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CLERK AT THE TABLE:	H. Suleiman

SPECIAL ISSUE

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THE CROPS ACT, 2013

(No. 16 of 2013)

THE CROPS (MIRAA) REGULATIONS, 2022

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THE CROPS ACT

(No. 16 of 2013)

IN EXERCISE of the powers conferred by section 40 of the Crops Act, 2013, the Cabinet Secretary for Agriculture, Livestock, Fisheries and Cooperatives, in consultation with the Agriculture and Food Authority and the county governments, makes the following Regulations—

THE CROPS (MIRAA) REGULATIONS, 2022

PART I — PRELIMINARY

1. These Regulations may be cited as the Crops (Miraa) Regulations, 2022.

Citation.

2. In these Regulations unless the context otherwise requires—

Interpretation.

“Act” means the Crops Act No. 16 of 2013;

No. 13 of 2013.

“aggregator” means a person who buys, collects and bulks miraa and miraa products for purposes of collective marketing;

“Authority” means the Agriculture and Food Authority established under section 3 of the Agriculture and Food Authority Act;

Cap. 496

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

“Code of practice” means the Miraa (khat) Industry- Code of Practice - KNWA 2940: 2021 as provided in the Standards Act;

“commercial nursery operator” means a person who propagates miraa planting material for sale;

“commercial transporter” means a person who transports miraa at a fee;

“Committee” means the Miraa Pricing Formula Committee established under regulation 27;

“county government” shall have the meaning assigned to it under Article 176 of the Constitution;


“crop inspector” means an inspector appointed under section 27 of the Act;

“dealer” includes an aggregator, commercial transporter, vendor, holding facility owner, exporter or importer of miraa;

“designated point” means an area set aside for the sale of miraa by the respective county government;

“Directorate” means the directorate of the Authority established under section 11 of the Agriculture and Food Authority Act to deal with matters relating to miraa;

“exporter” means a person licensed by the Authority to export miraa or miraa products;

 THE NATIONAL ASSEMBLY PARLIAMENTARY	
DATE: 04 OCT 2022	
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CLERK AT THE TABLE:	

“export consignment” means the quantity of miraa that an exporter intends to export as declared by the applicant of an export permit;

“field holding facility” means an area designated for the bulking, handling, storage, stock control and packaging of miraa;

“financial year” means the period from the first July in any year to the thirtieth June in the immediately succeeding year, both days inclusive;

“grower” means a person who cultivates miraa and includes a person who enters into an agreement with the owner of the farm to harvest miraa at a consideration;

“grower association” means a group of miraa growers who come together for purposes of marketing their produce under a common quality management system and are registered by the Authority;

“importer” means a person licensed by the Authority to import miraa or miraa products;

“import consignment” means the quantity of miraa that an importer seeks to import as declared by the applicant of an import permit;

“miraa” means the plant or part of the plant of *Cathus* genus known botanically as *Catha edulis* or of any inter-specific hybrid involving this species or of any progeny of such hybrid;

“miraa product” means any part of the miraa plant, whether whole or broken, including its leaf, bud or twig that has been dried;

“potable water” means water which meets the quality standards of drinking water as specified in Kenya standards;

“traceability” means the ability to trace a miraa from any given point in the value chain back through all stages to its origin; and

“vendor” means a person who sells miraa at a designated point for consumption.

3. The objects of these Regulations are to—

Objects of the
Regulations.

- (a) facilitate the growth and development of the miraa industry;
- (b) enhance productivity and income of miraa farmers and other value chain actors;
- (c) organize and coordinate partners and stakeholders in the miraa industry;
- (d) attract investment opportunities and improve the efficiency of agribusiness services in the miraa industry;
- (e) facilitate the export of miraa and miraa products to augment the foreign exchange earnings of the country; and
- (f) safeguard food safety and quality standards of miraa.

PART II—REGISTRATION AND LICENSING OF MIRAA
GROWERS AND DEALERS

4. (1) A person shall not establish or operate a commercial miraa nursery unless the person has a valid licence issued by the respective county government.

Licensing of
commercial miraa
nursery operators.

(2) A person who seeks to establish or operate a commercial miraa nursery shall apply to the respective county government for a licence in Form Mr1 set out in the First Schedule.

(3) The county government shall not issue a licence unless an inspector has visited and inspected the site and has confirmed that the applicant complies with the following requirements—

- (a) the land is suitable for propagating miraa seedlings;
- (b) the site is well served with a reliable irrigation quality water source;
- (c) the site is accessible for inspections and collection of planting material;
- (d) the applicant has clearance from an accredited source of mother plants;
- (e) the land is gently sloping and the soil type is of good drainage and does not allow water logging; and
- (f) the applicant has adequate relevant knowledge in nursery management.

(4) The county government shall, if satisfied that the applicant meets the requirements in paragraph (3), issue a licence in Form Mr 2 set out in the First Schedule to the applicant in respect of the inspected site.

(5) Where the applicant does not meet the requirements in paragraph (3), the county government shall reject the application and notify the applicant of the reasons for the rejection.

(6) Where the requirements in paragraph (3) have been addressed, the applicant whose application is rejected under paragraph (5) may resubmit the application for consideration.

(7) A licence for a commercial miraa nursery operator shall not be transferrable and shall remain in force until the thirtieth of June next following the date of issue, unless earlier cancelled.

(8) An application for renewal of a licence shall be made to the respective county government at least three months before the expiry date of the licence.

(9) A commercial nursery operator shall submit annual returns to the County Government in Form Mr3 set out in the First Schedule not later than the tenth day of the first month after the end of the financial year.

(10) The County Government shall, annually, share with the Authority a list of all licensed commercial miraa nursery operators.

(11) A person who contravenes paragraph (1) or (9) commits an offence.

5. (1) Smallholder miraa growers may, for purposes of accessing economies of scale, form a growers association and apply to the Authority for registration of the association.

Registration of
growers associations.

(2) An application for registration under paragraph (1) shall be made to the Authority in Form Mr4 as set out in the First Schedule.

(3) The Authority shall, at no fee, issue a certificate of registration to a growers association in Form Mr5 set out in the First Schedule.

(4) Every grower association shall submit updated particulars of its members to the Authority annually before the thirty first day of the first month of the financial year.

6. (1) A person shall not carry on business as a miraa aggregator unless the person is registered as such by the Authority and has been issued with a registration certificate by the Authority.

Registration of miraa
aggregators.

(2) A person who intends to be a miraa aggregator shall apply to the Authority for registration in Form Mr 6 as set out in the First Schedule.

(3) The Authority shall, within seven days of the application and at no fee, issue, a certificate of registration to a successful applicant in Form Mr7 set out in the First Schedule.

(4) A person who contravenes paragraph (1) commits an offence and shall, on conviction, be liable to the penalty specified in section 16(4) of the Act.

7. (1) A person shall not carry on business without a licence issued by the respective county government.

Licensing of miraa
aggregators.

(2) A miraa aggregator who is registered under regulation 6 shall apply for a licence to the respective county government in Form Mr8 set out in the First Schedule.

(3) The county government shall not issue a licence unless the applicant complies with the following requirements—

- (a) the applicant has a field holding facility at his disposal;
- (b) the field holding facility is serviced with a reliable source of potable water for use;
- (c) the area has a well demarcated waste disposal area; and
- (d) all staff have appropriate personal protective equipment.

(4) The county government shall, if satisfied that the applicant meets the requirements in paragraph (3), issue, within ten days of receiving the application, a licence to a successful applicant in Form Mr9 set out in the First Schedule.

(5) Where the applicant does not meet the requirements in paragraph (3), the county government shall, within ten days from the receipt of the application, reject the application and notify the applicant

of the reasons for the rejection.

(6) Where the requirements in paragraph (3) have been addressed, the applicant whose application is rejected under paragraph (5) may resubmit the application for consideration.

(7) A miraa aggregator shall submit annual returns to the respective county government in Form Mr10 set out in the First Schedule not later than the tenth day of the first month after the end of the financial year.

(8) The county government shall, annually, share with the Authority a list of all licensed aggregators.

(9) A person who contravenes paragraph (1) or (7) commits an offence.

8. (1) A person shall not carry on business as a miraa commercial transporter unless the person is registered as such by the Authority and has been issued with a registration certificate by the Authority.

Registration of
commercial miraa
transporters.

(2) An application for registration under paragraph (1) shall be made to the Authority in in Form Mr11 set out in the First Schedule.

(3) The Authority shall, within five days of receipt of the application and at no fee, issue a certificate of registration to a successful applicant in Form Mr12 set out in the First Schedule.

(4) The Authority shall, within five days from the receipt of the application, notify an unsuccessful applicant indicating the reasons for the rejection.

(5) Where the reasons for rejection have been addressed, the applicant whose application is rejected under paragraph (4) may resubmit the application for consideration.

(6) A person who contravenes paragraph (1) 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 both.

9. (1) A person shall not carry out business as a commercial miraa transporter without a licence issued by the Authority.

Licensing of
commercial miraa
transporters.

(2) A commercial miraa transporter who is registered under regulation 8 shall apply to the Authority for a licence in Form Mr 13 set out in the First Schedule.

(3) The Authority shall not issue a licence to the applicant unless the applicant complies with the following requirements—

- (a) the vessel used is well aerated to prevent chilling or scorching effect on the produce;
- (b) the applicant exclusively transports miraa in the vessel;
- (c) the packaging material used during transportation is made of food grade quality; and
- (d) the applicant has paid the fee set out in the Third Schedule.

(4) The Authority shall, if satisfied that the applicant meets the requirements in paragraph (3), issue, within thirty days of receiving the application, a licence to a successful applicant in Form Mr 14 set out in the First Schedule.

(5) Where the applicant does not meet the requirements in paragraph (3), the Authority shall, within thirty days from the receipt of the application, reject the application and notify the applicant of the reasons for the rejection.

(6) Where the requirements in paragraph (3) have been addressed, the applicant whose application is rejected under paragraph (5) may resubmit the application for consideration.

(7) A licensed commercial miraa transporter shall display the licence on the front windscreen of the vehicle while transporting miraa.

(8) A commercial miraa transporter shall submit semi-annual returns to the Authority in Form Mr15 as set out in the First Schedule not later than the fifth day of January and the fifth day of July.

(9) A person who contravenes paragraph (1) or (7) commits an offence.

10. (1) A person shall not carry out business as a miraa vendor without a licence issued by the respective county government.

Licensing of miraa vendors.

(2) An applicant for a miraa vending licence shall apply to the respective county government in Form Mr16 set out in the First Schedule.

(3) The county government shall before issuing a licence to a miraa vendor, satisfy itself that the applicant has complied with the following requirements—

- (a) the miraa vendor intends to sell miraa or miraa products at a designated point; and
- (b) the designated point where the miraa vendor seeks to sell miraa is—
 - (i) well marked;
 - (ii) one hundred metres away from any learning institution;
 - (iii) kept free of and from waste material; and
 - (iv) used exclusively for the sale of miraa.

(4) The county government shall, if satisfied that the applicant meets the requirements in paragraph (3) issue, within seven days, a licence to the applicant in Form Mr17 set out in the First Schedule.

(5) Where the applicant does not meet the requirements in paragraph (3), the county government shall, within seven days from the receipt of the application, reject the application and notify the applicant of the reasons for the rejection.

(6) Where the requirements in paragraph (3) have been addressed, the applicant whose application is rejected under paragraph

(5) may resubmit the application for consideration.

(7) Each county government shall, annually, share with the Authority a list of all licensed miraa vendors.

(8) Every miraa vendor shall sell miraa or miraa products at a designated point.

(9) The county government shall designate areas for the sale of miraa.

(10) Miraa shall not be sold to a person below the age of eighteen years.

(11) A person who contravenes paragraph (1), (2), (8) or (10) commits an offence.

11. (1) A person shall not carry out business as a miraa exporter or importer without a registration certificate from the Authority.

Registration of
miraa exporters and
importers.

(2) A person who intends to carry out the business as a miraa exporter or importer shall apply to the Authority for registration in Form Mr18 set out in the First Schedule.

(3) The Authority shall, within seven days from the receipt of the application and at no fee, issue a certificate of registration to a successful applicant in Form Mr19 set out in the First Schedule.

(4) The Authority shall, within seven days from the receipt of the application, notify an unsuccessful applicant indicating the reasons for the rejection.

(5) Where the reasons for rejection have been addressed, the applicant whose application is rejected under paragraph (4) may resubmit the application for consideration.

(7) A person who contravenes paragraph (1) commits an offence and shall be upon conviction be liable to imprisonment for term not exceeding three years or a fine not exceeding five million shillings or both.

12. (1) A person shall not carry out business as a miraa exporter unless he has been issued with an export licence by the Authority.

Licensing of miraa
exporters.

(2) A miraa exporter who has been registered under regulation 11 shall apply to the Authority for a licence in Form Mr20 set out in the First Schedule.

(3) The Authority shall, within thirty days from the receipt of the application and upon payment of the fee set out in the Second Schedule, issue a licence to a successful applicant in Form Mr21 set out in the First Schedule.

(4) The Authority shall, within thirty days from the receipt of the application, notify an unsuccessful applicant indicating the reasons for the rejection.

(5) Where the reasons for rejection have been addressed, the applicant whose application is rejected under paragraph (4) may resubmit the application for consideration.

(6) Every miraa exporter shall submit quarterly returns to the Authority in Form Mr28 as set out in the First Schedule.

(7) A person who contravenes paragraph (1) commits an offence.

13. (1) A person shall not carry out business as a miraa importer unless he has been issued with an import licence by the Authority.

Licensing of miraa importers.

(2) A miraa importer who has been registered under regulation 11 shall apply to the Authority for a licence in Form Mr22 set out in the First Schedule.

(3) The Authority shall, within thirty days from the receipt of the application and upon payment of the fee set out in the Second Schedule, issue a licence to a successful applicant in Form Mr23 set out in the First Schedule.

(4) The Authority shall, within thirty days from the receipt of the application, notify an unsuccessful applicant indicating the reasons for the rejection.

(5) Where the reasons for rejection have been addressed, the applicant whose application is rejected under paragraph (4) may resubmit the application for consideration.

(6) Every miraa importer shall submit quarterly returns to the Authority in Form Mr28 as set out in the First Schedule.

(7) A person who contravenes paragraph (1) commits an offence.

14. (1) A miraa exporter shall not export miraa or miraa products unless he has a valid export permit issued by the Authority for each export consignment.

Issuance of miraa export permits.

(2) An exporter of miraa or miraa products shall apply to the Authority for an export permit for each export consignment in Form Mr24 set out in the First Schedule.

(3) The Authority shall within two days after receiving an application for an export permit, consider the application and upon satisfying itself the requirements have been met and payment of the prescribed fee in the Second Schedule issue an export permit in Form Mr25 set out in the First Schedule.

(4) The Authority shall not issue a permit if an exporter is in contravention of the provisions of the Act or these Regulations.

(5) An exporter who contravenes paragraph (1) commits an offence.

15. (1) A miraa importer shall not import miraa or miraa products unless the importer has a valid import permit issued by the Authority for each import consignment.

Issuance of miraa import permits.

(2) An importer of miraa or miraa products shall apply to the Authority for an import permit for each consignment in Form Mr26 as set out in the First Schedule.

(3) The Authority shall within two days after receipt of an application in 16 (2), consider the application and upon satisfying itself the requirements have been met and payment of the prescribed fee in the Second Schedule issue an import permit in Form Mr27 as set out in the First Schedule.

(4) The importation of miraa or miraa products shall be through designated port of entry by a licensed importer.

(5) The Authority shall not issue a permit if an importer is in contravention of the provisions of the Act or these Regulations.

(5) An importer who contravenes paragraph (1) commits an offence.

16. (1) The licensing authority may revoke or suspend a licence issued under these Regulations if—

Revocation or suspension of licences.

(a) the conditions of issuance of the licence are contravened; or

(b) the holder of the licence or an employee of the holder commits an offence under the Act or these Regulations.

(2) The licensing authority shall, before revoking or suspending a licence give the holder of the licence an opportunity to be heard and to make representations in that regard.

(3) Upon revocation under paragraph (1) the holder shall immediately surrender the licence to the licensing authority as the case maybe, and the licence shall cease to have effect forthwith.

17. A certificate of registration under these regulations shall be issued once but maybe revoked if the holder of the certificate does not apply or renew his licence for three consecutive years.

Revocation of certificates of registration.

18. (1) A registration certificate or licence issued under these Regulations shall not be transferable to another person.

Transferability of registration certificate or licence.

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

19. (1) Any licences issued under these Regulations shall remain in force until the thirtieth of June next following the date of issue unless earlier cancelled.

Renewal of licences.

(2) An application for renewal of a licence under these Regulations shall be made to the licensing authority not later than the first day of the month of June in which the current licence is due to expire.

(3) An application for a licence under these Regulations shall be accompanied by the appropriate fee set out in the Second Schedule.

PART III — PRODUCTION AND QUALITY ASSESSMENT OF MIRAA

20. (1) A commercial nursery operator shall—

Quality of planting materials.

(a) supply quality planting material in accordance with the Code of Practice; and

- (b) keep accurate records of distributed planting material and shall produce such records on demand for purposes of inspection.

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

21. In the case of irrigation in miraa production, the water used shall be as specified in the Code of Practice.

Irrigation water for production.

22. (1) Water used for postharvest handling of miraa shall be potable water.

Quality assurance for harvesting and postharvest handling of miraa.

(2) Any produce handling facility such as a pack house, store, collection centre, working area or designated point shall be kept free of waste material.

(3) The packaging for miraa shall be designed to suit the transport handling system and shall—

- (a) provide aeration to the produce so as to maintain optimum temperatures and humidity;
- (b) maintain produce integrity by protecting them from physical damage; and
- (c) protect the produce against contamination.

(4) Miraa shall not be stored or transported together with other produce which may contaminate it or otherwise adversely affect its quality.

(5) A vessel used for transportation of miraa shall be built and equipped to ensure maintenance of optimal temperatures and hygiene to prevent damage, contamination and spoilage of produce.

(6) Quality assurance for the handling, packaging, transportation harvesting and postharvest handling produce under this section shall be in accordance with the Code of Practice.

(7) A person who contravenes any provision of this section commits an offence.

23. (1) Every miraa dealer shall put in place and implement a traceability system.

Traceability.

(2) A miraa dealer shall—

- (a) be responsible for the safety of the miraa produce;
- (b) ensure that miraa is labelled at source;
- (c) miraa produce has a code indicating the country code, county code, farm name and location;
- (d) be able to identify the sources from whom he obtained miraa and the clients he has supplied;
- (e) dispose miraa which is considered unsafe for human health; and
- (f) recall unsafe miraa from sale or the distribution chain.

(3) A person who contravenes paragraph (2) commits an offence.

24. (1) The Authority shall, by notice in the Gazette, appoint inspectors to carry out inspections of miraa and miraa products.

Appointment of inspectors.

(2) A county government may nominate county inspectors for appointment by the Authority.

(3) A person qualifies to be appointed as an inspector under these Regulations if he possesses the following minimum qualifications—

- (a) a bachelors degree in agriculture or related field from a university or institution recognised in Kenya; or
- (b) a diploma in agriculture from an institution recognised in Kenya and two years' experience in agriculture extension service work; and
- (c) comply with the provisions of the Public Officer's Ethics Act and the Article 6 and 232 of the Constitution of Kenya

(4) The Authority shall train prospective inspectors before appointing them under paragraph (1).

(5) The Authority shall develop a training curriculum and offer regular trainings to the inspectors.

(6) A person who purports to carry out the functions of an inspector without having been duly appointed in accordance with these Regulations commits an offence.

25. An inspector shall —

Functions of an inspector.

- (a) monitor activities associated with miraa production, dealing, handling and processing;
- (b) regularly undertake surveillance and inspection to verify that growers and dealers of miraa and miraa products adhere to the Act and these regulation;.
- (c) carry out periodic auditing of adherence to food safety requirements; and
- (d) provide feedback to the industry players on non-conformity.

26. (1) Miraa and miraa products may be randomly sampled, tested and analysed by the Authority from time to time to verify conformity to the Code of Practice.

Compliance to standards

(2) The Authority shall, from time to time, inspect the field holding facilities, commercial transporters' vessels, pack houses and designated points to verify conformity to food safety and quality standards as prescribed in the Code of Practice.

(3) Any miraa or miraa product that does not conform to the code of practice shall be dealt with as follows—

- (a) non-compliant produce due to food safety reasons shall be seized, detained and destroyed at the cost of the offender;
- (b) miraa or miraa product presented using forged registration certificates, licences or permits shall be destroyed upon interception and the dealer suspended from operating for one year.

PART IV—GENERAL PROVISIONS

27. (1) There shall be a Miraa Pricing Formula Committee to determine the pricing formula of miraa and miraa products comprising of the following members appointed by the Cabinet Secretary—

The Miraa Pricing
Formula Committee.

- (a) one representative from the ministry responsible for matters relating to agriculture;
- (b) one representative from the ministry for the time being responsible for matters relating to trade;
- (c) one representatives from the Authority;
- (d) one County Executive Committee Member for agriculture nominated by the Council of Governors;
- (e) three representatives of growers nominated by the apex body of growers associations; and
- (f) two representatives of traders nominated by the apex body of traders associations.

(2) The members of the Committee shall, at its first meeting, elect the chairperson from the members appointed under paragraph (c) or (f) of paragraph (1) and set the procedures for conducting meetings of the Committee.

(3) The Committee shall consider the following parameters in formulating the miraa pricing formula —

- (a) the supply and demand forces;
- (b) the cost of production;
- (c) prevailing weather conditions; and
- (d) any other prevailing factors.

(4) The Authority shall provide secretariat services to the Committee.

(5) The Committee may whenever necessary co-opt experts to provide technical advice.

28. (1) The kilogram shall be the base unit of measurement of mass by reference to which any measurement of weight shall be made in Kenya for miraa and miraa products.

Units of
measurement.

(2) A single package of miraa or miraa products shall not exceed fifty kilogrammes.

(3) A dealer shall ensure that any weighing machine used by the dealer is well maintained and is in a serviceable condition at all times.

(4) A person who contravenes paragraph (2) or (3) commits an offence.

29. (1) There shall be a miraa levy on exported and imported miraa and miraa products.

Imposition of miraa
levy

(2) The levy charged shall be at a rate of ksh. 30 per kilogram of miraa and miraa products for export and ksh. 60 per kilogram of miraa and miraa products imported.

(3) Any levy imposed under this regulation which remains unpaid shall be recovered by the Authority as a civil debt due to it from the person by whom it is payable.

(4) A person who fails, neglects or otherwise refuses to pay or remit the regulatory levy on time as provided for under these regulations where directed by the Authority in writing, in addition to paying the regulatory levy shall have a sum equal to five per cent of the amount added to the amount due for each month or part thereof during which the amount due remains unpaid.

30. (1) The fees payable for licenses and permits issued under these Regulations shall be as set out in the Second Schedule.

Fees.

(2) Any charges on traded produce on transit shall be charged once at the point of exit in the County of origin and no other charge shall be instituted on the same consignment as it traverses across counties.

31. A person who commits an offence under these Regulations for which no penalty is prescribed shall, upon conviction, be liable to a fine not exceeding five hundred thousand shillings, or to a term of imprisonment for a period not exceeding one year or to both in accordance with section 37 of the Act.

General penalty.

FIRST SCHEDULE—FORMS

FORM Mr1	(r. 4(2))
County Government of.....	
Serial No. County code/Miraa/.....	
Application for a Miraa Commercial Nursery Operator Licence new []/renewal[]	
Name of Applicant :.....	
Address:.....	
Postal.....	
Email.....	
Telephone:	
Attach;	
(a) A copy of certificate of incorporation or Copies of IDs/Passports	
(b) KRA pin certificate	
(c) Copy of title deed / lease hold/ contract	
1. Nursery Location	
i) Sub-County Ward	
L.R No or Plot No	
I/We hereby certify that the above information is true and accurate to the best of my or our knowledge and belief.	
Signature: Date:	

FORM Mr2	(r. 4(3))
Miraa Commercial Nursery Operator's Licence	
County Government of.....	
Serial No. county code/Miraa/.....	
This is to certify that.....of postal address.....from Sub-county, ...ward, LR No. has been duly licensed to operate a commercial nursery.	
This licence is valid from.....to.....	
Terms and Conditions:	
A Commercial Nursery Operator shall -	
a) Propagate planting material from accredited source	

- b) Demonstrate the source of planting material
- c) Comply with the code of practice
- d) Maintain an up to date record of all sales.
- e) File annual returns to the County Government

ISSUED on this Day of20.....

NameSigned:

County Executive Committee Member (CECM)

Official Stamp.....

FORM Mr3	(r. 4(7))
Commercial Nursery Annual Returns	
Commercial Nursery Operator:	
Postal Address.....	
County.....	Sub-County.....
Ward.....	
Telephone:	
E-mail:	
Crop Year:	Period:
Variety/Clone.....	Balance brought forward.....
Quantity of planting material Available (No):	
Quantity sold during the period (No).....	
Prepared by:	Signature:
Designation:	Date:
Official Stamp	

FORM Mr4



(r. 5(2))

AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Application for Registration of Miraa Growers' Association

A – Particulars of Applicant

1. Name of applicant
2. Registration No.....
3. Address.....
4. Telephone No.....
5. CountySub-County Ward

B. Particulars of Members in the Association (attach list)

This shall include;

Name	ID	Tel. No.	Age	Sex	L.R.No	Ownership	Geolocation(XY)	Farmed area(Ha)	Farming system (Rainfed/Irrigated)	Crop	Variety	Certification

Date.....Signature.....

Applicant or it's duly authorized agent

I/We hereby certify that the above information is true and accurate to the best of my or our knowledge and belief.

Signature:Date:

FORM Mr5

(r. 5(3))



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Growers' Association Registration Certificate

Certificate No: County code/.....

Grower Association Registration No

This Certificate of registration is granted to of
P.O. Boxin.....
.....building/street WardSub-
CountyCounty in the Republic of Kenya.

ISSUED this Day of20.....

Signed.....

*Director General**Agriculture and Food Authority*

FORM Mr6

(r. 6(2))



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Application for Registration of Miraa Aggregator

Serial No: MPICD/MIRAA/.....

.....hereby applies for registration.

Ward.....Sub-County..... County.....

Physical location of the business premise.....Postal Address.....Telephone..... E-mail.....

Attach:-

- (a) A copy of certificate of incorporation or copies of IDs/Passports
- (b) KRA pin certificate

I/We hereby certify that the above information is true and accurate to the best of my or our knowledge and belief.

Signature:Date:

FORM Mr7

(r. 6(3))



AGRICULTURE AND FOOD AUTHORITY
MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Certificate of Registration of Miraa Aggregator

Certificate No

This Certificate of registration is granted to of

P.O. Boxinbuilding/street

..... WardSub-County

County in the Republic of Kenya.

ISSUED this Day of 20.....

Signed.....

Director General

Agriculture and Food Authority

FORM Mr8

(r. 6(6))

Application for Miraa Aggregator's Licence
new []/renewal[]

County Government

of.....

Name of Applicant: hereby applies for aggregator's
licence.

Address:

Postal

.....

Email.....

Telephone:

3. Physical location of the business premise: -

i) Sub-County

ii) Ward

Attach;

- i. A copy of registration certificate from the Authority
- ii. A copy of certificate of incorporation or copies of IDs/Passports
- iii. KRA pin certificate

I/We hereby certify that the above information is true and accurate to the best of my or
our knowledge and belief.

Signature:Date:

FORM Mr9	(r. 6(7))
<p>County Government of.....</p> <p style="text-align: center;">Miraa Aggregator's Licence</p> <p>Certificate No</p> <p>This is to certify that of postal address..... has been duly licensed as a Miraa Aggregator.</p> <p>This licence is valid from.....to.....</p> <p>Conditions:</p> <p style="padding-left: 40px;">An aggregator shall –</p> <p style="padding-left: 40px;">(a) File annual returns to the respective County Government.</p> <p style="padding-left: 40px;">(b) Comply with the Miraa (Khat) code of practice</p> <p>ISSUED this Day of20.....</p> <p>NameSigned:</p> <p>County Executive Committee Member (CECM)</p> <p>Official Stamp.....</p>	

FORM Mr10	(r.6(10))
<p>County Government of.....</p> <p>Licence Number.....</p> <p style="text-align: center;">Miraa Aggregator's Annual Returns</p> <p>Name.....</p> <p>Postal Address.....</p> <p>Physical Location.....</p> <p>Telephone.....</p>	

E-mail.....				
Financial Year				
Source				
Location (Sub-county)	Agent/Farmers	Quantity(kg)	Estimated Value	Agent (exporter)
Prepared by:Signature:Date: Official Stamp:				

FORM Mr11

(r. 7(2))



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHEUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Application for Registration of a Miraa Commercial Transporter

Name: hereby applies for registration as a miraa commercial transporter.

Address:

Postal Email

Telephone:

County.....Sub-CountyWard

TownBuilding/Street.....

Attach: -

- i. A copy of certificate of incorporation or copies of IDs/Passports
- ii. KRA pin certificate

I/We hereby certify that the above information is true and accurate to the best of my or our knowledge and belief.

Signature:Date:

FORM Mr12

(r. 7(3))



AGRICULTURE AND FOOD AUTHORITY
MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Certificate of Registration for a Commercial Transporter

Certificate No

This Certificate of registration is granted toof

P.O. Box inTown.....

building/street WardSub-County
.....County in the Republic of Kenya.

ISSUED this Day of20.....

Signed.....

Director General

Agriculture and Food Authority

Official Stamp

FORM Mr13

(r. 7(8))



AGRICULTURE AND FOOD AUTHORITY
MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Serial No. AFA/Miraa/...

Application for a Miraa Commercial Transporter's Licence

Name hereby applies for a licence as a miraa commercial transporter.

Postal address..... Email.....

Telephone..... Registration Certificate Number

1. Vehicle(s) registration number

2. Vehicle(s) Model/Type

Attach:-

- i. A copy of registration certificate from the Authority
- ii. A copy of logbook
- iii. Evidence for meeting requirements to transport miraa (Inspection report)

I/We hereby certify that the above information is true and accurate to the best of my or our knowledge and belief.

Signature: Date:

FORM Mr14

(r. 7(10))



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Miraa Commercial Transporters Licence

Licence No:

This Licence is granted to and authorizes
vehicle(s) reg. no.to transport miraa in the Republic of
Kenya.

This Licence is valid from.....to.....

ISSUED this Day of
.....20.....

Conditions:

A commercial transporter shall -

- a) Comply with the code of practice;
- b) Obtain and keep a receipt showing the source of produce, quantity and destination;
- c) Submit annual returns.

Signed.....

*Director General**Agriculture and Food Authority*

Official stamp

FORM Mr15				(r.7(14))	
Licence Number.....					
Miraa Commercial Transporter Quarterly Returns					
Name.....					
Postal Address.....					
Physical Location.....					
Telephone.....					
E-mail.....					
Financial					
Year					
.....Q1.....Q2.....Q3.....Q4.....					
Source				Destination	
Location (Sub-county)	Agent/Farmers	Quantity(kg)	Estimated Value	Agent (exporter, vendor)	Location
Prepared by:Signature:Date:					
Official Stamp:					

FORM Mr16	(r. 8(2))
The County Government of..... Application for a Miraa Vendor's Licence	
Applicant	
Postal address.....	Email.....
Telephone:.....Sub-County.....Ward.....town.....	
Street/building	
I hereby certify that the premise is within a designated point and that the above information is true and accurate to the best of my knowledge and belief.	
Signature:	Date:

FORM Mr17	(r. 8(4))
The County Government of..... Vendor's Licence	
Licence No.....	
This is certify that..... of postal address.....	
Telephone:.....Sub-county.....	
Ward.....town..... Street/building	
has been duly licensed to be a miraa vendor.	
This Licence is valid from.....to.....	
Conditions:	
A vendor shall -	
a) Sell at a designated point. b) Comply with the code of practice	
ISSUED this Day of 20.....	
Name Signed:	
County Executive Committee Member (CECM)	
Official Stamp	

FORM Mr18

(r. 11(2))



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Application for Registration of Miraa Exporter/ Importer

.....hereby applies for
registration as a miraa Exporter []/Importer [] (Tick as appropriately).

County.....Sub-County Ward.....Town.....

Street/building.....Postal Address..... Telephone

..... E-mail.....

Attach;

A copy of certificate of incorporation or copies of IDs/Passports

a copy of CR12

KRA Pin Certificate

I/We hereby certify that the above information is true and accurate to the best of my or
our knowledge and belief.

Signature:Date:

FORM Mr19

(r. 11(3))



AGRICULTURE AND FOOD AUTHORITY
MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Certificate of Registration for Miraa Exporter/ Importer

Certificate No

This Certificate of registration is granted to of

P.O. Box inbuilding/street

..... WardSub-CountyCounty in

the Republic of Kenya as miraa importer/exporter(delete as appropriate)

ISSUED this Day of20.....

Signed.....

Director General

Agriculture and Food Authority

FORM Mr20

(r. 12(1))



AGRICULTURE AND FOOD AUTHORITY
MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Application for Miraa Export Licence

.....hereby applies for Miraa
 Export Licence

County.....Sub-County.....Ward.....Town.....

Street/building.....Postal Address.....Telephone.....

E-mail.....Pack House Location.....

Attach:-

- i. A copy of certificate of incorporation or copy of IDs/Passport
- ii. Copy of CR12
- iii. A copy of registration certificate from the Authority
- iv. A copy of single business permit from the County Government
- v. A copy of tax compliance certificate

I/We hereby certify that the above information is true and accurate to the best of my or
 our knowledge and belief.

Signature:Date:

FORM Mr21

(r. 12(2))



AGRICULTURE AND FOOD AUTHORITY
MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE
Miraa Export Licence

License No.

This Licence is granted to of P.O. Box
..... inCounty
..... Sub-County.....WardTown.....Street/Building.....

This licence is valid from.....to.....

Conditions:

An exporter shall -

- a) Maintain a record of all exports i.e. volumes, destination.
- b) Submit quarterly returns to the Authority.

ISSUED this Day of20.....

Signed.....

Director General

Agriculture and Food Authority

FORM Mr22

(r.13(1))



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Application for Miraa Import Licence

Personal Information

.....hereby applies for Miraa Import Licence.

County.....Sub-County.....Ward.....Town.....

Street/building.....Postal Address.....Telephone

.....E-mail.....

Attach:-

- i. A copy of certificate of incorporation or copy of IDs/Passport
- ii. A copy of CR12
- iii. A copy of registration certificate from the Authority
- iv. A copy of single business permit from the County Government
- v. A copy of tax compliance certificate

I/We hereby certify that the above information is true and accurate to the best of my or our knowledge and belief.

Signature:Date:

FORM Mr23

(r. 13(2))



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Miraa Import Licence

License No.

This Licence is granted to of P.O. Box
 inCounty
 Sub-County.....

WardTown.....Street/Building.....

This licence is valid from.....to.....

Conditions:

An importer shall -

- a) Maintain a record of all imports i.e. volumes, source.
- b) Submit quarterly returns to the Authority.

ISSUED this Day of20.....

Signed.....

*Director General**Agriculture and Food Authority*

FORMMr24

r.15(2)



AGRICULTURE AND FOOD AUTHORITY
MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Application for Miraa Export Permit

License No.:

Applicants Details

Name of exporter

AddressTelephone No

Email Address

Destination

Country of Origin.....

Country of Destination Shipment Date

Vessel

Consignor.....

Consignee

Notify address.....

Consignment Details

Product	Quantity (Kg)	FOB Value (USD)	Total Value (USD)

Attach:

i. Commercial invoice

ii. Import permit

I/ We hereby certify that the information which I/we have given above is true and accurate to the best of my/our/our knowledge and belief.

Date.....
Authorized signature Stamp of Exporter
FOR OFFICIAL USE Authentication by Agriculture and Food Authority Date..... Signature and Stamp.....

FORM Mr25

(r.15(3))



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Miraa Export Permit

License No

This Permit is granted toof
 P.O. Boxand authorizes the company on this day of
 To export;

Consignment Details

Product	Quantity (Kg)	FOB Value (USD)	Total Value (USD)

Country of Destination

Country of Origin

Date of Shipment	Vessel
Consignee.....	
Consigner.....	
Notify Address.....	
<i>This Permit is valid for two days from the date of issuance.</i>	
Signed.....	
<i>Director General – Agriculture and Food Authority</i>	

FORM Mr26

r.16(2)



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Application for Miraa Import Permit

License No.:

Applicants Details

Name of importer

AddressTelephone No

Email Address

Destination

Country of Origin.....Shipment Date

Vessel

Consignor.....

Consignee

Product	Quantity (Kg)

Attach;

- a) Phytosanitary certificate from the country of origin
- b) Certificate of origin;
- c) Commercial invoice
- d) Import licence

I/ We hereby certify that the information which I/we have given above is true and accurate to the best of my/our/our knowledge and belief.

Date.....

Authorized signature Stamp of Importer

FOR OFFICIAL USE

Authentication by

Agriculture and Food Authority

Date.....

Signature and Stamp

FORM Mr27

(r.16 (3))



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Miraa Import Permit

License No

This Permit is granted to
 of P.O. Boxand authorizes the company on this day of
 to import;

Consignment Details

Product	Quantity (Kg)	FOB Value (USD)	Total Value (USD)

Country of Origin

Date of ShipmentVessel

Consignee.....

Consigner.....

This Permit is valid for two days from the date of issuance.

Signed.....

*Director General**Agriculture and Food Authority*

FORMMr28

r.17



AGRICULTURE AND FOOD AUTHORITY

MIRAA, PYRETHRUM AND OTHER INDUSTRIAL CROPS DIRECTORATE

Licence Number.....

Exporter/Importer Quarterly Returns

Name of exporter/importer:

Postal

Address.....

Physical Location.

Telephone. E-mail.....

Year Quarter Reporting Date

Export returns

Quarter	Quantity (kg)	Value (KSh)	Destination
1			
2			
3			
4			
Total			

Import returns

Quarter	Quantity (kg)	Value (KSh)	Origin
1			
2			
3			
4			
Total			

Name:
Signature: Date:
Official Stamp:

SECOND SCHEDULE--FEES

NO.	CATEGORY	NEW APPLICATIONS (Kshs).	RENEWAL FEES (Kshs).
1.	Commercial Transporter	5,000-<500 kilograms 7,500-500-1000 kilograms 10,000->1000kilograms	5,000-<500 kilograms 7,500-500-1000 kilograms 10,000->1000kilograms
2.	Exporter licence	20,000	10,000
3.	Importers licence	50,000	30,000
4.	Export permit	4000	-
5.	Import permit	6000	-
6.	Export Levy	30 per Kilogram	-
7.	Import Levy	60 per Kilogram	-

Made on the 7th June, 2022.

PETER MUNYA,
Cabinet Secretary for Agriculture,
Livestock, Fisheries and Co-operatives.

LEGAL NOTICE NO. 102

THE CROPS ACT

(No. 16 of 2013)

IN EXERCISE of the powers conferred by section 40 of the Crops Act, 2013, the Cabinet Secretary for Agriculture, Livestock, Fisheries and Co-operatives in consultation with the Authority and the County Governments, makes the following Regulations—

THE CROPS (COFFEE) (GENERAL) (AMENDMENT)
REGULATIONS, 2022

1. These Regulations may be cited as the Crops (Coffee) (General) (Amendment) Regulations, 2022. Citation.
2. The Crops (Coffee) (General) Regulations, 2019, herein referred to as the principal Regulations are amended in regulation 2— L.N. 102/2019.
 - (a) by deleting the definition of “auction” and substituting therefor the following new definition—

“auction” means a physical place or electronic system where potential buyers competitively bid for coffee;

- (b) by deleting the definition of the term “agent”;
- (c) by deleting the definition of the term “broker”;
- (d) by deleting the definition of the term “exchange”;
- (e) by deleting the word “exchange” and substituting therefor the word “auction” in the definition of the term “buyer”;
- (f) by inserting the words “operating coffee house” immediately after the word “roasting” in the definition of the term “coffee business”;
- (g) by deleting the word “exchange” wherever it appears and substituting therefor the word “auction” in the definition of the term “sweepings”;
- (h) by deleting the word “exchange” and substituting therefor the word “auction” in the definition of the term “trading floor”;
- (i) by deleting the definition of the term “direct settlement” and substituting therefor the following new definition—

“direct settlement system” means a receipts and disbursements facility provided by a commercial bank regulated as such under the Central Bank Act for the receipt from buyers of all proceeds from the purchase of coffee and from which all claims on the coffee so purchased, including payments to growers, grower millers, grower marketers, miller-marketers, warehousemen, warehouses, Nairobi Coffee Auction and financial obligations will be directly settled;

- (j) by deleting the definition of the term “sales catalogue” and substituting therefor the following new definition—

“sales catalogue” means a standard document prepared by a miller-marketer or a grower marketer in consultation with the auction organizer for sale of clean coffee at the auction;

- (k) by inserting the following new definitions in proper alphabetical sequence—

“auction organizer” means a person, company or firm established for the purpose of organizing coffee auctions in Kenya and is licensed by the Authority;

“cherry” means “the ripe fruit of the coffee tree”;

“buni” means dried coffee in the fruit but does not include hulled dried fruit;

“compliance certificate” mean a certificate issued by the Authority to ascertain compliance with quality standards;

“grower marketer” means a grower licensed by the Authority to market his or its own clean coffee;

“grower miller” means a grower who mills own parchment or buni or its members’ coffee and includes cooperative societies, association, estate or any other grower legal entity issued by the respective county government;

“importer” means a person licensed by the Authority to import value added coffee;

“management agent” means any person licensed by the Authority, and appointed through a specific agreement by a grower or a smallholder for the management of such coffee farm or pulping station;

“miller-marketer” means a person whose mill is approved by respective county governments and is licensed by the Authority and appointed by the grower to undertake the milling and marketing of the grower’s coffee”; and

“value added coffee” means coffee that is roasted and packaged and includes instant coffee.

3. Regulation 4 of the principal Regulations is amended in sub regulation (2) by—

- (a) inserting the words “auction organiser and miller marketer” immediately after the word “liqueureurs” in paragraph (a);
- (b) deleting paragraph (d) and substituting therefor the following new paragraph—
 - (d) develop, oversee and enforce as the case may be, the national regulations, coffee industry standards, industry code of practice and other quality standards in the coffee industry in collaboration with the national body for the time being responsible for standards;
- (c) by inserting the following paragraph immediately after paragraph (j)—
 - (ja) undertake inspection and surveillance of industry players;
- (d) deleting paragraph (k).

4. Regulation 5 of the principal Regulations is amended in sub regulation (2) by deleting the word “milling” appearing in paragraph (c) and substituting therefor the words “grower miller”.

5. Regulation 7 of the principal Regulations is amended by—

- (a) deleting sub regulation (5) and substituting therefor the following new sub regulation—
 - (5) The Authority shall register all coffee warehousemen, warehouses, coffee miller-marketer, grower marketer, grower miller, auction organizer, coffee buyers,

coffee bags suppliers, roasters, importers, and certification companies, maintain an up-to-date register and share the register with respective county governments.

- (b) inserting the following new sub regulations immediately after sub regulation (7)—

(8) The management committees of a coffee co-operative and grower associations shall serve for a period of five-year term renewal once.

(9) In electing management committee members under this section, a cooperative society or an association shall ensure that not more than two thirds of the members are of one gender.

(10) In electing management committee members under this section, nominees for the board shall meet the requirements of Chapter Six of the Constitution.

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

Provided single factories seeking registration as cooperative societies shall demonstrate an average coffee production of 500,000 kgs for the immediate preceding three years.

(12) The County Government, in consultation with the Authority, shall issue a distinguishing mark and a grower code.

(13) No estate, association, company or a co-operative society offering coffee for sale or export shall use any distinguishing mark and grower code to market and identify such coffee unless the mark is registered by the county government in consultation with the Authority.

6. Regulation 10 of the principal Regulation is amended —

- (a) in sub regulation (1) by deleting paragraph (d);

- (b) in sub regulation (2) by—

(i) deleting paragraph (a);

(ii) deleting the word "exchange" and substituting therefor the word "auction" in paragraph (c);

- (iii) by inserting the following new paragraphs immediately after paragraph (e)—

(f) grower marketer licence in Form C3.2 set out in the First Schedule authorizing the grower to market own coffee;

(g) auction organizer licence in Form G8 set out in

the First Schedule authorizing the conduct of coffee auctions;

(h) miller- marketer licence in Form C4 set out in the First Schedule authorizing the holder to conduct the business of milling and marketing coffee at a fee;

- (c) by inserting the following new sub regulation immediately after sub regulation (2)—

(2A) The Authority shall seek the approval of county governments before issuing miller-marketer licenses.

Provided such approval is accorded to miller applicants within thirty calendar days upon application.

7. Regulation 11 of the principal Regulations is amended by—

- (a) deleting sub regulation (1) and substituting therefor the following new sub regulation—

(1) A holder of a coffee buyer's licence or any other entity associated with such holder shall not be licensed as a miller-marketer, roaster or warehouseman.

- (b) deleting sub regulation (4) and substituting therefor the following new sub regulation—

(4) Licences issued by the licensing authority shall run from 1st October to 30th September of every year and application for renewal of a licence shall be made to the Authority not later than the 1st day of the month of September in which the current licence is to expire".

8. Regulation 19 of the principal Regulations is amended—

- (a) in sub regulation (6) by deleting the word "exchange" and substituting therefor the word "auction";
- (b) in sub regulation (7) by deleting the word "exchange" and substituting therefor the word "auction".

9. Regulation 20 of the principal Regulations is amended by deleting sub regulation (1) and substituting therefor the following new sub regulation—

(1) The Kenya Agricultural and Livestock Organization may validate coffee research findings from other accredited research institutions.

10. Regulation 22 of the principal Regulations is amended—

- (a) by deleting sub regulation (1) and substituting the following new sub regulation—

(1) Every coffee society shall, by resolution of its management meeting, competitively procure services of a licensed miller-marketer for the milling parchment and buni coffee and the marketing of clean coffee, or as the case may be.

- (b) by inserting the following new sub regulations immediately after sub regulation (1)—

(1A) The management of every society shall, within two months of the end of the crop year, convene a meeting of its members to ratify the miller-marketer procured under sub regulation (1).

(1B) The County Executive Committee Member responsible for cooperatives shall attend or designate a representative to attend the meeting referred to in sub regulation (1A).

(1C) Every registered miller participating in the meeting under sub regulation (1A) shall disclose all charges and fees that may be incurred in the milling process to enable growers make an informed decision.

(1D) Every resolution made under this regulation with regards to the procurement of a miller-marketer, shall within fourteen days of the meeting, be filed with the Authority and copied to the respective County Government.

- (c) by deleting sub regulation (2) and substituting the following new sub regulation—

(2) A miller-marketers licensed under these Regulations shall charge up to one per centum (1%) of the value of the coffee sold as marketing commission.

- (d) by inserting the following new sub regulation immediately after sub regulation (2)—

(2A) The milling losses allowable under this clause may be capped at nineteen percent of parchment coffee milled.

(2B) The cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) shall not exceed Ksh 4,000.00 per ton of coffee delivered.

- (e) in sub regulation (13) by deleting the word "exchange" and substituting therefor the word "auction organiser".

11. Regulation 23 of the principal Regulations is amended—

- (a) in sub regulation (1) by deleting the word "exchange" and substituting therefor the word "auction".

- (b) by inserting the following new sub regulations immediately after sub regulation (1) —

(1A) A coffee miller-marketer shall be prohibited from offering a grower financial support.

(1B) The Coffee Auction shall be managed by an auction organiser who shall be licensed by the Authority.

- (c) in sub regulation (2) by deleting the word "exchange" and substituting therefor the word "auction".

- (d) by deleting sub regulation (3) and substituting therefor the following new sub regulation—

(3) A buyer, roaster, a miller-marketer, grower marketer licensed by the relevant licensing authority, may trade at the auction in accordance with these Regulations and any other laws that may govern the auction.

(e) by inserting the following new sub regulations immediately after sub regulation (4)—

(5) It shall be an offence for a holder of a miller-marketing licence to participate by himself or by his agent in the buying of coffee.

(6) Parallel directorships and cross ownership of shares in miller-marketers and coffee buying companies is prohibited.

(7) The auction organizer shall establish an auction system for the conduct of auctions for Kenya Coffee and such system may facilitate trading in coffees from the region”

(8) An auction organizer shall fulfil requirements under the Second Schedule under these Regulations.

12. Regulation 24 of the principal Regulations is amended by inserting the following new regulations immediately after sub regulation (2)—

(2A) Direct coffee sales shall be subject to price competition at an auction whereby the Direct sales price shall serve as a reserve price.

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

Provided that if the prospective direct sales buyer refuses to buy the coffee at the Coffee auction price, the coffee shall be sold to highest bidder above the reserve price at the auction.

13. The principal Regulation are amended by deleting regulation 25 and substituting therefor the following new regulation—

Management of the
auction.

25. (1) The auction organizer shall manage the auction floor, central sample room, information registry and the direct settlement system, maintain records relating to coffee sales, coffee samples and sweepings, and avail sales catalogues to interested parties.

(2) The proceeds of the sale of coffee by the auction shall, be deposited in a direct settlement system established in accordance with the laws that govern the auction.

(3) The grower or the grower's authorized representatives, shall after the commencement of these Regulations, supply through the auction all the necessary particulars of the grower to the commercial

banks providing the direct settlement system to the grower, for purposes of initiating the settlement system

(4) The grower or the grower's authorized representatives shall through the auction organiser, lodge with the commercial banks providing the direct settlement system, any relevant contracts of service for which payment will be due from the grower, and any other document showing outstanding liabilities payable by the grower, for purposes of settlement through the system.

(5) The particulars supplied shall take the format prescribed by Form P set out in the First Schedule.

(6) The grower or the grower's authorized representatives and the auction organizer shall ensure that the information provided under sub-regulations (3) and (4) herein above is correct and relevant and they shall be liable for any loss or other consequences resulting from any incorrect information given to appointed commercial banks providing the settlement system.

(7) The Direct Settlement System provider shall remit coffee sales proceeds to the coffee growers and settle service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of coffee.

(8) All payments to growers for coffee sold and for services rendered for such coffee whether by miller-marketers, warehousemen, auction organizers, coffee societies and factories shall be paid into their individual accounts from the direct settlement system.

(9) The trading of coffee at the auction shall be in accordance with these Regulations and any other laws that may govern the exchange and shall comprise the following—

- (a) a miller shall deposit clean and graded coffee at a designated licensed warehouse, and where the clean coffee is a bulk, the miller shall provide details of the bulk and the proportions of the respective growers' coffee;
- (b) coffee shall meet the Kenya coffee quality standards for commodity trading at the exchange;
- (c) the warehouseman shall issue a coffee warrant in the form set out in the Eighth

Schedule or transferable warehouse receipts as the case may be, stating the quantity and quality of the coffee deposited and ensure traceability of the coffee;

- (d) for purposes of sale, the grower miller or appointed broker shall input the details of the coffee warrant or warehouse receipt as the case may be, into the central registry of the exchange;
- (e) the warehouseman shall guarantee delivery of the coffee described in the coffee warrant or warehouse receipt as the case may be, and in the event of loss or failure of delivery, the warehouseman shall be liable;
- (f) the warehouseman or an appointed collateral manager shall confirm that the warehouse receipt or coffee warrant as the case may be, is valid by inspecting and auditing coffee in the warehouse;
- (g) upon verification, details in the information registry shall be confirmed into the central order book ready for trading;
- (h) the auction organizer in consultation with grower marketers or appointed miller marketers shall set the volumes, lot sizes, dates and times for holding of coffee auctions and determine the order of the sales catalogues for every sale and ensure that reasonable access to the auction is given to all persons licensed to trade;
- (i) the grower shall, either directly or in consultation with the miller marketer, set the reserve price for the coffee for every sale taking into account the quality of the coffee, the prevailing auction prices and the international production and market trends;
- (j) where a bid for coffee at the auction has not been confirmed, the grower miller or miller marketer shall disclose the reserve price at the trading floor and where the disclosure of the reserve price does not attract any competitive offers, the coffee shall be withdrawn and re-offered for sale at a subsequent auction;

- (k) all trading in coffee at the auction shall be concluded at the trading floor of the auction;
- (l) once auction is complete, successful bidders shall be invoiced by the grower miller or miller marketer and payments of the proceeds shall be effected to the grower through direct settlement system net of contract and statutory charges;
- (m) upon confirmation of payment by the direct settlement system and endorsement by the auction organizer, title to coffee shall be transferred to the buyer or roaster by changing ownership details in the coffee warrant or warehouse receipt, as the case may be, at the central registry;
- (n) the new owners will thereafter be at liberty to take delivery of the coffee; and
- (o) a coffee warrant or warehouse receipt as the case may be, issued by the warehouseman 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 warehouse receipt endorsed by the auction organizer to the warehouseman.

(10) Payments to factories or societies from the direct settlement system for operations and maintenance shall be five per centum of the value of coffee sold net of the milling, warehousing and marketing costs.

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

(12) The obligations of the auction and the direct settlement system provider shall be as set out in the coffee trading rules and these Regulations.

(13) A commercial bank which express an interest towards establishment of a direct settlement system shall fulfil requirements stipulated under the Second under these Regulations.

(14) The auction organizer shall enter into service agreements with commercial banks which qualify and are appointed to offer the services of direct settlement system services for the coffee subsector.

(15) A commercial bank appointed to offer direct settlement services shall submit returns to the auction organizer.

(16) A person who contravenes this regulation commits an offence.

14. Regulation 26 is amended by deleting sub regulation (1) and substituting therefor the following new sub regulation—

(1) A grower marketer or a miller-marketer in consultation with the auction organizer shall prepare a sales catalogue for all the coffee in a licensed warehouse in accordance to the coffee trading rules and these Regulations.

15. Regulation 32 of the principal Regulations is amended—

- (a) in sub regulation (2) by deleting the word “may” and substituting therefor the term “shall”;
- (b) in sub regulation (4) by inserting the word “independent” immediately after the word “offer”;
- (c) in sub regulation (8) by inserting the word “independent” immediately after the word “cupping”;
- (d) in sub regulation (9) by deleting the word “exchanges” and substituting therefor the word “auctions”.

16. Regulation 33 of the principal Regulation is amended—

- (a) in sub regulation (1) by inserting the words “miller-marketer”, grower-miller” and “ grower-marketer”;
- (b) in sub regulation (3) by inserting the words “food science and technology” after the word “engineering” appearing in paragraph (a).

17. Regulation 34 of the principal Regulations is amended by deleting the word “miller” and substituting therefor the words “miller-marketer”, grower-miller” and “ grower-marketer”.

18. Regulation 37 of the principal Regulations is amended by deleting the word “miller” and substituting therefor the words “miller-marketer”, grower-miller” and “ grower-marketer”.

19. The principal Regulations are amended by inserting the following new regulations immediately after regulation 38—

Society loans.

38A. The interest rate on borrowing against growers’ assets held in trust by the growers’ coffee co-operative societies such as assets, land, machinery, equipment, shall be capped at five per cent per annum.

No society shall contract any loans or advances under subsection (a) except with the support of a resolution passed by a majority of the members to that effect.

Any society that violates the provisions subsection (a) commits an offence and any loans borrowed in breach of this provision shall be statutorily converted.

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

The trusteeship responsibility by the management committee of a coffee cooperative society is a Fiduciary duty of position of trust and directors shall have held liable for any directors. Waste and loss arising from negligence and breach of trust.

Coffee buyers
Performance Bond

38B. The Authority shall demand a performance bond from a coffee buyer who demonstrates a level of risk in buyer's operations including; sample purchases, payments against coffee purchases and settlement of trade obligations"

Provided the value of such performance bond shall be commensurate to the level of risk demonstrated by a coffee buyer.

20. Regulation 46 of the principal Regulations is amended by inserting the following new paragraph immediately after paragraph (b)—

- (c) notwithstanding the provisions of regulation 46 (a) and (b) all marketing agent licenses existing as at 30th June 2021 shall remain valid until a direct settlement system is established for the processing of coffee sales proceeds and other ancillary services;
- (d) companies that may require internal reorganization to comply with the provisions of these regulations shall be given a transitional period not exceeding twelve months from the effective date of these regulations;
- (e) existing licenses shall, upon the commencement of these Regulations, remain in force until the term of expiry.

21. The First Schedule to principal Regulations is amended—

- (a) in Form A2 by deleting the words "Kenya Agriculture, Livestock Research Organization" appearing in paragraph 3 of the terms and conditions and substituting therefor the words "an accredited research organization".
- (b) in Form C2 by deleting the heading "The County Government of.. Application for a Commercial Coffee Milling Licence" and substituting therefor the following new title—

THE AGRICULTURE AND FOOD AUTHORITY

APPLICATION FOR MILLER MARKETER LICENCE

- (c) in Form C3 by deleting the heading "County Government of.." and substituting therefor the following new heading "The Agriculture and Food Authority".
- (d) by deleting Form C4 and substituting therefor the following new Form—

(r.10(2)(a))

AGRICULTURE AND FOOD AUTHORITY

FORM C4

MILLER MARKETER LICENCE

Name

License No. Authority's Code.....

Valid from.....to.....

Postal Address.....Postal Code.....

EmailMobile number.....

County.....Sub-county

Ward.....Village/Road.....

L.R.No/Plot.....

Is/are hereby authorized to operate a milling plant as a commercial miller at.....to mill coffee and prepare such coffee for sale.

Issued by:

CEC or Authorized Officer

Designation

Signature..... Date

For: County Government

Subject to Terms and Conditions:

1. A miller marketing licence holder shall submit their milling returns to the Authority and County government on a monthly basis.
2. The miller marketing licence holder shall comply with the Coffee Industry Code of Practice and Standards.
3. The miller marketing licence holder shall allow free access to the premises by the inspectors authorized by the Authority and county government.
4. The county government may vary, suspend or revoke the milling license issued if the holder fails to abide with the terms and conditions of the license.
5. The miller marketing licence holder shall provide to the Authority and county government the milling tariffs for the purpose of publication a month before the commencement of the coffee year.
6. The miller marketing licence shall not be transferable.

(e) by deleting Form C6 and substituting therefor the following new Form —

(r.22(10))

Coffee year Month.....

Stamp

- (f) in Form D1 by deleting the word "exchange" and substituting therefor the word "auction".
- (g) deleting Form D2 and substituting therefor the following new Form—

FORM D2

(r.10(2)(e))

AGRICULTURE AND FOOD AUTHORITY

COFFEE BUYER'S LICENCE

Name of Buyer.....

Licence No. Buyer's Code.....

Valid from.....to.....

Postal Address:Postal Code.....

EmailMobile number.....

County.....Sub County.....

Ward.....Street/road

L.R.No./Plot No.....

Is hereby authorized to buy clean coffee only at the auction for export or local sale or value addition or to import clean coffee for secondary processing in Kenya (*tick as appropriate*).

Issued by:

Signature..... Date

Director of Coffee Directorate

Agriculture and Food Authority

Subject to Terms and Conditions:

1. A licensed buyer shall submit their trading returns to the Authority on a monthly basis.
2. The licensed buyer shall comply with the Coffee Industry Code of Practice and Standards.
3. The licensed buyer shall allow free access to the premises by the inspectors authorized by the Authority.
4. The Authority may vary, suspend or revoke the coffee buyer's licence issued if the holder fails to abide with the terms and conditions of the licence.

5. The coffee buyer's licence shall not include authority to engage in direct sale.
6. The coffee buyer's licence shall not be transferable.
 - (h) by deleting Form G7 and substituting therefor the following new Form—
 - (i) by deleting Form G8 and substituting therefor the following new Form—
 - (j) by deleting Form H1 and substituting therefor the following new Form—

AGRICULTURE AND FOOD AUTHORITY
APPLICATION FOR REGISTRATION OF DEALERS

FORM H1:

1. Name of Dealer (company)-----
2. Principal Office -----
 Postal Address.....Postal Code..... Building.....
 Street.....Town/ City.....L.R. No.....
 Email.....Mobile Number.....
3. Specify type of dealership/Service

Category	Tick as appropriate
Warehousemen	
Roaster	
Import Permit	
Buyer	
Independent Cupping services	
Miller marketer	
Grower Miller	
Grower Marketer	

4. Directors of dealership

NO	NAME	ID NO/PASSPORT NUMBER
1.		
2.		
3.		
4.		

5. Declare professional skills of persons engaged (attach profiles)
 (warehouseman, liquorer, agronomist, engineer, if other professional specify)

6. Brief Company profile
7. Application for Registration by

Name

Signature

Stamp

8. Director, Coffee Directorate

Name -----

Signature -----

Stamp -----

(k) by deleting Form H2 and substituting therefor the following new Form

FIRST SCHEDULE

AGRICULTURE AND FOOD AUTHORITY

FORM H2:

DEALER REGISTRATION CERTIFICATE

Name of Dealer.....

Type of Dealership.....

Location of Dealership: City/Town..... L/R No-----

Street.....

The dealer is here registered for conducting the business of-----at
 (location)----- on -----
 (Date)

The registration is made under an application by -----
 -----being the Director of the company.

Signed

Director, Coffee Directorate

Stamp

THIS IS NOT A LICENCE FOR CONDUCTING BUSINESS

Terms and conditions

1. The registration is not transferable
2. Annual returns shall be submitted to the Authority and the respective county government

3. Continuous updates of the directorship and other registration details shall be submitted
4. The Dealer shall comply with all national and international coffee standards and other regulatory requirements in the crops Act, the coffee regulations, the trading regulations and other statutory requirements such as NEMA.
5. Any other terms introduced by the Authority
 - (l) by deleting Form L;
 - (m) by inserting the following new forms in proper sequence—

FORM C3.1

AGRICULTURE AND FOOD AUTHORITY

GROWER MARKETER LICENCE APPLICATION

1. Name of Farmer/Proprietor
2. Grower Code (PSL)..... Validity of Licence
3. Postal Address.....Postal Code.....
EmailMobile number.....
4. Location :
County.....Sub-county.....
Ward.....Village/Road.....L.R.No./Plot.....
5. Coffee Acreage

VARIETY	Acreage	Number of Mature Trees	Number of Young Trees
Ruiru 11			
Batian			
Traditional Variety			

6. Coffee production for Three Years

YEAR	PARCHMENT (kg)	BUNI(Kg)

7. The Information given is the to true to the best of my knowledge

Name of Applicant
 ID/NO.....
 Date of Application
 Stamp.....

FORM C3.2

AGRICULTURE AND FOOD AUTHORITY

GROWER MARKETER LICENCE

Name
 License No. Authority's Code.....
 Valid from.....to.....
 Postal Address.....Postal Code.....
 EmailMobile number.....
 County.....Sub-county
 Ward.....Village/Road.....L.R.No./Plot.....
 Is/are hereby authorized to undertake the business of a grower marketer at
 Issued By:

Director, Coffee Directorate

Signature..... Date.....

Stamp:

Subject to Terms and Conditions:

1. A licence holder shall submit their marketing returns to the Authority and the respective county government on a monthly basis.
2. The licence holder shall comply with the Coffee Industry Code of Practice and Standards.
3. The licence holder shall allow free access to the premises by the inspectors authorized by the respective licensing authority.
4. The Authority may vary, suspend or revoke the license issued if the holder fails to abide with the terms and conditions of the licence.
5. The licence shall not be transferable.

FORM G7

AGRICULTURE AND FOOD AUTHORITY

COFFEE DIRECTORATE

r(8)

APPLICATION FOR REGISTRATION/LICENCE RENEWAL OF AUCTION
ORGANIZER

1. Name of applicant.....
2. Certificate of incorporation..... (Attach copy)
3. Copies of Memorandum and Articles of Association.....(Attach copy)
4. Names and Particulars of Directors and Form CR 12 (attach details).....
5. Tax Compliance Certificate (Attach copy).....
6. Address.....
7. Contact Information
 - a) Telephone number
 - b) E-mail address.....
8. Contact Person.....
9. L.R. No. /Nos.
10. Nature of business.....
11. Specify services to be provided.....

Date applied.....

Signature of applicant

Terms and Conditions

1. An applicant shall furnish the Authority with the protocols governing the operations of the Auction in a form satisfactory to the Authority.
2. The protocols shall restrict the applicant to the business of operating a coffee auction and related services.
3. The protocols shall contain the applicable fees and charges for membership and

for services rendered by and between members

4. The protocols shall contain guidelines for disclosure of the daily trading report of the auction.
5. Satisfy the Authority on the applicant financial capacity, functional expertise and infrastructure to undertake coffee auctioning in the Republic of Kenya.
6. Have in its employments sufficient number of persons with adequate, professional and other relevant competencies and experience.
7. An applicant shall digitize and automate the coffee Auction system for efficient services delivery and information dissemination.

FORM G8

AGRICULTURE AND FOOD AUTHORITY

r10(2)(f)

LICENCE OF AUCTION ORGANISER

Name.....

License No.

Authority's Code.....

Valid from.....to.....

Postal Address.....Postal
Code.....

Email

Mobile number.....

County.....

City

Road.....

Name of Building

L.R.No./Plot.....

Is/are hereby authorized to undertake the business of an auction organizer

Issued by:

Director, Coffee Directorate

Signature.....

Date.....

Stamp:

Subject to Terms and Conditions:

1. An auction organizer shall submit their auctioning returns to the Authority on weekly and monthly basis.
2. An auction organizer shall comply with the Coffee Industry Code of Practice and Standards.
3. An auction organizer shall allow free access to the premises by the inspectors authorized by the Authority.
4. The Authority may vary, suspend or revoke the license issued if the holder fails to abide with the terms and conditions of the licence.
5. The licence shall not be transferable.

FORM P

COUNTY GOVERNMENT OF -----

r25(5)

**COFFEE GROWERS NOTIFICATION OF DETAILS TOWARDS FACILITATION
OF REMISSION OF COFFEE SALES PROCEEDS THROUGH DIRECT
SETTLEMENT SYSTEM**

1. Name of the grower.....
2. Grower Code..... Address..... ZIP Code.....
3. Category of grower (Tick as appropriate)
Cooperative [] Association [] Estate [] Other []
specify.....
4. Location of Grower: County.....
5. Sub-County..... Ward.....
Village/Road..... E-mail.....
Mobile Number:
6. The following are Officials/Signatories to the Grower account and shall transact for the grower

Name of Official/Owner/Agent	ID NO	Signature
a)
b)
c)
d)

(Attach copies of IDs, minutes electing the committee, introduction letter
by the County Commissioner Cooperatives)

7. Details of Bank Account

Name of Bank/Financial Institutions

Branch.....

Account Number

Contact of Bank (if any)

8. Details of service contracts and loan obligations to which payments are due

a) Name of Service contract(s)

b) The following are the outstanding liabilities payable by the grower to service providers through the Direct Settlement System and the supporting documents:
.....

(Attach additional documents)

c) Other (specify).....

Attach list if space is not adequate)

9. Prepared by –

a) Name of Authorized person:

b) Signature

c) Position at Grower institution/Estate

d) Mobile Number.....

e) National ID/No.....

(Attach Copy of ID)

f) Date

g) Stamp.....

22. The Second Schedule to principal Regulations is amended in Part F on requirements of a coffee buyers licence by—

(a) deleting paragraph 5;

(b) deleting paragraph 7 and substituting therefor the following new paragraph—

7. Access to an authorized cupping laboratory.

(c) deleting paragraph 8.

23. The Third Schedule to principal Regulations is amended—

(a) in Part C by deleting the words “the grower miller or appointed agent or broker” appearing in paragraph 1 and substituting therefor the following

words "the coffee miller-marketer, a grower miller, a grower marketer or appointed agent".

(b) by deleting Part F.

24. The Fourth Schedule to the principal Regulations is amended by—

(a) deleting the heading and substituting therefor the following new heading—

Commercial Milling Agreement.

(b) deleting the word "miller" wherever it appears and substituting therefor the words "miller marketer".

25. The Sixth Schedule to principal Regulations is amended by deleting Part A and substituting therefor the following new Part—

PART A

A grower marketer or grower miller who has secured an overseas buyer contract for the coffee, shall—


1. Store coffee for direct sales at designated warehouses.
2. Enter into a direct sales contract in the format prescribed under these guidelines and shall lodge the contract with the Authority for registration and approval.
3. Submit to the Authority a sample of 250gm of the said coffee for quality analysis and for arbitration purposes.
4. Have the coffee inspected by the Authority, in order to ascertain the quality, quantity and the value and for approval of the contract.
5. Be issued with an inspection certificate for every coffee consignment declared to the Authority for direct sales to ascertain the coffee quality. The inspection certificate shall be one of the requirements for clearance of direct sales exports.
6. The Authority liquorer shall conduct quality analysis and issue a certificate of conformity with coffee grading and quality standards.
7. Direct coffee sales shall be subject to price competition at the Nairobi Coffee Auctions whereby the Direct sales price shall serve as a reserve price.
8. Where coffee with a direct sales offer fetches a higher price at the Coffee auction than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the auction price.
9. Provided that if the prospective direct sales buyer refuses to buy the coffee at the Coffee auction price, the coffee shall be sold to highest bidder above the reserve price at the auction
10. All Direct sales price offers shall be communicated to the auction organizer five days prior to an auction.
11. Growers and overseas buyers shall agree on the mode of payment for the coffee purchased which shall be part of the contract submitted to the Authority for approval.
12. Apply to the Authority for—

- (a) ICO certificate;
 - (b) KEPHIS certification;
 - (c) Movement permit(s)
 - (d) Quality certificate; and
 - (e) Any other necessary clearance
13. Appoint an agent for purposes of logistics and other processing requirements related to coffee exports where applicable.
14. Remit monthly returns to the Authority on Direct sales undertaken.

Made on the 7th June, 2022.

PETER MUNYA,
*Cabinet Secretary for Agriculture,
Livestock, Fisheries and Co-operatives.*

The Explanatory Memorandum

 THE NATIONAL ASSEMBLY PAPERS Laid	
DATE: 04 OCT 2022	
DAY: Tuesday	
TABLED BY:	Deputy Speaker, Hon. Boss Shollei
CLERK AT THE TABLE:	H. Suleiman

Draft Crops (Miraa) Regulations

SCHEDULE
[Section 8]
EXPLANATORY MEMORANDUM
TO
THE CROPS (MIRAA) REGULATIONS, 2021

PART I

Name of the Statutory Instrument:	Crops (Miraa) Regulations, 2021
Name of the Parent Act:	Crops Act No. 16 of 2013
Enacted Pursuant to:	Section 40 of the Crops Act No. 16 of 2013
Name of the Ministry:	Ministry of Agriculture, Livestock, Fisheries & Cooperatives
Gazetted on:	
Tabled on:	

PART II

1.0 Purpose of the Statutory Instrument

The primary objective of the Regulations is to guide the development, promotion, and regulation of miraa for the benefit of the miraa growers and other stakeholders in the miraa industry. The Regulations provide for-

- i. Procedures and conditions for registration of dealers;
- ii. Procedures, terms and conditions for the issuance of licenses and permits under these Regulations;
- iii. Issuance of export and import permits;
- iv. Collection and maintenance of data related to miraa;
- v. Compliance and enforcement of miraa standards to ensure quality assurance and safety;
- vi. Promotion of best practices in production, grading, transportation sorting, packaging and packing of miraa.
- vii. Guidance on contracts between buyers and growers of Miraa
- viii. Assurance of safety and quality of produce and products
- ix. Marketing of Miraa produce and products

2.0 Legislative Context

The Miraa industry has faced many challenges that date back to pre-independent Kenya. In 1934, the Meru Local Native Council (LNC) passed a resolution restricting Miraa consumption to elders and from 1938 there was increased agitation for increased control of Miraa consumption on the premise that its consumption threatened the wellbeing of communities and especially pastoralists in Northern Kenya. By 1940 the Meru LNC was persuaded to ban exports to Isiolo until the end of the 2nd world war to stop African soldiers from its consumption. In 1945 a bill to control the sale, cultivation and consumption of Miraa was drafted and which prohibited Miraa sales, cultivation and consumption in all parts of Kenya except in Meru, where ceremonial use was allowed through permits issued by elders. This bill which finally becomes effective in 1947 prohibited Miraa cultivation except under written permits given by the native authorities of Meru and Embu within their home districts and persons recognized as addicts were issued with permits from the local district office to allow Miraa consumption. After agitation of the Meru elders, this law was amended through the Miraa Prohibitive Ordinance Cap 339 of 1951 which however prohibited Miraa in the Northern Province while removing controls elsewhere. The Elders were left to control the youth within Meru customs. The Meru council of Elders petitioned the colonial government to lift the ban through the legislative council and though the ban was lifted administratively, the statute remained.

The Miraa Prohibitive Ordinance Cap 339 was finally repealed in 1977 but there was no corresponding statute to replace the ordinance to give Miraa a legal status. This created ambiguity since Miraa was thus still not recognized as a crop. Cultivation, trade and consumption of Miraa have continued unhindered since then despite increasing campaigns to control and regulate the commodity in the society by various actors including the National Authority for the Campaign Against Alcohol and Drugs Abuse (NACADA) which has created a negative perception of the commodity. A parliamentary committee set to look into the matters relating to Miraa in 2013 recommended among other things the amendment of the Crops Act 2013 to include Miraa as one of the scheduled crops and this was achieved through Statute Law (Miscellaneous Amendment) Act No. 7 of 2016. This amendment required the Government to take responsibility for the development, promotion and marketing of Miraa subsequently and The Government established the Taskforce on the development of the Miraa industry to address the challenges in the industry.

Although cultivation, trade and consumption of Miraa have continued unhindered in Kenya for decades, Miraa has not had legal status as a crop and was thus not recognized as a crop until 2016. The amendment of the Crops Act 2013 through Statute Law (Miscellaneous Amendment) Act No. 7 of 2016 included Miraa as one of the scheduled crops in Kenya and thus granted the crop legal status in Kenya for the first time. Following this, there are numerous other legislations in addition to the Crops Act 2013 that now directly or indirectly affect the cultivation, trade and consumption of Miraa.

The fourth schedule of the Constitution of Kenya 2010 has assigned specified functions on agriculture to the national government and the county governments and it stipulates that the two

levels of government shall conduct their mutual relations based on consultation and cooperation (Article 6 and Article 189 (1) (b) (c)). The role of the National government is to formulate and implement national agricultural policies and strategies to develop the agricultural sector. The roles of county governments include agriculture (crop husbandry); implementation of programmes in the agricultural sector to address food security in the county; development of programmes to intervene on soil and water management and conservation of the natural resource base for agriculture; land development services for horticultural production for food security and others.

The Crops Act 2013 was enacted to accelerate the growth and development of agriculture in general, enhance productivity and incomes of farmers and the rural population, improve the investment climate and efficiency of agribusiness and develop crops as export crops that will augment the foreign exchange earnings of the country, through the promotion of the production, processing, marketing, and distribution of crops in suitable areas of the country.

Other relevant legislation to the cultivation, trade and consumption of Miraa include:

Agriculture and Food Authority Act No. 13 of 2013 is an Act of Parliament to provide for the consolidation of the laws on the regulation and promotion of agriculture generally, to provide for the establishment of the Agriculture and Food Authority, to make provision for the respective roles of the national and county governments in agriculture excluding livestock and related matters in furtherance of the relevant provisions of the Fourth Schedule to the Constitution and connected purposes.

Agricultural Produce (Export) Act (Cap 319) is An Act of Parliament to provide for the grading and inspection of agricultural produce to be exported, and generally for the better regulation of the preparation and manufacture thereof. This Act makes provision for the public control of the exportation of agricultural produce, i.e. meat or any product thereof, milk products, eggs or margarine or butter substitutes and any other article produced or derived from farming operations that the Minister, by notice in the Gazette, declares to be agricultural produce for this Act.

Food, Drugs and Chemical Substance Act (Cap 254) is an Act of Parliament to make provision for the prevention of adulteration of food, drugs and chemical substances. This Act provides rules for the placing on the market of food, drugs for man and animal and chemical substances, establishes the Public Health (Standards) Board and makes otherwise provision for the control of the quality and safety of food, drugs and chemical substances to be placed on the market of Kenya.

Public Health Act (Cap 242) is concerned with the protection of public health in Kenya and lays down rules relative to, among other things, food hygiene and protection of foodstuffs, the keeping of animals, protection of public water supplies, the prevention and destruction of mosquitos and the abatement of nuisances including nuisances arising from sewerage. The Act establishes the Central Board of Health and County health management boards. It also establishes and defines the functions of health authorities.

Trade Description Act (Cap 505) is an Act of Parliament to prohibit misdescriptions of goods, services, accommodation and facilities provided in the course of trade, prohibit false or misleading indications as to the price of goods and confer powers to require information or instructions relating to goods to be marked on or to accompany the goods or to be included in advertisements.

Weights and Measures Act (Cap 513) is an Act of Parliament to amend and consolidate the law relating to the use, manufacture and sale of weights and measures and to provide for the introduction of the International System of Units (SI). This Act would apply to agriculture produce trading in regard to their correct weights and labeling for efficient marketing.

The Kenya Agricultural and Livestock Research Act, 2013 No. 17 of 2013 is an Act of Parliament to provide for the establishment and functions of the Kenya Agricultural and Livestock Research Organization; to provide for organs of the Organization; to provide for the coordination of agricultural research activities in Kenya, and for connected purposes.

Pest Control Products Act Cap 346 of 1982 An Act of Parliament to regulate the importation, exportation, manufacture, distribution and use of products used for the control of pests and of the organic function of plants and animals and for connected purposes

County Governments Act No. 17 of 2012: The various County Integrated Development Plans (CIDPs) and country-specific legislation, policies and strategies: Individual county governments have developed different pieces of county-specific legislation, policies and strategies for the development of agricultural production and marketing in the individual counties. These instruments will affect the Miraa industry in the individual counties.

The Authority spearheaded the development of Miraa (Khat) Industry Codes of Practice which is a published standard by KEBS. The enforcement clauses on the standard are provided for in the draft regulations.

3.0 Policy Background

Kenya Vision 2030 (Third Medium Term Plan 2018-2022) is a nationwide multi-sectorial document that outlines the main policies, legal and institutional reforms as well as programs and projects that the Government plans to implement during the period 2018-2022. It is a part of the implementation process of the Kenya Vision 2030, the national strategy covering the period from 2008 to 2030 which aims to transform Kenya into a newly industrializing, middle-income country providing a high-quality life to all its citizens through three pillars: economic, social and political.

Agriculture Sector Transformation and Growth Strategy (ASTGS), 2019-2029 is a ten-year nationwide sectorial document aiming at developing and transforming the agricultural sector to

achieve what is established by Article 43 of the Constitution that states that Every person has the right to be free from hunger, and to have adequate food of acceptable quality". To reach the overall goal it establishes 3 anchors for the first 5 years as follows (i) increase small-scale farmer, pastoralist and fisher-folk incomes; (ii) increase agricultural output and value add, and (iii) increase household food resilience.

Big 4 Agenda: The Big Four is an economic blueprint that was developed by the government to foster economic development and provide a solution to the various socio-economic problems facing Kenyans built on the 4 pillars of food security and nutrition, affordable universal health care, Affordable housing and Enhancing manufacturing.

4.0 Challenges being addressed

According to the Nyambene Miraa Traders Association leadership, an estimated 500,000 people in Kenya depend on miraa farming. These important industry actors desire efficient production systems for optimal outputs from their farms and reduced post-harvest losses and suitable marketing systems policy and regulatory framework environment to guarantee them optimal and sustainable returns from their farm produce. (Business Daily, 2020)

These are mainly smallholder producers and who are typically isolated from markets, have limited selling alternatives, lack contact with downstream buyers, are unable to enter into contractual relationships, are usually obliged to accept the buyer's assessment of weight/volume and quality and prices, and yet cannot hold the produce to explore alternative markets or to allow further negotiations due to the high perishability of the produce. All this is due to the unregulated and unstructured nature of Miraa marketing which has allowed the evolution of powerful cartels that control all segments in Miraa marketing.

Smallholder farmers' participation in Miraa markets is still very limited when marketing individually as individual farmers cannot access larger traders or aggregators further down the value chain who often offer better prices. By consolidating their produce within growers associations, smallholders could benefit from the system especially through participating in marketing through the groups. The system may also help reduce market transaction costs and allow for the promotion and use of food safety and quality standards self-regulatory mechanisms within the groups/associations while according farmers in such organized groups the advantage of economies of scale in trade and enhance their negotiations power in the market.

Miraa produce is consumed in its fresh form and thus it is highly perishable with a shelf life of a few hours and thus post-harvest losses of the farm produce are very high. The causes of these high post-harvest losses include lack of appropriate preservation technologies of the highly perishable produce, lack of appropriate designated markets and suitable market sheds, lack of a standard grading system and poor rural access roads which delay the transportation of the produce from the farms. The Miraa smallholder farmers, in particular, can benefit considerably from the introduction of appropriate preservation technologies and designated markets and

market sheds, a standard grading system and the improvement of rural access roads in the main Miraa producing areas to enable them to maintain the quality of their produce to fetch more favorable prices.

Although Miraa is mainly consumed in its fresh form and due to its highly perishable nature, value addition would be important not only as a way of product diversification and to support market segmentation including entry into new markets, but also to address the problem of its high perishability as well as to increase returns from value-added Miraa products marketing.

The Miraa trade currently has no standard unit of measure for trade and farmers are often victims of unscrupulous cartels, traders and middlemen who cunningly cheat on produce trading causing the farmers losses on their incomes due to the subjective manner in which produce trading units is determined. There is a need to introduce a standard unit of measure for trade in the industry that will guarantee accurate weighing and quality grading to benefit producers by ensuring that their products are accurately valued. Further, a standard unit of measure and the introduction of a standard grading system in the Miraa industry will facilitate regional and international trade of Miraa produce based on a specific produce description and identification, thus supporting the recovery of lost markets and the identification of new alternative export markets.

The fact that Miraa was only legally recognized as a crop in Kenya in 2016 has denied the industry support from research on the crop and thus there is inadequate expert knowledge on the crop which coupled with the absence of adequate agricultural advisory services due to lack of expert knowledge has limited farmers access to appropriate technologies, innovations and management practices to optimize production and productivity at the farm level, leaving the farmers to employ age-old practices that they picked from their parents and neighbors most of which may have insignificant effects of production. There are a need to invest in research, production of clean, quality, affordable and available planting materials and to build the capacity of the farmers and the other industry actors to enhance Miraa production, productivity, and food safety and quality standards to support the anticipated development of the Miraa industry.

Finally, the late recognition of Miraa as a crop has denied the Government, the Industry actors and other interested stakeholders systematic reliable data that can be used for planning targeted interventions and there is thus a need to develop such to inform interventions in industry development strategies in the future.

5.0 Consultation outcome

The Authority organized stakeholders' engagement and public participation workshops to provide an opportunity to the public to participate in the regulation-making process. The Authority held specific engagement workshops with key stakeholders including government ministries, government agencies, private players in the sector and members of the general public. The public workshops were distributed in different counties where Miraa is grown.

The Authority held a three-day retreat to harmonize the draft Crops (Miraa) Regulations, 2021 from 29th to 31st October 2019 at KALRO in Naivasha. The Meeting was attended by representatives from the national government, county governments and private sector players.

The public participation workshops took place at the following locations; Kiritiri, Siakago, Embu Town, Nembure, Runyenjes in Embu County; Kianjai, Muriri, Mikinduri, Laare, Kangeta and Maua in Meru County; Mukothima/Gatunga in Tharaka Nithi County; and DCC's office for Mombasa, Kwale and Kilifi counties. In addition, there were two public participation forums held at KEPHIS Headquarters in Nairobi. The workshops attracted stakeholders from national and county governments, the private sector, miraa farmers and dealers, research and academia.

The records from the public forums show extensive deliberations on the myriad of issues that arose from the proposed Regulations. The stakeholders were allowed to read and analyze the Regulations and share their written views via email to the Authority. There was evidence to show that the Authority collated, reviewed and incorporated into the proposed Regulations the issues raised and comments received from the workshops.

The public consultations outcomes were as follows:

Key Areas of the Regulations	Proposed Changes by the Stakeholders	Responses from Ministry/AFA	Justification/Action Taken
Post-harvest handling of produce	Presence of preservation facilities for Miraa Introduce a regulation on the right packaging material for the produce	All exporters shall acquire cooling facilities such as – packhouse, refrigerated trucks and food-grade packaging material	Miraa is highly perishable Miraa is food consumed fresh thus easily contaminated
Transportation	Introduce a regulation to manage road safety e.g speed and reckless driving	Road safety rules are stipulated by the NTSA act	Enforcement by NTSA Kenya police service Sacco's for transporters to enforce self-regulation
Dispute resolution committee	Bigger representation of growers to the dispute resolution committee and inclusion of local administrators	Growers to be represented through an apex body	There is a limit of maximum membership of committees

4	Licenses	There are multiple licences for value chain players	All exporters shall acquire a licence	It is a requirement for exporters to acquire licenses to operate
5	Contract farming	Protection of growers from exploitation by businessmen	Introduction of contract farming	The contract is legally binding and enforceable
6	Khat varieties	Differentiation of Miraa and Muguka varieties	Both are varieties of <i>Catha edulis</i>	Both are of the same species hence are treated as the same
7	Safe use of pesticides	List of recommended chemicals for use, research for chemicals to be used on Miraa	Research varieties shall be identified collaboratively between the various stakeholders	Research is a role of KALRO and the industry shall identify their research needs

8	Returns	Returns to be submitted on an annual basis	We retain quarterly returns	For standardization
9	Price fluctuations	Dealing with price fluctuations in different seasons	Composition of a pricing formula committee	As per Crops Act, the Cabinet Secretary can constitute the same committee
10	Market Access and promotion	Access to all marketing channels – eg. Hotels and supermarkets	Promotion and availing positive benefits of the commodity from research.	Miraa is a crop and full disclosure of the composition and benefits for the commodity to create acceptance.
11	Access to credit facilities	Creating avenues for accessing credit	Seed capital and other Government funding to be channeled to commodity funds and be accessed by growers	The first amount from the Government allocation has to be budgeted for the function.
24	Crop and Product Research	Need for research on, agronomic practices, effects of Miraa on consumers	Research institutions to spearhead	Crop research mandate falls KALRO, other institutions can take part in collaboration

2	Socio-economic impacts of the sub-sector	Formation of Miraa SACCOs to handle income from Miraa to improve living standards	Establishment of association, Saccos and groups to benefit from the economies of scales, bargaining power and therefore higher returns – easy to invest and get financial literacy training	Miraa farmers are to be registered through the association crops act 2013
3	Classification of substances with cathine and cathinone as controlled narcotics	Declassification of these substances as controlled narcotics	Discussions on this issue are active	Pending because the discussion on the issue is still ongoing
4	Amendment to the regulations	How regulations' amendments shall be done, in case of need	Through a proposal to the Cabinet Secretary upon the stakeholders giving in their concerns and/or amendments	Provided for by the Crops Act 2013
5	Standardizing/Grading	Miraa should be graded	Standardized market-driven grades	Grading will be dependent on customers specifications
6	Registration of farmers	How to deal with the issue of re-registration	Farmers are encouraged to join associations of their choice and register the associations with the County	Crops Act 2013

6.0 Guidance

There is a need to conduct post-publication stakeholder sensitization for the various players in the sector. This should be done both at the National and County Government levels. Further sensitization will also be held at the County level to provide insights on the implementation of the Regulations.

Stakeholder engagement and public participation were adequately done by the Authority. All stakeholders both at the National and County governments as well as private sector players and farmers were involved and consulted.

7.0 Impact

7.1 Impact on Fundamental Rights and Freedoms

The proposed regulations shall have a positive impact on the rights and freedoms of individuals.

It shall provide a better return to agricultural produce and investment to the farmers and commercial Miraa transporters. This will greatly contribute to improved household incomes and an enhanced capacity to afford adequate standards of living as envisaged under article 43 of the Constitution. Article 43 of the Constitution provides for economic and social rights. It affirms the rights of individuals and communities to an adequate standard of life including the right to the highest attainable standard of health. The State should allocate and provide resources for the progressive realization of these rights.

Article 36 of the Constitution provides for freedom of association which includes the right to form, join and participate in the activities of an association of any kind. Regulation 5 promotes and protects this right by providing for the registration of the smallholder growers associations by the Authority to access economies of scale.

Article 47 of the Constitution obligates the administrative authority to ensure expeditious, efficient, lawful, reasonable and procedurally fair administration action/decision. Regulation 16(5) promotes the realization of this right because it requires the Authority to within two days after receiving an application for an import permit for consignment of Miraa products in the prescribed form to issue the import permit to the Applicant upon satisfying itself that the requisite conditions have been met. This is an expeditious and reasonably fair process.

However, the Regulations do not expressly provide for giving of reasons by the enforcement authorities for their decisions made in respect to the activities by the dealers. For instance, Regulation 16(7) does not direct the Authority to give reasons to a Miraa and Miraa products exporter for its decision to deny the dealer Miraa an importation permit. This contravenes Article 47 of the Constitution which mandates any administrative body to give reasons for taking a particular administrative decision. In addition, the Regulations do not have provisions on how unsuccessful applicants/Miraa dealers would be informed about the status of their applications. The Regulations do not also provide for timelines within which such communication can be made. It is advisable to include a clause that requires reasons to be provided for a decline or rejection of applications. Failure to adhere to this infringes on the constitutional right to fair administrative action under Article 47(2) of the Constitution which requires that written reasons be given for every administrative action/decision taken.

Article 48 of the Constitution provides for a right to access to justice and an assurance that the state should ensure access to justice for all persons and, if any fee is required, it shall be reasonable and shall not impede access to justice. However, the Regulations do not align themselves to the set provisions of the Constitution on access to justice. This is because the Regulations do not provide for any avenue for internal dispute resolution among the players in the Miraa industry.

Article 31 of the Constitution provides for the right to privacy which includes the right not to have one person, home or property searched, possessions arbitrarily seized, information relating to family or private affairs unnecessarily revealed or privacy of communications exposed.

Regulation 27(3) gives an inspector unlimited access to premises and vessels transporting or storing Miraa and Miraa products without distinguishing records that are required to be kept under the Act or regulations as in Regulation 27(3). The powers granted to inspectors by the regulations once set out in general terms violate the right to privacy under article 31 of the Constitution. In any case, the right to privacy is not absolute; however, the limitation must be reasonable and justifiable in an open and democratic society. The Consultant recommends the introduction of a provision that requires the inspectors to issue notice to the Miraa dealers before entry and access to their premises or vessels. This will be justified as a reasonable limitation of the right to privacy.

The Regulations also seek to promote the right to access to information under article 35 of the Constitution. Article 35(1) guarantees every citizen the right of access to information held by State or by persons' other person and required for the exercise or protection of any right. This provision is promoted under Regulations 26(5) where the Authority is mandated to publish in the Gazette a list of all appointed inspectors within 30 days upon completion of their training. The publication of the information is to avail it to the public and ensure that every person can access it.

Regulation 28 provides for compliance standards where the Authority is required from time to time to be inspecting sites and produce to ensure conformity to food safety and quality standards as prescribed in Miraa (Khat) Industry – Code of Practice. This ensures conformity and compliance with Article 46 of the Constitution which guarantees every consumer the right to goods and services of reasonable quality and protection of their health, safety and economic interests.

7.2 Impact on the Public Sector

The proposed Regulations will affect the public sector in the following ways:

- i. The Government will introduce formal controls and regulations in the Miraa industry and establish the necessary structures and environment including dispute Resolution mechanisms and compliance enforcement structures and a miraa pricing formula committee to support the promotion and development of the industry for the benefits of the miraa growers and other stakeholders.
- ii. Miraa markets which are currently mainly informal, unstructured, and poorly organized and have no quality and operations standards and are dominated by organized cartels will be designated, better organized and structured and have harmonized trade and operations standards.
- iii. The Miraa value chain in the country has remained informal having virtually regulation, these regulations will provide a good framework for the regulation of the value chain, with all actors registered and/or licensed; standards defined and developed, miraa imports and exports licensed, miraa markets designated and regulated and improved data documentation among others, allowing for improved regulation, compliance monitoring and effective enforcement within these markets.

- iv. The regulations will provide an effective avenue for the introduction of other institutional innovations such as grading, codes of practice, contracting and collective marketing, and hence further market development in this value chain. It is normally difficult to introduce grading and standards systems into markets where most trading happens informally.
- v. The improved documentation of transactions including crop acreage, trade data, registration and licensing of the different Miraa actors will provide reliable real-time data and other important details on the actual produce, markets, prices, trade volumes both local and exports allowing for better planning, informed decision making and proactive interventions in the industry
- vi. The increased use of high-quality planting materials and the increased support from national research institutions and the introduction of effective Agricultural Advisory services in Miraa will increase production, and reduce field and post-harvest losses there increase produce available for export and thus increased foreign exchange earnings
- vii. The introduction of different levies and fees will increase revenue collection for the national and county governments.
- viii. Enhanced waste management systems will promote public and environmental health;
- ix. The regulations will provide individual County Governments with a well-organized Miraa marketing policy and strategies implementation structure at the local level, especially with the registration and licensing of all Miraa actors, improved data and information documentation, effective regulation and better coordination of the industry in the county thus promoting the Miraa value chain and trading development in the counties.
- x. Promote adoption of food safety, an effective traceability mechanism hygiene and produce quality standards across the Miraa industry operations will ensure access to quality and healthy Miraa in the country and for export markets increasing acceptability of Kenya's Miraa especially in foreign markets and reducing health challenges resulting from consumption of poor quality, contaminated and unhealthy Miraa, contributing to reduce public health provision costs.
- xi. Implementation of the regulations will create employment opportunities to support the increasing Miraa production and trading, formalized Miraa industry operations and resultant auxiliary services, contributing to the Government agenda of employment creation.
- xii. The broader agricultural sector and national economy will benefit from the increased volumes of production and regional and export trade from the industry and thus increased foreign exchange earnings
- xiii. A well-regulated miraa industry will provide a focus for the development of the entire Miraa value chain, providing incentives for a range of different parties, including farmers, financiers, traders, processors, exporters, and investors in the industry, contributing to the overall development of the Agricultural sector in the country.

7.3 Impact on the Private Sector

The proposed Regulations will potentially affect the private sector in the following ways:

- i. The private sector actors in the industry will stand to benefit from the introduction of a well-structured, organized and regulated Miraa which will provide a conducive operating environment for their different businesses, promote fair trade and shield them from the frequent negative effects of Government pronouncements and actions on the industry and the control of operations cartels, and contribute to improving the public perception of the industry.
- ii. The reduced control of Miraa trading by industry cartels and marketing contracting will increase margins and reduce price volatility, thus stabilize the incomes for the different actors especially the farmers who are victims of middlemen exploitation particularly during peak harvesting seasons.
- iii. Collective marketing through growers' associations, marketing contracting and the establishment of designated Miraa markets will avail smallholders, farmers, a market window that can help them secure the best possible deal by providing them with better positions for negotiation and economies of scale while also allowing them to deal directly with downstream buyers and financiers, and overcome asymmetric power relationships within the market chain.
- iv. The increased use of quality and clean planting materials, increased industry support from national research institutions and enhanced provision of agricultural advisory services will increase production, reduce the post-harvest losses, and improve quality of produce thereby increasing incomes for farmers and traders from marketing increased volumes and quality of produce.
- v. Increased production, promotion of value addition, reduced post-harvest losses, reduced produce price volatility and effectively regulated operations in the industry will increase incomes of businesses in the industry making them viable and sustainable enterprises as well as improving the livelihoods of the investors and employees.
- vi. Adoption of food safety, hygiene and produce quality standards and a traceability mechanism across the Miraa industry will enable farmers and traders better access standards' sensitive markets locally, regionally and internationally.
- vii. Implementation of the regulations will create stable employment opportunities in the increased agricultural production, the formalized industry operations and resultant auxiliary services, thus improving the livelihoods of many families across this system.
- viii. A well-regulated Miraa industry will enhance transparency in all the transactions across the operations and protect farmers, traders, and financial institutions and other actors from business risks associated with lack of information or fraudulent transactions.
- ix. Accurate and real-time data on industry actors, crop acreage, nurseries' seedlings production and distribution, trade volumes and prices, produce sources, and existing and potential markets will be readily available to the industry players for better business planning and operations.
- x. The industry will be well streamlined and operate on common standards thereby promoting fair trade practices and eliminating or reducing unscrupulous players in the industry especially the over-exploitative middlemen and cartels.

- xi. The general Miraa population consumers will be assured of quality health products, reducing health problems associated with ingesting contaminated feeds and thus reducing medical expenses for households.
- xii. Miraa farmers and other Miraa industry actors will get recognition upon registration and licensing of their informal businesses, thus allowing them more access to development and support services and opportunities available to MSMEs in other industries.
- xiii. The miraa pricing formula committee comprising representatives from the different segments of the miraa sub-sector stakeholder will determine the formula of miraa pricing and thus ensure fair Miraa pricing in the industry for the benefit of all actors and especially the smallholder farmer.
- xiv. Miraa farmers and other industry actors will be required to pay various requisite fees and levies and re-align their operations to the provisions of these regulations which will increase their costs of doing business and may result in loss of some businesses that will not meet the specific requirements of these regulations resulting to the loss of livelihoods for some families.

8.0 Monitoring and Review

Monitoring and evaluation (M&E) of the regulations is important in determining its effectiveness, efficiency and adequacy in achieving its intended objectives and purpose. It informs the government and players in the sector whether the regulations are working. Proper use of M&E mechanisms constitutes a major change in operational style and working culture of regulatory authorities that enables them to set up a process of continuous learning through experience and evidence. A well-functioning system of M&E would directly influence the ability of regulations to foster competitiveness and economic growth in the sub-sector. Review of regulations will ensure it is consistent and effective in regulating the activities in the sub-sector.

It is expected that the Regulations shall be a subject of great interest to all stakeholders particularly because of its potential to offer improvement in incomes, improved quantity and quality of agricultural produce, create employment, reduce poverty and enhance the living standards of Kenyans. The Authority working together with the respective County Governments will thus work hand in hand to promote research to review the adequacy and effectiveness of the regulations towards promoting the growth, development of the Miraa industry and products that will increase healthy Miraa production, storage and transportation and enhance the national, regional and international market for Miraa and Miraa products.

Regulation 6(7) requires the county government to submit to the Authority a list of licensed Miraa aggregators annually. Miraa aggregators are also obligated under Regulation 6(8) to submit (in the prescribed form) annual returns to the respective county government not later than the tenth day of the first month after the end of the financial year. Further, Regulation 8(5) requires the county government to submit to the Authority a list of licensed Miraa vendors annually.

Regulation 18 requires Miraa exporters to submit quarterly returns to the Authority in the prescribed form.

Regulation 23 requires the Authority, in consultation with the County Executive Committee member to initiate and coordinate training programs for service providers, growers and dealers for effective implementation of the Regulations. The Authority is also mandated, in consultation with the respective County Executive Committee member to develop Codes of Practice to facilitate safe production and handling of produce as per the regional and international standards.

Further, Regulation 25 provides for traceability which obligates the Authority in consultation with the relevant stakeholders are required to develop and build capacity for the implementation of a traceability system for both export and locally consumed Miraa produce. Dealers are also required to establish and maintain traceability code for every source of their produce and products.

The information and details shared by the various stakeholders and the Authority could be used to enhance prudent planning and decision making process and also enable the Authority and the respective County Government to conduct a survey of the Miraa sector, its production, storage and transportation to find out whether the objectives of the regulations have been met and identify areas for improvement.

9.0 Contact

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