year of the Board.

63. The financial year of the Board shall be the period of twelve months ending on the 30th June of every year.

Justification:

The proposed amendments seeks to clarify the financial year of the Board.

CLAUSE 67

THAT, Clause 67 of the Bill be amended—

- (a) in subclause (1)—
 - (i) by deleting paragraph (f) and substituting therefor the following new paragraph—
“(f) one person nominated by the umbrella body of estate coffee growers;”
- (b) by deleting subclause (3) and substituting therefor the following new subclause—

“(3) A person is qualified for appointment as chairperson of the Board of the Institute if that person holds a master’s degree in agriculture, crops science, or other relevant degree from a university recognized in Kenya.”

Justification:

Clause 67 provides for the membership of the Coffee Research Institute. The proposed amendment to subclause (1) (f) seeks to provide clarity on the nominating body. Further, the proposed amendment to subclause (3) enhances the qualification for appointment of a person as a chairperson of the Board from a degree to a master’s degree which will enhance the effectiveness of the Institute.

CLAUSE 70

THAT, Clause 70 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (e)—

“(ea) issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export;”

Justification:

The proposed amendment arose during consideration of clause 38(1) (d) of the Bill which provides for one of the functions of the Coffee Research Institute as to “issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export”. The proposed amendment rightly places the function in clause 70 which comprehensively provides for the functions of the Institute.

CLAUSE 74

THAT, Clause 74 of the Bill be amended in subclause (3) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) holds a master’s degree in agriculture or crops science from a university recognized in Kenya;”

Justification:

Clause 74(3) provides for the qualifications for a person to be appointed as a chief executive officer of the Coffee Research Institute. The proposed amendment enhances the educational qualifications from a degree to a master’s degree in agriculture or crops science from a university recognized in Kenya. This will in turn enhance the Institute’s effectiveness.

CLAUSE 80

THAT, Clause 80 of the Bill be amended by—

(a) inserting the following paragraph immediately after the introductory statement—

“(a) such monies as may be appropriated by the National Assembly;”

(b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

Justification:

The proposed amendment seeks to provide for monies appropriated by the National Assembly as one of the sources of funds for the Institute.

CLAUSE 84

THAT, Clause 84 of the Bill be amended in subclause (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) a statement showing in detail the assets and liabilities of the Institute;”

Justification:

Financial statements are prepared in accordance with the International Public Sector Accounting Standards (IPSAS Accrual). The term “balance sheet” is no longer used in accounting hence the proposed amendment.

CLAUSE 85

THAT, Clause 85 of the Bill be amended—

- (a) in subclause (1) by deleting the words “balance sheet and such other statements of accounts” and substituting therefor the words “statements of account”;
- (b) in subclause (2) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;
- (c) in subclause (3) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;

Justification:

Financial statements are prepared in accordance with the International Public Sector Accounting Standards (IPSAS Accrual). The term “balance sheet” is no longer used in accounting hence the proposed amendment.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 87—

Conflict of laws.	87A. If any conflict arises between the provisions of this Act and any other Act with respect to the regulation of coffee, the provisions of this Act shall prevail.
-------------------	---

Justification:

The proposed new clause 87A provides clarity in case there is conflict between the provisions of the Act and any other Act.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 91—

Offences and **91A.** (1) A person commits an offence if the person—
penalties.

- (a) without lawful excuse ignores or fails to obey any instruction issued by a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act;
- (b) willfully obstructs a member of the Board or an employee or agent of the Board in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act.

(2) A person who contravenes subsection (1) is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding five years, or to both.

(3) A person who is convicted of an offence under this Act shall in addition to any other penalty have his or her licence or registration suspended or cancelled for such a period as the Board may decide.

Justification:

The Bill had not made provision for a number of important offences which would have the effect of enabling the Board run effectively. The amendment provides for these offences.

CLAUSE 92

THAT, the Bill be amended by deleting clause 92 and substituting the following new clause—

General
penalty.

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

(2) Where the person convicted under this section is also a licence or permit holder under this Act, the licensing authority may, in addition, cancel such person's licence.

Justification:

In the Bill, the proposed general penalty had both provided for offences by an individual and a body corporate. Further, penalty was not punitive. The proposed amendment has provided for a higher penalty for deterrence and proposes to provide for offences relating to body corporate in a separate clause (proposed new clause 92A).

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 92—

Offences
relating to

92A. If an offence under this Act is committed by a body corporate, any other association of individuals or a co-operative

body society, a director, partner or any other person involved in, or acting
corporate. or purporting to act in the management of its affairs commits an
offence unless that person proves that—

- (a) the act or omission constituting the offence took place without the person's knowledge; or
- (b) the person took reasonable steps to prevent the commission of the offence.

Justification:

The proposed new clause 92A provides for offences relating to body corporate. Clause 92(2) of the Bill provides for it but the amendment seeks to provide for it separately.

CLAUSE 94

THAT, the Bill be amended by deleting Clause 94 and substituting therefor the following new Part—

PART XIA- PROVISIONS ON DELEGATED LEGISLATION

Regulations. **94.** (1) The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations—

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

(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, permits, contracts and related activities;

- (c) the process of application for registration, licensing and related activities;
- (d) any fee or levy which may be charged for anything done under this Act;
- (e) the regulation and enforcement of contracts between growers, processors and other players in the coffee industry;
- (f) the process of nomination of members to the Board
- (g) the conditions for the issuance of certificates, licenses and permits under this Act;
- (h) the trade, storage, bulking, packing and roasting of coffee;
- (i) the regulation of nursery operations, pulping, milling, warehousing and transportation of coffee;
- (j) value addition of coffee exports and imports;
- (k) the grading and classification of coffee; and
- (l) the imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers.
- (m) anything required to be prescribed under this Act;

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;

- (b) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

Cap. 2

No. 23 of 2013

Justification:

The proposed amendment seeks to align the provision to Standing Order 118 of the National Assembly Standing Orders which requires that provisions on delegated powers be in a separate and distinct part of the Bill under the title “Provisions on Delegated Powers”. It further includes value addition of coffee exports and imports as one of the aspects to be provided for in regulations.

CLAUSE 96

THAT, the Bill be amended by deleting Clause 96 and substituting therefor the following new Clause—

Transfer of assets and liabilities. **96.** 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 and the Coffee Research Institute of the Kenya Agricultural and Livestock Research Organization, shall, on the date of commencement of this Act, vest in the Board and the Institute, respectively, subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Justification:

The proposed amendment seeks to provide clarity on the transfer of assets and liabilities.

CLAUSE 102

THAT, the Bill be amended by deleting Clause 102 and substituting therefor the following new Clause—

Consequential amendments. **102.** The Crops Act is amended in—

No. 16 of
2013.

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

- (b) Part I of the First Schedule by deleting the expression
“Coffee.....*Coffea* spp.”

Justification:

The proposed amendments seeks to provide clarity on the proposed amendment specifically under subclause (1) (b).

SECOND SCHEDULE

THAT, the Bill be amended by deleting the Second Schedule and substituting therefor the following new Schedule—

SECOND SCHEDULE (s. 11, s. 23, s. 26, s. 26A, s.27, s. 28, s. 32, s.67)

LICENCE, PERMIT OR CERTIFICATE

No.	Type of Licence/Permit or Certificate	Issuing Authority
1.	Coffee buyer's licence	Board
2.	Independent cupping laboratory licence	Board
3.	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.	Commercial coffee miller's licence	Board
8.	Coffee roaster's licence	Board
9.	Grower miller's licence	Board

10.	Marketing agent licence	Board
11.	Coffee nursery certificate	County government
12.	Warehouse licence	County government
13.	Pulping station licence	County government
14.	Parchment permit from the county of origin	County government
15.	Clean coffee movement permit from the county of origin	County government
16.	Coffee exchange licence	Capital Markets Authority
17.	Broker's licence	Capital Markets Authority

Justification:

The proposed amendment to the Second Schedule to the Bill seeks to align it to the proposed amendments to various clauses of the Bill.

MIN.NO. DC/A&L/ 028/2022: ADJOURNEMENT

The meeting thereafter was adjourned at twenty five minutes past one o'clock to Tuesday 1st February, 2022 at 9.00am.

Signed.....

**HON. SILAS KIPKOECH TIREN, MP
(CHAIRPERSON)**

Date..... 17/02/2022

MINUTES OF THE 10TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD ON FRIDAY 11TH FEBRUARY, 2022 IN COMMITTEE ROOM, CONTINENTAL HOUSE, 5TH FLOOR, PARLIAMENT BUILDING, AT 3.00PM

PRESENT

- | | |
|--|--------------------|
| 1. Hon. Silas Kipkoech Tiren, MP. | Chairperson |
| 2. Hon. Abdikhaim Osman, MP | Vice Chairperson |
| 3. Hon. Maison Leshoomo, MP. | |
| 4. Hon. Dr. Chrisantus Wamalwa, CBS. MP. | |
| 5. Hon. Cecily Mbarire, MGH, MP. | |
| 6. Hon. Janet Jepkemboi Sitienei, MP | |
| 7. Hon. Ferdinand Wanyonyi, MP. | |
| 8. Hon. Dr. John Kanyuithia Mutunga, MP. | |
| 9. Hon. Julius Kibiwott Melly, MP. | |
| 10. Hon. Yegon Brighton Leonard, MP. | |
| 11. Hon. Gabriel Kago Mukuha, MP. | |
| 12. Hon. Adan Haji Yussuf, MP. | |
| 13. Hon. Martin Peters Owino, MP. | |

APOLOGIES

1. Hon. Ole Metito Katoo, MP
2. Hon. Joyce Kamene, MP.
3. Hon. Geoffrey Odanga, MP.
4. Hon. Jude Njomo, MP.
5. Hon. Simba Arati, MP.
6. Hon. Majimbo Kalasinga, MP.

COMMITTEE SECRETARIAT

- | | | |
|----------------------------|---|------------------------|
| 1. Mr. Nicodemus K. Maluki | - | Second Clerk Assistant |
| 2. Mr. Robert Ng'etich | - | Fiscal Analyst |
| 3. Mr. Wilson Angatangoria | - | Sergeant At Arms |
| 4. Mr. Luteshi Eugene | - | Audio Officer |
| 5. Mr. Moses Musembi | - | Office Assistant |

MIN.NO. DDC/A&L/022/2022: PRELIMINARIES

The Chairperson called the meeting to order at ten minutes past three o'clock. The proceedings began with prayers followed by brief introductions.

MIN.NO. DDC/A&L/023/2022: CONSIDERATION OF THE COMMITTEE STAGE AMENDMENTS TO THE COFFEE BILL (SENATE BILL NO. 22 OF 2020)

The Legal Counsel took Members through the Committee Stage amendments to the Coffee Bill (Senate Bill No. 22 of 2020) and agreed as follows:-

CLAUSE 84

THAT, Clause 84 of the Bill be amended in subclause (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) a statement showing in detail the assets and liabilities of the Institute;”

Justification:

Financial statements are prepared in accordance with the International Public Sector Accounting Standards (IPSAS Accrual). The term “balance sheet” is no longer used in accounting hence the proposed amendment.

CLAUSE 85

THAT, Clause 85 of the Bill be amended—

- (a) in subclause (1) by deleting the words “balance sheet and such other statements of accounts” and substituting therefor the words “statements of account”;
- (b) in subclause (2) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;
- (c) in subclause (3) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;

Justification:

Financial statements are prepared in accordance with the International Public Sector Accounting Standards (IPSAS Accrual). The term “balance sheet” is no longer used in accounting hence the proposed amendment.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 87—

Conflict of laws.	87A. If any conflict arises between the provisions of this Act and any other Act with respect to the regulation of coffee, the provisions of this Act shall prevail.
-------------------	---

Justification:

The proposed new clause 87A provides clarity in case there is conflict between the provisions of the Act and any other Act.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 91—

Offences and 91A. (1) A person commits an offence if the person—
penalties.

- (a) without lawful excuse ignores or fails to obey any instruction issued by a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act;
- (b) willfully obstructs a member of the Board or an employee or agent of the Board in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act.

(2) A person who contravenes subsection (1) is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding five years, or to both.

(3) A person who is convicted of an offence under this Act shall in addition to any other penalty have his or her licence or registration suspended or cancelled for such a period as the Board may decide.

Justification:

The Bill had not made provision for a number of important offences which would have the effect of enabling the Board run effectively. The amendment provides for these offences.

CLAUSE 92

~~THAT, the Bill be amended by deleting clause 92 and substituting the following new clause—~~

General
penalty.

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

(2) Where the person convicted under this section is also a licence or permit holder under this Act, the licensing authority may, in addition, cancel such person's licence.

Justification:

In the Bill, the proposed general penalty had both provided for offences by an individual and a body corporate. Further, penalty was not punitive. The proposed amendment has provided for a higher penalty for deterrence and proposes to provide for offences relating to body corporate in a separate clause (proposed new clause 92A).

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 92—

Offences
relating to
body
corporate.

92A. If an offence under this Act is committed by a body corporate, any other association of individuals or a co-operative society, a director, partner or any other person involved in, or acting or purporting to act in the management of its affairs commits an offence unless that person proves that—

- (a) the act or omission constituting the offence took place without the person's knowledge; or
- (b) the person took reasonable steps to prevent the commission of the offence.

Justification:

The proposed new clause 92A provides for offences relating to body corporate. Clause 92(2) of the Bill provides for it but the amendment seeks to provide for it separately.

CLAUSE 94

THAT, the Bill be amended by deleting Clause 94 and substituting therefor the following new Part—

PART XIA- PROVISIONS ON DELEGATED LEGISLATION

Regulations.

94. (1) The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations—

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

(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, permits, contracts and related activities;
- (c) the process of application for registration, licensing and related activities;
- (d) any fee or levy which may be charged for anything done under this Act;

- (e) the regulation and enforcement of contracts between growers, processors and other players in the coffee industry;
 - (f) the process of nomination of members to the Board
 - (g) the conditions for the issuance of certificates, licenses and permits under this Act;
-

- (h) the trade, storage, bulking, packing and roasting of coffee;
- (i) the regulation of nursery operations, pulping, milling, warehousing and transportation of coffee;
- (j) value addition of coffee exports and imports;
- (k) the grading and classification of coffee; and
- (l) the imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers.
- (m) anything required to be prescribed under this Act;

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;
- (b) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the

Cap. 2

Statutory Instruments Act, 2013.

No. 23 of 2013

Justification:

The proposed amendment seeks to align the provision to Standing Order 118 of the National Assembly Standing Orders which requires that provisions on delegated powers be in a separate

and distinct part of the Bill under the title “Provisions on Delegated Powers”. It further includes value addition of coffee exports and imports as one of the aspects to be provided for in regulations.

CLAUSE 96

THAT, the Bill be amended by deleting Clause 96 and substituting therefor the following new Clause—

Transfer of assets and liabilities. **96.** 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 and the Coffee Research Institute of the Kenya Agricultural and Livestock Research Organization, shall, on the date of commencement of this Act, vest in the Board and the Institute, respectively, subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Justification:

The proposed amendment seeks to provide clarity on the transfer of assets and liabilities.

CLAUSE 102

THAT, the Bill be amended by deleting Clause 102 and substituting therefor the following new Clause—

Consequential amendments.

102. The Crops Act is amended in—

No. 16 of 2013.

- (a) section 14(1) by deleting paragraph (a); and
- (b) Part I of the First Schedule by deleting the expression “Coffee.....*Coffea* spp.”

Justification:

The proposed amendments seeks to provide clarity on the proposed amendment specifically under subclause (1) (b).

SECOND SCHEDULE

THAT, the Bill be amended by deleting the Second Schedule and substituting therefor the following new Schedule—

SECOND SCHEDULE (s. 11, s. 23, s. 26, s. 26A, s.27, s. 28, s. 32, s.67)

LICENCE, PERMIT OR CERTIFICATE

No.	Type of Licence/Permit or Certificate	Issuing Authority
1.	Coffee buyer's licence	Board
2.	Independent cupping laboratory licence	Board
3.	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.	Commercial coffee miller's licence	Board
8.	Coffee roaster's licence	Board
9.	Grower miller's licence	Board
10.	Marketing agent licence	Board


- | | | |
|-----|--|---------------------------|
| 11. | Coffee nursery certificate | County government |
| 12. | Warehouse licence | County government |
| 13. | Pulping station licence | County government |
| 14. | Parchment permit from the county of origin | County government |
| 15. | Clean coffee movement permit from the county of origin | County government |
| 16. | Coffee exchange licence | Capital Markets Authority |
| 17. | Broker's licence | Capital Markets Authority |

Justification:

The proposed amendment to the Second Schedule to the Bill seeks to align it to the proposed amendments to various clauses of the Bill.

MIN.NO. DC/A&L/ 024/2022: ADJOURNEMENT

The meeting thereafter was adjourned at forty five minutes past one o'clock.

Signed.....

**HON. SILAS KIPKOECH TIREN, MP
(CHAIRPERSON)**

Date.....

MINUTES OF THE 9TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD ON FRIDAY 11TH FEBRUARY, 2022 IN COMMITTEE ROOM, CONTINENTAL HOUSE, 5TH FLOOR, PARLIAMENT BUILDING, AT 10.00 AM.

PRESENT

- | | |
|--|-------------------------|
| 1. Hon. Silas Kipkoech Tiren, MP. | Chairperson |
| 2. Hon. Abdikhaim Osman, MP | Vice Chairperson |
| 3. Hon. Maison Leshoomo, MP. | |
| 4. Hon. Dr. Chrisantus Wamalwa, CBS. MP. | |
| 5. Hon. Cecily Mbarire, MGH, MP. | |
| 6. Hon. Janet Jepkemboi Sitienei, MP | |
| 7. Hon. Ferdinand Wanyonyi, MP. | |
| 8. Hon. Dr. John Kanyuithia Mutunga, MP. | |
| 9. Hon. Julius Kibiwott Melly, MP. | |
| 10. Hon. Yegon Brighton Leonard, MP. | |
| 11. Hon. Gabriel Kago Mukuha, MP. | |
| 12. Hon. Adan Haji Yussuf, MP. | |
| 13. Hon. Martin Peters Owino, MP. | |

APOLOGIES

1. Hon. Ole Metito Katoo, MP
2. Hon. Joyce Kamene, MP.
3. Hon. Geoffrey Odanga, MP.
4. Hon. Jude Njomo, MP.
5. Hon. Simba Arati, MP.
6. Hon. Majimbo Kalasinga, MP.

COMMITTEE SECRETARIAT

- | | | |
|----------------------------|---|------------------------|
| 1. Mr. Nicodemus K. Maluki | - | Second Clerk Assistant |
| 2. Mr. Robert Ng'etich | - | Fiscal Analyst |
| 3. Mr. Wilson Angatangoria | - | Sergeant At Arms |
| 4. Mr. Luteshi Eugene | - | Audio Officer |
| 5. Mr. Moses Musembi | - | Office Assistant |

MIN.NO. DDC/A&L/022/2022: PRELIMINARIES

The Chairperson called the meeting to order at ten minutes past ten o'clock. The proceedings began with prayers followed by brief introductions.

MIN.NO. DDC/A&L/023/2022: CONSIDERATION OF THE COMMITTEE STAGE AMENDMENTS TO THE COFFEE BILL (SENATE BILL NO. 22 OF 2020)

The Legal Counsel took Members through the Committee Stage amendments to the Coffee Bill (Senate Bill No. 22 of 2020) and agreed as follows:-

CLAUSE 46

THAT, Clause 46 of the Bill be deleted and substituted therefor with the following new clause—

Coffee trading.

46. (1) Kenyan coffee shall be offered for sale through—

(a) auction in the Exchange; or

(b) direct sales.

(2) All direct coffee sales shall be subject to price competition at the Coffee Exchange whereby the direct sale price shall serve as the reserve price.

(3) Where the coffee referred to in subsection (2) fetches a higher price at the Coffee Exchange than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the Coffee Exchange price.

(4) Despite subsection (3), if the prospective direct sales buyer refuses to buy the coffee at the Coffee Exchange price, the coffee shall be sold to the person who makes the best offer above the reserve price at the Coffee Exchange.

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

(6) It shall be an offence for a holder of a miller's marketing licence to participate by himself or herself or by his or her agent in the buying of coffee.

Justification:

The amendment substantially retains what is contained in clause 46 of the Bill but seeks to enrich it by providing more on direct coffee sales at the Coffee Exchange. The clause deletes clause 46(1) (c) which provides for “such other method as the Cabinet Secretary may prescribe” which is unclear.

CLAUSE 48

THAT, the Bill be amended by deleting Clause 48 of the Bill and substituting therefor the following new Clause—

Application as coffee
exchange.

No. 17 of 2015.

48. (1) A person shall not carry on the business of a coffee exchange unless he or she has applied for approval and has been licensed as a coffee exchange by the Authority in accordance with the Capital Markets Act.

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

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

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

(4) The funds of the Exchange shall consist of—

- (a) auction levy;
- (b) registration fees payable by a coffee buyer, a roaster, a grower miller or broker;
- (c) government grants and donations made to the Exchange;
- (d) any interest from fixed deposits;
- (e) monies from a source approved by the Exchange; and
- (f) sample fee.

Justification:

The proposed amendment clarifies that the Cabinet Secretary responsible for matters relating to finance will make regulations governing the operations of the Exchange. Further, the proposed deletion of subclause (4) arose from comments received from stakeholders who were opposed to the direct settlement system. Lastly, the amendments seek to provide for the sources of funds for the exchange.

CLAUSE 54

THAT, Clause 54 of the Bill be amended—

- (a) By numbering the existing provision as subclause (1);
- (b) By inserting the following subclauses immediately after subclause (1)—
 - (2) In this section, anti-competitive conduct means any act, conduct, practice or behavior by the Exchange organizer or any other licensee operating at the Exchange, individually or in concert that directly or indirectly impedes, frustrates, undermines, or reduces competition at the Exchange.
 - (3) For the purpose of subsection (2), anti-competitive conduct includes but is not limited to margin squeeze, market sharing, transfer pricing, abuse of dominance, preferential contracts that give advantageous terms to affiliates and partners relative to competitors, imposition of unfair purchase or selling conditions or other, predatory practices, application of dissimilar conditions to equivalent transactions with other trading parties and other conduct that undermine competitive operations of the Exchange.
 - (4) The Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of this section.

Justification:

Clause 54 provides for prohibition against anti-competitive practices. The proposed amendment seeks to enrich the provision by defining what constitutes anti-competitive conduct and to provide that the Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of the section.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new clauses immediately after clause 54—

Classification of coffee.

54A. (1) Where a miller draws a sample of coffee for the purpose of grading the coffee, the miller shall within seven days of such grading notify the grower to whom the coffee belongs of the classification of the coffee.

(2) Any grower who is aggrieved by classification of his or her coffee under subsection (1) may, within fourteen days of the notification, appeal against such classification to the Board.

Promotion of coffee.

54B. (1) The Cabinet Secretary shall in accordance with regulations made under this Act and in consultation with the Board, put in place programmes for the establishment of special economic zones in the coffee sub-sector.

(2) The Board may co-ordinate coffee stakeholders, including county governments, growers and buyers at the national and international events for the purpose of promoting Kenya coffee.

(3) A county government in the coffee growing areas may, separately or in unison with the Board, support coffee growers' participation in local and international coffee promotion and marketing events.

No lending by millers and marketing agents.

54C. (1) It shall be illegal for coffee millers and marketing agents to lend to farmers on interest.

(2) A miller or marketing agent who violates the provision of subsection (1) commits an offence.

(3) Any miller or marketing agent convicted of an offence under subsection (2) shall have his or her licence revoked or suspended for such

dation as the Cabinet Secretary may, by regulations, determine.

Loans against growers' assets.

54D. (1) The interest rate on borrowing by factory management against growers' assets held in trust by the coffee factories and coffee co-operative societies shall be capped at five per cent per annum.

(2) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growers to that effect.

(3) Any factory or society that violates the provisions of subsection (1) commits an offence and any loans borrowed in breach of this provision shall be statutorily converted into personal loans of the officials of the offending factory or society.

(4) Nothing in this section shall be interpreted as prohibiting coffee farmers from directly borrowing money from banks or any government established funds against their deliveries of cherry, parchment and clean coffee.

Justification:

The proposed new clauses 54A, 54B, 54C and 54D provide for matters that have not been provided for in the Bill. Clause 54A seeks to provide for the procedure and appeals on classification of coffee, the role of the Cabinet Secretary and the Board in the promotion of coffee, prohibition for coffee millers and marketing agents from lending to farmers on interest, and safeguards on loans against growers' assets.

CLAUSE 58

THAT, Clause 58 of the Bill be amended by—

(a) inserting the following paragraph immediately after the introductory statement—

- “(a) such monies as may be appropriated by the National Assembly;”
- (b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

Justification:

The proposed amendment seeks to provide for monies appropriated by the National Assembly as one of the sources of funds for the Board.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after Clause 58—

Coffee Stabilization Fund.

58A. (1) There is established a Fund to be known as the Coffee Stabilization Fund which shall be managed by the Board.

(2) The Fund shall consist of—

(a) monies appropriated by the National Assembly;

(b) monies from any source approved by the Board;

(c) grants and donations made to the Board.

(3) The Board shall apply the monies received into the Fund to—

(a) income and price stabilization; and

(b) any investments that further the objective of stabilizing the prices paid to farmers.

Justification:

The proposed new clause 58A seeks to provide for Coffee Stabilization Fund. The Fund will help coffee farmers in income and price stabilization especially during years when coffee prices have plummeted.

CLAUSE 63

THAT, the Bill be amended by deleting Clause 63 and substituting therefor the following new Clause—

Financial Year of the Board.

63. The financial year of the Board shall be the period of twelve months ending on the 30th June of every year.

Justification:

The proposed amendments seeks to clarify the financial year of the Board.

CLAUSE 67

THAT, Clause 67 of the Bill be amended —

(a) in subclause (1)—

(i) by deleting paragraph (f) and substituting therefor the following new paragraph—
“(f) one person nominated by the umbrella body of estate coffee growers;”

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

“(3) A person is qualified for appointment as chairperson of the Board of the Institute if that person holds a master’s degree in agriculture, crops science, or other relevant degree from a university recognized in Kenya.”

Justification:

Clause 67 provides for the membership of the Coffee Research Institute. The proposed amendment to subclause (1) (f) seeks to provide clarity on the nominating body. Further, the proposed amendment to subclause (3) enhances the qualification for appointment of a person as a chairperson of the Board from a degree to a master’s degree which will enhance the effectiveness of the Institute.

CLAUSE 70

THAT, Clause 70 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (e)—

“(ea) issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export;”

Justification:

The proposed amendment arose during consideration of clause 38(1) (d) of the Bill which provides for one of the functions of the Coffee Research Institute as to “issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export”. The proposed amendment rightly places the function in clause 70 which comprehensively provides for the functions of the Institute.

CLAUSE 74

THAT, Clause 74 of the Bill be amended in subclause (3) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) holds a master’s degree in agriculture or crops science from a university recognized in Kenya;”

Justification:

Clause 74(3) provides for the qualifications for a person to be appointed as a chief executive officer of the Coffee Research Institute. The proposed amendment enhances the educational qualifications from a degree to a master’s degree in agriculture or crops science from a university recognized in Kenya. This will in turn enhance the Institute’s effectiveness.

CLAUSE 80

THAT, Clause 80 of the Bill be amended by—

(a) inserting the following paragraph immediately after the introductory statement—

“(a) such monies as may be appropriated by the National Assembly;”

(b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.


Justification:

The proposed amendment seeks to provide for monies appropriated by the National Assembly as one of the sources of funds for the Institute.


o

MIN.NO. DC/A&L/ 024/2022: ADJOURNEMENT

The meeting thereafter was adjourned at forty five minutes past one o'clock.

Signed.....

**HON. SILAS KIPKOECH TIREN, MP
(CHAIRPERSON)**

Date.....

MINUTES OF THE 8TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD ON TUESDAY 8TH FEBRUARY, 2022 IN COMMITTEE ROOM, MEDIA CENTRE, PARLIAMENT BUILDING, AT 3.00PM

PRESENT

- | | |
|--|--------------------|
| 1. Hon. Silas Kipkoech Tiren, MP. | Chairperson |
| 2. Hon. Maison Leshoomo, MP. | |
| 3. Hon. Cecily Mbarire, MGH, MP. | |
| 4. Hon. Dr. John Kanyuithia Mutunga, MP. | |
| 5. Hon. Gabriel Kago Mukuha, MP. | |
| 6. Hon. Adan Haji Yussuf, MP. | |
| 7. Hon. Martin Peters Owino, MP. | |
| 8. Hon. Joyce Kamene, MP. | |

APOLOGIES

1. Hon. Geoffrey Odanga, MP.
2. Hon. Dr. Chrisantus Wamalwa, CBS. MP.
3. Hon. Julius Kibiwott Melly, MP.
4. Hon. Janet Jepkemboi Sitienei, MP
5. Hon. Ferdinand Wanyonyi, MP.
6. Hon. Jude Njomo, MP.
7. Hon. Simba Arati, MP.
8. Hon. Majimbo Kalasinga, MP.
9. Hon. Yegon Brighton Leonard, MP.

COMMITTEE SECRETARIAT

- | | | |
|----------------------------|---|------------------------|
| 1. Mr. Nicodemus K. Maluki | - | Second Clerk Assistant |
| 2. Mr. Salem Lorot | - | Legal Counsel |
| 3. Mr. Robert Ng'etich | - | Fiscal Analyst |
| 4. Mr. Wilson Angatangoria | - | Sergeant At Arms |
| 5. Mr. Luteshi Eugene | - | Audio Officer |
| 6. Mr. Moses Musembi | - | Office Assistant |

MIN.NO. DDC/A&L/022/2022: PRELIMINARIES

The Chairperson called the meeting to order at ten minutes past three o'clock. The proceedings began with prayers followed by brief introductions.

MIN.NO. DDC/A&L/023/2022: CONSIDERATION OF THE COMMITTEE STAGE AMENDMENTS TO THE COFFEE BILL (SENATE BILL NO. 22 OF 2020)

The Legal Counsel took Members through the proposed amendments by the Coffee Sub-Sector Reforms Implementation Standing Committee (CSRISC).

The Coffee Sub- Sector Reforms Implementation Standing Committee through the Executive Office

of the President submitted their comments to Parliament vide a letter Ref. OP/CAB/17/38 dated 23rd November, 2021. They proposed amendments as follows:

Clause 2

THAT, the Bill be amended by inserting new definitions.

“auction levy” “Authority” “bid” “buyers levy” “coffee business” “coffee development” “coffee research” “coffee roaster” “milling statement” “out-turn statement”

Justification:

Align the definitions with the published Crops (Coffee)(General) Regulations 2019 and Capital Markets (Coffee Exchange) Regulations, 2020 (hereinafter referred to as the regulations)

Committee Observation

The interpretation clause provides definitions of terms as used in the Bill. The appearance of the definitions in the Crops (Coffee) (General) Regulations 2019 and Capital Markets (Coffee Exchange) Regulations, 2020 does not necessarily mean that they must also be provided in the Bill. However, arising from the Committee’s proposed amendments, the definitions “auction levy” and “Authority” have been proposed to be inserted to clause 2 of the Bill.

Clause 3

THAT, Clause 3 of the Bill be amended to include the following objects:

- (a) establish a framework for the regulation of the coffee subsector;
- (b) provide for a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality promotion of the coffee subsector;
- (c) promote the vertical integration of the coffee value chain for the purpose of achieving economies of scale and managing risk;
- (d) promote evidence based coffee research and the delivery of extension services for the development of the coffee subsector;
- (e) ~~provide framework for~~
 - i) the establishment of a coffee development levy; and
 - (ii) the sustainable funding of the coffee sector; and (provide a mechanism for dispute resolution within the coffee sector.

Justification:

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

Committee Observation

The Committee observed that the proposed new objects reiterate what is already provided for in clause 3 of the Bill. However, the Committee agreed to amend paragraph (b) by inserting the word “regulatory” immediately after the word “provide a”.

Clause 7

THAT, Clause 7 of the Bill be amended to amend the composition of the Board to consist of

- (a) ... (as before)
- (b).....(as before)
- (c) consider amendments to the other provisions in this subsection to include:
 - (i) Principal Secretary in charge of cooperatives or the Commissioner for Cooperatives;
 - (ii) the Principal Secretary for the time being responsible for finance or a representative nominated by the Principal Secretary in writing;
 - (iii) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;
 - (iv) one person representing coffee estate growers nominated by the Council of County Governors;
 - (v) one person nominated by the Council of County Governors who should have relevant knowledge in the coffee subsector;
 - (vi) one person representing the Attorney General;
- (h).... (as before)

Justification:

To align with the provisions of Mwongozo and ensure all players along the value chain have been represented in the Board.

The membership should not exceed the proposed number under Mwongozo which provides for 7-9 members.

Committee Observations and recommendations

The Committee made the following observations:

- (a) Clause 7 of the Bill provides for the composition of Board of directors;*
- (b) The clause provides for 10 persons.*

The Committee recommended that subclause (1) of the clause be amended as follows:

- (a) Insert a new paragraph to provide for Principal Secretary for the time being responsible for cooperatives or the Commissioner for Cooperatives;*
- (b) Amend paragraph (d) by reducing the number from two persons to one person;*
- (c) Delete paragraph (e) and substitute therefor the following new paragraph—*

“(e) two persons of the opposite gender nominated by the umbrella body representing largescale coffee growers;”

- (d) Delete paragraph (g) and substitute therefor the following new paragraph—*

“(g) one person nominated by the umbrella body representing medium scale coffee growers;”

- (e) Amend paragraph (h) as follows:*

“(h) two persons of the opposite gender nominated by the cooperative society representing the largest number of small-scale coffee associations in Kenya; and”

The Committee further recommended that the following new subclause be inserted immediately after subclause (2)—

“(3) The Board may from time to time co-opt professional experts in financial management, international commodity trade or in any other area they need support.”

(4) The appointment of the chairperson or members of the Board under subsection (1) (a), (d), (e), (f) and (g) and shall take into account the gender, regional and other diversities of the people of Kenya.”

Clause 11

THAT, Clause 11 of the Bill be amended to include the following functions

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

Undertake capacity building activities and provide advisory services for players along the coffee value chain;

5

Justification:

For clarity on the certificates, licences and permits that are to be issued by the Board as stipulated in the regulations. To enhance the functions of the Board so as to ensure development and promotion of the coffee sector.

Committee Observation

The Committee observed that clause 11 provides for the functions of the Board. The functions proposed are already provided for in clause 11 specifically in paragraphs (b) and (h) which provide as follows:

(b) consider applications for issuance of permits and licences under the second schedule to this Act;

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

Clause 15

THAT, Clause 15 of the Bill be amended in subsection (2) to read

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

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

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

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

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

Justification:

To align with the provisions of Mwongozo

Committee Observation

The Committee observed that the proposed amendment elevates the qualification requirements of the CEO which might deny the Board from CEOs who may not necessarily have been in the coffee sector but whose similar experience might be of great benefit to the Board.

Clause 25

THAT, Clause 25 of the Bill be amended in subsection (1) to read as follows

1) A person shall not operate a—

(a) pulping station or carry out hulling activities;

(b) coffee growers' mill;

(c) commercial mill;

(d) warehouse; or

(e) coffee roaster.

Justification:

To align with coffee regulations on licensing

Committee Observations

The Committee agreed to the proposed amendment to include warehouse but rejected insertion of commercial mill. The Committee observed that the ~~Second~~ Schedule to the Bill provides for warehouse licence and commercial coffee miller's licence. However, there was need to clearly provide in the substantive provisions the different licences and permits as issued by different licensing authorities.

Clause 48

THAT, Clause 48 of the Bill be amended in subsection (1) and (2) to remove reference to specific entity

(1) A person shall not carry on the business of a coffee exchange unless he has applied for approval and has been licensed as a coffee exchange by the Authority in accordance with the Capital Markets Act.

3) as before...

4) As before...

Justification:

To align with the coffee regulations and the Capital Markets Act.

Define Authority in the interpretation section to mean the Capital Markets Authority.

Committee Observations

The Committee agreed to the proposed amendment.

Clause 59

Amend clause 59 to include the following:

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

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

(a) 1% to the Institute;

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

(c) 0.5% to the coffee growing county governments for coffee development as conditional grants.

Justification:

To provide for a levy and the apportionment of the same

Committee Observation

The Committee observed that clause 59 of the Bill provides for coffee development levy. It is under Part VIII on financial provisions. The Committee noted that the proposed amendment is fully provided for in clause 59 of the Bill.

Clause 67

THAT, Clause 67 of the Bill be amended to include

The Principal Secretary for matters relating to trade or a representative nominated by the Principal Secretary in writing

One person representing the Chief Executive Officer of the Kenya Phytosanitary Plant Health Services;

One person representing smallholder coffee growers nominated by the Council of County Governors;

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

Consider amending subsection (3) to read as follows—

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

(a) holds a doctorate degree in economics, agriculture, business, law, administration or other relevant degree from a university

b) has at least five years' experience in the coffee sector.

Justification

To upgrade the qualifications for the Board Chairman and members and add representation of coffee growers.

Committee Observation

The Committee made the following observations:

(a) *Clause 67 of the Bill provides for the membership of the Board of the Coffee Research Institute. It provides for 8 persons;*

(b) *The proposed amendments were untenable since if the proposed amendments were to be adopted, this would increase the membership to 12;*

(c) *There was need to amend subclause (1) by deleting paragraph (f) and substituting therefor the following new paragraph—*

“(f) one person nominated by the umbrella body of estate coffee growers;”

- (d) *There was a need to delete the words “nominated by the Cabinet Secretary” in paragraph (f) to correct an error.*
- (e) *The proposed amendment to subclause (3) was considered and the Committee recommended that it be amended as follows:*

“(3) A person is qualified for appointment as chairperson of the Board of the Institute if that person holds a master’s degree in agriculture, crops science, or other relevant degree from a university recognized in Kenya.”

Clause 70

THAT, Clause 70 of the Bill be amended to read as follows

- (2) For purposes of carrying out its functions under subsection (1) the Institute shall—
- (a) undertake policy and social economic analysis and make recommendations to the Cabinet Secretary on coffee research;
 - b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes;
 - (f) provide competitive grants to research institutes and persons desirous of carrying out research and training programs which address value chain priorities and are consistent with the national research priorities and plans of the Institute;
 - (h) Support and promote the training and capacity building in relation to coffee research; Consider including the following functions
Be the premier national and regional institute in research into and development of new coffee varieties and improvement of existing varieties; Facilitate the use of improved production and processing technologies and to establish adequate feedback systems from coffee farmers and processors in order to achieve the highest possible quality of coffee in Kenya;
Organize national and regional bi-annual conference with coffee producers, processors and key stakeholders to share research findings and receive feedback.
-

Justification:

To provide for some functions more specifically

Committee Observation

The Committee observed that clause 70 of the Bill provides for the functions of the Coffee Research Institute. The proposed amendment is to subclause (2) which provides comprehensively the functions of the Coffee Research Institute. It provides for 18 functions which accommodate the proposed amendments.

Clause 74

THAT, Clause 74 of the Bill be amended in subsection (3) (b) to read as follows

(3) (b) holds a **minimum doctorate degree in agriculture, crops science, economics or business administration** or its equivalent from a university recognized in Kenya; and

Justification:

To enhance the qualifications of the Chief Executive Officer

Committee Observation

The Committee partly agreed to the proposed amendment and recommended that instead of the proposed doctorate degree, it should be a master's degree in agriculture or crops science from a university recognized in Kenya.

New Clause

Consider including the following new provision on surveillance—

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

Committee Observation

The Committee observed that the proposed new provision is already provided for in the Bill under clause 56 on inspections, specifically sub-clause (2).

Clause 88

Amend clause 88 of the Bill to provide for a new subclause (3) as follows:

(3) The digitalization referred to in sub-section (1) shall require the conversion of the entire value chain into a digital platform based on automation, computerization, integration across the value chain and digital instrument usage including weigh scales, digital scanners, storage and inventory management

Justification:

To align with the coffee regulations

Committee Observation

The Committee observed that clause 88 of the Bill provides for digitization: that the Board and each county executive committee member shall automate their operations for the efficient delivery of services and dissemination of information within the coffee sector. The proposed new subclause (3) is an explanation and a detail on how the digitization shall operate. This does not need to be provided in the Bill since it is administrative.

New clause

Provision on sharing of information between the Board and county governments

Justifications:

To align with the coffee regulations and enhance harmony in regulation of the coffee industry

Committee Observations

The Committee made the following observations:

(a) Regulation 39 of the Crops (Coffee) (General) Regulations, 2019 provides as follows:

39. (1) The county governments shall share the information on registered and licensed growers and dealers with the Authority [Agriculture and Food Authority] on a monthly basis or other agreed timelines.

(b) The Authority shall share the information with the respective county governments on registered and licensed dealers and other service providers within their county on a monthly basis or other agreed timelines.

(c) Clause 26(5) of the Bill provides that each county shall submit to the Board a copy of the register under subsection (3).

(d) Therefore, sharing of information has been provided for in the Bill.

Clause 94

THAT, Clause 94 of the Bill be amended in subsection (1) as follows

(1) The Cabinet Secretary may, **in consultation with the Board** and county governments, make Regulations—

Justification:

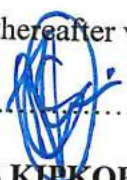
To provide for consultation with the county governments

Committee Observation

The Committee agreed to the proposed amendment.

MIN.NO. DC/A&L/ 024/2022: ADJOURNEMENT

The meeting thereafter was adjourned at forty five minutes past one o'clock.

Signed.....

HON. SILAS KIPKOECH TIREN, MP.
(CHAIRPERSON)

Date.....

MINUTES OF THE 1ST SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD ON THURSDAY 27TH JANUARY, 2022 IN COMMITTEE ROOM, MEDIA CENTRE, PARLIAMENT BUILDING, AT 11.00AM

PRESENT

- | | |
|--|--------------------|
| 1. Hon. Silas Kipkoech Tiren, MP. | Chairperson |
| 2. Hon. Catherine Waruguru, MP | Vice Chairperson |
| 3. Hon. Maison Leshoomo, MP. | |
| 4. Hon. Cecily Mbarire, MGH, MP. | |
| 5. Hon. Julius Kibiwott Melly, MP. | |
| 6. Hon. Dr. John Kanyuithia Mutunga, MP. | |
| 7. Hon. Gabriel Kago Mukuha, MP. | |
| 8. Hon. Adan Haji Yussuf, MP. | |
| 9. Hon. Martin Peters Owino, MP. | |
| 10. Hon. Yegon Brighton Leonard, MP. | |

APOLOGIES

1. Hon. Geoffrey Odanga, MP.
2. Hon. Dr. Chrisantus Wamalwa, CBS. MP.
3. Hon. Janet Jepkemboi Sitienei, MP
4. Hon. Ferdinand Wanyonyi, MP.
5. Hon. Jude Njomo, MP.
6. Hon. Simba Arati, MP.
7. Hon. Majimbo Kalasinga, MP.
8. Hon. Joyce Kamene, MP.

COMMITTEE SECRETARIAT

- | | | |
|----------------------------|---|------------------------|
| 1. Mr. Nicodemus K. Maluki | - | Second Clerk Assistant |
| 2. Mr. Salem Lorot | - | Legal Counsel |
| 3. Mr. Robert Ng'etich | - | Fiscal Analyst |
| 4. Mr. Wilson Angatangoria | - | Sergeant At Arms |
| 5. Mr. Luteshi Eugene | - | Audio Officer |
| 6. Mr. Moses Musembi | - | Office Assistant |

MIN.NO. DDC/A&L/001/2022: PRELIMINARIES

The Chairperson called the meeting to order at ten minutes past three o'clock. The proceedings began with prayers followed by brief introductions.

MIN.NO. DDC/A&L/002/2022: CONSIDERATION OF THE COFFEE BILL (SENATE BILL NO. 22 OF 2020)

The Committee was briefed by the Legal Counsel as follows:-

1. The Coffee Bill, 2020 (Senate Bills No. 22 of 2020), sponsored by Sen. Njeru Ndwiga, Chairperson of the Senate Committee on Agriculture, Livestock and Fisheries, was passed

by the Senate with amendments on 5th August, 2020 and transmitted to the National Assembly.

2. 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.
3. 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.

Overview of the Bill

4. **PART I** of the Bill provides for preliminaries and sets out the objects of the Bill.
5. **PART II** of the Bill (**Clause 4-22**) establishes the **Coffee Board of Kenya**, its membership, functions and powers, the chief executive office and the staff of the Board. **Clause 7** provides for **a membership of 10**.
6. **PART III** of the Bill (**Clause 23-25**) provides for the **role of county governments**. **Clause 23** provides that a county government shall implement the national government policy relating to coffee, maintain an up to date register of coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in that county; consider applications for the certificates, permits and licenses enumerated under the second schedule to the Act; enforce national and county legislation on coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions; offer and coordinate the delivery of extension services on sustainable production, primary processing of coffee and climate smart agriculture; among others. **Clause 24** provides that each county government may enact county specific legislation. **Clause 25** provides that a person shall not operate a pulping station or carry out hulling activities; coffee growers' mill; or coffee roaster unless the person has applied for, and obtained a licence from the respective county government in which the operation is undertaken.
7. **PART IV** of the Bill (**Clauses 26-37**) provides for regulatory provisions. **Clause 26** provides for registration. It provides that a person or entity shall not carry out the business of a coffee grower, nursery operator, miller, coffee roaster, 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. **Clause 27** provides that a person who intends to perform any function under the Act for which a licence or a permit is required shall submit to the relevant licensing authority specified in the Second Schedule an application for a licence or permit, in the prescribed form; such information as may be prescribed; and the prescribed fees.

8. **Clause 28** provides that the following license shall be issued by the Authority under the Capital Markets Act: coffee exchange licence authorising a person to conduct the business of a coffee exchange; a broker's licence authorising a person to offer clean coffee for sale at an exchange on behalf of the grower. Clause 29 provides that a person shall not operate as a cupping laboratory, liquorer, coffee buyer, coffee importer, agent or warehouse operator unless the person is licensed or issued a registration certificate or a permit by the Board upon satisfaction of the prescribed conditions.
9. **PART V** of the Bill (**Clause 38-45**) provides for production and processing. It seeks to ensure that all coffee produced and processed in the country shall conform to the Kenya Coffee production standards. The Board shall be required to register and monitor the certification schemes for compliance with protocols for Kenyan coffee.
10. **PART VI** of the Bill (**Clause 46-54**) provides for coffee trading and marketing. **Clause 46** provides that Kenya Coffee may be offered for sale through auction in the Exchange, direct sales or such other method as the Cabinet Secretary may prescribe. **Clause 47** provides that a licensed coffee grower may undertake, in the prescribed manner, a direct sale in coffee and may, for this purpose, sell own clean coffee to a licensed roaster for local value addition and sale. **Clause 48** provides for the establishment of the Nairobi Coffee Exchange for purposes of coffee trading. **Clause 49** provides that a broker or agent appointed by growers and other service providers shall not receive coffee sale proceeds on behalf of the growers. **Clause 50** provides that a commercial miller or a broker appointed in consultation with the commercial miller, shall prepare a sales catalogue in consultation with the Exchange and growers, for all the coffee in a licensed warehouse in accordance with the Act. **Clause 51** provides that all coffee shall be stored in warehouses licensed by the respective county governments. **Clause 52** provides for export and import of coffee. **Clause 53** provides that a person who blends any or various grades of coffee produced in Kenya with any other coffees produced outside Kenya shall declare the percentage of Kenyan coffee in the blend. It provides that contravention of the provision is an offence. **Clause 54** provides against anti-competitive practices. It provides that the trading activities at an exchange shall be compliant with relevant laws that deter unfair trading and anti-competitive practices.
11. **Part VII (Clauses 55-57)** provides for Quality Assurance. **Clause 55** provides that the Board and the respective county executive committee members shall collaborate in the enforcement of coffee industry standards along the value chain for purposes of quality assurance. **Clause 56** provides for inspections. It provides that the Board and the respective county executive committee members shall, by notice in the *Gazette*, appoint inspectors for the enforcement of the provisions of the Act. Clause 57 provides that a person importing coffee into the country shall ensure that the coffee complies with the coffee standards and such other quality standards as may be prescribed under the Act or any other law; and adhere to the safety and health standards prescribed under this Act or any other law.

12. **PART VIII** of the Bill (**Clauses 58-63**) provide for financial provisions. **Clause 59** provides that the Cabinet Secretary shall, in consultation with the Board and the Institute and by notice in the Gazette, impose a levy of 2% on the export import value remitted by coffee buyers to the Board for the development of the coffee industry. It further provides that the levy shall be apportioned as follows:

1% - to the Institute

0.5% -to the Board for regulatory and coffee promotion purposes

0.5%-to the coffee growing county governments for coffee development as a conditional grant

13. **PART IX** of the Bill (**Clauses 64-79**) provides for the establishment of the Coffee Research Institute of Kenya.

14. **PART X** of the Bill (**Clauses 80-86**) provides for the financial provisions of the Institute.

15. **PART XI** of the Bill (**Clauses 87-94**) provides for miscellaneous provisions. Clause 94 provides that the Cabinet Secretary may, in consultation with the Board, make Regulations to provide for:

- i) The regulation of the processing, importation and exportation of coffee and coffee products
- ii) The forms to be used in the application for registration, licensing, permits, the notification to the direct settlement system provider, contracts and related activities
- iii) The process of application for registration, licensing and related activities
- iv) Any fee or levy which may be charged for anything done under the Act
- v) The regulation and enforcement of contracts between growers, processors and other players in the coffee industry
- vi) The process of nomination of members to the Board
- vii) The conditions for the issuance of certificates, licenses and permits under the Act
- viii) The trade, storage, bulking, packing and roasting of coffee
- ix) The regulation of nursery operations, pulping, milling, warehousing and transportation of coffee
- x) The grading and classification of coffee
- xi) The imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers

16. **PART XII** of the Bill (**Clauses 95-102**) provides for transitional provisions.

17. **The First Schedule to the Bill** provides for provisions on the conduct of the Business and Affairs of the Coffee Board of Kenya.

18. **The Second Schedule to the Bill** provides for licence, permit or certificate.

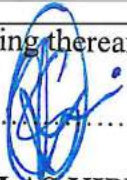
The Committee made the following observations:

- a. The Crops Act (No. 16 of 2013) repealed the a number of Acts in its Second Schedule; these included the Crop Production and Livestock Act (Cap. 321); the Canning Crops Act (Cap. 328); the Cereals and Sugar Finance Corporation (Cap. 329); the Coconut Industry Act (Cap. 331); the Coconut Preservation Act (Cap. 332); the Cotton Act (Cap. 335); the Pyrethrum Act (Cap. 340); the Sisal Industry Act (Cap. 341); the Tea Act (Cap. 343); the Coffee Act (No. 9 of 2001); and the Sugar Act (No. 10 of 2001);
- b. The Coffee Act (No. 9 of 2001) was among the Acts that were repealed by the Crops Act (No. 16 of 2013);
- c. The First Schedule to the Agriculture and Food Authority Act (No. 13 of 2013) provides for transitional provisions and lists former institutions; these are the Coconut Development Authority; the Kenya Sugar Board; the Tea Board of Kenya; the Coffee Board of Kenya; the Horticultural Crops Development Authority; the Pyrethrum Regulatory Authority; the Cotton Development Authority; and the Sisal Board of Kenya;
- d. The Agriculture and Food Authority Act (No. 13 of 2013) establishes the Agriculture and Food Authority; Section 4 of the Act provides for the functions of the Authority; The Agriculture and Food Authority administers the Crops Act which consolidates and repeals various statutes relating to crops; and provides for the growth and development of agricultural crops;
- e. However, despite these changes in the legal regime, there have been challenges raised by coffee farmers and other stakeholders which necessitated the reversion to the old regime which provides for a dedicated Coffee Board of Kenya and Coffee Research Institute whose primary focus will be to address the peculiar challenges faced in the coffee subsector;
- f. The Bill, if enacted, will address most of the challenges raised by various stakeholders; the amendments, borne of stakeholder engagements, seek to enrich the Bill to respond to the peculiar needs of the coffee subsector, including the proposed establishment of the Coffee Stabilization Fund;

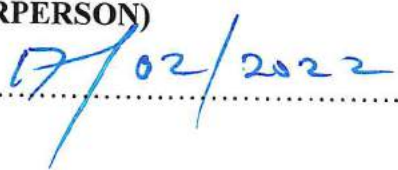
- g. There was a need to have adequate representation of coffee farmers in the proposed Coffee Board of Kenya and the Coffee Research Institute provided for in clauses 6 and 67 respectively.

MIN.NO. DC/A&L/ 003/2022: ADJOURNEMENT

The meeting thereafter was adjourned at forty five minutes past one o'clock.

Signed.....

**HON. SILAS KIPKOECH TIREN, MP
(CHAIRPERSON)**

Date.....

D/DC
Please deal
Gr
24/11/21



THE PRESIDENCY
EXECUTIVE OFFICE OF THE PRESIDENT
HEAD OF THE PUBLIC SERVICE

Telegraphic Address
Telephone: +254-20-2227436
When replying please quote

STATE HOUSE

P.O. Box 40530-00100
Nairobi, Kenya

Ref. No. **OP.CAB/17/38**
and date

23rd November, 2021

Mr. Michael Sialai, CBS
Clerk of the National Assembly
Parliament Buildings
NAIROBI

Dear **MICHAEL SIALAI,**

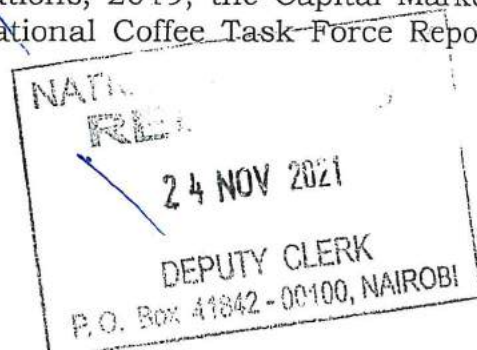
Ahmad Kadhi
pls facilitate
24/11/21

RE: SUBMISSION OF MEMORANDA ON THE SENATE COFFEE BILL, 2020

Reference is made to the notice in the newspaper dated 12th November, 2021 inviting the public to submit comments on the above captioned Bill.

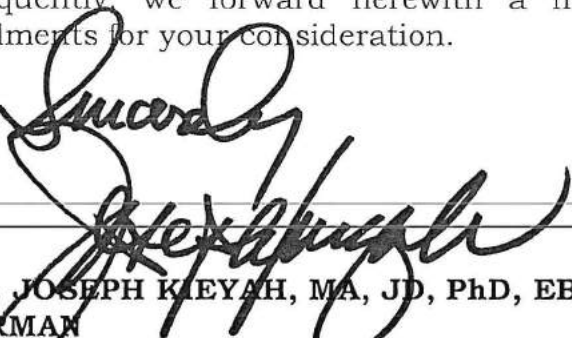
The Coffee Sub-Sector Reforms Implementation Standing Committee (CSRISC) CSRISC was appointed by H. E the President with the mandate to coordinate, oversee and monitor the implementation of the Coffee Sub Sector Reforms. CSRISC is the successor of the Coffee Sub-Sector Implementation Committee (CSIC) which spearheaded the formulation of the Crops (Coffee)(Regulations), 2019 and the Capital Markets (Coffee Exchange) Regulations, 2020 with extensive stakeholder engagement and in accordance with the recommendations of the National Coffee Task Force Report, 2016 and the Constitution.

In accordance with its mandate, CSRISC has reviewed the Senate Coffee Bill, 2020 and has proposed some amendments to the Bill to align the same with the published Crops (Coffee)(General) Regulations, 2019, the Capital Markets (Coffee Exchange) Regulations, 2020, the National Coffee Task Force Report, 2016 and the Constitution of Kenya.



Consequently, we forward herewith a matrix summarizing our proposed amendments for your consideration.


Yours



PROF. JOSEPH KIEYAH, MA, JD, PhD, EBS
CHAIRMAN
COFFEE SUB-SECTOR REFORMS IMPLEMENTATION
STANDING COMMITTEE

CC.

The National Assembly Standing Committee on
Agriculture, Livestock and Fisheries
Parliament Buildings
NAIROBI



CSRISC PROPOSED AMENDMENTS TO THE SENATE COFFEE BILL, 2020

NO	CLAUSE	CURRENT PROVISION	PROPOSED AMENDMENT	JUSTIFICATION
1.	2 Interpretation	Certain necessary terms are missing in definitions or not sufficiently defined	Insertion of new definitions. These are: "auction levy" "Authority" "bid" "buyers levy" "coffee business" "coffee development" "coffee research" "coffee roaster" "milling statement" "out-turn statement"	Align the definitions with the published Crops (Coffee)(General) Regulations 2019 and Capital Markets (Coffee Exchange) Regulations, 2020 (hereinafter referred to as the regulations)
2.	3 Objects	<p>Objects</p> <p>3. The objects of this Act are to —</p> <p>(a) promote a globally competitive coffee industry;</p> <p>(b) provide a framework for the registration and licensing of various players within the coffee sector;</p> <p>(c) delineate the roles of the National and County Governments in the regulation, development and</p>	<p>Consider including the following objects-</p> <p>(i) establish a framework for the regulation of the coffee subsector.</p> <p>(ii) provide for a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality</p>	To give an overview of why the law was enacted, the specific objectives the Bill aims to achieve and the mischief it intends to cure in the coffee sub sector.

		<p>promotion of the coffee sector;</p> <p>(d) promote the vertical integration of the coffee value chain for the purpose of achieving economies of scale and managing risk;</p> <p>(e) promote evidence based coffee research and the delivery of extension services for the development of the coffee sector;</p> <p>(f) provide a framework for –</p> <p>(i) the establishment of a coffee development levy; and</p> <p>(ii) the sustainable funding of the coffee sector; and</p> <p>(g) provide a mechanism for dispute resolution within the coffee sector.</p>	<p>assurance, coffee trading, marketing, payment system and credit finance;</p> <p>(iii) provide for enforcement of the regulatory framework and coffee standards in the subsector;</p> <p>(iv) provide a framework for interlinkages amongst state agencies, regulators and players along the coffee value chain including the public private partnerships;</p> <p>(v) promote farmer-based associations or platforms for representation of farmers' interests;</p> <p>(vi) provide a framework for the establishment of a coffee stabilization fund;</p> <p>(vii) establishment a framework for the provision of sustainable funding for the subsector;</p>		
3. 7	Board of directors	7. (1) The management of the Board shall vest in a board of	Consider including the following— (i) Principal Secretary in charge of	To align with the provisions of Mwongozo and ensure all players	

	<p>directors consisting of—</p> <p>(a) a chairperson appointed by the President by notice in the Gazette;</p> <p>(b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;</p> <p>(c) the Principal Secretary for the time being responsible for trade or a representative nominated by the Principal Secretary in writing;</p> <p>(d) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;</p> <p>(e) two persons of the opposite gender representing plantation coffee growers nominated by the Council of County Governors;</p> <p>(f) one person nominated by the Institute;</p> <p>(g) one person representing an association of farmer's coffee nominated by the Cabinet Secretary; and</p>	<p>cooperatives or the Commissioner for Co-operatives;</p> <p>(ii) the Principal Secretary for the time being responsible for finance or a representative nominated by the Principal Secretary in writing;</p> <p>(iv) one person representing coffee estate growers nominated by the Council of County Governors;</p> <p>(v) one person nominated by the Council of County Governors who should have relevant knowledge in the coffee sub sector;</p>	<p>along the value chain have been represented in the Board</p> <p>The membership should not exceed the proposed number under Mwongozo which provides for 7-9 members</p>
--	---	--	---

4.	11 Functions of the Board	<p>(h) one person nominated by the cooperative society representing the largest number of small-scale coffee associations in Kenya; and</p> <p>(i) a chief executive officer appointed under section 14 who shall be an ex-officio member of the Board.</p>	<p>Consider including the following functions—</p> <p>NEW (b) issue registration certificates for agents, licences for independent coffee cupping laboratories, liquorers, warehouse operators and buyers, movement permits for purchased clean coffee, and regulate imports and exports of coffee;</p> <p>undertake capacity building activities and provide advisory services for players along the coffee value chain;</p>	<p>For clarity on the certificates, licences and permits that are to be issued by the Board as stipulated in the regulations. To enhance the functions of the Board so as to ensure development and promotion of the coffee sector.</p>	
----	------------------------------	---	---	---	--

<p>5. 15 Chief executive officer</p>	<p>2) A person is qualified for appointment under subsection (1) if the person—</p> <p>(a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;</p> <p>(b) has at least five years' experience in a position of management; and</p> <p>(c) meets the requirements of Chapter Six of the Constitution.</p>	<p>Amend to read—</p> <p>(2) A person is qualified for appointment under subsection (1) if the person—</p> <p>(a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;</p> <p>(b) has at least ten years' knowledge and experience in the coffee subsector;</p> <p>(c) has served in a position of senior management for a period of at least five years; and</p> <p>(d) meets the requirements of Chapter Six of the Constitution</p>	<p>To align with the provisions of Mwingozo</p>
<p>6. 25 Licensing of Coffee Operations</p>	<p>25. (1) A person shall not operate a—</p> <p>(a) pulping station or carry out hulling activities;</p> <p>(b) coffee growers' mill; or</p> <p>(c) coffee roaster,</p> <p>unless the person has applied for, and obtained a licence from the respective county</p>	<p>Consider amending subsection (1) to read as follows—</p> <p>(1) A person shall not operate a—</p> <p>(a) pulping station or carry out hulling activities;</p>	<p>To align with coffee regulations on licensing</p>

		government in which the operation is to be undertaken.		(b) coffee growers' mill; (c) commercial mill; (d) warehouse; or (e) coffee roaster,	
7. 48 Establishment and functions of Nairobi Coffee Exchange	48(1) There is established a body to be known as Nairobi Coffee Exchange for purposes of coffee trading. (2) The Nairobi Coffee Exchange shall be a body corporate, registered under the Companies Act.		Consider amending 48(1) and (2) to remove reference to a specific entity to read: (1) A person shall not carry on the business of a coffee exchange unless he has applied for approval and has been licensed as a coffee exchange by the Authority in accordance with the Capital Markets Act. (3) as before... (4) As before...	To align with the coffee regulations and the Capital Markets Act. Define Authority in the interpretation section to mean the Capital Markets Authority.	
8. 58 Funds of the Board	The funds and assets of the Board shall comprise of— (a) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act; (b) monies received from the levy	Consider the including the following — (2) The Cabinet Secretary may, in consultation with the Board and the Institute and by Notice in the <i>Gazette</i> , impose a 2% levy based on export import value to be	To provide for a levy and the apportionment of the same.		

	imposed on coffee sales pursuant to section 59; (c) such monies as may be payable to the Board pursuant to this Act or any other written law; (d) such gifts as may be donated to the Board; and (e) monies from any other source granted	remitted by coffee buyers to the Board to support the coffee industry. (3) The levy imposed under subsection (2) shall be apportioned as follows— (a) 1% to the Institute; (b) 0.5% to the Board for regulatory and coffee promotion purposes; and (c) 0.5% to the coffee growing County Governments for coffee development as conditional grants	
8.	67 Membership of the Board of Coffee Research Institute (1) The management of the Institute shall vest in a board consisting of— (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	Consider the following members— the Principal Secretary for matters relating to trade or a representative nominated by the Principal Secretary in writing; one person representing the Chief Executive Officer of the Kenya Phytosanitary Plant Health Services; one person representing smallholder coffee growers nominated by the Council of County Governors; (i) one person representing coffee estate growers nominated by the	To upgrade the qualifications for the Board chairman and members and add representation of coffee growers.

		<p>matters relating to finance or a representative nominated by the Principal Secretary in writing;</p> <p>(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;</p> <p>(f) one person representing estate coffee growers nominated by the Cabinet Secretary;</p> <p>(g) one person representing small scale coffee growers nominated by the Council of County Governors;</p> <p>(h) one person nominated by Commission on University Education representing the universities nominated by the Cabinet Secretary; and</p> <p>(i) a chief executive officer appointed in accordance with section 47 who shall be an ex-officio member of the board.</p>	<p>Council of County Governors</p> <p>Consider amending subsection (3) to read as follows—</p> <p>(3) A person is qualified for appointment as a chairperson of the board of the Institute if that person—</p> <p>(a) holds a doctorate degree in economics, agriculture, business, law, administration or other relevant degree from a university recognized in Kenya; and</p> <p>(b) has at least five years' experience in the coffee sector.</p>		
9.	70 Functions of the	<p>(2) For the purpose of carrying out its functions under subsection (1), the</p>	<p>Consider redrafting to read as follows—</p>	<p>To provide for some functions more specifically</p>	

Institute	<p>Institute shall—</p> <p>(a) make policy recommendations to the Cabinet Secretary on coffee research;</p> <p>(b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes within the framework of the national agricultural research system;</p> <p>(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;</p> <p>(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;</p> <p>(e) undertake the propagation of</p>	<p>(2) For purposes of carrying out its functions under subsection (1) the Institute shall—</p> <p>(a) undertake policy and social-economic analysis and make recommendations to the Cabinet Secretary on coffee research;</p> <p>(b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes;</p> <p>(f) provide competitive grants to research institutes and persons desirous of carrying out research and training programs which address value chain priorities and are consistent with the national research priorities and plans of the Institute;</p> <p>(h) support and promote the training and capacity building in relation to coffee research;</p> <p>Consider Including the following functions-</p>
-----------	---	---

		quality coffee planting materials and supervision of registered nursery operators;	<p>be the premier national and regional institute in research into and development of new coffee varieties and improvement of existing varieties;</p> <p>facilitate the use of improved production and processing technologies and to establish adequate feedback systems from coffee farmers and processors in order to achieve the highest possible quality of coffee in Kenya;</p> <p>organize national and regional bi-annual conference with coffee producers, processors and key stakeholders to share research findings and receive feedback.</p>	
		<p>(f) provide competitive grants to research institutes and persons desirous of carrying out research and training programs which address value chain priorities and are consistent with the national research priorities and plans of the institute;</p> <p>(g) organize, design and carry out on-station and on-farm research for coffee;</p> <p>(h) support and promote the training and capacity building in relation to agricultural research;</p> <p>(i) establish and maintain regular contact with regional and international agricultural research centres to ensure the rapid introduction, evaluation and use of coffee improved technology;</p> <p>(j) establish platforms for the purposes of sharing research information, advancing research and transfer of technology and</p>		

	<p>dissemination of information relating to advancements made in coffee research;</p> <p>(k) conduct annual reviews of research results and ensure performance improvement in the field of agricultural research;</p> <p>(l) make available to the Science Commission annual reports on research and development activities carried out by or under the auspices of the Institute;</p> <p>(m) be the lead scientific agency in coffee breeding for the development of a climate resilient coffee crop and coffee that is resistant to diseases and pests;</p> <p>(n) develop technologies and practices for adoption along the production, processing and value chain that contribute towards climate change adaption, resilience and mitigation;</p> <p>(o) be the custodian of the Kenyan Coffee Genome and the primary</p>	

10.	74 Chief Executive Officer of the Institute	<p>instrument for making modern genomics resources available to researchers working across the coffee production chain;</p> <p>(p) provide and facilitate access to timely scientific information in a useable format and advisory services to actors in the coffee production chain;</p> <p>(q) conduct market research and analysis and disseminate information on its findings to relevant stakeholders; and</p> <p>(r) perform such other functions as the Board of the institute shall determine.</p>	<p>Consider amending subsection (3)(b) to read as follows—</p> <p>(3) (b) holds a minimum doctorate degree in agriculture, crops science, economics or business administration or its equivalent from a university recognised in Kenya; and</p>	To enhance the qualifications of the Chief Executive Officer
-----	---	--	---	--

		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.		
16.	Surveillance	New	Consider including the following—	
			(1) The Board and county governments shall jointly or separately conduct periodic surveillance among growers, pulping stations, millers, roasters, processing plants, warehousing facilities, transporters, retail outlets, border points, and buyers' premises to assess the degree of compliance with the coffee industry policy, standards, code of practice and regulatory framework.	
			(2) The Board and the county governments shall share surveillance reports for purposes of compliance and enforcement.	

18.	Section 88 Digitalization	New proposal	(3) The digitalization referred to in sub-section (1) shall require the conversion of the entire value chain into a digital platform based on automation, computerization, integration across the value-chain and digital instrument usage including weigh scales, digital scanners, storage and inventory management.	To align with the coffee regulations
19	New clause Sharing information of	New proposal	Provision on sharing of information between the Board and County Governments	To align with the coffee regulations and enhance harmony in regulation of the coffee industry.
21	Section 94 Regulations	(1) The Cabinet Secretary may, in consultation with the Board, make Regulations--	(1) The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations--	To provide for consultation with the county governments.

CSRISC PROPOSED AMENDMENTS TO THE SENATE COFFEE BILL, 2020

NO	CLAUSE	CURRENT PROVISION	PROPOSED AMENDMENT	JUSTIFICATION
1.	2 Interpretation	Certain necessary terms are missing in definitions or not sufficiently defined	Insertion of new definitions. These are: "auction levy" "Authority" "bid" "buyers levy" "coffee business" "coffee development" "coffee research" "coffee roaster" "milling statement" "out-turn statement"	Align the definitions with the published Crops (Coffee)(General) Regulations 2019 and Capital Markets (Coffee Exchange) Regulations, 2020 (hereinafter referred to as the regulations)
2.	3 Objects	Objects 3. The objects of this Act 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	Consider including the following objects- (i) establish a framework for the regulation of the coffee subsector. (ii) provide for a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality	To give an overview of why the law was enacted, the specific objectives the Bill aims to achieve and the mischief it intends to cure in the coffee sub sector.

		promotion of the coffee sector; (d) promote the vertical integration of the coffee value chain for the purpose of achieving economies of scale and managing risk; (e) promote evidence based coffee research and the delivery of extension services for the development of the coffee sector; (f) provide a framework for – (i) the establishment of a coffee development levy; and (ii) the sustainable funding of the coffee sector; and (g) provide a mechanism for dispute resolution within the coffee sector.	(iii) assurance, coffee trading, marketing, payment system and credit finance; provide for enforcement of the regulatory framework and coffee standards in the subsector; (iv) provide a framework for interlinkages amongst state agencies, regulators and players along the coffee value chain including the public private partnerships; (v) promote farmer-based associations or platforms for representation of farmers' interests; (vi) provide a framework for the establishment of a coffee stabilization fund; (vii) establishment a framework for the provision of sustainable funding for the subsector;		
3. 7	Board of directors	7. (1) The management of the Board shall vest in a board of	Consider including the following— (i) Principal Secretary in charge of	To align with the provisions of Mwongozo and ensure all players	

	<p>directors consisting of—</p> <p>(a) a chairperson appointed by the President by notice in the Gazette;</p> <p>(b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;</p> <p>(c) the Principal Secretary for the time being responsible for trade or a representative nominated by the Principal Secretary in writing;</p> <p>(d) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;</p> <p>(e) two persons of the opposite gender representing plantation coffee growers nominated by the Council of County Governors;</p> <p>(f) one person nominated by the Institute;</p> <p>(g) one person representing an association of farmer's coffee nominated by the Cabinet Secretary; and</p>	<p>cooperatives or the Commissioner for Co-operatives;</p> <p>(ii) the Principal Secretary for the time being responsible for finance or a representative nominated by the Principal Secretary in writing;</p> <p>(iv) one person representing coffee estate growers nominated by the Council of County Governors;</p> <p>(v) one person nominated by the Council of County Governors who should have relevant knowledge in the coffee sub sector;</p>	<p>along the value chain have been represented in the Board</p> <p>The membership should not exceed the proposed number under Mwongozo which provides for 7-9 members</p>
--	---	--	---

5.	15 Chief executive officer	2) A person is qualified for appointment under subsection (1) if the person— (a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya; (b) has at least five years' experience in a position of management; and (c) meets the requirements of Chapter Six of the Constitution.	Amend to read— (2) A person is qualified for appointment under subsection (1) if the person— (a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya; (b) has at least ten years' knowledge and experience in the coffee subsector; (c) has served in a position of senior management for a period of at least five years; and (d) meets the requirements of Chapter Six of the Constitution	To align with the provisions of Mwongozo
6.	25 Licensing of Coffee Operations	25. (1) A person shall not operate a— (a) pulping station or carry out hulling activities; (b) coffee growers' mill; or (c) coffee roaster, unless the person has applied for, and obtained a licence from the respective county	Consider amending subsection (1) to read as follows— (1) A person shall not operate a— (a) pulping station or carry out hulling activities;	To align with coffee regulations on licensing

		government in which the operation is to be undertaken.	<p>(b) coffee growers' mill;</p> <p>(c) commercial mill;</p> <p>(d) warehouse; or</p> <p>(e) coffee roaster,</p>		
7. 48 Establishment and functions of Nairobi Coffee Exchange	48(1) There is established a body to be known as Nairobi Coffee Exchange for purposes of coffee trading. (2) The Nairobi Coffee Exchange shall be a body corporate, registered under the Companies Act.		<p>Consider amending 48(1) and (2) to remove reference to a specific entity to read:</p> <p>(1) A person shall not carry on the business of a coffee exchange unless he has applied for approval and has been licensed as a coffee exchange by the Authority in accordance with the Capital Markets Act.</p> <p>(3) as before...</p> <p>(4) As before...</p>	<p>To align with the coffee regulations and the Capital Markets Act.</p> <p>Define Authority in the interpretation section to mean the Capital Markets Authority.</p>	
8. 58 Funds of the Board	<p>The funds and assets of the Board shall comprise of—</p> <p>(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;</p> <p>(b) monies received from the levy</p>	<p>Consider the including the following</p> <p>—</p> <p>(2) The Cabinet Secretary may, in consultation with the Board and the Institute and by Notice in the <i>Gazette</i>, impose a 2% levy based on export import value to be</p>		<p>To provide for a levy and the apportionment of the same.</p>	

	<p>imposed on coffee sales pursuant to section 59;</p> <p>(c) such monies as may be payable to the Board pursuant to this Act or any other written law;</p> <p>(d) such gifts as may be donated to the Board;</p> <p>and</p> <p>(e) monies from any other source granted</p>	<p>remitted by coffee buyers to the Board to support the coffee industry.</p> <p>(3) The levy imposed under subsection (2) shall be apportioned as follows—</p> <p>(a) 1% to the Institute;</p> <p>(b) 0.5% to the Board for regulatory and coffee promotion purposes; and</p> <p>(c) 0.5% to the coffee growing County Governments for coffee development as conditional grants</p>	
8.	<p>67 Membership of the Board of Coffee Research Institute</p> <p>(1) The management of the Institute shall vest in a board consisting of—</p> <p>(a) a chairperson of the board appointed by the President by notice in the Gazette;</p> <p>(b) the chairperson of the Board appointed by the President under section 6 (1) (a);</p> <p>(c) the Principal Secretary responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;</p> <p>(d) the Principal Secretary for</p>	<p>Consider the following members—</p> <p>the Principal Secretary for matters relating to trade or a representative nominated by the Principal Secretary in writing;</p> <p>one person representing the Chief Executive Officer of the Kenya Phytosanitary Plant Health Services;</p> <p>one person representing smallholder coffee growers nominated by the Council of County Governors;</p> <p>(i) one person representing coffee estate growers nominated by the</p>	<p>To upgrade the qualifications for the Board chairman and members and add representation of coffee growers.</p>

		<p>matters relating to finance or a representative nominated by the Principal Secretary in writing;</p> <p>(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;</p> <p>(f) one person representing estate coffee growers nominated by the Cabinet Secretary;</p> <p>(g) one person representing small scale coffee growers nominated by the Council of County Governors;</p> <p>(h) one person nominated by Commission on University Education representing the universities nominated by the Cabinet Secretary; and</p> <p>(i) a chief executive officer appointed in accordance with section 47 who shall be an ex-officio member of the board.</p>	<p>Council of County Governors</p> <p>Consider amending subsection (3) to read as follows—</p> <p>(3) A person is qualified for appointment as a chairperson of the board of the Institute if that person—</p> <p>(a) holds a doctorate degree in economics, agriculture, business, law, administration or other relevant degree from a university recognized in Kenya; and</p> <p>(b) has at least five years' experience in the coffee sector.</p>		
9.	70 Functions of the	<p>(2) For the purpose of carrying out its functions under subsection (1), the</p>	<p>Consider redrafting to read as follows—</p>	<p>To provide for some functions more specifically</p>	

Institute	<p>Institute shall—</p> <p>(a) make policy recommendations to the Cabinet Secretary on coffee research;</p> <p>(b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes within the framework of the national agricultural research system;</p> <p>(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;</p> <p>(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;</p> <p>(e) undertake the propagation of</p>	
	<p>(2) For purposes of carrying out its functions under subsection (1) the Institute shall—</p> <p>(a) undertake policy and social-economic analysis and make recommendations to the Cabinet Secretary on coffee research;</p> <p>(b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes;</p> <p>(f) provide competitive grants to research institutes and persons desirous of carrying out research and training programs which address value chain priorities and are consistent with the national research priorities and plans of the Institute;</p> <p>(h) support and promote the training and capacity building in relation to coffee research;</p> <p>Consider Including the following functions-</p>	

		instrument for making modern genomics resources available to researchers working across the coffee production chain;			
		(p) provide and facilitate access to timely scientific information in a useable format and advisory services to actors in the coffee production chain;			
		(q) conduct market research and analysis and disseminate information on its findings to relevant stakeholders; and			
		(r) perform such other functions as the Board of the institute shall determine.			
10.	74 Chief Executive Officer of the Institute	Qualifications (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	Consider amending subsection (3)(b) to read as follows— (3) (b) holds a minimum doctorate degree in agriculture, crops science, economics or business administration or its equivalent from a university recognised in Kenya; and	To enhance the qualifications of the Chief Executive Officer	

		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.		
16.	Surveillance	New	Consider including the following— (1) The Board and county governments shall jointly or separately conduct periodic surveillance among growers, pulping stations, millers, roasters, processing plants, warehousing facilities, transporters, retail outlets, border points, and buyers' premises to assess the degree of compliance with the coffee industry policy, standards, code of practice and regulatory framework. (2) The Board and the county governments shall share surveillance reports for purposes of compliance and enforcement.	

18.	Section 88 Digitalization	New proposal	(3) The digitalization referred to in sub-section (1) shall require the conversion of the entire value chain into a digital platform based on automation, computerization, integration across the value-chain and digital instrument usage including weigh scales, digital scanners, storage and inventory management.	To align with the coffee regulations
19	New clause Sharing of information	New proposal	Provision on sharing of information between the Board and County Governments	To align with the coffee regulations and enhance harmony in regulation of the coffee industry.
21	Section 94 Regulations	(1) The Cabinet Secretary may, in consultation with the Board, make Regulations—	(1) The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations—	To provide for consultation with the county governments.



PUBLIC NOTICE

PUBLIC PARTICIPATION FORUMS AND SENSITIZATION ON THE POST-RETIREMENT MEDICAL FUND AND MORTGAGE REGULATIONS

Retirement Benefits Authority was established under the Retirement Benefits Act, Cap 197 to regulate and supervise the retirement benefits sector.

The Authority after receiving proposals from stakeholders in the retirement benefits sector has compiled policy proposals from stakeholders for FY 2022/2023 Budget Policy Statement. Further, pursuant to Section 55(3) of the Retirement Benefits Act, the Retirement Benefits Authority has developed a draft Practice Note on Determination of Defined Benefit Obligations. In this regard, we wish to invite comments from members of the public particularly, the stakeholders in the retirement benefits sector on the proposed policy changes and the draft practice note during public stakeholders' engagement forums.

During the forums, the Authority will also sensitize trustees, service providers, members, and other stakeholders on the implementation of the Post-Retirement Medical Fund (PRMF) guidelines as well as the recent amendment to the Mortgage Regulations that allows members to utilize their benefits to purchase a residential house. The forums will be held in various towns as per the schedule below:-

TOWN	VENUE	DATE
Nairobi	Crowne Plaza Hotel	17 th and 18 th November, 2021
Mombasa	Sarova Whitesands Beach Resort & Spa	22 nd and 23 rd November, 2021
Kisumu	Vic Hotel	22 nd and 23 rd November, 2021
Kericho	Talidy's Restaurant	22 nd and 23 rd November, 2021
Eldoret	Eka hotel	22 nd and 23 rd November, 2021
Nyeri	White Rhino Hotel	22 nd and 23 rd November, 2021
Meru	Meru Slopes Hotel	24 th and 25 th November, 2021
Nakuru	Eagle Palace Hotel	24 th and 25 th November, 2021
Kakamega	Golf Hotel	24 th and 25 th November, 2021
Machakos	Kyaka Hotel	25 th and 26 th November, 2021

The Draft Policy changes, the PRMF guidelines, the Mortgage (amendment) Regulations and the Practice Note on Defined Benefit Obligations can be downloaded from the Authority's website (www.rba.go.ke). All meetings are scheduled to take place from 8.30 am to 5.00 pm. Members of the public, Trustees, members of schemes and interested stakeholders are invited to participate and confirm their participation or send written memorandum through research@rba.go.ke on or before 16th November 2021.

For queries regarding the Retirement Benefits Industry or your pension scheme please call RBA on toll free number 800720300.

For more, follow us on twitter @RBA_Kenya, facebook and linkedin: Retirement Benefits Authority and visit our website: www.rba.go.ke

RETIREMENT BENEFITS AUTHORITY
Rahimtulla Tower, 13th Floor, Upper Hill Road, P.O. Box 57733-00200 Nairobi
Tel: 2609000 Mobile: 0726600001-5 or 0735339132 Fax: 2710330

Retirement Benefits Authority is ISO9001:2015 certified

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY TWELFTH PARLIAMENT - FIFTH SESSION

PARLIAMENTARY FORUM FOR COMMITTEES OF THE NATIONAL ASSEMBLY

Theme: "Discharging Committee Business Amidst Covid-19 Pandemic"

Date: Monday, 15th and Tuesday, 16th November, 2021

Venue: Parliament Gardens

The Liaison Committee is established under National Assembly Standing Order 217 and the Membership of the Committee consists of the Deputy Speaker as the Chairperson, and the chairpersons of all Committees of the National Assembly.

The Liaison Committee has set aside two (2) days on Monday, 15th and Tuesday, 16th November, 2021 for the Committees of the National Assembly in the 12th Parliament to present to the public their activities and achievements for the period from October, 2019 to October, 2021.

The event will offer a platform for Committees to present their reports highlighting activities during the period and the impact they have on the lives of Kenyans and the economy. These activities are drawn from the committees' mandates of legislation, representation, oversight and budget making.

The two-day event will cover the launch of the Committees' Performance Reports for the period from October, 2019 to October, 2021 among other activities.

The event will be hosted by the Hon. Speaker of the National Assembly/Chairperson of the Parliamentary Service Commission, Hon. Justin B. Muturi, EGH, MP assisted by the Deputy Speaker/Chairperson, Liaison Committee, Hon. Moses K. Cheboi, CBS, MP.

The Chief Guest will be the Hon. Speaker of the East African Legislative Assembly (EALA) The Rt. Hon. Martin Ngoga, MP.



REPUBLIC OF KENYA THE NATIONAL ASSEMBLY TWELFTH PARLIAMENT- FIFTH SESSION

In the Matter of Article 118(1) (b) of the Constitution and National Assembly
Standing Order 127(3)

and

In the Matter of Consideration by the National Assembly of:-

- The Health (Amendment) Bill, 2020 (Senate Bill No. 26)
- The Investment Promotion (Amendment) Bill, 2021 (Senate Bill No. 2)
- The Office of the County Printer Bill, 2021 (Senate Bill No. 13)
- The Disaster Risk Management Bill, 2021 (Senate Bill No. 14)
- The County Boundaries Bill, 2021 (Senate Bill No. 20)
- The Coffee Bill, 2020 (Senate Bill No. 22)

PUBLIC PARTICIPATION (SUBMISSION OF MEMORANDA)

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the following Bills:-

1. **THE HEALTH (AMENDMENT) BILL, 2020 (SENATE BILL NO. 26 OF 2020)** sponsored by Sen. Abdullahi Ibrahim Ali seeks to enhance the functions of the Kenya Health Human Resource Advisory Council in order to empower it to advise the National and Resource Advisory Council and the respective county governments on health human resources.
2. **THE INVESTMENT PROMOTION (AMENDMENT) BILL, 2021 (SENATE BILL NO. 2 OF 2021)** sponsored by Sen. Dr. Alice Milgo seeks to amend the Investment Promotion Act to ensure the participation of County Governments in the promotion of trade in the country. The Bill further seeks to also include the participation of county governments in the formulation and implementation of policies and strategies formulated by the Kenya Investment Authority to attract investors, both foreign and local in the counties.
3. **THE OFFICE OF THE COUNTY PRINTER BILL, 2021 (SENATE BILL NO. 13 OF 2021)** sponsored by Sen. Petronilla Were Lokorio seeks to establish the Office of the County Printer in each county to provide for the functions, mandate, management and administration of the Office.
4. **THE DISASTER RISK MANAGEMENT BILL, 2021 (SENATE BILL NO. 14 OF 2021)** sponsored by Sen. Mutula Kilonzo Junior and Sen. Johnson Sakaja seeks to establish the National Disaster Risk Management Authority to ensure that there is coordination of disaster risk management at the national and county level. The Bill further seeks to establish County Disaster Risk Management Committees in each of the 47 counties.
5. **THE COUNTY BOUNDARIES BILL, 2021 (SENATE BILL NO. 20 OF 2021)** sponsored by Sen. Mutula Kilonzo Junior seeks to provide for mechanism for the resolution of county boundary disputes, give effect to Article 188 of the Constitution by providing for procedure for alteration of county boundaries and to provide for the establishment of an Independent County Boundaries Commission.
6. **THE COFFEE BILL, 2020 (SENATE BILL NO. 22 OF 2020)** sponsored by Sen. Peter Njeru Ndwiaga seeks to provide for the development, regulation and promotion of the coffee industry and to provide for the establishment, powers and functions of the Coffee Board of Kenya.

Pursuant to National Assembly Standing Order 127(1), the mentioned Bills were committed to various House Departmental Committees having undergone First Reading's set out in the schedule hereunder:

SCHEDULE

No.	BILLS	FIRST READING	COMMITTEE
1.	The Office of the County Printer Bill, 2021 (Senate Bill No. 13)	10 th November, 2021	Administration and National Security
2.	The Disaster Risk Management Bill, 2021 (Senate Bill No. 14)		
3.	The County Boundaries Bill, 2021 (Senate Bill No. 20 of 2021)		Justice and Legal Affairs
4.	The Health (Amendment) Bill, 2020 (Senate Bill No. 26 of 2020)		Health
5.	The Investment Promotion (Amendment) Bill, 2021 (Senate Bill No. 2 of 2021)		Trade, Industry and Cooperatives
6.	The Coffee Bill, 2020 (Senate Bill No. 22)	30 th September, 2021	Agriculture and Livestock

Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills

The memoranda should be sent to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke to be received on or before Thursday, 25th November, 2021 at 5.00 p.m.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT- FIFTH SESSION

In the Matter of Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3) and

In the Matter of Consideration by the National Assembly of:-

- The Health (Amendment) Bill, 2020 (Senate Bill No. 26)
- The Investment Promotion (Amendment) Bill, 2021 (Senate Bill No. 2)
- The Office of the County Printer Bill, 2021 (Senate Bill No. 13)
- The Disaster Risk Management Bill, 2021 (Senate Bill No. 14)
- The County Boundaries Bill, 2021 (Senate Bill No. 20)
- The Coffee Bill, 2020 (Senate Bill No. 22)

PROCEDURE FOR THE SUBMISSION OF MEMORANDA

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the following Bills:-

1. **THE HEALTH (AMENDMENT) BILL, 2020 (SENATE BILL NO. 26 OF 2020)** sponsored by Sen. Abdullahi Ibrahim Ali seeks to enhance the functions of the Kenya Health Human Resource Advisory Council in order to empower it to advise the National and Resource Advisory Council and the respective county governments on health human resources.
2. **THE INVESTMENT PROMOTION (AMENDMENT) BILL, 2021 (SENATE BILL NO. 2 OF 2021)** sponsored by Sen. Dr. Alice Ilggo seeks to amend the Investment Promotion Act to ensure the participation of County Governments in the promotion of trade in the country. The Bill further seeks to also include the participation of county governments in the formulation and implementation of policies and strategies formulated by the Kenya Investment Authority to attract investors, both foreign and local in the counties.
3. **THE OFFICE OF THE COUNTY PRINTER BILL, 2021 (SENATE BILL NO. 13 OF 2021)** sponsored by Sen. Petronilla Were Lokorio seeks to establish the Office of the County Printer in each county to provide for the functions, mandate, management and administration of the Office.
4. **THE DISASTER RISK MANAGEMENT BILL, 2021 (SENATE BILL NO. 14 OF 2021)** sponsored by Sen. Mutula Kilonzo Junior and Sen. Johnson Sakaja seeks to establish the National Disaster Risk Management Authority to ensure that there is coordination of disaster risk management at the national and county level. The Bill further seeks to establish County Disaster Risk Management Committees in each of the 47 counties.
5. **THE COUNTY BOUNDARIES BILL, 2021 (SENATE BILL NO. 20 OF 2021)** sponsored by Sen. Mutula Kilonzo Junior seeks to provide for mechanism for the resolution of county boundary disputes, give effect to Article 188 of the Constitution by providing for procedure for alteration of county boundaries and to provide for the establishment of an Independent County Boundaries Commission.
6. **THE COFFEE BILL, 2020 (SENATE BILL NO. 22 OF 2020)** sponsored by Sen. Peter Njeru Ndwiiga seeks to provide for the development, regulation and promotion of the coffee industry and to provide for the establishment, powers and functions of the Coffee Board of Kenya.

Pursuant to National Assembly Standing Order 127(1), the mentioned Bills were committed to various House Departmental Committees having undergone First Reading as set out in the schedule hereunder:

SCHEDULE

No.	BILLS	FIRST READING	COMMITTEE
1.	The Office of the County Printer Bill, 2021 (Senate Bill No. 13)	10 th November, 2021	Administration and National Security
2.	The Disaster Risk Management Bill, 2021 (Senate Bill No. 14)		
3.	The County Boundaries Bill, 2021 (Senate Bill No. 20 of 2021)		Justice and Legal Affairs
4.	The Health (Amendment) Bill, 2020 (Senate Bill No. 26 of 2020)		Health
5.	The Investment Promotion (Amendment) Bill, 2021 (Senate Bill No. 2 of 2021)		Trade, Industry and Cooperatives
6.	The Coffee Bill, 2020 (Senate Bill No. 22)	30 th September, 2021	Agriculture and Livestock

Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills

The memoranda should be sent to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke, to be received on or before Thursday, 25th November, 2021 at 5.00 p.m.

MICHAEL R. SIALAI, CBS

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - FIFTH SESSION

In the matters of consideration by the National Assembly:-

1. The Elections (Amendment) Bill, (National Assembly Bill No. 41 of 2021)
2. The Election Campaign Financing (Amendment) Bill, (National Assembly Bill No. 37 of 2021)

PUBLIC HEARINGS/SUBMISSION OF MEMORANDA

Article 118 (1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of the Parliament and its Committees". The National Assembly Standing Order 127 requires the Select Committee to which a Bill is committed to facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House.

The Elections (Amendment) Bill, (National Assembly Bill No. 41 of 2021) seeks to amend the Elections Act No. 24 of 2011 to provide that persons nominated to County Assemblies by political parties pursuant to Article 177 of the Constitution, shall be persons who are registered voters in the county in which they are nominated.

The Election Campaign Financing (Amendment) Bill, (National Assembly Bill No. 37 of 2021) seeks to amend the Election Campaign Financing Act No. 42 of 2013 to align its provisions with the Elections Act, 2011 and to enable its implementation since the existing provisions do not take into consideration the current socio-economic and political structures that has hindered its full implementation.

The above mentioned Bills have undergone First Reading pursuant to Standing Order 126 and have been committed to the Constitutional Implementation Oversight Committee for consideration and thereafter report to the House.

Pursuant to the provisions of Article 118 (1)(b) of the Constitution and Standing Order 127(3), the Committee invites interested members of the public to submit any representations they may have on the aforementioned Bills. The Committee will also be conducting public hearings on the said Bills in the following Counties from 9.00 am to 3.00 pm as indicated below:-

No.	COUNTY	VENUE	DATE
1.	Nyamira	Ekerenyo Education Hall	Friday, 19 th November, 2021
2.	Bungoma	Red Cross Hall, Kanduyi	Friday, 19 th November, 2021
3.	Hombay	CDF Hall, Kabunde	Saturday, 20 th November, 2021
4.	Busia	Port Victoria Social Hall, Port Victoria Town	Saturday, 20 th November, 2021
5.	Embu	CDF Hall Kiritiri	Friday, 26 th November, 2021
6.	Kirinyaga	ACK, Kutus Hall	Friday, 26 th November, 2021
7.	Meru	Kamundi Memorial Hall,	Saturday, 27 th November, 2021
8.	Laikipia	Nanyuki Social hall	Saturday, 27 th November, 2021
9.	Kilifi	Makio Hall, Majengo	Friday, 3 rd December, 2021
10.	Kwale	Kwale Cultural Centre	Saturday, 4 th December, 2021
11.	Nairobi	County Hall, Parliament Buildings	Tuesday, 7 th December, 2021
12.	Mombasa	County Assembly of Mombasa Chambers	Friday, 10 th December, 2021
13.	Lamu	Mwanafafa Hall	Saturday, 11 th December, 2021

Due to the need to comply with the Ministry of Health, COVID-19 containment measures, members of the public are encouraged to prepare **written memoranda** on the said Bills and submit to the Committee at the above-mentioned venues during the scheduled public hearings.

The representations or written submissions may also be forwarded to the Clerk of the National Assembly, P.O. Box 41842 - 00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Friday, 10th December, 2021 at 5:00 pm.

Copies of the Bills are available at the National Assembly Table Office or be accessed from the parliamentary website at:
www.parliament.go.ke/the-national-assembly/house-business/bills

MICHAEL R. SIALAI, CBS