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CONTENT

Bill for Introduction into the Nyeri County Assembly—	PAGE
The Nyeri County Coffee Bill, 2015.....	1

THE NYERI COUNTY COFFEE BILL, 2015

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.

PART II—ADMINISTRATION

- 3—Establishment of the County Coffee Development Office.
- 4—Composition of the Office.
- 5—Functions of the County Coffee Development Office.
- 6—Rules for framework of the unit.

PART III—LICENSING AND REGISTRATION

- 7—Conduct of Coffee Business.
- 8—Registration Number.
- 9—Registration and Licensing.
- 10—Types of Licensing.
- 11—Movement of Coffee.
- 12—Non issuance of License.
- 13—Duties of the License holder.
- 14—Renewal of a License.
- 15—Duty to register with a cooperative society or board.
- 16—Registration of coffee seedlings supplier.
- 17—Planting or uprooting coffee.
- 18—Pulping Station License.

PART IV—MILLING, MARKETING AND EXPORT OF COFFEE

- 19—Coffee Milling.
- 20—Standards of coffee milled.
- 21—Insurance Cover.
- 22—Coffee trader.
- 23—Milling charges.
- 24—Records.

- 25—inspection unit.
- 26—Offence.
- 27—Requirement of a grower to mill coffee within a specified time.
- 28—Registration of Marketing agents.
- 29—Coffee Quality.
- 30—Registration of a Distinguishing mark.
- 31—Quality assurance certificates.
- 32—Restriction and purchase of coffee.
- 33—Reports and statements on coffee milled
- 34—Marketing agent to pay statutory deductions.
- 35—Classification of coffee by a marketing agent.
- 36—Marketing of Coffee.

PART V—FINANCE

- 37—Ad - valorem Levy Charge.
- 38—Coffee Development Fund.
- 39—payment by the Marketing Agent to the grower.
- 40—Book of Accounts and audit.

PART VII—GENERAL PROVISIONS

- 41—Appeal.
- 42—Service of notices.
- 43—Powers of inspectors.
- 44—Prosecution.
- 45—Offences by corporations or other body corporate.
- 46—General Penalty.
- 47—Offence under the Penal Code.
- 48—Rules.

PART VIII—TRANSITIONLA PROVISIONS

- 49—Assets and Liabilities.
- 50—Staff.

THE NYERI COUNTY COFFEE BILL, 2015

Bill for

AN ACT of the County Assembly of Nyeri to provide for the development, management, regulation and promotion of coffee within the and for other connected purposes

ENACTED by the County Assembly of Nyeri as follows —

PART I—PRELIMINARY

1. This Act may be cited as the Nyeri County Coffee Bill, 2015 and shall come into operation on such day as the County Executive Secretary may be published by in the National and County Gazette whichever comes earlier.

Short title

2. In this Act, unless the context otherwise requires —

Interpretation.

“Advalorem levy” means a per centum of the gross sales of all clean coffee sold by the marketing agent or a grower marketer involved in direct sales or roasting of own coffee;

“ Assembly” means the County Assembly of Nyeri;

“ Assets” include all property moveable or immovable and all estates, easements and rights whether equitable or legal in, over or out of property

“ Auction” means the auction system under which coffee is offered for sale at the Nairobi Coffee Exchange or any other trading floor;

“ Authority” means the Agriculture Food

“ Board” means the Nyeri Agriculture Development Board;

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

“ buyer” means a person engaged in buying clean coffee for blending, roasting, grinding and packaging for resale in the local or export market;

“coffee” means the plant botanically known as Coffee species (L.) and includes the fruit, whether on the plant or detached there from , the seed known as buni, parchment coffee, clean coffee, roasted seeds and ground coffee;

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

“coffee trade” means the business of dealing in the commodity of coffee and includes milling, warehousing, selling, buying, roasting, grinding and packaging of roasted seed or ground coffee for reward or profit but does not include cultivation or production of coffee;

“commercial miller” means any person who mills ten thousand or more metric tonnes of parchment coffee per crop year on wholesale basis for the purpose of providing service for financial profit;

“co-operative society” means a coffee co-operative society registered under the Co-operative Societies Act, 1997;

“crop year” means, the period of twelve months beginning the first of October of the year and ending 30th September the following year.

“County” Means the County government of Nyeri;

“dealing in coffee” means growing, processing, acquiring, holding, selling, grinding, roasting, branding, packing, direct sales or exporting coffee for purposes of trade but does not include distributing or moving coffee from one area to another;

“dealer” means a person or organization, who or which buys clean coffee at the auction or direct sales for himself or itself as an exporter or on behalf of a dealer residing outside Kenya; whether or not for the purpose of resale in the export market;

“Research Institutions” means the Coffee Research Foundation or any institution of higher learning incorporated under the Companies Act or the Education Act with the principal object of promoting research into and investigating all problems relating to coffee in Kenya;

“Inspector” means a police officer, or an agricultural officer.

“Liabilities” means liabilities, debts, charges, duties and obligations of every description, whether present or future, actual or contingent, and whether to be observed or performed in Kenya or elsewhere;

“marketing agent” means any person, licensed by the Board and appointed through a specific agreement by another person, to market his or its coffee but does not include persons, who conduct the business of millers, warehousemen, roasters, packers or buyers of coffee or any subsidiary organization of the Board;

“County Executive Member” means the County Executive Committee Member for the time being responsible for agriculture;

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

“milling agent” means a person, who performs services in specific functions of secondary processing or milling of coffee and who is contracted by a grower as his agent in consideration of a fee;

“miller's license” means a miller's license issued under section 18;

“Nairobi Coffee Exchange” means the central coffee auction which is the trading floor of coffee;

“packer” means any person, who roasts and packs roasted seed or ground coffee into packets or containers intended for sale in the domestic or export market;

“Pulping station” means any coffee factory where coffee is pulped, fermented or otherwise treated for the preparation of parchment coffee;

“Sell” includes offering coffee for sale but does not include sale of cherry, buni and parchment coffee;

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

“Warehouse” means a designed storage facility for coffee, specifically designed to guarantee the quality and safety of coffee;

PART II—ESTABLISHMENT OF THE COUNTY COFFEE DEVELOPMENT OFFICE

3. There is established, within the Nyeri County Agriculture Development Board an office to be known as the County Coffee Development Office.

Establishment of
the County Coffee
Development
Office.

4. (1) The office shall consist of—

Composition of
the Office.

- (a) the County Coffee Development officer; and
- (b) Deputy County Coffee Development officers as the Executive Member may, in consultation with the County Agriculture Development Board may consider necessary for the performance of the functions of the unit under this Act.

(2) The County Coffee Development officer and the Deputy County Coffee Development officers of the unit shall be competitively recruited and appointed on such terms and conditions as the County Executive member shall, in consultation with the County Public Service Board determine.

(3) A person shall be qualified for appointment as the County Coffee Development officer or a deputy County Coffee Development officer if such person—

- (a) holds a degree from a university recognized in Kenya; and
- (b) has at least five years professional experience in the development of agriculture.

5. (1) The functions of the office are to provide technical, financial and legal expertise to the Board on matters relating to coffee development as provided for under this Act.

Functions of the
County Coffee
Development
Office

(2) In the performance of its functions under subsection (1), the office shall—

- (a) serve as a resource centre on matters relating to Coffee development;
- (b) conduct civic education to promote the awareness and understanding of the Coffee sector amongst stakeholders;

- (c) provide capacity building to, and advise Coffee farmers;
- (d) conduct research and gap analysis to ensure continuous performance improvement the Coffee sector in the county;
- (e) collate, analyze and disseminate information on the Coffee sector in the county;
- (f) assist the Committee in formulating guidelines and standard documentation required under this Act;
- (g) carry out such other functions as may be conferred on it by the Board and this Act.

(3) The office shall prepare financial accounts and an inventory of any monies allocated to it, any financial support received by it and any success fees received by it from a private party or project company as the case may be, under this Act.

6. The County Executive member shall make rules for the administrative and financial framework of the office, the relationship of the unit with other County departments and organizations and the conduct of the affairs of the office.

Rules for framework of the unit.

PART III—LICENSING AND REGISTRATION

7. Any person who requires to conduct any coffee business within the county shall apply to the Board as per the provisions of this Act.

Conduct of coffee business.

8. Any person who applies for and is issued with a certificate or a license shall be registered by the Board and issued with a Registration Number as the case may apply.

Registration Number.

9. (1) No person shall—

Registration and Licensing.

- (a) buy, sell, mill, warehouse, export otherwise deal in or transact any business in coffee unless he is a holder of a current license issued by the Board for that purpose;
- (b) transport or have in his possession any coffee unless he is licensed to do any of the things specified in paragraph (a) and is the holder of a movement permit issued by the Board or is acting

in the course of his employment as a servant or agent of a person holding such a permit;

- (2) This section shall not apply to—
- (a) any person who purchases coffee for consumption or for planting on his land;
 - (b) any grower who mills coffee produced by such grower; and
 - (c) warehousing of coffee by the Kenya Railways corporation or by Kenya Railways Corporation or by the Kenya ports Authority.

(3) Any person who is found to operate without a license contravenes the provisions of subsection (1) or acts in contravention of the conditions of any license granted under this section commits an offence and is liable to a fine of not less than Kenya Shilling Five Hundred Thousand but not exceeding Kenya Shilling Five million or to imprisonment for a term of not less than three years but not exceeding ten years, or to both where the penalty has not been provided for under this Act.

(4) Where a person is convicted of an offence under this section, the court shall order that any coffee in any vehicle, vessel or other conveyance in relation to which the offence has been committed shall be forfeited to the County.

(5) Provided that the court may for reasons to be recorded, direct that such forfeiture shall not apply to any vehicle, vessel or other conveyance in respect of which the offence is committed.

(6) Any coffee or vehicle, vessel, or other conveyance forfeited to the County under subsection (4) shall be sold by public auction and the proceeds accruing from such sale shall be credited to the Board.

10. Licenses under section 8 shall be of the following kinds—

Types of
Licenses.

- (a) category "A" license authorizing the holder to buy or deal in clean coffee produced in Kenya or to import clean coffee from outside Kenya and to process, in Kenya for sale or export coffee of any country of Origin;

- (b) category "B" license authorizing the holder to buy, deal in or import coffee from outside Kenya including buni, and to export such coffee from Kenya;
- (c) a buni dealer's license, authorizing the holder to deal in and export buni of any country of origin;
- (d) a marketing coffee license, authorizing the holder to conduct the business of selling or marketing coffee;
- (e) a miller's license authorizing the holder to conduct the business of milling coffee;
- (f) a roaster's license authorizing the holder to conduct the business of roasting coffee;
- (g) an auctioneer's authorizing the holder to conduct the business of an auctioneer;
- (h) a warehouseman's, license authorizing the holder to conduct the business of warehousing coffee as a warehouseman;
- (i) a packer's license authorizing the holder to conduct the business of blending and packaging coffee;
- (j) a pulping station license authorizing the holder to operate a pulping station; and

11. (1) The movement of coffee shall be managed through issuance of movement permits by the Board.

Movement of Coffee.

(2) A movement permit issued under sub section (1) shall not be issued to any person other than a licensed person and such person shall not change any name entered in the movement permit.

12. (1) The Board shall not issue a license under this Act unless—

Non-issuance of a License.

- (a) the applicant is fit and proper to hold such license;
- (b) the applicant is not indebted to any coffee farmers organization; and
- (c) it is satisfied that the applicant has sufficient knowledge experience and capacity to enable him conduct the business or that he has employed as

staff of the business a person with such knowledge, experience and capacity and compliant with Chapter Six of the Constitution of Kenya 2010.

(2) Every license issued under this Act shall specify the premises upon which the business specified in the license may be carried on.

(3) Every license issued under this Act shall remain in force until the 30th of June next following the date of issue for one calendar year, unless earlier cancelled.

(4) There shall be payable for the issue of licenses such fees as the Board, in consultation with the County Executive Member may prescribe.

(5) The Board shall, at least thirty days before granting a license under this Act, give notice of the proposed grant of a license under this Act in the Kenya and County Gazette notices.

(6) The Board shall, in the notice referred to in subsection (5) —

- (a) specify the name or other particulars of the person or class of persons to whom the license is to be granted;
- (b) state the purpose for the proposed license and indicate the date such license is proposed to be issued to the successful applicant; and
- (c) invite objections to the proposed grant of license and direct that such objections be lodged with the Board within fourteen

(7) The Board may after considering the objections, if any, made under this section, grant the license applied for, subject to such terms and conditions as may be specified therein.

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

13. (1) the holder of a license issued under this Act shall —

- (a) at all times keep on the premises specified there is a register in the English or Kiswahili language

Duties License
Holder.

of all purchases and sales of coffee made under the authority of his license, and within forty-eight hours after each purchase or sale, as the case may be, enter in the register the quantity purchased or sold and the date of the transaction;

- (b) at all times keep exhibited over the outer door of his shop or place of business, in characters not less than three inches in size, his name and the word "Licensed Coffee Dealer" in English or words to the similar effect in the Kiswahili language;
- (c) Submit such returns at such times and to such persons as may be prescribed; and
- (d) On demand by an inspector, allow the inspector to enter upon his premises and inspect all coffee therein and produce for inspection at the inspector's request his license and the register kept under this section.

14. An application for the renewal of a license application for under this Act shall be made to the Board not later than on the first day of the month of June in which the current dealer's license, license is due to expire:

Renewal of a license

15. (1) Every smallholder shall register with the cooperative society to which he delivers coffee an a coffee plantation grower shall register with the Board, by supplying such particulars as the Board may prescribe.

Duty to register with a cooperative society or board

(2) Where a person starts growing coffee at any time before the commencement of this Act, such person shall within six months register with a cooperative society or the Board in accordance with subsection(1).

(3) Any change in the particulars supplied by a grower for purposes of registration in accordance with sub section (1) shall be notified to the Board or cooperative society in writing.

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

(5) The registers referred to in sub-section (5) shall be prima facie proof of the fact that a person is a registered coffee grower and a co-operative society shall furnish the County Body with particulars of all registered coffee growers in such manner as the Board may prescribe.

(6) After the commencement of this Act, any grower who carries on business as such without being registered in accordance with subsection (1) or knowingly or recklessly supplies false particulars commits an offence.

(7) any person who is found liable of an offence under subsection (6) shall be liable to a fine of an amount not less than Kenya Shilling one hundred thousand shillings and not exceeding Kenya Shilling Five Hundred Thousand or imprisonment of a term not exceeding 2 years or both.

16. (1) The supplier of certified Coffee seedlings shall be registered by the Board.

Registration of
coffee seedlings
supplier

(2) Only certified coffee seedlings shall be sold and or planted in the County.

17. (1) Every small holder farmer is a member of a co-operative society who plants or uproots his or her coffee shall within three months of doing so, inform the co-operative society in writing of the area planted or uprooted.

Planting or
uprooting coffee

(2) Every plantation grower who plants or uproots his coffee shall within 3 months after doing so inform the board in writing of the area of coffee planted or uprooted.

(3) Any person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine of not less than Five Hundred Thousand Shillings and not Exceeding Kenya Shilling Eight hundred thousand twenty thousand or to a term of imprisonment not exceeding 1 year or both.

18. (1) No person shall construct or operate a pulping station unless he is licensed by the Board and a separate license shall be required for every pulping station specifying the location of each such pulping station.

Pulping Station
License

(2) The Board shall not license any person to operate a pulping station unless he/she has coffee to meet the capacity for 300,000 kg of coffee and/or 15,000 coffee bushes, whichever is higher, and registered as a plantation.

(3) No person shall pulp for another grower.

(4) Subject to the provisions of this section, the Board shall maintain a register, in such form as it may determine, of all coffee pulping stations and co-operative societies registering growers under this Part and shall enter therein, in respect of each pulping station –

- (a) the full names of the pulping station and the co-operative society to which it may be affiliated;
- (b) the date of issue of the license;
- (c) the date on which annual returns of registered growers by the co-operative society are received;
- (d) the particulars of numbers of registered growers or variations of such particulars;
- (e) the particulars and sizes of areas planted with coffee or variations of such particulars; and
- (f) any other particulars which the Board may deem necessary

(5) Where a co-operative society does not own a pulping station, or where the available pulping station is, for any reason, unable to satisfy the pulping requirements of the member, the co-operative society shall make appropriate and expedient arrangements to have the coffee pulped in a pulping station owned by any other cooperative society.

(6) Any person who contravenes the provisions of this section commits an offence and shall upon conviction be liable to a fine of not less than one million shillings and not exceeding five million shillings or to imprisonment for a term not exceeding 2 years or both.

PART IV – MILLING, MARKETING AND EXPORT OF COFFEE

19. (1) No person shall conduct the business of a Coffee Milling coffee miller unless he is registered and licensed by the Board, and no such business shall be conducted at any premises other than that specified in the register.

(2) The board shall before the registration and licensing of additional millers take into consideration the existing installed milling capacity and the production trends before licensing.

(3) All commercial coffee mills shall be located on such land as may be approved by the Board.

(4) The terms of agreement between a grower and a miller for the milling of coffee shall be in writing.

(6) Except as otherwise agreed between the miller and the grower, milling charges shall be deducted by the marketing agent from the sales proceeds due to the grower on each outturn for remittance to the miller.

(7) Upon registration of a coffee miller, the Board shall issue a certificate of registration specifying the premises at which milling may be carried on by that miller.

(8) No fee shall be charged in respect of any registration or certificate of registration made or issued under this section.

(9) Every coffee miller registered under this section shall submit milling losses quantities and grades allocation report to the respective societies within seven days upon delivery.

(10) A commercial miller shall not operate as a marketing agent:

20. The coffee milled shall conform to the international standards organization and the Kenya Bureau of Standards and shall be in conformity with the seven standard coffee grades.

Standards of coffee milled

21. Every commercial coffee miller shall take out insurance against fire, theft and other risks for all coffee delivered for milling and for milled coffee which has not yet been handed over for marketing.

Insurance Cover

22. No private or commercial miller shall be licensed as a coffee trader.

Coffee Trader

23. Milling charges shall be declared each year by the miller and monitored by the Board.

Milling charges

24. A grower who mills his own coffee shall ensure production and delivery records are submitted to the Board.

Records

25. An inspection unit comprising of a representative of the Board, the miller and a representative of the cooperative society and or factory shall inspect, approve and sign milling loss statement.

Inspection Unit

26. Any person who contravenes the provisions of subsection (1) commits an offence and shall upon conviction be liable to a fine not less than Kshs Five Hundred Thousand shillings and not exceeding Five Million Shillings or to an imprisonment of a term not exceeding 2 years or both.

Offence

27. (1) The Board may by order in the Gazette, require a grower within a specified time to mill the whole or any part of coffee which is in the grower's possession or to send it to a coffee miller registered under section 29 for milling.

Requirement of a grower to mill coffee within a specified time

(2) Any grower who fails to comply with an order made under subsection (1) commits an offence and shall upon conviction be liable to a fine of not less than Kshs One Million Shillings and not exceeding Five Million Shillings or imprisonment to a term not exceeding 3 years or both.

28. (1) No person shall conduct the business of coffee marketing agent unless—

Registration of Marketing agents

- (a) he has produced to the Board a bank guarantee registered in favor of the grower with the Authority worth between one million United States dollars and twelve million United States dollars, or one and a half times the FOB value of the coffee transacted on in each particular case whichever is the higher and he is licensed and registered as a coffee marketing agent by Authority;
- (b) he is appointed by a grower as the marketing agent as by way of an agreement in the prescribed form;
- (c) he conducts such business only at the premises specified in the Board register.

(2) The Board shall keep a register of all licensed marketing agents.

(3) Upon registration of a marketing agent, the County Executive Member shall issue to such agent a certificate of registration specifying the premises at which marketing of coffee and warehousing may be carried on.

(4) A marketing agent may render advisory services to growers in matters relating to his area of operation as approved by the Board

(5) Every marketing agent registered under this section shall submit operations reports and sales contracts to the grower and a copy to the Board

29. Any person who contravenes any of the provisions of subsection (1) commits an offence and upon conviction shall be liable to a fine not less than Kenya Shilling One Million and not exceeding Kenya Shilling Five Million or imprisonment of a term not exceeding three years or both.

Offence

30. (1) No person offering for sale or exporting coffee shall use any distinguishing mark to mark and identify it as coffee grown by him or by a member of a co-operative society to which such member belongs unless the mark is registered as the distinguishing mark of such person or such society with the Kenya Institute of Property Industrialization and such certificate presented to the board.

Distinguishing Mark

31. (1) Quality assurance certificates shall be issued to respective certified in the factories name of the factory and or society.

Quality Assurance certificates

(2) Such certificate may also be issued to cover coffee within a geographical region.

32. (1) Subject to the provisions of this Act —

Restriction and purchase of coffee

(a) no person shall purchase raw coffee from any grower;

(b) no person, other than a grower/cooperative society shall market coffee at the auction unless he meets the requirements set out under section 28 of this Act.

(2) Any person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of any written authority or license granted there under commits an offence and is liable to a fine of not less than Kenya Shilling One Million but not exceeding Kenya Shilling Five million or to imprisonment for a term of not less than three years and not exceeding ten years or to both and the withdrawal of the license.

(3) Where a person is convicted of an offence under this section the court shall order that any coffee and any

vehicle, vessel or other conveyance, in relation to which the offence has been committed, shall be forfeited to the County:

(4) Where a person is convicted of an offence under this section and the coffee and any vehicle, vessel or other conveyance have been forfeited to the State under subsection (4) such items shall be sold by public auction and the proceeds thereof shall be credited to the Board.

33. (1) Every miller to whom any coffee is sent for milling, and every grower who mills any coffee, shall, within forty-eight hours of the coffee being milled send —

Reports and statements on coffee milled

- (a) A report showing Milling losses analysis and Grades of the Milled Coffee;
- (b) the marketing agent, a statement in the prescribed form and a sample of 200 grams of each grade of the milled coffee.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and shall upon conviction be liable to pay a fine of not less than Kenya Shilling One Million and not exceeding Kenya Shilling Five Million or imprisonment to a term not exceeding 3 years or both.

34. The appointed marketing agent shall collect statutory deductions and remit the amounts to the respective institutions entitled to receive such deductions.

Marketing agent to pay statutory deductions

35. (1) Where a sample of coffee has been sent to a marketing agent, the marketing agent shall classify the coffee of which it is a sample in accordance with the sample, and shall, within seven days after such classification, notify the grower or cooperative Society to whom the sample belongs, or his agent, of the class in which the coffee has been classified.

Classification of coffee by a marketing agent

(2) Any grower or Cooperative Society aggrieved by classification of his coffee under subsection (1) may, within fourteen days of the notification under the said subsection, appeal in writing against such classification to the Board.

36. Subject to the provisions of this Act, a marketing agent shall market all coffee which has been classified by him under section 36 on terms agreed between the grower or the grower or Cooperative Society in consultation with his financier and the marketing agent from time to time,

Marketing of Coffee

and such coffee shall be delivered to the marketing agent in such manner as may be prescribed by the Board.

PART V — FINANCE

37. (1) The County Executive Secretary may from time to time, on the recommendation of the Board, by order published in the Gazette, impose a grower's levy, on all coffee sold by the marketing agents under the provisions of this Act.

Ad valorem levy
charge

(2) the levy shall not exceed the percentages specified herein and shall be deducted and remitted directly as follows —

- (a) Such money is may be appropriated by the assembly for the purposes of this Act; and
- (b) two per centum of the gross sales of all clean coffee sold by the marketing agent shall be remitted to the County for the services delivered such as infrastructure development.

(3) Every marketing agent appointed under the provisions of this Act shall remit the amount of the levy deducted by him as specified in subsection (1) to the Board within seven days from the date the coffee sale proceeds are received by the marketing agent from the buyers as specified in the sales catalogue.

(4) All moneys due on account of a grower's ad valorem levy shall be a debt due to the Board.

(4) Any person who contravenes the provisions of subsection (2) shall commits an offence and is liable to a fine of not less than Kenya Shilling five hundred thousand and not exceeding Kenya Shilling Five Million or imprisonment for a term of not less than three years or to both, in addition to the recovery of the amount due to the County Board and such amount due shall attract interest at the prevailing commercial bank rates.

38. (1) There is established a Fund to be known and the Coffee Development Fund.

Coffee
Development
Fund

(2) The Fund shall consist of —

- (a) the coffee development levy at one percent of sales borne by buyer;

- (b) any funds provided by bilateral or multi-lateral donors, for the purpose of the Fund;
 - (c) monies appropriated by the Assembly any interest from loans and advances; and
 - (e) funds from any other source approved by the Trustees.
- (3) The Fund shall be managed as per the provisions of section 116 of the Public Finance Act.
- (4) The purpose for which the Fund is established is to provide sustainable affordable credit and advances to coffee farmers for all or any of the following purposes –
- (a) farm development;
 - (b) farm inputs;
 - (c) Capacity building e.g. extension services
 - (d) farming operations; and
 - (e) price stabilization.

39. A marketing agent shall pay the grower directly after sale of coffee by such agent and on making statutory deductions within seven days of receipt of the coffee sales proceeds from the dealer as specified in the sales catalogue and there shall be no coffee pool in the custody of any marketing agent.

Payment to grower by Marketing Agent

40. (1) The board shall cause to be kept such books of accounts and other books in relation thereto and to all its undertakings, funds, activities and other property as the County Executive Member may from time to time require; and shall within a period of three months after the end of its financial year cause to be prepared, signed and transmitted to the County Treasury.

Book of Accounts

(2) The Board shall prepare and transmit to the Auditor General in respect of each financial year and within three months after the end thereof a statement of accounts relating to the Fund and in accordance with the Public Audit Act, and in such details as the County treasury may from time to time direct furnish such additional information as may be required for examination and audit by the Auditor General or under any law.

PART VII – GENERAL PROVISIONS

41. Any person aggrieved by the refusal of the Board or any other person authorized by the board to issue any license or registration certificate, or by any decision of the Board may within thirty days after being notified of such refusal, cancellation, suspension or decision appeal to the High Court of Kenya.

Appeals

42. Where any notice is required by or under this Act or any rules made there under to be served on any person service thereof may be effected either personally on such person or by registered post; where the person to be served is a body corporate or a cooperative society or other body of persons, service of any such notice may be effected by serving it personally on any secretary, director or other officer thereof, or by leaving or sending it by registered post, registered courier services addressed to the body corporate, cooperative society or body persons at its registered office, or where there is no registered office, at any place where it carries on business.

Service of notices

43. (1) An inspector may require the person in charge, or appearing to be in charge, of premises of a grower / cooperative society, miller, marketer, warehouse or other players in the coffee value chain or retail seller of provisions to allow him free access to the premises and to produce to him for his inspection any license issued, and any register kept, in relation thereto under this Act.

Powers of
Inspectors

(2) Any person who refuses access to an inspector acting under this section or obstructs him in entering or in making an inspection there under, or who without reasonable excuse, fails to produce any license or register production of which is required of him under this section commits an offence.

44. The Director of Public Prosecution may appoint any person to institute and conduct proceedings in a court of law in respect of any offence committed under this Act.

Prosecution

45. Where any offence under this Act or under any offences by Rules made there under is committed by any company or corporations other body corporate, or by any with, societies etc or concerned, or acting in, the control or management of the affairs or activities of such company,

Offence by
corporations

body corporate or co – operative society, association or body of persons shall be guilty of that offence.

46. Any person who is guilty of an offence under this act for which no penalty is provided shall be liable to a fine not less than five hundred shillings and not exceeding one million shillings or to imprisonment of a term of two year or to both.

General Penalty

47. (1) Where the holder of a license under this Act, or any person registered under section 19 or 27, of this Act is convicted of an offence under Chapter XXXI of the penal code in respect of coffee, the court shall upon conviction, in addition to imposing any other penalty, order that the license or certificate of registration, as the case may be, of such person, be cancelled with effect from such date as the court considers will enable the person to dispose of his existing stock of coffee, and that the person or any other persons.

Offence under part XXXI of the Penal Code

(2) a person whose license or certificate of registration has been ordered, under subsection(1), to be cancelled may, notwithstanding the provisions of section 348 of the criminal procedure code appeal against the order to the High court in accordance with the provisions of part XI of the code.

48. (1) The County Executive Secretary may, after consultation with the board, make rules for prescribing, and generally for the better carrying out of the provisions of this Act on the following –

Rules

- (a) prescribing the manner of electing the members of the board, who are required by this act to be elected to represent respective coffee growers and interests, and the manner in which the lists of candidates for election shall be published;
- (b) prescribing the manner in which the persons to represent growers; and
- (c) prescribing the manner of registration and licensing or de – registration of buyers, auctioneers, packers, marketing agents, millers, growers and any other persons dealing in coffee;
- (d) requiring the rules and regulations of any organization dealing or involved in coffee trade

- and all rules and regulations relating to conditions of trading in coffee at the Coffee Exchange, direct sales, international outlets or matters relating to the sale of coffee, made by any such organization to be in conformity with the provisions of this Act.
- (e) prescribing the forms and manner of application for registration under this Act;
 - (f) prescribing the forms and certificates to be issued under this Act;
 - (g) prescribing the returns, and the forms thereof to be made by persons holding licenses under this Act, millers under section 19 and marketing agents under section 28;
 - (h) prescribing the manner in which coffee may be traded and stored, and regulating and controlling the blending and packing of parchment coffee, clean coffee, roasted coffee and ground coffee with a view to maintaining and enhancing the quality of coffee;
 - (i) prescribing the forms of registers required by this Act to be kept and the matters to be entered therein;
 - (j) controlling and regulating the milling and sale of coffee by the millers and marketing agents respectively, including accountability and sale of coffee sweepings and monitoring milling recovery ratios;
 - (k) providing for and regulating deliveries of coffee from the millers to the marketing agents including the retention schemes that may be applied;
 - (l) prescribing the services which the millers and marketing agents may render to growers for payment, and the charges to be made thereof;
 - (m) providing for the submission of returns to the Board relating to the acreage of coffee which is under cultivation and the quantities of coffee available for sale;

- (n) prescribing the forms and procedure for appeals under this Act;
- (o) providing for the manner of grading and classification of coffee under this Act;
- (p) prescribing the fees, which may be charged for anything to be done under this Act;
- (q) prescribing anything, this under this Act that may be prescribed.

PART VIII – TRANSITIONAL PROVISIONS

49. All assets and liabilities which were vested in agriculture institutions within Nyeri County shall upon the completion of the transfer of assets and liabilities by the transition authority be vested in the board.

Assets and
Liabilities

50. Section 138 of the County Governments Act shall apply to any person at the commencement of this Act is a member of staff of former agricultural institutions devolved to the County.

Staff

MEMORANDUM OF OBJECTS AND REASON

The object of the Nyeri County Coffee Bill is to provide for the development, management, regulation and promotion of coffee within the County of Nyeri and for other connected purposes.

Part I provides for preliminary matters including the definition of terms used in the Bill.

Part II establishes the County Coffee Development Office. This part also elaborates on the composition of the office and the qualifications of the County Coffee Development officer and the Deputy County Coffee Development officers. The functions of the office are also enumerated under this part.

Part III provides for the licensing and registration of any coffee business in the County. The categories of licences are enumerated under this part.

Part IV provides for the milling, marketing and export of coffee. For one to conduct the business of coffee milling, one must be registered. This part also provides for coffee marketing agents and the conditions to operate as such. Every miller will be required to produce reports and statements of the coffee milled.

Part V is on finance. It gives the County Executive Member the mandate to impose a grower's levy, on all coffee sold by the marketing agents under the provisions of this Act. This part also establishes a coffee development fund to provide sustainable affordable credit and advances to coffee farmers for purposes such as farm development, farm inputs, capacity building e.g. extension services, farming operations and price stabilization.

Part VII provides for the general provisions which includes appeals, service of notices, powers of inspectors, prosecution, offence by corporations, general penalty and rules.

Part VIII is on transitional provisions.

Dated the 31st July, 2015.

JOHN MACHARIA,

Chairperson- Trade, Co-operatives Development and Marketing.

