



REPUBLIC OF KENYA

TWELFTH PARLIAMENT

SIXTH SESSION

THE SENATE

Hon. Speaker

Recommended for  
approval for tabling.

EG  
17/05/22

Approved  
18<sup>th</sup> May 2022

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STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

REPORT ON THE CONSIDERATION OF AMENDMENTS PASSED BY THE  
NATIONAL ASSEMBLY TO THE COFFEE BILL, (SENATE BILLS No. 22 of  
2020)

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Clerk's Chambers,  
Parliament Buildings,  
NAIROBI.

May, 2022

DC-EG

Recommended & Forwarded for Approval  
17/05/22

## TABLE OF CONTENTS

ABBREVIATIONS.....	ii
PREFACE .....	iii
EXECUTIVE SUMMARY .....	vi
1 INTRODUCTION .....	1
1.1 Background on the Coffee Bill, (Senate Bills No. 22 of 2020) .....	1
1.2 Committal of the Bill to the Standing Committee on Agriculture Livestock and Fisheries .....	11
2 CONSIDERATION OF AMENDMENTS PASSED BY THE NATIONAL ASSEMBLY TO THE BILL .....	13
3 COMMITTEE RECOMMENDATIONS .....	40

### Annexes

1. Committee Minutes
2. The Coffee Bill (Senate Bills No. 22 of 2020) as passed by the Senate, with amendments, on 5<sup>th</sup> August, 2020



## ABBREVIATIONS

AFA	-	Agriculture and Food Authority
CRI	-	Coffee Research Institute
KALRO	-	Kenya Agricultural and Livestock Research Organization

## PREFACE

Mr. Speaker Sir,

### Establishment of the Committee

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

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

### Mandate of the Committee

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

### Oversight

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

- i. The State Department for Crops Development and Agricultural Research;
- ii. The State Department for Livestock;
- iii. The State Department for Fisheries, Aquaculture and the Blue Economy; and
- iv. The State Department for Irrigation.

### Membership of the Committee

The Committee is comprised of the following Members-

- |   |                    |
|---|--------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP                 | - Chairperson      |
| 2. Sen. Enoch Wambua, MP                            | - Vice-Chairperson |
| 3. Sen. Kipchumba Murkomen, EGH, MP                 |                    |
| 4. Sen. (Canon) Naomi Jillo Waqo, MP                |                    |
| 5. Sen. (Dr.) Michael Malinga Mbiti, MP             |                    |
| 6. Sen. (Eng.) Ephraim Maina, EBS, MP               |                    |
| 7. Sen. Justice (Rtd.) Madzayo Stewart Mwachiru, MP |                    |
| 8. Sen. Issa Juma Boy, MP                           |                    |

### Secretariat of the Committee

The Committee secretariat is comprised of -

1. Ms. Carol Kiorei
2. Mr. David Angwenyi
3. Ms. Regina Munyao
4. Mr. Tiyan Joseph
5. Ms. Njeri Manga
6. Ms. Mary Nyawira
7. Mr. Alex Mutuku
8. Mr. Godana Mamo

- Clerk Assistant
- Clerk Assistant
- Legal Counsel
- Research Officer
- Media Relations Officer
- Audio Officer
- Serjeant-At-Arms
- Serjeant-At-Arms

### **Acknowledgement**

The Committee wishes to thank the Office of the Speaker and the Office of the Clerk of the Senate for the support extended to it in the consideration of the amendments proposed by the National Assembly.

**Mr. Speaker Sir,**

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

Signed.....



..... Date.....17/05/2022.....


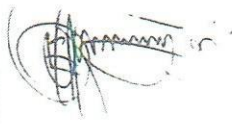
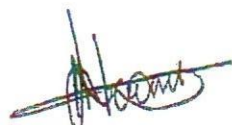
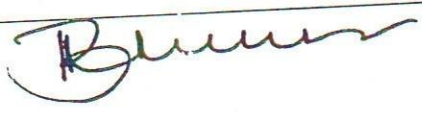

**SEN. PETER NJERU NDWIGA, EGH, M.P.**

**CHAIRPERSON**



## MEMBERS' ADOPTION LIST

### REPORT ON THE CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE COFFEE BILL, (SENATE BILLS NO. 22 OF 2020)

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



## EXECUTIVE SUMMARY

The Coffee Bill, (Senate Bills No. 22 of 2020) sponsored by Sen. Peter Njeru Ndwiga, EGH, MP, was read a First Time in the Senate on Tuesday, 11<sup>th</sup> May, 2021. Subsequently, the Bill, stood committed to the Standing Committee on Agriculture, Livestock and Fisheries pursuant to standing order 134 (5) of the Senate Standing Orders.

The Senate passed the Bill on Thursday, 5<sup>th</sup> August, 2021 and it was thereafter forwarded to the National Assembly for concurrence. The National Assembly passed the Bill with amendments on Wednesday, 13<sup>th</sup> April, 2022.

During the Sitting of the Senate held on Wednesday, 4<sup>th</sup> May, 2022, the Speaker reported Messages from the National Assembly on the approval, with amendments, of the Coffee Bill, 2020. The Speaker directed the Committee to deliberate on the amendments to the Bill and report to the Senate.

At its 172<sup>nd</sup> Sitting held on Friday, 13<sup>th</sup> May, 2022, the Committee considered the amendments and made comments as contained in Chapter Two of this report. The Committee thereafter made its recommendation that the Senate rejects the amendments passed by the National Assembly to the Coffee Bill, (Senate Bills No. 22 of 2020).

# 1 INTRODUCTION

## 1.1 Background on the Coffee Bill, (Senate Bills No. 22 of 2020)

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

### Part II-The Coffee Board of Kenya

Clause 2 of the Bill establishes the Coffee Board of Kenya.

#### The Board of Directors

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

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

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

- (a) holds a degree from a university recognized in Kenya



(b) has three years' experience in the coffee sector; and

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

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

### **Functions of the Board**

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

- (a) regulate and promote the development of the coffee industry;
- (b) consider applications for the issuance of permits and licences under the second schedule to this Act;
- (c) register coffee dealers;
- (d) make recommendations to the Cabinet Secretary for, and oversee the implementation of strategies, plans and policy for the coffee sector;
- (e) collect, collate and maintain a data base and disseminate information on the coffee industry;
- (f) conduct local and international coffee market intelligence and promotional activities including the application of the Kenya Coffee Mark of Origin;
- (g) establish linkages with various government agencies, the Institute and other research institutions for the development of the coffee industry;
- (h) put in place a framework for the capacity building and interaction of various players in the coffee industry;
- (i) promote the development of regional appellations for Kenyan coffee;
- (j) develop and enforce the coffee industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards;
- (k) maintain and cause to be published an up to date register of coffee dealers, coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in the country; and
- (l) coordinate capacity building activities for players in the coffee value chain.

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

### **CEO**

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

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

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

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

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

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

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

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



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

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

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

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

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

## **Licensing of coffee operations**

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

- (a) pulping station or carry out hulling activities;
- (b) coffee growers' mill; or
- (c) coffee roaster unless the person has applied for, and obtained a licence from the respective county government in which the operation is to be undertaken.

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

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

## **PART IV – REGULATORY PROVISIONS**

### **Registration**

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

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

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

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

### **Licensing**

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



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

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

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

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

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

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

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

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

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

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

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



## **PART V – FINANCIAL PROVISIONS**

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

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

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

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

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

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

- (a) a chairperson of the board appointed by the President by notice in the Gazette;
- (b) the chairperson of the Board appointed by the President under section 6 (1) (a);
- (c) the Principal Secretary responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;
- (d) the Principal Secretary for matters relating to finance or a representative nominated by the Principal Secretary in writing;
- (e) the Secretary to the Science Commission appointed under paragraph 6 of the Second Schedule to the Science and Technology Act or a representative nominated by the Secretary in writing;
- (f) one person representing coffee growers nominated by the Cabinet Secretary;
- (g) one person nominated by Commission on University Education representing the universities nominated by the Cabinet Secretary; and



(h) a chief executive officer appointed in accordance with section 47 who shall be an ex-officio member of the board.

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

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

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

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

- (g) support and promote the training and capacity building in relation to agricultural research;
- (h) establish and maintain regular contact with regional and international agricultural research centres to ensure the rapid introduction, evaluation and use of coffee improved technology;
- (i) establish platforms for the purposes of sharing research information, advancing research and transfer of technology and dissemination of information relating to advancements made in coffee research;
- (j) conduct annual reviews of research results and ensure performance improvement in the field of agricultural research;
- (k) make available to the Science Commission annual reports on research and development activities carried out by or under the auspices of the Institute; and
- (l) perform such other functions as the Board shall determine.

**Clause 47** of the Bill provides that there shall be a CEO of the Institute competitively recruited and appointed by the board who shall be responsible for the day to day management of the affairs of the Institute. A person is qualified for appointment as a CEO if the person-

- (a) is a citizen of Kenya;
- (b) holds a degree in agriculture, crops science or business administration from a university recognized in Kenya;
- (c) holds a postgraduate degree or its equivalent from a university recognized 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.

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

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

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

- (a) such monies or assets as may accrue to or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act including proceeds from patents;
- (b) two and a half percent of monies collected from the sale of coffee;



(c) such monies as may be payable to the Institute pursuant to this Act or any other written law;

(d) such gifts as may be donated to the Institute; and

(e) monies from any other source granted, donated or lent to the Institute.

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

### **PART VIII – MISCELLANEOUS PROVISIONS**

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

**Clause 61** provides that the Institute's CEO may request any person to furnish the Institute with such information or to produce such documents or records as the chief executive officer deems necessary and relevant for the performance of the functions of the Organization. A person who refuses or fails, without reasonable cause to comply with such a request, or makes false statements shall be liable, on conviction, to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

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

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

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

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

### **Penalties**

**Clause 64** provides that-



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

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

(a) was director, partner or officer;

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

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

## **Regulations**

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

(a) prescribing anything that may be prescribed under this Act; and

(b) generally for the better carrying out of the provisions of this Act.

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

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

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

The Coffee Bill, (Senate Bills No. 22 of 2020) sponsored by Sen. Peter Njeru Ndwiga, EGH, MP, was read a First Time in the Senate on Tuesday, 11<sup>th</sup> May, 2021. Subsequently, the Bill stood committed to the Standing Committee on Agriculture, Livestock and Fisheries pursuant to standing order 134 (5) of the Senate Standing Orders.

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



The Committee met virtually with a number of stakeholders and also received written submissions on the Bill through the Office of the Clerk of the Senate. The Committee considered the submissions received and tabled its Report together with amendments to the Bill in the Senate.

The Senate passed the Bill, with amendments, on Thursday, 5<sup>th</sup> August, 2022, which was thereafter sent to the National Assembly for concurrence. Pursuant to standing order 156 of the Senate Standing Orders, the Bill was forwarded to the National Assembly together with a message requesting the concurrence of the National Assembly. The National Assembly passed the Bill with amendments on Wednesday, 13<sup>th</sup> April, 2022.

During the Sitting of the Senate held on Wednesday, 4<sup>th</sup> May, 2022, the Speaker reported Messages from the National Assembly on the approval (with amendments) of the Coffee Bill, (Senate Bills No. 22 of 2020). The Speaker directed the Committee to deliberate on the amendments to the Bill and report to the Senate.

At its 172<sup>nd</sup> Sitting held on Friday, 13<sup>th</sup> May, 2022, the Committee considered the amendments passed by the National Assembly to the Bill.

## 2 CONSIDERATION OF AMENDMENTS PASSED BY THE NATIONAL ASSEMBLY TO THE BILL

At its 172<sup>nd</sup> Sitting held on Friday, 13<sup>th</sup> May, 2022, the Committee considered the amendments passed by the National Assembly as summarized below-

### CLAUSE 2

Clause 2 of the Bill is amended—

(a) by inserting the following definitions in their 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 coffee growers to the Exchange;

No. 17 of “Authority” means the Capital Markets Authority established by the Capital Markets Authority Act; 1989.

“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 co-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”

**Resolution:** Not agreed to.

### CLAUSE 3

Clause 3 of the Bill is amended—

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

“(b) provide a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality assurance, coffee trading, marketing and credit finance;

(ba) provide for enforcement of the regulatory framework and coffee standards in the subsector;

(bc) provide a framework for interlinkages amongst state agencies, regulators and players along the coffee value chain including the public private partnerships;

(bd) promote farmer-based associations or platforms for representation of farmers’ interests;

(be) provide a framework for the establishment of a Coffee Stabilization Fund;”

**Resolution:** Agreed to.

### CLAUSE 6

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

“(da) determine the provisions to be made for capita 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;”

**Resolution:** The Committee agreed to the proposed clause (da) but rejected the proposed clause (db) as this is already provided for under clause 6(2) of the Bill.

## NEW CLAUSE

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

Authority to raise or borrow money.

6A. The Cabinet Secretary may, after consultation with the Cabinet Secretary responsible for finance, 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.

**Resolution:** Agreed to.

Clause 9 of the Bill is amended in subclause (3) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) holds a relevant university degree from a recognized university in Kenya.”

**Resolution:** Agreed to.

## CLAUSE 7

Clause 7 of the Bill is amended —

(a) in sub clause (1) —

(i) by inserting the following new paragraphs immediately after paragraph (c) —

“(ca) the Principal Secretary responsible for co-operatives or a representative nominated by the Principal Secretary in writing;

(cb) the Principal Secretary responsible for the National Treasury or a representative nominated by the Principal Secretary in writing;”

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

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

(iii) by deleting paragraph (h) and substituting therefor the following new paragraph—

“(h) two persons of the opposite gender elected by small-scale coffee growers through their unions;”



(b) in sub clause (2) by deleting the words “subsection (1) (d), (e), (f) and (g)” and substituting therefor the words “subsection (1) (d), (e), (f), (g) and (h)”.

**Resolution:** Agreed to.

#### **CLAUSE 8**

Clause 8 of the Bill is amended by deleting clause 8 and substituting therefor the following new clause-

Qualification  
for  
appointment.

8. A person shall be qualified for appointment as a member of the Board if that person-

(a) in the case of a person appointed under section 7 (1) (a) (e) and (f), holds a degree from a university recognized in Kenya;

(b) in the case of a person appointed under section 7 (1) (d), (g) and (h), holds a Kenya Certificate of Secondary Education or its equivalent;

(c) has three years' experience in the coffee sector; and

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

**Resolution:** Agreed to.

#### **CLAUSE 9**

Clause 9 of the Bill is amended –

(a) by renumbering the existing provision as subsection (1);

(b) by deleting the words “section 6 (1) (d), (e), (f) and (g)” and substituting therefor the words “section 7 (1) (d), (e), (f), (g) and (h)”;

(c) by inserting the following new subsection immediately after subsection (1) –

“(2) The persons appointed under section 7 (1) (a), (d), (e), (f), (g) and (h) shall be appointed at different times but not more than six months shall lapse between one appointment and the other in the case of a vacancy in the Board”.

**Resolution:** Agreed to.

#### **CLAUSE 11**

Clause 11 of the Bill is amended in subclause (1) by deleting paragraph (c).

**Resolution:** Agreed to.

#### **NEW CLAUSE 17A**

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.

**Resolution:** Not agreed to.

#### **CLAUSE 25**

Clause 25 of the Bill be deleted.

**Resolution:** Not agreed to.

#### **CLAUSE 26**

Clause 26 of 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 warehouseperson'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;

### 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 warehousepersons, 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 maximum period of two three-year terms.

No. 12 of 1997.

(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.

**Resolution:** Not agreed to.

**CLAUSE 34**

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

**Resolution:** Agreed to.

### **CLAUSE 35**

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

Revocation or alteration of  
a licence or permit.

**35.** A 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.

### **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.

**Resolution:** Agreed to.

### **CLAUSE 37**

Clause 37 of 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.

**Resolution:** Agreed to.

### **CLAUSE 38**

Clause 38 of the Bill be deleted.

**Resolution:** Not agreed to.

### **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.

**Resolution:** Agreed to.

**CLAUSE 45**

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).

**Resolution:** Not agreed to.

#### **CLAUSE 46**

Clause 46 of the Bill 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 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 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 Exchange price.

(4) Despite subsection (3), if the prospective direct sales buyer refuses to buy the coffee at the Exchange price, the coffee shall be sold to the person who makes the best offer above the reserve price at the 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) A holder of a miller's marketing licence commits an offence if he or she participates by himself or herself or by his or her agent in the buying of coffee.



**Resolution:** Agreed to.

**CLAUSE 48**

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

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

Cap. 485A.

No. 17 of 2015.

(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 the time being responsible for matters relating to 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.

**Resolution:** Not agreed to.

#### **CLAUSE 54**

Clause 54 of the Bill be amended by—

- (a) numbering the existing provision as subclause (1);
- (b) inserting the following subclauses immediately after subclause (1)—

“(2) In this section, “anti-competitive conduct” means any act, conduct, practice or behaviour by the Exchange organizer or any other licensee operating at the Exchange, individually or in concert with others 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.”

**Resolution:** Agreed to.

#### **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) A coffee miller and a marketing agent shall not lend to farmers on interest.

(2) A miller or marketing agent who contravenes 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 contravenes the provisions of subsection (1) commits an offence and any loans borrowed in contravention 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.

**Resolution:** Not agreed to. The Committee further resolved that the Council of County Governors be included in the consultation in New Clause 54(B) (1).

## **CLAUSE 58**

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.

**Resolution:** Agreed to.

## **NEW CLAUSE**



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

Coffee  
Fund.

Stabilization

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.

**Resolution:** Agreed to.

### **CLAUSE 63**

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 30<sup>th</sup> June of every year.

**Resolution:** Agreed to.

### **CLAUSE 67**

Clause 67 of the Bill be amended—

(a) in 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;”

(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.”

**Resolution:** Agreed to.

#### **CLAUSE 70**

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;”

**Resolution:** Not agreed to.

#### **CLAUSE 74**

Clause 74 of the Bill 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;”

**Resolution:** Agreed to.

#### **CLAUSE 80**

Clause 80 of the Bill 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.

**Resolution:** Agreed to.

#### **CLAUSE 84**

**THAT**, Clause 84 of the Bill 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;”

**Resolution:** Agreed to.

#### **CLAUSE 85**



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”;

**Resolution:** Agreed to.

#### **NEW CLAUSE**

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

Conflict of laws.	<b>87A.</b> 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.
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**Resolution:** Not agreed to.

#### **NEW CLAUSE**

The Bill be amended by inserting the following new Clause immediately after Clause 91—

Offences and penalties.	<b>91A.</b> (1) A person commits an offence if the person— <ul style="list-style-type: none"><li>(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;</li><li>(b) willfully obstructs a member of the Board or an employee or agent of the Board in the discharge of their lawful duties; or</li><li>(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.</li></ul>
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(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.

**Resolution:** Agreed to.

## **CLAUSE 92**

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.

**Resolution:** Agreed to.

## **NEW CLAUSE**

The Bill 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 cooperative 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.

**Resolution:** Agreed to.

## **CLAUSE 94**

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;
  - (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; and
  - (m) anything required to be prescribed under this Act;
- (3) For the purposes of Article 94(6) of the Constitution—

Cap. 2

No. 23 of  
2013

- (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.

**Resolution:** Agreed to.

#### **CLAUSE 96**

The Bill 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.

**Resolution:** Not agreed to.

#### **CLAUSE 102**

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

Consequential amendments.      **102.** The Crops Act is amended —  
No. 16 of  
2013.

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

**Resolution:** Agreed to.

#### **NEW CLAUSE**

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

Consequential amendments.      **102A.** The Co-operative Societies Act is amended —  
No. 12 of  
1997.

- (a) in 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 society shall not lend to farmers on interest.”
- (b) In 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.”

**Resolution:** Agreed to.

## **SECOND SCHEDULE**

The Bill 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**

<b>No.</b>	<b>Type of Licence/Permit or Certificate</b>	<b>Issuing Authority</b>
1.	Coffee buyer’s licence	Board
2.	Independent cupping laboratory licence	Board
3.	Warehouseperson’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

**Resolution:** Not agreed to.

### 3 COMMITTEE RECOMMENDATIONS

Pursuant to standing order 159 (4) of the Senate Standing Orders, the Committee recommends that the Senate rejects the proposed amendments passed by the National Assembly to the Coffee Bill, (Senate Bills No. 22 of 2020).



# ANNEX 1

Committee Minutes



**MINUTES OF THE 172<sup>ND</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON FRIDAY, 13<sup>TH</sup> MAY, 2022, AT 12.00 P.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

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

**ABSENT WITH APOLOGY**

1. Sen. (Eng.) Ephraim Maina, EBS, MP
2. Sen. Kipchumba Murkomen, EGH, 'MP
3. Sen. Justice (Rtd) Stewart Madzayo, MP
4. Sen. (Dr.) Michael Mbiti, MP

**SECRETARIAT**

- |                       |   |
|-----------------------|---|
| 1. Ms. Carol Kiorei   | - Clerk Assistant                           |
| 2. Mr. David Angwenyi | - Clerk Assistant ( <i>Taking Minutes</i> ) |
| 3. Ms. Regina Munyao  | - Legal Counsel                             |
| 4. Ms. Happy          | - Fiscal analyst                            |
| 5. Mr. Tiyan Joseph   | - Researcher                                |
| 6. Mr. Alex Mutuku    | - Sargent at arms                           |

**MIN. NO. 79/2022**

**PRELIMINARIES**

The Vice-Chairperson called the meeting to order at 12.00 p.m. followed by a word of prayer.

**MIN. NO. 80/2022**

**ADOPTION OF THE AGENDA**

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

1. Preliminaries
  - a) Prayer
  - b) Adoption of the Agenda



2. Consideration of the National Assembly amendments to the Coffee Bill, (Senate Bills No. 22 of 2020)
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

MIN. NO. 81/2022

CONSIDERATION OF THE NATIONAL ASSEMBLY  
AMENDMENTS TO THE COFFEE BILL, (SENATE  
BILLS NO. 22 OF 2020)

The Legal Counsel presented the proposed Committee stage amendments to the Coffee Bill, (Senate Bills No. 22 of 2020) as follows-

**1. Clause 2**

**Proposal:** THAT Clause 2 of the Bill is amended—

(d) by inserting the following definitions in their 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 coffee growers to the Exchange;

No. 17 of 1989. “Authority” means the Capital Markets Authority established by the Capital Markets Authority Act;

“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 co-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;

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

(f) 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”

**Resolution:** Not agreed to.

## 2. Clause 3

**Proposal:** THAT Clause 3 of the Bill is amended—

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

“(b) provide a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality assurance, coffee trading, marketing and credit finance;

(ba) provide for enforcement of the regulatory framework and coffee standards in the subsector;

(bc) provide a framework for interlinkages amongst state agencies, regulators and players along the coffee value chain including the public private partnerships;

(bd) promote farmer-based associations or platforms for representation of farmers’ interests;

(be) provide a framework for the establishment of a Coffee Stabilization Fund;”

**Resolution:** Agreed to.

## 3. Clause 6

**Proposal:** THAT Clause 6 of the Bill 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;"

**Resolution:** Not agreed to as this is already provided for under clause 6(2) of the Bill.

#### 4. Clause 6

**Proposal:** THAT, the Bill is amended by inserting the following new Clause immediately after Clause 6—

Authority to raise or borrow money.

**6A.** The Cabinet Secretary may, after consultation with the Cabinet Secretary responsible for finance, 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.

**Resolution:** Not agreed to.

#### 5. Clause 7

**Proposal:** THAT the Bill be amended in Clause 7 as follows—  
(c) in sub clause (1) —

(iv) by inserting the following new paragraphs immediately after paragraph (c) —

“(ca) the Principal Secretary responsible for co-operatives or a representative nominated by the Principal Secretary in writing;

(cb) the Principal Secretary responsible for the National Treasury or a representative nominated by the Principal Secretary in writing;”

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

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

(vi) by deleting paragraph (h) and substituting therefor the following new paragraph—

“(h) two persons of the opposite gender elected by small-scale coffee growers through their unions;”

(d) in sub clause (2) by deleting the words “subsection (1) (d), (e), (f) and (g)” and substituting therefor the words “subsection (1) (d), (e), (f), (g) and (h)”.

**Resolution:** Agreed to.

**5. Clause 8**

**Proposal:** That Clause 8 of the Bill is amended by deleting clause 8 and substituting therefor the following new clause-

Qualification  
for  
appointment.

8. A person shall be qualified for appointment as a member of the Board if that person-

(e) in the case of a person appointed under section 7 (1) (a) (e) and (f), holds a degree from a university recognized in Kenya;

(f) in the case of a person appointed under section 7 (1) (d), (g) and (h), holds a Kenya Certificate of Secondary Education or its equivalent;

(g) has three years' experience in the coffee sector; and

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

**Resolution:** Agreed to.

**6. Clause 9**

**Proposal:** That Clause 9 of the Bill is amended -

(d) by renumbering the existing provision as subsection (1);

(e) by deleting the words "section 6 (1) (d), (e), (f) and (g)" and substituting therefor the words "section 7 (1) (d), (e), (f), (g) and (h)";

(f) by inserting the following new subsection immediately after subsection (1) -  
“(2) The persons appointed under section 7 (1) (a), (d), (e), (f), (g) and (h) shall be appointed at different times but not more than six months shall lapse between one appointment and the other in the case of a vacancy in the Board”.

**Resolution:** Agreed to.

**7. Clause 9**

**Proposal:** THAT, Clause 9 of the Bill is amended in subclause (3) by deleting paragraph (a) and substituting therefor the following new paragraph-  
“(a) holds a relevant university degree from a recognized university in Kenya.”

**Resolution:** Not agreed to.

**8. Clause 11**

**Proposal:** THAT Clause 11 of the Bill be amended in subclause (1) by deleting paragraph (c).



**Resolution:** Agreed to.

**9. New Clause 17A**

**Proposal:** 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.

**Resolution:** Not agreed to.

**10. Clause 25**

**Proposal:** THAT Clause 25 of the Bill be deleted.

**Resolution:** Not agreed to.

**11. Clause 26**

**Proposal:** THAT Clause 26 of 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—

- (j) 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.
- (k) a commercial coffee miller's licence authorizing the holder to conduct the business of milling and marketing of coffee;
- (l) a grower miller's licence, authorizing the grower to mill and market his or her own coffee;
- (m) a warehouseperson's licence, authorizing the holder to conduct the business of warehousing coffee;

- (n) independent cupping laboratory licence, authorizing the holder to offer coffee quality analysis services;
- (o) 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.
- (p) coffee liqueur's licence;
- (q) processed coffee import permit;
- (r) clean coffee movement permit for exports;

**Resolution:** Agreed to.

## 12. New Clause 26A

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

### NEW CLAUSE 26A

Licenses issued by county governments.

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

- (f) pulping station licence authorizing the holder to operate a pulping station and may undertake hulling;
- (g) coffee nursery certificate;
- (h) warehouse licence;
- (i) parchment permit from the county of origin; and
- (j) 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.

**Resolution:** Agreed to.

**13. New Clause 26B**

**Proposal:** THAT clause 26B of the Bill be amended in the Registration Board-

**NEW CLAUSE 26B**

Registration by the Board.

**26B.** (1) The Board shall register warehousepersons, 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.

**Resolution:** Agreed to.

**14. New Clause 26C**

**Proposal:** THAT clause New Clause 26 C of the Bill be amended to capture-

**NEW CLAUSE 26C**

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).

**Resolution:** Agreed to.

**15. New Clause 26D**

**Proposal:** THAT new clause 26D of the Bill be amended in—



# NEW CLAUSE 26D

Registration by  
operative societies.

No. 12 of 1997.

co- 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 maximum period of two three-year terms.

(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—

(c) a co-operative society, association or company in accordance with subsection

(1) if such a person is a small scale grower; or

(d) 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.

**Resolution:** Agreed to.

**16. New Clause 26E**

**Proposal:** THAT new clause 26E of the Bill be amended in –

**NEW CLAUSE 26E**

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—

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

(d) 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.

**Resolution:** Not agreed to.

**17. New Clause 34**

**Proposal:** THA Clause 34 of the Bill be amended in subclause (2) by deleting the word "sub-regulation" and substituting therefor the word "subsection".

**Resolution:** Agreed to.

**18. Clause 35**

**Proposal:** THAT Clause 35 of the Bill be amended by deleting Clause 35 and substituting therefor the following new Clause—

Revocation or alteration of  
a licence or permit.

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

- (c) 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
- (d) a condition of the licence or permit has been contravened or not complied with.

**Resolution:** Agreed to.

**19. New Clause**

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

**NEW CLAUSE 35A**

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.

**Resolution:** Agreed to.

**20. Clause 37**

**Proposal:** THAT the Bill be amended in Clause 37 by deleting Clause 37 and substituting therefor the following new Clause—

**NEW CLAUSE 37 (1)**

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—

(c) the grant, refusal, renewal, variation or revocation; or

(d) 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.

**Resolution:** Agreed to.

**21. Clause 38**

**Proposal:** THAT Clause 38 of the Bill be deleted.

**Resolution:** Not agreed to.

**22. New clause**

**Proposal:** That the Bill be amended by inserting the following new Clauses immediately after Clause 42—

**NEW CLAUSE 42A**

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.

**Resolution:** Agreed to.

**23. Clause 45**

**Proposal:** That Clause 45 of the Bill be amended by—

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

**Resolution:** Not agreed to.

**24. Clause 46**

**Proposal:** 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—

(c) auction in the Exchange; or

(d) direct sales.

(2) All direct coffee sales shall be subject to price competition at the 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 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 Exchange price.

(4) Despite subsection (3), if the prospective direct sales buyer refuses to buy the coffee at the Exchange price, the coffee shall be sold to the person who makes the best offer above the reserve price at the 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) A holder of a miller's marketing licence commits an offence if he or she participates by himself or herself or by his or her agent in the buying of coffee.

**Resolution:** Agreed to.

## 25. Clause 48

**Proposal:** That Clause 48 of the Bill be amended by deleting Clause 48 of the Bill and substituting therefor the following new Clause—

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

Cap. 485A.

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

No. 17 of 2015.

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

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



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

- (g) auction levy;
- (h) registration fees payable by a coffee buyer, a roaster, a grower miller or broker;
- (i) government grants and donations made to the Exchange;
- (j) any interest from fixed deposits;
- (k) monies from a source approved by the Exchange; and
- (l) sample fee.

**Resolution:** Not agreed to.

#### 26. Clause 54

**Proposal:** That Clause 54 of the Bill be amended by—

- (c) numbering the existing provision as subclause (1);
- (d) inserting the following subclauses immediately after subclause (1)—

“(2) In this section, “anti-competitive conduct” means any act, conduct, practice or behaviour by the Exchange organizer or any other licensee operating at the Exchange, individually or in concert with others 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.”

**Resolution:** Agreed to.

#### 27. New Clause

**Proposal:** That the Bill be amended by inserting the following new clauses immediately after clause 54—

**NEW CLAUSE 54A**

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.

**NEW CLAUSE**  
Promotion of coffee.

**54B**

**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.

**NEW CLAUSE 54C**

No lending by millers and marketing agents.

**54C.** (1) A coffee miller and a marketing agent shall not lend to farmers on interest.

(2) A miller or marketing agent who contravenes 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.

#### NEW CLAUSE 54D

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 contravenes the provisions of subsection (1) commits an offence and any loans borrowed in contravention 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.

**Resolution:** Not agreed to. The Committee further resolved that the Council of County Governors be included in the consultation in New Clause 54(B) (1).

#### 28. Clause 58

**Proposal:** That Clause 58 of the Bill be amended by—

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

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

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

**Resolution:** Agreed to.

**29. New Clause**

**Proposal:** That the Bill be amended by introducing new clause new clause 58A-

**NEW CLAUSE 58A**

Coffee  
Fund.

Stabilization

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—

- (d) monies appropriated by the National Assembly;
- (e) monies from any source approved by the Board;
- (f) grants and donations made to the Board.

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

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

**Resolution:** Agreed to.

**30. Clause 58**

**Proposal:** 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 30<sup>th</sup> June of every year.

**Resolution:** Agreed to.

**31. Clause 67**

**Proposal:** That Clause 67 of the Bill be amended—

(c) in 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) 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."

**Resolution:** Agreed to.

### 32. Clause 70

**Proposal:** 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;"

**Resolution:** Not agreed to.

### 33. Clause 74

**Proposal:** That Clause 74 of the Bill 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;"

**Resolution:** Agreed to.

### 34. Clause 80

**Proposal:** That Clause 80 of the Bill amended by—  
(c) inserting the following paragraph immediately after the introductory statement—  
"(a) such monies as may be appropriated by the National Assembly;"  
(d) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

**Resolution:** Agreed to.

### 35. Clause 84

**Proposal:** That Clause 84 of the Bill 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;"

**Resolution:** Agreed to.

### 36. Clause 85

**Proposal:** That Clause 85 of the Bill be amended—  
(d) in subclause (1) by deleting the words "balance sheet and such other statements of accounts" and substituting therefor the words "statements of account";  
(e) in subclause (2) by deleting the words "balance sheet and statements" and substituting therefor the words "statements of account";  
(f) in subclause (3) by deleting the words "balance sheet and statements" and substituting therefor the words "statements of account";

**Resolution:** Agreed to.

### 37. New Clause

**Proposal:** That the Bill be amended by inserting the following new Clause immediately after Clause 87—

#### NEW CLAUSE 91A

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.

**Resolution:** Not agreed to.

#### 38. New Clause

**Proposal:** That the Bill amended by inserting the following new Clause immediately after Clause 91—

#### NEW CLAUSE 91A

Offences and  
penalties.

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

- (d) 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;
- (e) willfully obstructs a member of the Board or an employee or agent of the Board in the discharge of their lawful duties; or
- (f) 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.

**Resolution:** Agreed to.

#### 39. New Clause



**Proposal:** That the Bill be amended by deleting Clause 92 and substituting the following new Clause—

#### **NEW CLAUSE 92**

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.

**Resolution:** Agreed to.

#### **40. New Clause**

**Proposal:** That the Bill amended by inserting the following new Clause immediately after Clause 92—

#### **NEW CLAUSE 92A**

Offences

relating to body corporate, any other association of individuals or 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—

(c) the act or omission constituting the offence took place without the person's knowledge; or

(d) the person took reasonable steps to prevent the commission of the offence.

**Resolution:** Agreed to.

#### **41. Clause 94**

**Proposal:** 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—

(c) prescribing anything that may be prescribed under this Act; and

(d) 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—

- (n) the regulation of the processing, importation and exportation of coffee and coffee products;
- (o) the forms to be used in the application for registration, licensing, permits, contracts and related activities;
- (p) the process of application for registration, licensing and related activities;
- (q) any fee or levy which may be charged for anything done under this Act;
- (r) the regulation and enforcement of contracts between growers, processors and other players in the coffee industry;
- (s) the process of nomination of members to the Board
- (t) the conditions for the issuance of certificates, licenses and permits under this Act;
- (u) the trade, storage, bulking, packing and roasting of coffee;
- (v) the regulation of nursery operations, pulping, milling, warehousing and transportation of coffee;
- (w) value addition of coffee exports and imports;
- (x) the grading and classification of coffee;
- (y) the imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers; and
- (z) anything required to be prescribed under this Act;

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

- (c) 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;

Cap. 2

No. 23 of 2013



(d) 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.

**Resolution:** Agreed to.

**42. Clause 96**

**Proposal:** That the Bill 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.

**Resolution:** Agreed to.

**43. Clause 102**

**Proposal:** That the Bill be amended by deleting Clause 102 and substituting therefor the following new Clause—

Consequential amendments. **102.** The Crops Act is amended —  
No. 16 of  
2013.

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

**Resolution:** Agreed to.

**44. New Clause**

**Proposal:** That the Bill be amended by inserting the following new Clause immediately after Clause 102—

**NEW CLAUSE 102A**

Consequential amendments. **102A.** The Co-operative Societies Act is amended —  
No. 12 of  
1997.

(c) in section 43—

(iii) by numbering the existing provision as subsection (1);

(iv) by inserting the following new subsection—

“(2) Despite subsection (1), a coffee cooperative society shall not lend to farmers on interest.”

(d) In section 44—

(iii) by numbering the existing provision as subsection (1);

(iv) 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.”

**Resolution:** Agreed to.

#### 45. Second Schedule

**Proposal:** That the be Bill 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.	Warehouseperson’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	County government
11.	Coffee nursery certificate	County government
12.	Warehouse licence	



13. Pulping station licence
  14. Parchment permit from the county of origin
  15. Clean coffee movement permit from the county of origin
  16. Coffee exchange licence
  17. Broker's licence
- County government  
County government  
County government  
Capital Markets Authority  
Capital Markets Authority
- Resolution:** Not agreed to.

**MIN. NO. 82/2022**

**DATE OF NEXT MEETING**

The next meeting would be held on Tuesday, 17<sup>th</sup> May, 2022 at 11.00 a.m.

**MIN. NO. 83/2022**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at 1.48 p.m.

**SIGNED:**.....



**(CHAIRPERSON)**

**DATE:**.....13/5/2022.....



**MINUTES OF THE 173<sup>RD</sup> SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON TUESDAY, 17<sup>TH</sup> MAY, 2022, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.**

**PRESENT**

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

**ABSENT WITH APOLOGY**

1. Sen. Kipchumba Murkomen, EGH, MP
2. Sen. (Eng.) Ephraim Maina, EBS, MP
3. Sen. (Canon) Naomi Jillo Waqo, MP

**SECRETARIAT**

- |                       |   |
|-----------------------|---|
| 1. Ms. Carol Kirorei  | - Clerk Assistant                           |
| 2. Mr. David Angwenyi | - Clerk Assistant ( <i>Taking Minutes</i> ) |
| 3. Mr. Tiyan Joseph   | - Serjeant-At-Arms                          |
| 4. Ms. Njeri Manga    | - Media Relations Officer                   |

**MIN. NO. 84/2022**

**PRELIMINARIES**

The Chairperson called the meeting to order at 11.06 a.m. followed by a word of prayer.

**MIN. NO. 85/2022**

**ADOPTION OF THE AGENDA**

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

1. Preliminaries
  - a) Prayer
  - b) Adoption of the Agenda
2. Consideration and adoption of Reports-



- a) Report on consideration of the Sugar Bill, (National Assembly Bills No. 68 of 2019); and
- b) Report on the National Assembly amendments to the Coffee Bill (Senate Bills No. 22 of 2020)
3. Any other business
4. Date of Next Meeting
5. Adjournment.

**MIN. NO. 86/2022**

**CONSIDERATION AND ADOPTION OF REPORTS**

1. The Committee considered the Report on the consideration of the Sugar Bill (National Assembly Bills No. 68 of 2019). The Report was adopted as presented after being proposed by Sen. Michael Mbiti, MP and seconded by Sen. (Dr.) Issa Boy Juma, MP.
2. The Committee considered the Report on the consideration of the National Assembly amendments to the Coffee Bill (Senate Bills No. 22 of 2020). The Report was adopted as presented after being proposed by Sen. Issa Boy Juma, MP and seconded by Sen. (Dr.) Michael Mbiti, MP.

**MIN. NO. 87/2022**

**DATE OF NEXT MEETING**

The next meeting would be held on Thursday, 19<sup>th</sup> May, 2022 at 11.00 a.m.

**MIN. NO. 88/2022**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at 11.28 a.m.

SIGNED:.....



(CHAIRPERSON)

DATE:.....13/5/2022.....

# ANNEX 2

The Coffee Bill, (Senate Bills No. 22 of 2020) as passed by the Senate, with amendments, on 5<sup>th</sup> August, 2020



*The Coffee Bill, 2020*

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REPUBLIC OF KENYA

PARLIAMENT

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SENATE BILLS

*(Bill No. 22 of 2020)*

**THE COFFEE BILL, 2020**

(A Bill published in the Kenya *Gazette* Supplement No. 186 of 23<sup>rd</sup> October, 2020  
and passed by the Senate, with amendments, on 5<sup>th</sup> August, 2020)

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

*Clause*

**PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3—Objects.

**PART II— THE COFFEE BOARD OF KENYA**

- 4—Establishment of the Board.
- 5—Headquarters.
- 6—Powers of the Board.
- 7—Board of directors.
- 8—Qualification for appointment.
- 9—Term of appointment.
- 10—Vacation of office.
- 11—Functions of the Board.
- 12—Committees of the Board of directors.
- 13—Delegation by the Board of directors.
- 14—Remuneration of members of the board of directors.
- 15— Chief executive officer.
- 16—Functions of the chief executive officer.
- 17—Removal of chief executive officer.
- 18—Staff of the Board.
- 19—Protection of members and staff from liability.
- 20—Common Seal of the Board.
- 21—Signing authority.
- 22—Conduct of business of the Board.

**PART III—ROLE OF COUNTY GOVERNMENTS**

- 23— Role of county governments.
- 24— Enactment of county specific legislation.



25—Licencing of coffee operations.

#### **PART IV—REGULATORY PROVISIONS**

26—Registration.

27—Licensing.

28—Licences issued by the Authority.

29—Requirement for certificates, licences and permits.

30—Obligations of licence holders.

31—Returns.

32—Movement permits.

33—Form of licence or permit.

34—Duration of licence.

35—Cancellation of licence or permit.

36—Submission of reports.

37—Appeals.

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

38—Coffee production.

39—Importation of coffee planting materials.

40—Farm inputs.

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

42—Certification of Kenya coffee.

43—Requirement relating to coffee processing.

44—Requirement relating to coffee traceability and disclosures.

45—Bulking of coffee.

#### **PART VI—COFFEE TRADING AND MARKETING.**

46—Coffee trading.

47—International and local direct coffee sales.

48—Establishment and functions of Nairobi Coffee Exchange.

- 49—Management of the Exchange and settlement of coffee sales proceeds.
- 50—Sales catalogue.
- 51—Coffee warehousing in designated warehouses.
- 52—Export and import of coffee.
- 53—Prohibition against blending.
- 54—Anti- competitive practices.

#### **PART VII— QUALITY ASSURANCE.**

- 55—Quality assurance for the coffee industry.
- 56—Inspections.
- 57—Coffee imports to conform to standards.

#### **PART VIII —FINANCIAL PROVISIONS**

- 58—Funds of the Board.
- 59—Coffee development levy.
- 60—Annual estimates.
- 61—Accounts and audit.
- 62—Annual report and publication.
- 63—Financial year of the Board.

#### **PART IX—COFFEE RESEARCH INSTITUTE OF KENYA**

- 64—Establishment of the Institute.
- 65—Headquarters.
- 66—Powers of the Institute.
- 67—Membership of the board of the Institute.
- 68—Term of appointment.
- 69—Vacation of office.
- 70—Functions of the Institute.
- 71—Power to co-opt.



- 72—Conduct of business of the board of the Institute.
- 73—Remuneration of members of the board of the Institute.
- 74—Chief executive officer of the Institute.
- 75—Removal of the chief executive officer of the Institute.
- 76—Staff of the Institute.
- 77—Protection of members and staff from liability.
- 78—Common seal of the Institute.
- 79—Signing authority.

#### **PART X—FINANCIAL PROVISIONS OF THE INSTITUTE**

- 80—Funds of the Institute.
- 81—Powers to raise or borrow money.
- 82—Power to invest.
- 83—Annual estimates.
- 84—Accounts and audit.
- 85—Annual report and publication.
- 86—Financial year of the Institute.

#### **PART XI—MISCELLANEOUS PROVISIONS**

- 87—Arbitration of disputes.
- 88—Digitization.
- 89—Request for information.
- 90—Limitation of the right to access information.
- 91—Dissemination of market information.
- 92—Penalties.
- 93—Exemptions.
- 94—Regulations.

#### **PART XII—TRANSITIONAL PROVISIONS**

- 95—Rights and obligations.

*The Coffee Bill, 2020*

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- 96—Assets.
- 97— Legal proceedings.
- 98—Reference to written laws.
- 99—Previous authorizations.
- 100 —Staff.
- 101 —Interpretation.
- 102 —Consequential Amendments.

**FIRST SCHEDULE — CONDUCT OF BUSINESS AND AFFAIRS  
OF THE BOARD**

**SECOND SCHEDULE — LICENCE, PERMIT OR CERTIFICATE**



**THE COFFEE BILL, 2020**

**A Bill for**

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

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

PART 1—PRELIMINARY	
1. This Act may be cited as the Coffee Act, 2020.	Short title.
2. In this Act—  “agent” means a person registered by the Board who may be appointed by a grower for purposes of facilitation of overseas direct sales with regard to logistics;  “association” means a registered group comprised of smallholder growers, co-operative societies, societies, estates, unions, millers, buyers, roasters or brokers, licensed by a relevant licensing authority;  “auction” means the auction system under which clean coffee is offered for sale at a coffee exchange and includes the place at which, or a facility by means of which, whether electronic or otherwise, offers or invitations to sell, buy or exchange coffee contracts are regularly made on a centralized basis, but does not include—  (a) the office or facilities of a coffee buyer or service provider; or  (b) the office or facilities of a clearing house;  “Board” means the Coffee Board of Kenya established under section 3;  “broker” means a person cleared by the exchange and licensed by the Capital Markets Authority, who	Interpretation.

*The Coffee Bill, 2020*

may be appointed by a grower or an association of growers in accordance with the Capital Markets Act, to sell their coffee on their behalf through the Exchange;

Cap. 485A

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

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

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

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

“clearing and settlement” means the procedure by which a clearing house acts as an intermediary between a buyer and seller for exchange traded transactions in order to reconcile orders between transacting parties and ensure the physical or financial settlement of the transaction;

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

“coffee dealer” means a person registered by the Board, a county government or the Authority to deal in coffee as provided under this Act;

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

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

“coffee product” means any product, extract or



*The Coffee Bill, 2020*

substance obtained or derived from coffee by any treatment or process;

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

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

“coffee warrant” means an instrument prepared by the warehouseman of which the person named therein, or the last endorsee thereof, shall for all purposes be deemed to be the owner of the coffee to which it relates;

“county executive committee member” means the county executive committee member for the time being responsible for matters relating to agriculture;

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

“direct settlement system” means a banking facility provided by commercial banks regulated by the Central Bank of Kenya for clearing and settlement of coffee sales proceeds;

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

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

“Institute” means the Coffee Research Institute established under section 64;

“licensing authority” means the Board, the county

No. 17 of 2015.

government or the Capital Market Authority as the case may be;

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

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

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

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

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

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

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

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

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

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

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



*The Coffee Bill, 2020*

stored for reward or profit.

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 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 —
  - (a) 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.

Objects.

**PART II—THE COFFEE BOARD OF KENYA**

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

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

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and

Establishment of Board.

*The Coffee Bill, 2020*

(d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.	
<p>5. (1) The headquarters of the Board shall be in Nairobi City County.</p> <p>(2) The Board may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.</p>	Headquarters.
<p>6. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—</p> <ul style="list-style-type: none"> <li>(a) enter into contracts;</li> <li>(b) manage, control and administer the assets of the Board;</li> <li>(c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;</li> <li>(d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and</li> <li>(e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.</li> </ul> <p>(2) The Board may, if it considers it necessary, create or take part in the creation of, become a member of, or associate with a body or corporation designed to assist or promote the coffee industry.</p>	Powers of the Board.
<p>7. (1) The management of the Board shall vest in a board of directors consisting of—</p> <p>(a) a chairperson appointed by the President by</p>	Board of directors.



*The Coffee Bill, 2020*

<p>notice in the <i>Gazette</i>;</p> <ul style="list-style-type: none"> <li>(b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;</li> <li>(c) the Principal Secretary for the time being responsible for trade or a representative nominated by the Principal Secretary in writing;</li> <li>(d) two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors;</li> <li>(e) two persons of the opposite gender representing plantation coffee growers nominated by the Council of County Governors;</li> <li>(f) one person nominated by the Institute;</li> <li>(g) one person representing an association of coffee farmers nominated by the Cabinet Secretary;</li> <li>(h) one person nominated by the cooperative society representing the largest number of small-scale coffee associations in Kenya; and</li> <li>(i) a chief executive officer appointed under section 15 who shall be an <i>ex-officio</i> member of the Board.</li> </ul> <p>(2) The Cabinet Secretary shall appoint the members under subsection (1)(d), (e), (f) and (g) by notice in the <i>Gazette</i>.</p>	
<p>8. A person shall be qualified for appointment as a member of the board of directors if that person –</p> <ul style="list-style-type: none"> <li>(a) holds a degree from a university recognised in Kenya</li> <li>(b) has three years' experience in the coffee sector; and</li> <li>(c) meets the requirements of Chapter Six of the Constitution.</li> </ul>	<p>Qualification for appointment.</p>

*The Coffee Bill, 2020*

<p>9. The persons appointed under section 6(1)(d), (e), (f) and (g) shall serve for a term of three years renewable for one further term.</p>	<p>Term of appointment.</p>
<p>10. (1) A person ceases to be a member of the board of directors if that person—</p> <ul style="list-style-type: none"> <li>(a) is absent from three consecutive meetings of the board without the permission of the chairperson;</li> <li>(b) becomes an officer, agent or member of staff of the board;</li> <li>(c) resigns in writing addressed, in the case of the chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;</li> <li>(d) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months; and</li> <li>(e) is declared bankrupt;</li> <li>(f) is unable to perform the functions of office by reason of mental or physical infirmity; or</li> <li>(g) dies.</li> </ul>	<p>Vacation of office.</p>
<p>11. (1) The board of directors shall—</p> <ul style="list-style-type: none"> <li>(a) regulate and promote the development of the coffee industry;</li> <li>(b) consider applications for the issuance of permits and licences under the second schedule to this Act;</li> <li>(c) register coffee dealers;</li> <li>(d) make recommendations to the Cabinet Secretary for, and oversee the implementation of strategies, funding models, plans and policy for the coffee sector;</li> <li>(e) collect, collate and maintain a data base and disseminate information on the coffee industry;</li> <li>(f) conduct national and international coffee market intelligence and surveys</li> </ul>	<p>Functions of the Board.</p>



- to inform promotional and branding strategies including the application of the Kenya Coffee Mark of Origin;
- (g) establish linkages with various government agencies, the Institute and other research institutions for the development of the coffee industry;
  - (h) develop and implement a framework for the capacity building of players in the coffee industry;
  - (i) promote the development of regional appellations for Kenyan coffee;
  - (j) develop and enforce the coffee industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards;
  - (k) maintain and cause to be published an up to date register of coffee dealers, coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in the country;
  - (l) undertake technology transfer and provide technical assistance to county governments on matters relating to coffee;
  - (m) conduct surveillance and enforce compliance with relevant policies, standards and legislation on the coffee sector;
  - (n) co-ordinate inter-agency representation in international coffee fora to promote increased market share of Kenyan coffee;
  - (o) arbitrate over disputes arising between parties registered or licensed by the Board under this Act; and
  - (p) carry out such other functions as may be assigned by the Cabinet Secretary or conferred under any other law.
- (2) The board of directors shall, in the

*The Coffee Bill, 2020*

performance of its functions under this Act, consult and collaborate with the Council of County Governors.	
<p>12. (1) The board of directors may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.</p> <p>(2) The board of directors may co-opt to sit in the committees established under subsection (1) such other persons whose knowledge and skills are necessary for the performance of the functions of the Board.</p>	Committees of the board of directors.
<p>13. The board of directors may, by resolution, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.</p>	Delegation by the board of directors.
<p>14. The members of the board of directors shall be paid such remuneration or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, determine.</p>	Remuneration of members of the board of directors.
<p>15. (1) There shall be a chief executive officer of the Board who shall be competitively recruited and appointed by the board of directors on such terms and conditions as the board of directors shall determine.</p> <p>(2) A person is qualified for appointment under subsection (1) if the person—</p> <ul style="list-style-type: none"> <li>(a) holds a degree in agriculture, business, law, administration or other relevant degree from a university recognized in Kenya;</li> <li>(b) has at least five years' experience in a position of management; and</li> <li>(c) meets the requirements of Chapter Six of the Constitution.</li> </ul> <p>(3) The chief executive officer shall serve for a term of three years and shall be eligible for appointment for one further term of three years.</p>	Chief executive officer.



*The Coffee Bill, 2020*

<p>16. The chief executive officer shall be the secretary to the Board and shall, subject to the direction of the board of directors—</p> <ul style="list-style-type: none"> <li>(a) be responsible for the day to day management of the affairs of the Board;</li> <li>(b) manage the funds, property and affairs of the Board;</li> <li>(c) be responsible for the management of the staff of the Board;</li> <li>(d) oversee and coordinate the implementation of the policies, programmes and objectives of the Board;</li> <li>(e) cause to be prepared for the approval of the board of directors— <ul style="list-style-type: none"> <li>(i) the strategic plan and annual plan of the Board; and</li> <li>(ii) the annual budget and audited accounts of the Board; and</li> </ul> </li> <li>(f) perform such other duties as may be assigned to him or her by the board of directors.</li> </ul>	<p>Functions of the chief executive officer.</p>
<p>17. The chief executive officer shall cease to hold office if the person—</p> <ul style="list-style-type: none"> <li>(a) resigns in writing, addressed to the board of directors;</li> <li>(b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;</li> <li>(c) is found liable for gross misconduct or abuse of office in contravention of the Public Officers Ethics Act or any other</li> </ul>	<p>Removal of chief executive officer.</p>

*The Coffee Bill, 2020*

relevant law; (d) is declared bankrupt; (e) is unable to perform the functions of office by reason of mental or physical infirmity; or (f) dies.	
18. The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.	Staff of the Board.
19. Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.	Protection of members and staff from liability.
20. The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the board of directors.	Common seal of the Board.
21. All letters and instruments written or made by or on behalf of the board of directors, other than those required by law to be under seal, and all decisions of the board of directors, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the Board.	Signing authority.
22. The business and affairs of the board of directors shall be conducted in accordance with the First Schedule.	Conduct of business of the Board.
<b>PART III — ROLE OF COUNTY GOVERNMENTS</b>	



23. (1) A county government shall—

- (a) implement the National Government policy relating to coffee;
- (b) maintain an up to date register of coffee growers, nursery operators, coffee cooperative societies, coffee associations, and coffee estates in that county;
- (c) consider applications for the certificates, permits and licenses enumerated under the second schedule to this Act;
- (d) enforce national and county legislation on coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions;
- (e) offer and co-ordinate the delivery of extension services on sustainable production, primary processing of coffee and climate smart agriculture;
- (f) inspect nurseries, pulping stations, warehouses, millers and roasters located within their respective counties;
- (g) regulate the movement of coffee through the issuance of movement permits for *buni*, parchment and clean coffee within the county and from the county to warehouses situated outside the county;
- (h) in collaboration with law enforcement agencies, enhance security in coffee growing areas; and
- (i) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies.

Role of county governments.

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

*The Coffee Bill, 2020*

(3) The Cabinet Secretary shall, in consultation with the Board and the county executive committee members prescribe standards and guidelines for the setting of levies and fees by county executive committee members under subsection (2).	
<p>24. Each county government may enact county specific legislation setting out the –</p> <ul style="list-style-type: none"> <li>(a) criteria for registration under section 26;</li> <li>(b) criteria for the issuance of permits and licences by an applicant within the respective county;</li> <li>(c) information required to be submitted by an applicant for a permit or licence;</li> <li>(d) process of determination of an application for a permit or licence;</li> <li>(e) conditions for the issuance or renewal of a licence under this Act;</li> <li>(f) grounds for the rejection of an application or cancellation of a licence issued under this Act;</li> <li>(g) process of issuance of a licence to an applicant for a permit or licence; and</li> <li>(h) process of application for the renewal of permits or licences and revocation of a licence issued to an applicant under this Act.</li> </ul>	Enactment of county specific legislation.
<p>25. (1) A person shall not operate a –</p> <ul style="list-style-type: none"> <li>(a) pulping station or carry out hulling activities;</li> <li>(b) coffee growers' mill; or</li> <li>(c) coffee roaster</li> </ul> <p>unless the person has applied for, and obtained a</p>	Licencing of coffee operations.



*The Coffee Bill, 2020*

licence from the respective county government in which the operation is to be undertaken.

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

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

**PART IV—REGULATORY PROVISIONS**

26. (1) A person or entity shall not carry out the business of a coffee grower, nursery operator, 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.

Registration.

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

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

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

(a) the name of the coffee grower, nursery operator, miller, coffee roaster, cooperative society, coffee association or coffee estate;

(b) the location, size and parcel number of the land on which the business is located; and

(c) such other information as the Board may prescribe.

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

27. (1) A person who intends to perform any function under this Act for which a licence or a permit

Licensing.

is required shall submit to the relevant licencing authority specified in the Second Schedule –

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

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

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

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

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

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

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

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



*The Coffee Bill, 2020*

<p>lodged with the licensing authority within fourteen days from the date of the notice.</p> <p>(7) The licensing authority shall consider any objection submitted to it under subsection (6) and may grant the licence applied for subject to such terms and conditions as the licencing authority shall consider appropriate.</p> <p>(8) A licence issued under this Act shall not be transferable.</p> <p>(9) The holder of a coffee buyer's licence or an entity associated with a holder of the licence shall not carry on the business of a commercial miller, broker, roaster, agent or warehouse operator.</p> <p>(10) A buyer's licence shall not be construed as authorizing a person to engage in direct sale of coffee or coffee products.</p> <p>(11) A holder of a commercial miller's licence or any other entity associated with such holder shall not carry on the business of a buyer, broker, roaster, or agent .</p> <p>(12) A licensing authority shall not issue a licence to a person whose effect would result in in the contravention of subsection (9), (10) or (11).</p> <p>(13) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or twice the value of the coffee or coffee product, whichever is greater, or to imprisonment for a term not exceeding two years or both.</p>	
<p>28. The following licences shall be issued by the Authority under the Capital Markets Act—</p> <p>(a) coffee exchange licence authorising a person to conduct the business of a coffee exchange;</p> <p>(b) a broker's licence authorising a person to offer clean coffee for sale at an exchange on behalf of the grower.</p>	<p>Licences issued by the Authority. Cap. 485A.</p>
<p>29. (1) A person shall not operate as a cupping laboratory, liquorer, coffee buyer, coffee importer, agent or warehouse operator unless the person is</p>	<p>Requirements for certificates, licences and permits.</p>

*The Coffee Bill, 2020*

<p>licensed or issued a registration certificate or a permit by the Board upon satisfaction of the prescribed conditions.</p> <p>(2) A person shall not conduct the business of a coffee exchange or offer brokerage services at the exchange unless that person is licensed by the Authority in accordance with the provisions of the Capital Markets Act.</p> <p>(3) A person who contravenes the provision of this section commits an offence and be liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or both.</p>	<p>Cap 485A</p>
<p>30. A licence holder shall act in the best interest of coffee growers and adhere to prescribed conditions for the issuance of a licence and contractual obligations.</p>	<p>Obligations of licence holders.</p>
<p>31. A licence holder provider shall submit monthly returns to the relevant licensing authority in the prescribed form.</p>	<p>Returns.</p>
<p>32. (1) A person shall not transport clean coffee unless such person –</p> <p>(a) holds a licence issued pursuant to section 27 of this Act; and</p> <p>(b) has applied for, and obtained a movement permit issued, in the case of—</p> <p>(i) <i>buni</i> and parchment, by the respective county of origin;</p> <p>(ii) movement of clean coffee from the coffee mills to the warehouses, by the respective county government; and</p> <p>(iii) movement of clean coffee by buyers upon purchase, movement of purchased clean coffee to warehouses by millers, or movement of clean coffee for export or import, by the Board.</p> <p>(2) A coffee movement permit issued under subsection (1) shall be in the prescribed form.</p>	<p>Movement permits.</p>



*The Coffee Bill, 2020*

<p>(3) Subsection (1)(b)(i) shall not apply to a smallholder moving cherry coffee produced by the smallholder between the farm and the pulping station where he or she is registered.</p> <p>(4) A person transporting coffee under subsection (1) shall –</p> <p>(a) have, in his or her possession at the time of transporting the coffee, the original movement permit issued by the respective licensing authority; and</p> <p>(b) ensure that the vessel used to transport the coffee conforms to the prescribed coffee standards.</p> <p>(5) The respective county executive committee member shall monitor the movement of cherry and parchment coffee between farms and stores and the movement of clean coffee and hulled <i>buni</i> to the market and shall, for this purpose –</p> <p>(a) prescribe, in county legislation, guidelines for the safe movement of cherry and parchment coffee; and</p> <p>(b) put in place measures to curb illegal dealings in coffee or coffee products.</p> <p>(6) A person who moves coffee contrary to this Act commits an offence.</p>	
<p>33. A licence or permit issued under this Act shall be in the prescribed form.</p>	<p>Form of licence or permit.</p>
<p>34. (1) A licence or permit issued by the licensing authority shall expire on 30<sup>th</sup> June of every year and a license holder wishing to renew the licence may apply by 1<sup>st</sup> June preceding the expiry of the licence.</p> <p>(2) Notwithstanding the provisions of sub-regulation (1), a late application may be made upon payment of a late application fee as may be prescribed.</p>	<p>Duration of licence.</p>
<p>35. (1) A licensing authority may cancel a licence or permit if the licensee –</p> <p>(a) fails to meet any condition imposed by the licencing authority;</p>	<p>Cancellation of licence or permit</p>

<p>(b) fails to comply with the provisions of the licencing legislation; or</p> <p>(c) surrenders the licence or permit to the relevant licensing authority together with a notice setting out a request that the licence be cancelled.</p>	
<p>36. (1) Each county executive committee member shall submit to the Board, at the end of each month or within such timelines as may be agreed upon with the Board, a report on the registered and licenced coffee growers and dealers within the respective county.</p> <p>(2) The Board shall submit to the respective county executive committee member a report on the registered and licensed dealers and other service providers within the respective county at the end of each month or within such timelines as may be agreed upon with the respective county executive committee member.</p>	<p>Submission of reports.</p>
<p>37. Where an applicant is dissatisfied with the decision of the Cabinet Secretary or the county executive committee member not to issue a licence under this Act, the applicant may make an application for judicial review to the court within thirty days of the decision.</p>	<p>Appeals.</p>
<p><b>PART V — PRODUCTION AND PROCESSING</b></p>	
<p>38. (1) The Institute shall—</p> <ul style="list-style-type: none"> <li>(a) disseminate, in collaboration with the county governments, coffee production and processing technologies;</li> <li>(b) undertake the propagation of coffee planting materials;</li> <li>(c) supervise, in collaboration with the county governments, nursery operators undertaking the business of propagating planting materials;</li> <li>(d) issue certified coffee seeds or seedlings for multiplication in coffee nurseries to</li> </ul>	<p>Coffee production.</p>



*The Coffee Bill, 2020*

<p>coffee growers or for export;</p> <p>(e) map out areas suitable for coffee production in Kenya; and</p> <p>(f) undertake capacity building for the county governments and other players on coffee production and processing.</p> <p>(2) The respective county executive committee members shall undertake soil mapping and analysis to determine nutritional requirements for coffee production.</p>	
<p>39. (1) A person shall not import coffee planting materials unless such a person been registered by the Board.</p> <p>(2) The Board may, upon application and in collaboration with the Kenya Plant Health Inspectorate Service and any other relevant agency, register a person to import coffee planting material for nursery establishment subject to the prescribed conditions.</p>	<p>Importation of coffee planting materials.</p>
<p>40. (1) The Institute shall, in collaboration with the respective county executive committee member, undertake analysis of the farm inputs to ascertain compliance with the prescribed standards.</p> <p>(2) The respective county executive committee member shall establish such farm inputs schemes as may be necessary to enhance coffee production.</p> <p>(3) The National Government, in collaboration council of county governors, may put in place the infrastructure necessary for the production and availability of quality farm inputs for coffee production.</p> <p>(4) The county executive committee members shall monitor and oversee the implementation and compliance with standards by farm input stockists.</p>	<p>Farm inputs.</p>
<p>41. (1) A co-operative society comprising coffee growers shall keep and maintain a register of coffee growers and the number of coffee trees planted or uprooted by each of its members in the prescribed form.</p>	<p>Notification after planting, uprooting coffee or change of details of farm or estate.</p>

*The Coffee Bill, 2020*

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

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

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

42. (1) The Board shall register certification schemes to monitor compliance with the coffee standards.

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

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

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

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

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

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

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

Certification of  
Kenya coffee.



*The Coffee Bill, 2020*

<p>(7) Certified coffee shall be identified and labelled according to the respective certification scheme for traceability and marketing.</p> <p>(8) A miller shall, in the case of certified coffee, specify information relating to the certified coffee in the sales catalogue maintained by the miller.</p> <p>(9) A coffee miller shall, before offering the coffee for sale in the Exchange, provide proof of certification.</p>	
<p>43. The processing of coffee shall be carried out at designated, standard approved facilities and in accordance with the National Standards and Industry Code of Practice.</p>	<p>Requirements relating to coffee processing.</p>
<p>44. (1) The Board shall establish a coffee traceability system in the prescribed form.</p> <p>(2) A person who operates a pulping station or coffee mill shall comply with prescribed traceability system established by the Board under subsection (1).</p> <p>(3) A cooperative society shall, in imposing a fee to its growers, adhere to the society's budget and not exceed ten percent of the gross earnings from the coffee sales.</p> <p>(4) Every contract for milling of coffee shall be in writing and shall contain such information as may be prescribed.</p> <p>(5) A commercial miller shall –</p> <ol style="list-style-type: none"> <li>ensure that the grower or grower's representative is given reasonable notice to be present during the milling process;</li> <li>take out comprehensive insurance cover against fire, theft, and other risks for all coffee in its possession and custody;</li> <li>account for mill spillage or sweepings and all other coffee by-products to the growers and the Board;</li> <li>digitize its operations to ensure weight precision, timely dissemination of</li> </ol>	<p>Requirements relating to coffee traceability and disclosures.</p>

*The Coffee Bill, 2020*

<p>information and protection of growers' data;</p> <p>(e) submit returns on coffee received and milled to the Board and the respective county government; and</p> <p>(f) comply with the prescribed standard coffee grades.</p>	
<p>45. (1) A coffee miller may bulk parchment or <i>buni</i> coffee of the same quality and characteristics in order to attain millable quantities.</p> <p>(2) A coffee miller who bulks coffee shall avail information, in the prescribed form, to an exchange and the direct settlement system provider on the proportions of the bulked coffees for purposes of processing payments.</p> <p>(3) The Board and the respective county executive committee member shall, separately or jointly undertake regular inspections to ensure compliance with this Act by the coffee millers.</p> <p>(4) A coffee grower may deliver coffee samples not exceeding five hundred grams of parchment or <i>buni</i> for independent quality analysis by a laboratory before delivery to a commercial coffee miller.</p> <p>(5) A laboratory to which a sample is submitted under subsection (4) shall issue to the coffee grower a report on quality compliance in the prescribed form.</p> <p>(6) A coffee miller shall remit two hundred grams samples for each grade of an out-turn to the Board for quality analysis and assessment of conformity with coffee standards.</p> <p>(7) A co-operative society or association comprising smallholder growers that intends to obtain milling services shall competitively procure the services of a miller or other service providers to whom the coffee is intended to be delivered for milling.</p> <p>(8) Any charges imposed for the delivery of services to a coffee grower shall be communicated in the prescribed form to the direct settlement system</p>	<p>Bulking of coffee.</p>



*The Coffee Bill, 2020*

<p>provider before the sale of coffee for the purpose of settlement after the sale has been conducted.</p>	
<p><b>PART VI— COFFEE TRADING AND MARKETING</b></p>	
<p>46. (1) Kenya Coffee may be offered for sale through—</p> <ul style="list-style-type: none"> <li>(a) auction in the Exchange;</li> <li>(b) direct sales; or</li> <li>(c) such other method as the Cabinet Secretary may prescribe.</li> </ul> <p>(2) A buyer, a roaster, or a grower miller licensed by the relevant licensing authority, or a broker appointed by the grower, may trade at an exchange in accordance with this Act and any other law governing trade in an exchange.</p>	<p>Coffee trading.</p>
<p>47. (1) 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.</p> <p>(2) The price at which a licensed coffee grower offers coffee for sale under subsection (1) shall bear a favorable comparison to the price at an exchange.</p> <p>(3) A licensed coffee grower and a licensed roaster shall submit monthly returns to the Board, in the prescribed form, on sales undertaken under subsection (1) including —</p> <ul style="list-style-type: none"> <li>(a) a copy of the contract;</li> <li>(b) the coffee grade;</li> <li>(c) the coffee quantity;</li> <li>(d) the coffee price;</li> <li>(e) details of a certification scheme, where applicable;</li> <li>(f) quality report;</li> <li>(g) mode of payment; and</li> <li>(h) a dispute resolution clause.</li> </ul>	<p>International and local direct coffee sales.</p>
<p>48. (1) There is established a body to be</p>	<p>Establishment and</p>

*The Coffee Bill, 2020*

<p>known as Nairobi Coffee Exchange for purposes of coffee trading.</p> <p>(2) The Nairobi Coffee Exchange shall be a body corporate, registered under the Companies Act.</p> <p>(3) The functions of the Exchange shall be to –</p> <ol style="list-style-type: none"> <li>manage the auction floor, the central sample room, the information registry and the direct settlement system;</li> <li>maintain records relating to coffee sales, coffee samples and sweepings;</li> <li>avail sales catalogues to interested parties in accordance with the Capital Markets Act; and</li> <li>carry out such other function as the Cabinet Secretary may prescribe.</li> </ol> <p>(4) The proceeds of the sale of coffee at the Exchange shall be deposited in a direct settlement system established in accordance with the Capital Markets Act.</p>	<p>functions of Nairobi Coffee Exchange.</p> <p>No.17 of 2015</p> <p>Cap 485A</p>
<p>49. (1) A broker or agent appointed by growers and other service providers shall not receive coffee sale proceeds on behalf of the growers.</p> <p>(2) A coffee warrant or a warehouse receipt issued by a warehouse operator to a depositor of coffee shall be transferable to a new holder who has purchased the coffee and is entitled to take its delivery upon presentation of the coffee warrant or the warehouse receipt endorsed by the exchange to the warehouse operator.</p> <p>(3) The Exchange shall disseminate market information for every auction and an analysis of performance on weekly and monthly basis.</p> <p>(4) A person who contravenes the provisions of this section commits an offence</p>	<p>Management of the Exchange and settlement of coffee sales proceeds.</p>
<p>50. (1) 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</p>	<p>Sales catalogue</p>



*The Coffee Bill, 2020*

<p>warehouse in accordance to this Act.</p> <p>(2) A sales catalogue shall contain information on the prompt date and such other particulars as may be prescribed under this Act.</p>	
<p>51. (1) All coffee shall be stored in warehouses licensed by the respective county governments.</p> <p>(2) A county executive committee member shall not designate premises as a coffee warehouse unless the premises have been inspected, approved and licensed in accordance with this Act and the respective county legislation.</p> <p>(3) A licensed warehouse shall conform to the standards prescribed by the Kenya Bureau of Standards.</p> <p>(4) The Board and county governments shall inspect warehouses and monitor warehousing activities on a regular basis.</p> <p>(5) A warehouse operator shall -</p> <ul style="list-style-type: none"> <li>(a) insure all coffee in his or her warehouse or under his or her custody against fire, theft and other insurable risk;</li> <li>(b) not remove or cause to be removed from a warehouse, coffee unless the operator has applied for, and obtained an endorsed coffee warrant or warehouse receipt as the case may be; and</li> <li>(c) account for any weight or quality loss to the respective grower, agent, buyer or roaster.</li> </ul> <p>(6) A person who operates a warehouse contrary to this Act commits an offence.</p>	<p>Coffee warehousing in designated warehouses.</p>
<p>52. (1) A person shall not export coffee or cause any coffee to be exported unless such person has —</p> <ul style="list-style-type: none"> <li>(b) applied for, and obtained, a phytosanitary certificate from the Kenya Plant Health Inspectorate Service; and</li> <li>(c) been issued with a coffee buyer's licence, notification and registration of direct sales</li> </ul>	<p>Export and import of coffee.</p>

*The Coffee Bill, 2020*

<p>contracts, certificate of origin and certificate of quality by the Board.</p> <p>(2) The Board shall authorize the importation of coffee through the issuance of import permits or a buyer's licence.</p> <p>(3) Clean coffee imports shall be accompanied by the certificate of origin and a phytosanitary certificate issued by the country of origin and adhere to the coffee standards.</p> <p>(4) Clean coffee which consists only of a sample or a parcel not exceeding twenty kilograms in weight and which meets the relevant licensing and certification requirements shall not require a buyer's license from the Board.</p>	
<p>53. (1) A person who blends any or various grades of coffee produced in Kenya with any other coffees produced outside Kenya shall declare the percentage of Kenyan coffee in the blend.</p> <p>(2) A person who contravenes subsection (1) commits an offence.</p>	<p>Prohibition against blending</p>
<p>54. The trading activities at an exchange shall be compliant with relevant laws that deter unfair trading and anti-competitive practices.</p>	<p>Anti-competitive practices.</p>
<p><b>PART VII—QUALITY ASSURANCE</b></p>	
<p>55. (1) 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.</p> <p>(2) The Board, in consultation with an accredited university of higher learning and industry stakeholders may develop a training curriculum, conduct examinations and jointly issue certificates for coffee liquorers.</p> <p>(3) The Board may enter into a memorandum of understanding with an accredited university for the training and administration of liquorers' examinations.</p> <p>(4) A person shall not offer liquoring services unless such person is certified as a liquorer has applied for, and obtained a practicing licence from the Board.</p> <p>(5) The Board shall, in collaboration with the</p>	<p>Quality assurance for the coffee industry.</p>



*The Coffee Bill, 2020*

respective county executive committee members establish cupping centres in the counties for the purpose of conducting coffee quality analysis and capacity building.

(6) The Board shall carry out assessments on coffee quality maintenance at any premises in which the processing of coffee is carried out along the value chain.

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

(8) The Board, in collaboration with the respective county executive committee member shall –

(a) monitor maintenance of pesticide spraying records by coffee growers to enforce compliance with the permissible pesticides residue levels in coffee beans; and

(b) inspect coffee storage bags to check against potential contamination and monitor wholesalers, suppliers, manufacturers and importers to ensure compliance with safety standards.

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

56. (1) The Board and the respective county executive committee members shall, by notice in the *Gazette*, appoint inspectors for the enforcement of the provisions of this Act.

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

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

Inspections

*The Coffee Bill, 2020*

(4) A person who fails to accord an inspector access to premises and information commits an offence.	
<p>57. (1) A person importing coffee into the country shall –</p> <ul style="list-style-type: none"> <li>(a) ensure that the coffee complies with the coffee standards and such other quality standards as may be prescribed under this Act or any other law; and</li> <li>(b) adhere to the safety and health standards prescribed under this Act or any other law.</li> </ul> <p>(2) The Board shall destroy coffee which does not conform to the coffee standards.</p> <p>(3) The Board shall not destroy coffee under subsection (2) unless –</p> <ul style="list-style-type: none"> <li>(a) it has issued to the importer of the coffee, notice, in the prescribed form, of intention to destroy the coffee;</li> <li>(b) given the importer an opportunity to be heard; and</li> <li>(c) obtained an order of a Court of competent jurisdiction for the destruction of that coffee.</li> </ul> <p>(4) The Board may, in addition to the action taken under subsection (3), suspend or cancel any licence issued to the importer under this Act.</p>	Coffee imports to conform to standards.
<b>PART VIII—FINANCIAL PROVISIONS</b>	
<p>58. The funds and assets of the Board shall comprise of—</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(b) monies received from the levy imposed on coffee sales pursuant to section 59;</li> <li>(c) such monies as may be payable to the Board pursuant to this Act or any other written law;</li> <li>(d) such gifts as may be donated to the Board; and</li> <li>(e) monies from any other source granted,</li> </ul>	Funds of the Board.



*The Coffee Bill, 2020*

donated or lent to the Board.	
<p>59. (1) The Cabinet Secretary shall, in consultation with the Board and the Institute and by notice in the Gazette, impose a levy of two percent on the export import value remitted by coffee buyers to the Board for the development of the coffee industry.</p> <p>(2) The levy imposed under subsection (1) shall be apportioned as follows—</p> <ul style="list-style-type: none"> <li>(a) one percent to the Institute;</li> <li>(b) zero-point five percent to the Board for regulatory and coffee promotion purposes; and</li> <li>(c) zero-point five percent to the coffee growing County Governments for coffee development as a conditional grant.</li> </ul>	Coffee development levy.
<p>60. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that year.</p> <p>(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned.</p> <p>(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in the National Assembly and the Senate.</p>	Annual estimates.
<p>61. (1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—</p> <ul style="list-style-type: none"> <li>(a) a balance sheet showing in detail the assets and liabilities of the Board;</li> <li>(b) monies received from the levy imposed on coffee sales pursuant to section 59; and</li> <li>(c) such other statements of accounts as the Cabinet Secretary may approve.</li> </ul> <p>(2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-</p>	Accounts and audit.

*The Coffee Bill, 2020*

General in accordance with the Public Audit Act. (3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.	No. 34 of 2015.
62. (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report. (2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify. (3) The Cabinet Secretary shall submit to the National Assembly and the Senate the reports, balance sheet and statements under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if a House of Parliament is not sitting, within fourteen days of the commencement of its next sitting.	Annual report and publication.
63. The financial year of the Board shall be the period of twelve months ending on the thirty first of March in each financial year.	Financial year of the Board.
<b>PART IX-COFFEE RESEARCH INSTITUTE OF KENYA</b>	
64. (1) There is established an Institute to be known as the Coffee Research Institute. (2) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—	Establishment of the Institute.



*The Coffee Bill, 2020*

<ul style="list-style-type: none"> <li>(a) suing and being sued;</li> <li>(b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;</li> <li>(c) borrowing and lending money; and</li> <li>(d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.</li> </ul>	
<p>65. (1) The headquarters of the Institute shall be in Kiambu County.</p> <p>(2) The Institute may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.</p>	Headquarters.
<p>66. (1) The Institute shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Institute shall have power to—</p> <ul style="list-style-type: none"> <li>(a) enter into contracts;</li> <li>(b) manage, control and administer the assets of the Institute;</li> <li>(c) receive gifts, grants, donations or endowments made to the Institute and make disbursement therefrom in accordance with the provisions of this Act;</li> <li>(d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Institute's funds not immediately required for the purposes of this Act, as it may determine; and</li> <li>(e) operate a bank account into which all monies received by the Institute shall be paid in the first instance and out of which all payments made by the Institute shall be made.</li> </ul> <p>(2) The Institute may, if it considers it necessary, create or take part in the creation of, become a member of, or associate with a body or corporation designed to</p>	Powers of the Institute.

*The Coffee Bill, 2020*

<p>assist or promote the coffee industry.</p>	
<p>67. (1) The management of the Institute shall vest in a board consisting of—</p> <ul style="list-style-type: none"> <li>(a) a chairperson of the board appointed by the President by notice in the <i>Gazette</i>;</li> <li>(b) the chairperson of the Board appointed by the President under section 6 (1) (a);</li> <li>(c) the Principal Secretary responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;</li> <li>(d) the Principal Secretary for matters relating to finance or a representative nominated by the Principal Secretary in writing;</li> <li>(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;</li> <li>(f) one person representing estate coffee growers nominated by the Cabinet Secretary;</li> <li>(g) one person representing small scale coffee growers nominated by the Council of County Governors;</li> <li>(h) one person nominated by Commission on University Education representing the universities nominated by the Cabinet Secretary; and</li> <li>(i) a chief executive officer appointed in accordance with section 47 who shall be an <i>ex-officio</i> member of the board.</li> </ul> <p>(2) The Cabinet Secretary shall appoint the members under subsection (1) (f), (g) and (h) by notice in the <i>Gazette</i>.</p> <p>(3) A person is qualified for appointment as a chairperson of the board of the Institute if that person holds a degree in any discipline from an institution recognized in Kenya and has three years' experience in the coffee sector.</p>	<p>Membership of board of the Institute.</p> <p>Act No. 28 of 2013</p>



*The Coffee Bill, 2020*

<p>68. The persons appointed under section 40 (1) (f) (g) and (h) shall serve for a term of four years renewable for one further term.</p>	<p>Term of appointment.</p>
<p>69. A person shall cease to be a member of the board of the Institute if that person—</p> <ul style="list-style-type: none"> <li>(a) is absent from three consecutive meetings of the board of the Institute without the permission of the chairperson;</li> <li>(b) becomes an officer, agent or member of staff of the Institute;</li> <li>(c) resigns in writing addressed, in the case of the chairperson, to the President and in the case of any other member, to the Cabinet Secretary;</li> <li>(d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months; and</li> <li>(e) is declared bankrupt;</li> <li>(f) is unable to perform the functions of his office by reason of mental or physical infirmity; or</li> <li>(g) dies.</li> </ul>	<p>Vacation of office.</p>
<p>70. (1) The Institute shall—</p> <ul style="list-style-type: none"> <li>(a) advise the National and county governments on the resource requirements for coffee research;</li> <li>(b) prioritise areas for, and co-ordinate, coffee research including research in coffee diseases and new coffee varieties;</li> <li>(c) develop appropriate systems to promote balanced, diversified and sustained coffee development and to optimise coffee production through adaptive and investigative research;</li> <li>(d) disseminate, in collaboration with the Board, the Kenya Agricultural and Livestock Research Organisation</li> </ul>	<p>Functions of the Institute.</p>

established under the Kenya Agricultural and Livestock Research Organisation Act and other organizations, knowledge, information and application of research findings in relation to coffee; and

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

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

- (a) make policy recommendations to the Cabinet Secretary on coffee research;
- (b) identify production, policy, market, processing and utilisation constraints in the coffee industry and prepare short and long-term demand driven participatory research programmes within the framework of the national agricultural research system;
- (c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanisation and technology options to improve coffee production and provide answers to foreseeable problems facing coffee;
- (d) collaborate with the extension and education services and other organisations, agencies and institutions including schools, technical institutions and universities, public or private, to disseminate research results and technologies;
- (e) undertake the propagation of quality coffee planting materials and supervision of registered nursery operators;
- (f) provide competitive grants to research institutes and persons desirous of carrying out research and training programs which address value chain priorities and are



- consistent with the national research priorities and plans of the institute;
- (g) organize, design and carry out on-station and on-farm research for coffee;
  - (h) support and promote the training and capacity building in relation to agricultural research;
  - (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;
  - (j) establish platforms for the purposes of sharing research information, advancing research and transfer of technology and dissemination of information relating to advancements made in coffee research;
  - (k) conduct annual reviews of research results and ensure performance improvement in the field of agricultural research;
  - (l) make available to the Science Commission annual reports on research and development activities carried out by or under the auspices of the Institute;
  - (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;
  - (n) develop technologies and practices for adoption along the production, processing and value chain that contribute towards climate change adaption, resilience and mitigation;
  - (o) be the custodian of the Kenyan Coffee Genome and the primary instrument for making modern genomics resources available to researchers working across the coffee production chain;
  - (p) provide and facilitate access to timely scientific information in a useable format and advisory services to actors in the coffee

*The Coffee Bill, 2020*

<p>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>71. The board of the Institute may co-opt two persons with knowledge and experience in matters relating to coffee for the better carrying out of the functions of the board.</p>	<p>Power to co-opt.</p>
<p>72. The business and affairs of the board of the Institute shall be conducted in accordance with the First Schedule.</p>	<p>Conduct of business of the board of the Institute.</p>
<p>73. The members of the board of the Institute shall be paid such remuneration or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine.</p>	<p>Remuneration of members of the board of the Institute.</p>
<p>74. (1) There shall be a chief executive officer of the Institute who shall be competitively recruited and appointed by the board of the Institute on such terms and conditions as the board shall determine.</p> <p>(2) The chief executive officer shall be responsible for the day to day management of the affairs of the Institute.</p> <p>(3) A person is qualified for appointment under subsection (1) if the person—</p> <p>(a) is a citizen of Kenya;</p> <p>(b) holds a degree in agriculture, crops science or business administration from a university recognized in Kenya;</p> <p>(c) holds a postgraduate degree or its equivalent from a university recognised in Kenya; and</p> <p>(d) has at least five years' experience at senior management level in agricultural science; policy formulation; policy-oriented research and analysis; and management of</p>	<p>Chief executive officer of the Institute.</p>



*The Coffee Bill, 2020*

human resource and finance. (4) The chief executive officer shall serve for a term of five years renewable for a further term of five years.	
75. The board of the Institute may remove the chief executive officer in accordance with the terms and conditions of service for— (a) inability to perform the functions of the office arising out of physical or mental incapacity; (b) gross misconduct or misbehaviour; (c) incompetence or neglect of duty; or (d) any other ground that would justify removal from office under the terms and conditions of service.	Removal of chief executive officer of the Institute.
76. The Institute may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Institute under this Act and upon such terms and conditions of service as the Institute may determine.	Staff of the Institute.
77. Liability shall not attach to the Institute or to any of its members, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.	Protection of members and staff from liability.
78. The affixing of the common seal of the Institute shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the board of the Institute.	Common seal of the Institute.
79. All letters and instruments written or made by or on behalf of the board of the Institute, other than those required by law to be under seal, and all decisions of the board of the Institute, shall be signed	Signing authority.

*The Coffee Bill, 2020*

under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the board of the Institute.	
<b>PART X—FINANCIAL PROVISIONS OF THE INSTITUTE</b>	
<p>80. The funds and assets of the Institute shall comprise of—</p> <ul style="list-style-type: none"><li>(a) such monies or assets as may accrue to or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act including proceeds from patents;</li><li>(b) one percent of monies collected from the sale of coffee pursuant to section 59 of this Act.</li><li>(c) such monies as may be payable to the Institute pursuant to this Act or any other written law;</li><li>(d) such gifts as may be donated to the Institute; and</li><li>(e) monies from any other source granted, donated or lent to the Institute.</li></ul>	Funds of the Institute
<p>81. The board of the Institute may, upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act.</p>	Powers to raise or borrow money.
<p>82. The board of the Institute may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the Institute in securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance.</p>	Power to invest.
<p>83. (1) At least three months before the commencement of each financial year, the Institute shall cause to be prepared estimates of the revenue and expenditure of the Institute for that year.</p> <p>(2) The annual estimates shall make provision for</p>	Annual estimates.



*The Coffee Bill, 2020*

<p>all estimated expenditure of the Institute for the financial year concerned.</p> <p>(3) The annual estimates prepared by the Institute under subsection (2) shall be submitted to the Cabinet Secretary for tabling in Parliament.</p>	
<p>84. (1) The Institute shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—</p> <p>(a) a balance sheet showing in detail the assets and liabilities of the Institute; and</p> <p>(b) such other statements of accounts as the Cabinet Secretary may approve.</p> <p>(2) The accounts of the Institute shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.</p> <p>(3) The Institute shall submit to the Auditor-General all books and accounts of the Institute, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Institute such information and explanation as he may consider necessary for the performance of his duties.</p>	<p>Accounts and audit.</p> <p>No. 34 of 2015</p>
<p>85. (1) The Institute shall, within a period of seven months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Institute during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.</p> <p>(2) The Institute shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.</p>	<p>Annual report and publication.</p>

**FIRST SCHEDULE**

(s. 22, s. 72)

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

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

Meetings of the  
Board.

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

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

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

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

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

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

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

(9) Subject to provisions of this Schedule, the board of directors or the board of the Institute may determine its