



THE NYERI COUNTY COFFEE BILL, 2016

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THE NYERI COUNTY COFFEE BILL, 2016

A Bill for an Act of the County Assembly of Nyeri to provide for the development, management, regulation and promotion of coffee within the county and for other connected purposes

ENACTED by the County Assembly of Nyeri

PART 1 - PRELIMINARY

Short Title 1. This Act may be cited as the Nyeri County Coffee Act, 2016 and shall come into operation on such day as the County Executive Member may publish in the Kenya and County Gazette whichever comes earlier.

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

“Ad valorem 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 and Fisheries Authority;

“Auctioneer” means a person engaged in auctioning coffee at the Nairobi coffee exchange or any other trading floor;

“Board” means the Nyeri Agriculture Development Board;

“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 mbuni, parchment coffee, clean coffee, roasted beans and ground coffee;

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"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 three thousand or more metric tons 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;

"County Executive Member" means the County Executive Member for the time being responsible for agriculture;

"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;

"Grower" means any person who cultivates coffee in any area in the County and is registered with the Board and includes a co-operative society, co-operative union, growers' association or a plantation owner

"Research Institutions" means the Coffee Research Institute 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 officer appointed in writing by the County

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Executive Member, to be an inspector, for purposes of this Act and Gazette;

“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;

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

“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, mbuni 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;

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PART II - ESTABLISHMENT OF THE COUNTY COFFEE UNIT

- Establishment of the County Coffee unit
3. There is established, within the Nyeri County Agriculture Development Board a unit to be known as the County Coffee Unit
- Composition of the Unit
4. (1) The unit shall consist of Officers seconded or recruited by the County Public Service Board.
- (2) The officers under sub- section (1) above may be seconded and or recruited by the County Public Service Board, in consultation with the County Executive Member on such terms and conditions as it considers fit for discharging its functions.
- Functions of the County Coffee Unit
5. (1) The function of the unit is to advise the Board on matters relating to coffee development as provided for under this Act.
- (2) In the performance of its functions under subsection (1), the unit shall—
- (a) serve as a resource center 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 gap analysis and facilitate research and liaison to ensure continuous performance improvement of the Coffee sector in the county;
 - (e) collate, analyze and disseminate information on the Coffee sector in the county;
 - (f) assist the County Agricultural Development Board in formulating guidelines and standard documentation required under this Act;
 - (g) implement regulation and rules as required under this Act;
 - (h) carry out such other functions as may be conferred on it by the Board and this Act.

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PART III - LICENSING AND REGISTRATION

- Conduct of coffee business
6. (a) A person shall not deal in coffee business unless the person is registered in accordance with this Act.
- (b) Any person who requires to conduct any coffee business within the county shall apply to the Board as per the provisions of this Act
- Registration Number
7. 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 and Licensing
8. (1) No person shall -
- (a) buy, sell, mill, warehouse, export or 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) warehousing of coffee by the 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 Five million shillings but not exceeding twenty million shillings or to an 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

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shall order that any coffee and 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.

Types of Licenses 9. Licenses under section 8 shall be of the following kinds-

- (a) category "A" license authorizing the holder to buy or deal in clean coffee produced within Nyeri county or to import clean coffee from outside the county and to process, in the county for sale or export coffee of any county or country of Origin;
- (b) category "B" license authorizing the holder to buy, deal in or import coffee from outside the county including mbuni, and to export such coffee from within Nyeri County;
- (c) a mbuni dealer's license, authorizing the holder to deal in and export mbuni of any county or country of origin;
- (d) a marketing coffee license, authorizing the holder to conduct the business of selling or marketing coffee originating from within Nyeri County;
- (e) a miller's license authorizing the holder to conduct the business of milling coffee within Nyeri County;
- (f) a roaster's license authorizing the holder to conduct the business of roasting coffee within Nyeri County;
- (g) an auctioneer's authorizing the holder to conduct the business of an Auctioneer within Nyeri County;
- (h) a warehouseman's, license authorizing the holder to conduct the business of warehousing coffee as a warehouseman within Nyeri County;
- (i) a packer's license authorizing the holder to conduct the business of

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blending and packaging coffee within Nyeri County;

- (j) a pulping station license authorizing the holder to operate a pulping station within Nyeri County

Movement of
coffee

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

- (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. Movement permit can only be issued at the point of origin (county where the coffee is being moved from);

Non issuance
of a license

11. (1) The Board shall not issue a license under this Act unless -

- (a) the applicant is satisfies the requirements 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 conduct the business or that has employed 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 September following the next date of issue for one calendar year, unless earlier cancelled.

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

- (5) The Board shall, at least thirty days before granting a license under this Act, publish a notice in the Kenya or Nyeri County Gazette.

- (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

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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 calendar days following the next date of the notice.

(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.

Duties of the
license holder

12. (1) The holder of a license issued under this Act shall holder

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

Renewal of a
license

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

Duty to register
with a cooperative

14. (1) Every smallholder shall register with the cooperative society to which he delivers coffee and a coffee plantation grower shall register with the Board,

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society or board

by supplying such particulars as the Board may prescribe.

- (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 sub section(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 dies or sells land, 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 Board 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 shillings one hundred thousand shillings and not exceeding Five Hundred Thousand Shillings or imprisonment of a term not exceeding 1 year or both.

Registration of
coffee seedlings
supplier

15. (1) The supplier of certified coffee seedlings shall be registered by the Board
- (2) Only certified coffee seedlings shall be sold and or planted in the county

Planting or
uprooting coffee

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

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- (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 Thousand Shillings and not Exceeding twenty thousand shillings or to a term of imprisonment not exceeding three months or both.

Pulping Station
License

17. (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.
- (2) The Board shall not license any person to operate a pulping station unless one has coffee to meet the capacity for 20, 000 kg of cherry per year and or 2,000 coffee bushes, whichever is higher, and registered as a plantation.
- (3) The Board shall not license any co-operative society to operate a pulping station unless it is pulping at least 300, 000 kg of cherry per year.
- (4) No person shall pulp coffee for another grower.
- (5) 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
- (6) Where a co-operative society 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.

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- (7) 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 two years or both

PART IV — MILLING, MARKETING AND EXPORT OF COFFEE

- Coffee Milling
18. (1) No person shall conduct the business of a 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, based on compliance with the law of the land, such as: National Environment Management Authority, health department, Urban Housing and Physical Planning.
- (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 approval and 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. The Board shall oversee the milling activities as well.
- (8) A fee shall be charged in respect to 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 and the County Executive Member within forty-eight hours.

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- (10) A commercial miller shall not operate as a marketing agent.
- Standards of coffee milled 19. 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 and classes of coffee.
- Insurance Cover 20. 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. The value of such insurance shall be as directed by the County Executive Member.
- Coffee Trader 21. No private or commercial miller shall be licensed as a coffee trader
- Milling charges 22. Milling charges shall be declared each year by the miller and monitored by the Board
- Records 23. A grower who mills his own coffee shall ensure production and delivery records are submitted to the Board
- Inspection Unit 24. 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 and grades allocation
- Offence 25. Any person who contravenes the provisions of section (18 through 24) commits an offence and shall upon conviction be liable to a fine not less than Five Hundred Thousand Kenya shillings and not exceeding Five Million Kenya Shillings or to an imprisonment of a term not exceeding 2 years or both
- Requirement of a grower to mill coffee within a specified time 26. (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 18 for milling.
- (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 Kenya shillings One Million Shillings and not exceeding Five Million Shillings or imprisonment to a term not exceeding 3 years or both
- Registration of marketing agents 27. (1) No person shall conduct the business of coffee marketing agent unless—
- (a) The marketing agent 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

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one and a halftimes the free on board (f. o. b) value of the coffee transacted on in each particular case whichever is the higher and the person is licensed and registered as a coffee marketing agent by the Board.

- (b) Marketing agent shall disclose to the grower the coffee sales price payable by the buyer and the sales date. In addition, the person shall indicate the date to pay the farmers by the sale date, and execute a guarantee that is one and halftimes the value of the contract. The guarantee shall be invoked on August 1st, if coffee is not paid in full by July 31st of that year, and the prevailing bank lending interest rates shall accrue as of the sales date.
- (c) Marketing agent shall deposit the sales proceeds respective grower's bank account within fourteen (14) days after the sales.
- (d) Marketing agent is appointed by a grower as the marketing agent as by way of an agreement in the prescribed form;
- (e) the marketing agent 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

Offence

28. Any person who contravenes any of the provisions of section (27) commits an offence and upon conviction shall be liable to a fine not less than One Million Shillings and not exceeding Five Million Shillings or imprisonment of a term not exceeding three years or both.

Registration
of

29. (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

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- Distinguishing Mark
- 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 by the County Executive member and such registration certificate filed with the board.
- Quality Assurance certificates
30. (1) Quality assurance certificates shall be issued to respective factories certified in the factories and or society.
- (2) Such certificate may also be issued to cover coffee within a geographical region.
- Restriction and purchase of coffee
31. (1) Subject to the provisions of this Act —
- (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 27 of this Act
- (c) No person shall purchase stolen coffee in any form from anyone.
- (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 Five Million shillings but not exceeding Ten million shillings 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 county under subsection (3) such items shall be sold by public auction and the proceeds thereof shall be credited to the Board.
- Reports and statements on coffee milled
32. (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 to the board —
- (a) A report showing Milling losses analysis and Grades of the Milled

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Coffee;

(b) the marketing agent 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 One Million Kenya Shillings and not exceeding Five Million Kenya Shillings or imprisonment to a term not exceeding 3 years or both.

Marketing agent to pay statutory deductions 33. The appointed marketing agent shall collect statutory deductions and remit the amounts to the respective institutions entitled to receive such deductions

Classification of coffee by a Marketing agent 34. (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.

(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.

Marketing of Coffee 35. Subject to the provisions of this Act, a marketing agent shall market all coffee which has been classified by him under section 40 on such terms agreed between the grower in consultation with his financier and the marketing agent from time to time, and such coffee shall be delivered to the marketing agent in such manner as may be prescribed by the Board.

PART V — FINANCE

Ad valorem levy charge 36. (1) The County Executive member 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.

(2) Every marketing agent appointed under the provisions of this Act shall remit the amount of the levy and cess deducted by him/her as specified

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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.

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

(4) Any person who contravenes the provisions of subsection (2) commits an offence and is liable to a fine of not less than five hundred thousand shillings and not exceeding 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 Board and such amount due shall attract interest at the prevailing commercial bank rates.

Coffee
Development
Fund

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

(2) The Fund shall consist of —

(a) Two per centum cess of gross sales of all clean coffee sold;

(b) the coffee development levy at two percent of the gross sales;

(c) any funds provided by bilateral or multi- lateral donors, for the purpose of the Fund;

(d) monies appropriated by the Assembly and any interest from loans and advances; and

(e) funds from any other source approved by the board.

(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 promote coffee development in any of the following purposes -

(a) credit facility for (farm inputs, farm development, factory infrastructure)

(b) Capacity building e.g. extension services

(c) price stabilization.

(d) road maintenance

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- (5) any expenditure incurred through the fund shall be with the approval of the board.
- Payment to grower by Marketing agent 38. 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.
- Books of Accounts 39. (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.
- (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 VI - GENERAL PROVISIONS

- Appeals 40. 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 County Executive member.
- Arbitration 41.(1) Where any dispute arises between any two or more persons licensed or registered under these Rules the disputing parties may refer to the Arbitration panel for resolution.
- (2) The arbitration panel which shall consist of five members appointed as follows—
- (a) one member appointed by each party to the dispute;
 - (b) two members appointed by the Board;
 - (c) the chairperson of the panel, who shall be appointed by the Board.

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(3) Provided that the County Executive member may constitute a panel of at least three members (with legal background-either a lawyer or magistrate) in case of one of the disputing parties does not appoint the required arbitrator.

(4) The quorum for the business of the arbitration shall be three members.

(5) The Board shall make the final decision based on the findings and recommendations of the arbitration panel.

Service of notices 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.

Appointment of inspectors

43. (1) The County Executive Member shall appoint inspectors to conduct independent inspection of a grower farm or a mill or a warehouse or marketing or coffee management agent's or Trader's premises to ascertain whether the requirements of the Bill and these rules are being complied with.

(2) The inspectors shall:

(a) Monitor activities along the value chain of coffee to ensure compliance with set regulation and standards.

(b) Undertake inspections to ensure conformity to the regulations.

(c) Ensure all people dealing with coffee adhere to the terms and conditions of registration, licensing and guidelines set out in schedule Two.

(d) Work in collaboration with the County Executive member in discharge of their functions.

(3) A grower, miller, warehouseman or marketing agent, Trader or coffee management agent shall afford the inspector full and free access and all necessary assistance to any such inspector.

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- (4) No coffee grower, miller, marketing agent, Trader, coffee management agent or warehouseman and no agent of such grower, miller, marketing agent, Trader, coffee management agent or warehouseman shall deny entry to an inspector acting in the course of that inspector's duty or obstruct an inspector from making an entry or conducting an inspection of mill or premises.
- (5) Any person contracted to produce and market specialty coffee shall give access to persons authorized by the Board to inspect the farms, processing facilities, warehouses and shall, when required to do so, to produce for the purpose of inspection any document or information related to production, processing and export of the coffee.
- Powers of Inspectors
44. (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.
- (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.
- Prosecution
45. 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
- General Penalty
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 thousand shillings and not exceeding one million shillings or to imprisonment of a term of two years or to both.
- Offence under part XXXI of the Penal Code
- 47) Where the holder of a license under this Act, or any person registered under section 18 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

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the date of conviction.

- (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.

Rules

48. (1) The County Executive member 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 -
 - (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;
 - (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 18 and marketing agents under section 27;
 - (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;

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- (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.

PART VII - TRANSITIONAL PROVISIONS

- Assets and Liabilities 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.
- Staff 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.
- 51. Holders of a current licenses under section eight 8(1) (a) will be given up to 1st July of 2016 to renew their licenses.

MEMORANDUM OF OBJECTS AND REASONS

The Nyeri County Coffee Bill, 2016

The purpose of this Bill is to provide for the development, management, regulation and promotion of coffee within the county and for other connected purposes.

Part I provides for the preliminary matters. The short title of the Bill is the Nyeri County Coffee Bill, 2016. This part also provides for the interpretation section.

Part II establishes the County Coffee unit. The composition of the unit is officers seconded or recruited by the County Public Service Board. The functions of the unit are also provided for in this part.

PART III provides for licensing and registration. Any person operating a coffee business will be required to be registered. The bill enumerates ten types of licensing. Movement of coffee shall also be managed through issuance of movement permits by the board.

PART IV provides for milling, marketing and export of coffee. The business of milling, marketing or export can only be conducted if one is registered and licensed by the Board.

PART V provides for finances. In this part, there is established a fund to be known as coffee development fund. The purposes of the fund shall be to promote coffee development in the following ways- Credit facility, capacity building, price stabilization, road maintenance. the bill proposes to obligate the Board to keep such books of accounts in relation to all its undertakings.

PART VI provides for the general provisions

This part provides for appeals, arbitration, service of notices, appointments of inspectors, prosecution, general penalty and rules.

PART VII provides for transitional provisions

The transitional provisions are in relation to assets and liabilities. All assets and liabilities which were vested in agriculture institutions within Nyeri County shall upon completion of the transfer of assets and liabilities by the Transition Authority be vested in the Board.

HON. KIBIRA NGUNYI

CHAIRPERSON: AGRICULTURE, LIVESTOCK AND FISHERIES

The Nyeri County Coffee Bill, 2016

COMMITTEE

DATE.....