

SPECIAL ISSUE

Kenya Gazette Supplement No. 63 (Senate Bills No. 24)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2021

NAIROBI, 16th April, 2021

CONTENT

Bill for Introduction into the Senate—	PAGE
The Coconut Industry Development Bill, 2021	571

**THE COCONUT INDUSTRY DEVELOPMENT
BILL, 2021**

ARRANGEMENT OF CLAUSES

Clause

PART I – PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Objects of the Act.

**PART II – ESTABLISHMENT, FUNCTIONS AND
POWERS OF THE COCONUT INDUSTRY
DEVELOPMENT BOARD**

- 4—Establishment of the Coconut Industry Development Board.
- 5— Powers of the Board.
- 6—Composition of the Board.
- 7—Qualifications for appointment as a member.
- 8—Term of appointment.
- 9—Vacation of office.
- 10—Functions of the Board.
- 11—Committees of the Board.
- 12—Delegation by the Board.
- 13—Remuneration of members of the Board.
- 14—Chief Executive Officer.
- 15—Functions of the chief executive officer.
- 16—Removal of the chief executive officer.
- 17—Corporation secretary.
- 18—Staff of the Board.
- 19—Protection of members and staff from liability.

20—Common Seal of the Board.

21—Signing authority.

22—Meetings of the Board.

PART III — ROLE OF COUNTY GOVERNMENTS

23—Role of county governments.

PART IV – REGULATORY PROVISIONS

24—Registration.

25—Licensing of manufacturers or processors.

26—Refusal to grant a licence.

27—Cancellation of a licence.

28—Compliance notice.

29—Effect of cancellation of licence.

30—Appeals.

PART V—FINANCIAL PROVISIONS

31—Coconut Development Fund.

32—Annual estimates.

33—Accounts and audit.

34—Annual Report and Publication.

35—Financial year of the Board.

PART V – MISCELLANEOUS PROVISIONS

36—Incentives.

37—Enactment of county specific legislation.

38—Management of information.

39—Penalties.

40—Regulations.

41—Publication of coconut growing counties.

42—Consequential Amendment.

FIRST SCHEDULE — COUNTIES

SECOND SCHEDULE—PROVISIONS

RELATING TO THE CONDUCT OF MEETINGS OF THE BOARD

**THE COCONUT INDUSTRY DEVELOPMENT BILL,
2021**

A Bill for

AN ACT of Parliament to provide for the production, processing, marketing and distribution of Kenya coconut and its products; establish the Coconut Industry Development Board; provide a framework for coconut farming development; ensure value addition to coconut and its related products; and for connected purposes

ENACTED by the Parliament of Kenya, as follows —

PART I—PRELIMINARY

1. This Act may be cited as the Coconut Industry Development Act, 2021.

Short title.

2. In this Act, —

Interpretation.

“Board” means the Coconut Industry Development Board established under section 6;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to Agriculture;

“chief executive officer” means the person appointed as the chief executive officer to the Board under section 13;

“coconut” means the plant botanically known as *Cocos nucifera* and includes the seedling, mature tree, all the products from the tree and any other by-products related directly or indirectly to the coconut tree;

“coconut products” includes—

- (a) kernel of the coconut, wholly or partly dried, coconut oil and any product made wholly or in part from any part of the coconut;
- (b) all the products of medicinal value from coconut tree;
- (c) coconut products used in the construction industry;
- (d) all products from the coconut tree that are edible and used as food and food supplements;
- (e) all coconut by-products used as soap; or
- (f) all coconut products used as beauty products;

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

“Principal Secretary” means the Principal Secretary responsible for matters relating to Agriculture.

3. The object of this Act is to provide a framework

Objects of the Act.

- (a) to promote a globally competitive coconut industry;
- (b) to facilitate the production, value addition and processing of safe and healthy coconut trees and products;
- (c) to promote the generation of higher income for coconut farmers and traders by introducing better varieties of coconut tree with higher yield;
- (d) for the continuous and sustained research and extension services for the development of the coconut industry;
- (e) to facilitate the introduction of modern coconut farming techniques and general modernization of the coconut industry; and
- (f) for the provision of financial support to the various players in the coconut industry.

PART II – ESTABLISHMENT OF THE COCONUT DEVELOPMENT BOARD

4. (1) There is established the Coconut Industry Development Board.

Establishment of the Coconut Industry Development Board.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable or immovable property
- (c) enter into contracts;
- (d) borrowing and lending money; and
- (e) doing or performing all such other things or act as may be necessary in furtherance of its object and functions.

(3) The headquarters of the Board shall be in Kilifi County.

(4) The Board may establish branches in such other counties as it may consider necessary for the effective performance of its functions under this Act.

5. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act.

Powers of the Board.

(2) Without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Board;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and
- (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.

(3) The Board may, if it considers it necessary, create or take part in the creation of, become a member of, or associate with a body or corporation designed to assist or promote the coconut industry.

6. (1) The Board shall consist of —

Composition of the Board.

- (a) a non-executive chairperson appointed by the President by notice in the *Gazette*;
- (b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;
- (c) the Principal Secretary responsible for trade or a representative nominated by the Principal Secretary in writing;

- (d) six persons representing coconut farmers, one from each of the counties set out in the first schedule, nominated by the farmers' cooperatives with the largest membership in the respective counties;
- (e) one person nominated by the Council of County Governors; and
- (f) a chief executive officer appointed by the Board who shall be an *ex-officio* member of the Board.

(2) The Cabinet Secretary shall, taking in to account the principle that not more than two-thirds of the members should be of one gender, appoint the members under subsection (1)(d) and (e) by notice in the *Gazette*.

7. A person is qualified for appointment as a member of the Board if that person—

Qualifications for appointment as a member.

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognised in Kenya; and
- (c) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(2) A person is not qualified for appointment if that person—

- (a) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;
- (b) is a member of Parliament or county assembly; or
- (c) is adjudged bankrupt.

8. A person who is appointed under section 6(1)(a), (d) and (e) shall serve for a term of three years renewable for one further term.

Term of appointment.

9. A person shall cease to be a member of the Board if that person—

Vacation of office.

- (a) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (b) becomes an officer, agent or member of staff of the Board;
- (c) resigns in writing addressed, in the case of the chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;

- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months; and
- (e) is declared bankrupt;
- (f) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (g) dies.

10. The Board shall —

Functions of the Board.

- (a) regulate and promote the development of the coconut industry;
- (b) advise the Cabinet Secretary which counties qualify as coconut producing counties;
- (c) make recommendations to the Cabinet Secretary for, and oversee, the implementation of strategies, plans and policy relating to the coconut sector;
- (d) promote the diversification of coconut products and by-products including oil palm products and by-products;
- (e) promote the marketing of coconut products and by-products in both local and foreign markets and preserve the competitiveness and reliability of the country as a producer and supplier of coconut products by establishing national acceptable standards acceptable in the international markets;
- (f) establish linkages with local and international research institutions to conduct scientific research and investigations in all areas pertaining to the development of the coconut industry;
- (g) collect, collate and disseminate information on the coconut industry including the appropriate technology and practices to ensure maximisation of yields by coconut farmers;
- (h) regulate the marketing and the exportation of coconut products and by-products to conform to the quality or food standards recognized in the international market;
- (i) put in place a framework for the capacity building and interaction of various players in the coconut industry;

- (j) develop and enforce the coconut industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards; and
- (k) co-ordinate capacity building activities for players in the coconut value chain.

(2) The Board shall consult and collaborate with the Council of County Governor in the development, promotion and regulation of the coconut industry.

11. (1) The Board may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.

Committees of the Board

(2) The Board may co-opt to sit in a committee established under subsection (1) such persons whose knowledge and skills are necessary for the performance of the functions of the Board.

12. The Board may, by resolution, delegate to any committee, member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

Delegation by the Board.

13. The members of the Board shall be paid such remuneration or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, determine.

Remuneration of members of the Board.

14. (1) There shall be a chief executive officer of the Board who shall be competitively recruited and appointed by the Board on such terms and conditions as the Board shall determine.

Chief executive officer.

(2) A person is qualified for appointment as the chief executive officer if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least five years' experience in senior management; and
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(3) The chief executive officer shall hold office for a term of five years and is eligible for re- appointment for one further term.

15. The chief executive officer shall be the secretary to the Board and shall, subject to the direction of the Board—

Functions of the chief executive officer.

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

16. The chief executive officer shall cease to hold office if that person—

Removal of the chief executive officer.

- (a) resigns in writing, addressed to the Board;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is found liable for gross misconduct or abuse of office in contravention of the Public Officers Ethics Act or any other relevant law;
- (d) is declared bankrupt;
- (e) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (f) dies.

No. 4 of 2003.

17. (1) There shall be a corporation secretary who shall be competitively recruited and appointed by the Board.

Corporation secretary.

(2) The terms and conditions of service of the corporation secretary shall be determined by the Board in the instrument of appointment on the advice of the Salaries and Remuneration Commission. Cap 534.

(3) A person is qualified for appointment as a corporation secretary if that person—

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

(4) The corporation secretary shall be the secretary to the Board and shall —

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

18. The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine. Staff of the Board.

19. Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or Protection of members and staff from liability.

exercise of any duty or power imposed by or conferred under this Act.

20. The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the Board.

Common seal of the Board.

21. All letters and instruments written or made by or on behalf of the Board, other than those required by law to be under seal, and all decisions of the Board, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the Board.

Signing Authority.

22. (1) The business and affairs of the Board shall be conducted in accordance with the Second Schedule.

Meetings of Boards.

(2) Except as otherwise provided in the Second Schedule, the Board may regulate its own procedure.

(3) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not be entitled to vote on any of the Board's decisions.

PART III – ROLE OF COUNTY GOVERNMENTS

23. (1) Each county government shall—

Role of county governments.

- (a) implement the National Government policy relating to the coconut sector;
- (b) regulate and promote the development of the coconut industry within the respective county;
- (c) regulate the cutting or destruction of coconut trees in order to conserve and protect the resources devoted to the coconut industry in the respective county;
- (d) co-ordinate the activities of persons, organisations and any other associations within the coconut industry; and
- (e) facilitate access, by players in the coconut industry within the respective county, to such resources and financial support as may be necessary to promote the development of the coconut industry in the respective county.

(2) Each county executive committee member shall, in ensuring that the county government fulfils its obligations under subsection (1)—

- (a) maintain an up to date register of coconut growers, nursery operators, coconut co-operative societies and other associations as it considers appropriate in that county;
- (b) implement national and county legislation on coconut industry code of practice, policies and guidelines on corporate governance in coconut growers' institutions;
- (c) facilitate the production of coconut in the respective county by implementing and expanding the planting and replanting program of coconut trees in strategic areas identified as having the most potential and facilitate the rehabilitation and fertilization of existing coconut trees;
- (d) offer extension services on coconut production and primary processing;
- (e) promote the organization of coconut farmers cooperatives, associations, and organizations and provide them with credit and financing support;
- (f) provide training, extension service programs and disseminate information to coconut farmers, farm workers and processors relative to production technology, market systems, farm workers, entrepreneurial and other technical skills and values, attitude formation and socio-economic development strategies;
- (g) collaborate with relevant institutions so as to promote access to credit and other financial services;
- (h) formulate and adopt a general program of development geared towards increased farm productivity, through planting or replanting of suitable seedling varieties, rehabilitation and fertilization of coconut, integrated coconut-based farming systems and product processing;
- (i) inspect nurseries and value addition industries located within their respective counties;
- (j) in collaboration with law enforcement agencies, enhance security in coconut growing areas; and

- (k) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies.

PART IV – REGULATORY PROVISIONS

24. (1) A person or entity shall not directly or indirectly carry out the business of a coconut grower, coconut nursery operator, coconut cooperative society or coconut association unless such person is registered by the respective county government in which the business is to be undertaken. Registration.

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

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

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

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

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

25. (1) A person shall not directly or indirectly engage in the manufacture or processing of coconut products and by-products unless such person has applied for a licence with the county executive committee member by submitting to the county executive committee member — Licensing of manufacturer or processor.

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

(2) A county executive committee member shall consider an application within such period, not exceeding fourteen days, as may be prescribed in the respective county legislation, and may—

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

(3) A county executive committee member shall inform the applicant of its decision under subsection (2) within fourteen days of the decision.

(4) Where the county executive committee member refuses to grant an application, the county executive committee member shall, in its notification under subsection (3), specify the reasons for the refusal.

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

(6) The county executive committee member shall, in issuing the notice under subsection (5)—

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

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

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

(9) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or twice the value of the coconut or coconut products,

whichever is greater, or to imprisonment for a term not exceeding two years or both.

26. (1) The county executive committee member may refuse to grant a licence where—

Refusal to grant a licence.

- (a) the applicant fails to meet the conditions specified in section 25 or under county legislation enacted pursuant to section 36; or
- (b) the application does not comply with the requirements imposed under this Act or prescribed under the specific county legislation.

(2) The county executive committee member shall notify the applicant of the decision within fourteen days of such refusal.

27. (1) The county executive committee member may cancel the licence of a person under this Act if the licensee—

Cancellation of a licence.

- (a) fails to meet any condition imposed by this Act or county legislation;
- (b) fails to comply with the provisions of the licencing legislation; or
- (c) surrenders the licence or permit to the relevant licensing authority together with a notice setting out a request that the licence be cancelled

(2) The county executive committee member shall not revoke the licence under subsection (1) unless the committee member—

- (a) issues to the person, a notice of at least fourteen days of the intention to cancel the registration;
- (b) issues to that person a compliance notice in the prescribed form; and
- (c) grants the person, an opportunity to be heard on the revocation.

(3) The county executive committee member shall cancel the licence of a person who has ceased to carry out the business for a which the licence was issued.

28. (1) A compliance notice issued under section (27) shall—

Compliance notice.

- (a) be in writing;
- (b) set out the areas of non-compliance and the steps required to be undertaken in order to comply; and
- (c) specify the period within which the person is required to comply with the notice.

(2) The county executive committee member may, upon request by the licensee and, where there are sufficient grounds shown by the licensee, extend the period of compliance for such period as the committee member may consider necessary to ensure compliance.

29. (1) Where a person who receives a notice under section 28 fails to comply with such notice, the county executive committee member shall —

Effect of
cancellation of
licence.

- (a) cancel the registration of that person;
- (b) notify the person in writing of—
 - (i) the cancellation and the reasons for it; and
 - (ii) the date of cancellation.

(2) For purposes of this Act, a cancellation of licence takes effect on the date on which the licence is cancelled by the county executive committee member.

30. Where an applicant is dissatisfied with the decision of the county executive committee member not to issue a licence under this Act, the applicant may make an application for judicial review to the court within thirty days of the decision.

Appeals.

PART V – FINANCIAL PROVISIONS

31. (1) There may be established a Fund to be known as the Coconut Development Fund which shall be administered by the Board.

Coconut
Development
Fund.

- (2) The Fund shall consist of—
- (a) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;
 - (b) such monies as may be payable to the Board pursuant to this Act or any other written law;
 - (c) such gifts as may be donated to the Board; and

- (d) monies from any other source granted, donated or lent to the Board.

32. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that year.

Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned.

(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in the National Assembly and the Senate.

33.(1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

Accounts and Audit.

- (a) a balance sheet showing in detail the assets and liabilities of the Board; and
- (b) such other statements of accounts as the Cabinet Secretary may approve.

No. 34 of 2015.

(2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

(3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.

34. (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.

Annual report and publication.

(2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to the National Assembly and the Senate the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if a House of Parliament is not sitting, within fourteen days of the commencement of its next sitting.

35. The financial year of the Board shall be the period of twelve months ending on the thirtieth of June in each financial year.

Financial year of the Board.

PART VI—MISCELLANEOUS PROVISIONS

36. The Cabinet Secretary responsible for finance may from time to time implement such measures, including tax incentives in order to promote the development of the coconut industry.

Incentives.

37. Each county government may enact county specific legislation setting out –

Enactment of county specific legislation.

- (a) the criteria for the registration of a grower within the respective county;
- (b) criteria for the issuance of a licence to an applicant within the respective county;
- (c) information required to be submitted by an applicant for registration or issuance of a licence;
- (d) process of determination of an application for registration or issuance of a licence;
- (e) the conditions for the issuance or renewal of a licence under this Act;
- (f) process of application for the renewal of licences and revocation of a licence issued to an applicant under this Act.
- (g) the grounds for the rejection of an application or cancellation of a licence issued under this Act; and
- (h) process of application for the renewal of registration and de-registration.

38. The Board shall carry out market research and analysis and disseminate information on its findings to all stakeholders.

Management of information.

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

Penalties.

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

- (a) was director, partner or officer;
- (b) had knowledge or should have had knowledge of the commission of the offence; and
- (c) did not exercise due diligence to ensure compliance with this Act,

commits an offence and is liable for the offence as if they had committed the offence, unless they prove that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer concerned as aforesaid and to all the circumstances.

40.(1) The Cabinet Secretary may, in consultation with the Board and the Council of County Governors, make regulations generally for the effective carrying out the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the regulations may provide for the regulation of the processing, importation and exportation of coconut and coconut products.

41. (1) The Cabinet secretary may on the advice of the Board review the list of counties that grow coconut under the First Schedule of this Act.

Publication of coconut growing counties.

(2) The Cabinet secretary shall publish the list under subsection (1) in the *Gazette*.

42. (1) Part 3 of the First Schedule to the Crops Act is amended deleting the following item —

Consequential amendment.

Coconut.....Cocos nucifera.

FIRST SCHEDULE

(s 6)

COUNTIES

Mombasa County;

Kwale County;

Kilifi County;

Lamu County;

Tana River County; and

Taita-Taveta County.

SECOND SCHEDULE (s. 22)**PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD**

1. (a) The Board shall have at least ten meetings in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting. Meetings.

(2) Meetings shall be convened by the Chief Executive Officer in consultation with the Chairperson and shall be held at such times and such places as the Chairperson shall determine.

(3) The respective Chairpersons shall preside over all meetings and in the absence of the Chairperson, by a person elected by the Board as the case may be at the meeting for that purpose.

(4) The Chairperson may at any time convene a special meeting of the Board as the case may be, and shall do so within one month of the receipt by the Chairperson of a written request signed by at least five other members.

(5) Unless half of the members of the Board otherwise agree, at least seven days' notice of a meeting shall be given to every member of the Board as the case may be.

2. The quorum of a meeting of the Board is half of the total number of members. Quorum.

3. A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote. Voting.

4. Minutes of all meetings shall be kept and entered in records kept for that purpose. Minutes.

5. (1) If a person is present at a meeting of the Board or respective committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest. Disclosure of interest.

(2) The person making the disclosure of interest under subsection (1) shall not, unless the Board or committee otherwise directs, take part in any consideration or

discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(4) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

(5) A member or employee of the Board shall not transact any business or trade with the Board.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to establish the Coconut Industry Development Board with the aim of saving the coconut industry by revamping the policy and institutional framework and strengthening the institutional framework within which the industry operates. The coconut industry is the biggest agricultural industry in the coastal parts of Kenya covering a total landmass of two hundred thousands (200, 000) acres and affecting the lives of the entire Coastal regions population either directly or indirectly as custodians or beneficiaries. There is therefore a genuine need for a strong and robust policy and institutional foundation to support and guide the multitude of activities, operations, and interactions with the industry with the result that the growth of the industry will result with a strengthened agricultural economy for the Coastal region.

Governmental issues, regulatory challenges, national and international economic realities, and scientific reliability are some of the pressing concerns that need to be addressed by the institution responsible for coconut industry development in order to reach the promise the industry could boast.

The highlight of this Bill is the revamping of coconut farming in order to make it a profitable, sustainable and development-oriented activity. It proposes to provide an avenue for appreciating the medicinal, aesthetic, touristic and artistic value of coconut by encouraging value addition in the processing of coconut and its products. The Bill therefore establishes the Coconut Industry Development Board. It further provides for research and development to cultivate a culture of scientific excellence and professionalism in coconut farming and industrial development.

Part I (clauses 1-3) contains preliminary matters.

This part contains the short title, interpretation of terms, and the object of the Act.

Part II (clauses 4-22) provides for the establishment, functions and powers of the Coconut Industry Development Board.

It further provides for the composition and qualifications for appointment of the members of the Coconut Industry Development Board. In addition, it provides for the office of the chief executive officer of the Board and the secretariat.

This part also provides for the establishment of Committees of the Boards as well as tenure of office of Board members. It further provides for remuneration of the members as well as the meetings of the Board. It also provides for removal from office and vacation from office of

members. Finally, it provides for the filling of any vacancies as well as the Common Seal of the Board.

Clauses 23- contains provisions related to the role of county governments in regulating the coconut industry.

Part IV (clause 24-29) sets out the regulatory provisions. It provides the criteria for registration and licensing of the coconut industry stakeholders.

The provision requires coconut growers, coconut nursery operators, coconut association and societies to register with the county government. It further requires the processors and manufacturers to be licenced by the county government.

Part V (clauses 30-34) sets out the financial provisions of the Board.

This part also establishes the Coconut Development Fund which it is proposed should be administered by the Board. It further sets out the sources of the fund. It also provides for the preparation of annual estimates of income and expenditure of the Board. It further provides for the period of the financial year of the Board and the preparation and auditing of its accounts.

Part VI (Clauses 35-40) This part contains provisions relating management of information by the Board and authorises the Cabinet Secretary in consultation with the Board and the Council of County Governors to develop regulations. The Bill further authorises the Cabinet Secretary responsible for finance to offer tax incentives from time to time. In addition, it allows county governments to develop county specific legislation.

First Schedule

The Schedule contains the list of counties that have been recorded as coconut producing.

Second Schedule

The Schedule contains provisions relating to meetings of the Board and the conduct of such meetings.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill does not delegate any legislative powers nor does it limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Agriculture is a devolved function in section 7 of part 2 of the Fourth Schedule to the Constitution and therefor this is a Bill that concerns

county governments. By facilitating the development of coconut industry in the country the Bill ensures that coconut farmers have opportunities to enhance coconut farming and value addition to coconut products. This in turn facilitates the growth and development of the economies of the counties that produce coconut and the economy of the country.

The Bill therefore concerns county governments in terms of Articles 110(1) (a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 13th April, 2021.

NJERU NDWIGA,
Chairperson,
Standing Committee on Agriculture, Livestock and Fisheries.