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**NATIONAL ASSEMBLY
EIGHTH PARLIAMENT – FIFTH SESSION**

**REPORT
OF THE
DEPARTMENTAL COMMITTEE
ON AGRICULTURE, LANDS
AND NATURAL RESOURCES
ON
THE COFFEE BILL, 2001**

Parliament Buildings
NAIROBI

November, 2001



INTRODUCTION

Mr. Speaker, Sir, on behalf of the Members of the Departmental Committee on Agriculture, Lands and Natural Resource and pursuant to the provisions of Standing Order No.101(3), I would like to take this opportunity to present to the House the Report and recommendations of the Committee on the Coffee Bill, 2001. Mr. Speaker Sir, the recommendations contain proposed amendments to the Bill.

The Coffee Bill, 2001 was referred to the Committee on 15th August, 2001 upon a Motion moved by the Minister for Agriculture pursuant to the provisions of Standing Order No.101(1). During its deliberations on the Bill, the Committee heard representations from several stakeholders among them, the Kenya Planters Co-operative Union, the Tegemeo Institute of the Egerton University, Musterdseed International, the Coffee and Tea Parliamentarians Association (COTEPA), Kenya Coffee Growers Association and Mild Coffee Trade Association of Eastern Africa.

Kenya Coffee Marketing Agency vs Kenya Planters Co-operative Union

The Members will recall that mid this year, the House adopted Sessional Paper No.2 of 2001 on Liberalization and Restructuring of the Coffee Industry. Under Section 6.3.8 of the Paper there was an option for Coffee Growers to establish the Kenya Coffee Marketing Agency Limited (KCMA) to market their coffee. The Committee, however, after careful consideration was of the view that KPCU being a farmer's body was best suited to perform the duties which would otherwise have been performed by KCMA. The Committee has therefore proposed some amendments to that effect.

Directions by the Minister

Clause 13 provides that the Minister may give directions to the Board. The Committee did not however find it necessary for the Minister to have those powers, and has therefore proposed that the clause be deleted.



Likewise, the Committee did not find it necessary to include clause 36 since this will be covered by the new clause 34(2).

Establishing of the Coffee Development Fund

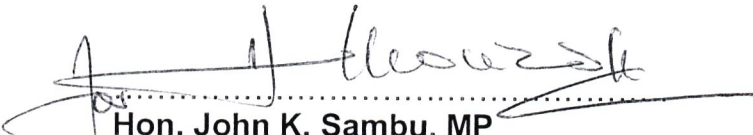
The Committee found it necessary to establish the Coffee Development Fund in place of the proposed Coffee Levy Fund. In this regard, the Committee has deleted clause 35 and has inserted a new clause in place thereof. The Fund will provide sustainable affordable credit and advances to coffee farmers.

Mr. Speaker, Sir, such a Fund is in operation in Colombia under the name of the National Coffee Fund and is responsible for building tarmac roads, bridges, schools and hospitals in coffee producing areas.

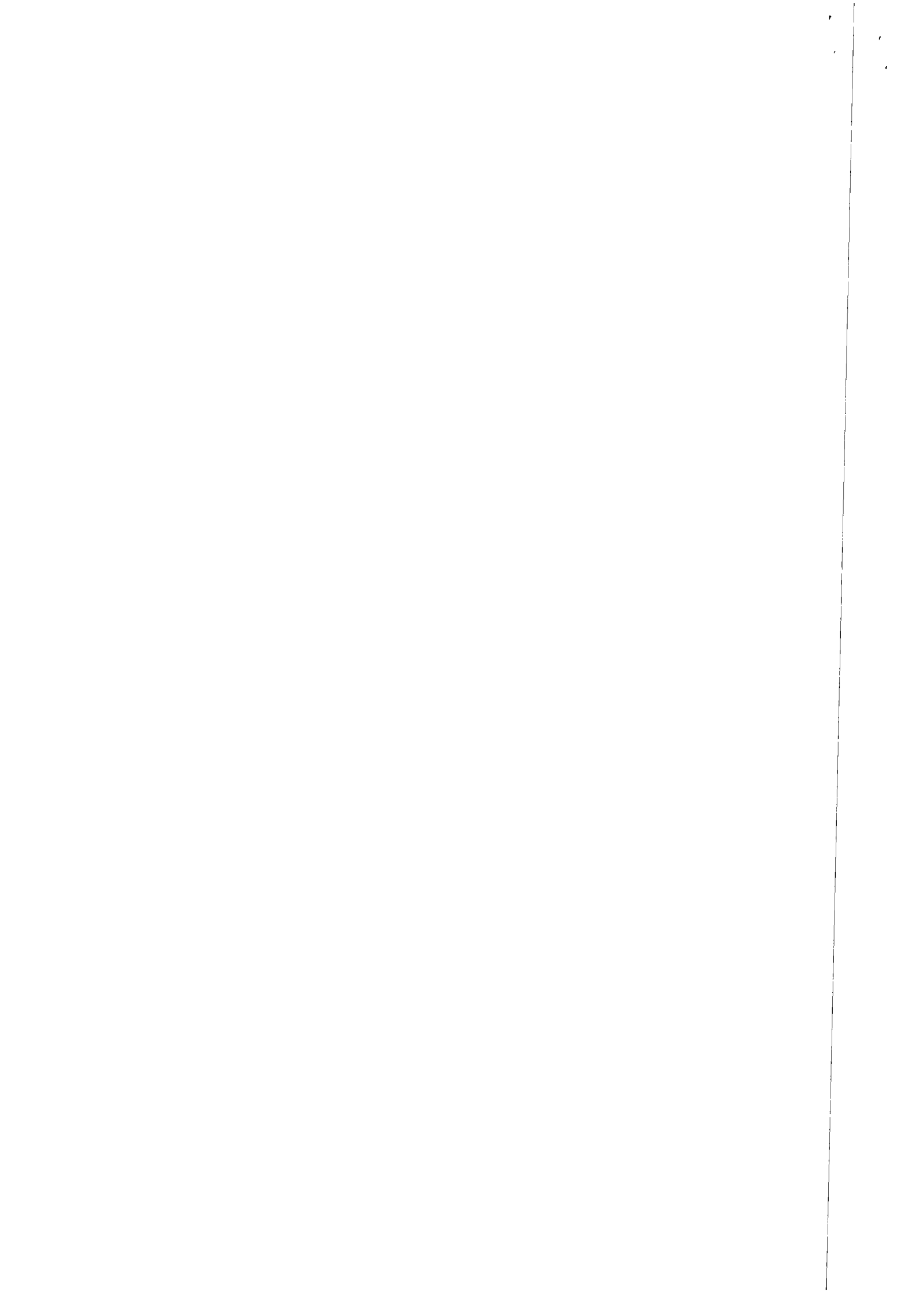
Patenting and Trade Markets

Though Kenya coffee is highly reputed for its quality, issues relating to “**intellectual property**” rights were left out in the policy paper. The Government through Coffee Board of Kenya should address the issue of “**patenting**” and “**trade marks**”. The Coffee Board should in addition include such details in the certification since this is becoming an important issue particularly as regards quality and origin of coffee.

Mr. Speaker Sir, the Committee unanimously agreed on the following amendments to the Bill.


.....
Hon. John K. Sambu, MP
Chairman - Departmental Committee on
Agriculture, Lands & Natural Resources

Date..... 19th Nov 2001



**REPORT OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE,
LANDS AND NATURAL RESOURCE ON THE PROPOSED AMENDMENTS
TO THE COFFEE BILL 2001**

Long title
(page 653)

The Long title is amended by inserting before the word **“development”**, the words and commas, **“production, processing, marketing and financing”**.

Clause 2
(page 653)

(a) In definition of the term **“auction”** by inserting the word **“central”** immediately after the word **“the”** and **“auction”**

(b) By deleting the term **“broker”** and the definition thereof.

(c) By deleting the term **“Commission Agent”** and the definition thereof.

(d) In the definition of the term **“Foundation”** by deleting the words **“and controlled by the Board”**

(e) In the definition of the term **“Marketing Agent”** by deleting all the words appearing after the word **“coffee”** on the third line of the definition.

(f) By including in the definition, the term **“Nairobi Coffee Exchange”** as follows:

Nairobi Coffee exchange means the Central Coffee Auction which is the trading floor of coffee.

(g) By including in the definition the term **“warehouse”** as follows:

Warehouse means a centralized designated storage facility for coffee, specifically designed to guarantee coffee, quality and safety.



- Clause 3
(Page 657) By deleting clause 3(2)(c)
- Clause 4
(Page 657) (f) By including the Chief Executive of KPCU as a member of the Board.
- Clause 4(b)
(Page 657) By deleting the word **“hold”** immediately after the word **“small”** and inserting in its place the word **“holder”**.
- Clause 7(2)(A) (a) by deleting the words **“in consultation with the minister for the time being responsible for agriculture and other interested parties”**
- Clause 7(2)(b)&(c) By deleting the words **“Commission Agents and broker”** appearing in the two sub-clauses
- Clause 7(2)(f)
(Page 660) By deleting clause 7(2)(f)
amend the current sub-section 7(2) by deleting the number (2) and numbering the same sub section (3)
- Clause 8 paragraph 3 of the schedule is amended by inserting between the words **“members”** and **“including”** the following words and a comma thereof; **“six of whom shall be members elected under section 4(b) and (c).**
- Clause 9 by deleting the words **“the Minister after consultation with the Ministers responsible for finance may authorize the”** and by deleting the word **“to”** immediately after the word Board and replacing them with the words before the word **“Board”** and the word **“may”** immediately after the word **“Board”**.
- Clause 13
(Page 661) By deleting clause 13
- Clause 16
(Page 662) By inserting in the proviso the words **“or default”** between the words **“act”** and **“done”**



Clause 17 by inserting immediately after the word “**growers**” in clause 17(1) the following words “**who participated in its election**”

Clause 18 In clause 18(1)(b) by deleting the words “**and is the holder of a movement permit issued by**”

Clause 19 By deleting clause 19 (d) and (e)
(Page 664)

Clause 19(f) By deleting the word “**agent**” appearing immediately after
(Page 665) the words “**or marketing**” and replacing the same with the
word “coffee”.

Clause 19 By renumbering clause 19 as clause 19(1) and inserting 5
new sub sections as 19(2), 19(3), 19(4), 19(5) and 19(6). 23

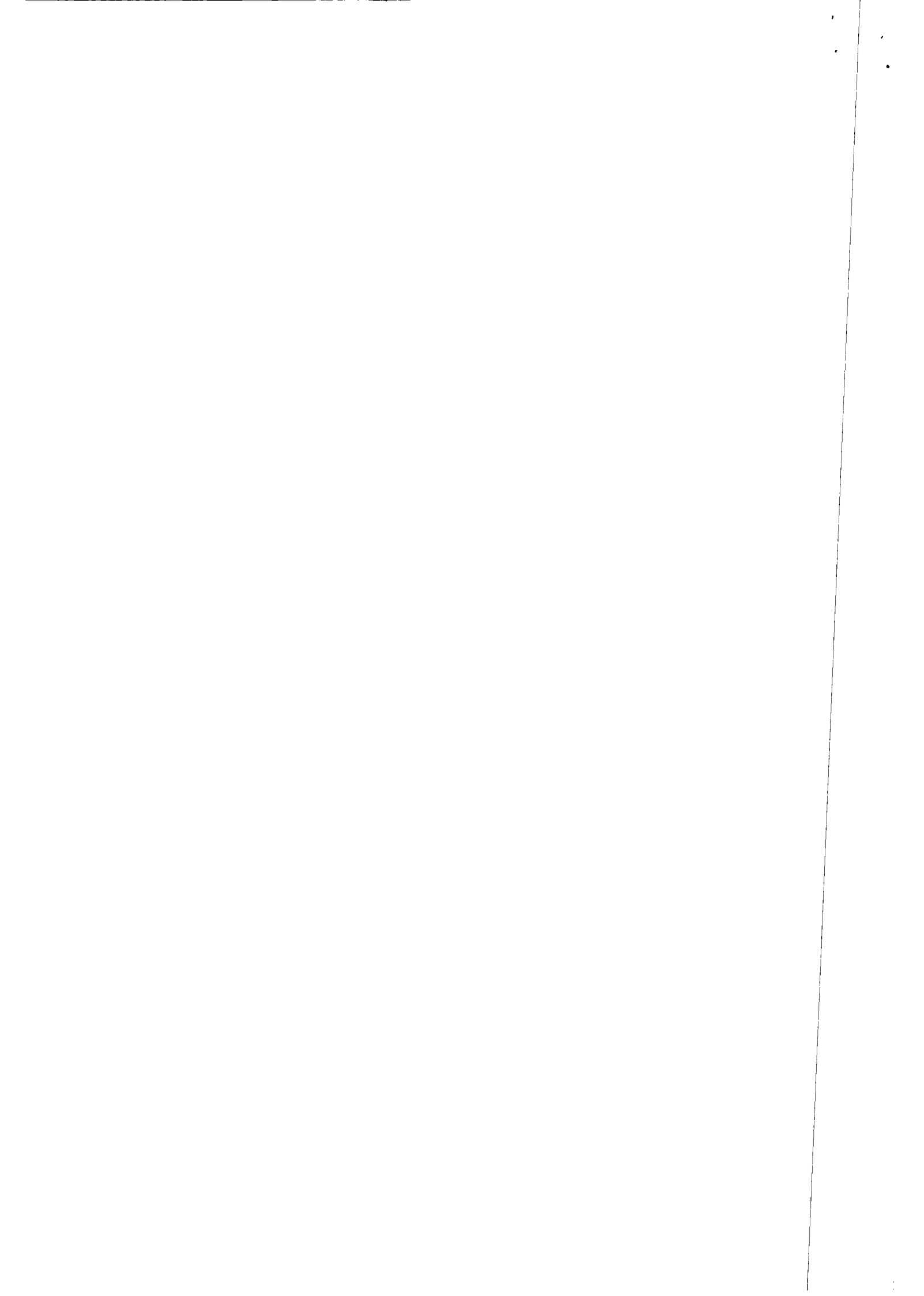
19(2) A licence issued under this Act may be revoked where the Minister upon the recommendations by the Board, is satisfied that the licensee is not operating in accordance with the terms and conditions under which the licence was issued notwithstanding any other penalties or fines that may have been imposed under this Act.

19(3) The minister shall give a licensee 30 days notice to show cause why the license should not be revoked.

19(4) Where the Minister revokes any licence whether in part or in whole, he shall give notice by public advertisement of such revocation, within one week of the revocation.

19(5) The revocation by the Minister of any licence shall not indemnify the licensee against the infliction of any penalties to which he may have become liable under the licence or this Act, by reason of any default or against the recovery from him by any aggrieved party of any damages sustained by reason of such default in the performance of his obligations under the licence.

19(6) A licensee aggrieved by the Minister's decision or action shall have the right of appeal to the High Court.



Clause 20(1)
(Page 665)

By adding a new clause 20(1)(c) as follows:-

(c) It is satisfied that the applicant is not indebted to any coffee farmer organization.

Clause 20 (4)
(Page 666)

By deleting the words “**after consultation with the Minister may prescribe**” appearing after the word “Board” and adding two new sub-sections (5) and (6) immediately thereafter.

20(5) The Board shall at least 30 days before granting a licence under this section, give notice in the Kenya Gazette and in such other manner as the Board may consider appropriate;

Specifying the name and other particulars of the person or class of persons to whom the licence is to be granted.

Stating the reasons for the proposed grant for the licence; and, Specifying the time -sections 21(2), sub -section 21(4), as follows:

21(2) A licence issued under section 18 shall not be transferred and the licensee shall not otherwise divest itself of any rights, powers or obligations conferred or imposed upon it by the licence without the written consent of the Board.

21(3) A licence issued under this act, subjects the licensee to liability under Tort and under Contract Laws of Kenya.

Clause 23
(Page 668)

(3) By inserting the following new clause immediately after sub-clause 23(2); and re-numbering the current sub-clause 23(3), sub-clause 23(4)

23(3) No member of a co-operative society shall pulp his coffee in any pulping station other than a pulping station belonging to a society of which he is a member.



Clause 24(1)
(Page 669)

By adding a proviso to this clause as follows:-

Provided always that the Board will take into account existing installed milling capacity and the production trends before licencing additional millers.

Clause 25
(Page 670)

In clause 25(1) by inserting immediately after the word "person" the words "other than the Kenya Planters Co-operative Union Limited or its subsidiary".

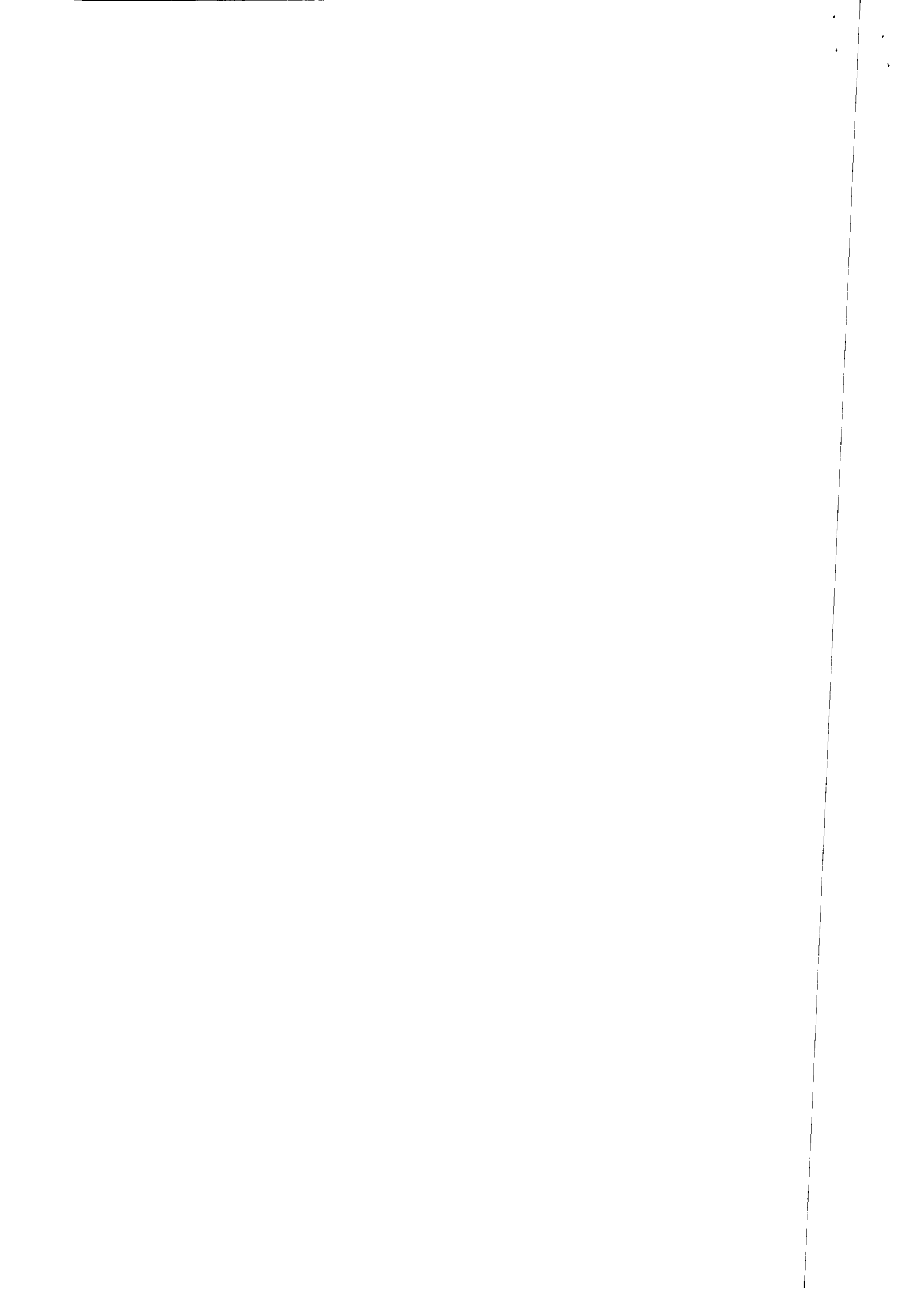
Clause 25
(Page 671)

By inserting a new clause and numbering it clause 25(8)

FUNCTIONS OF A MARKETING AGENT

25(8) The function of a Marketing Agent shall include:-

- receiving coffee from millers and Mbuni from growers.
- Warehousing
- grading and classification of coffee by liquoring or otherwise
- preparation of sales catalogue
- facilitating the auctioning of coffee at the Nairobi Coffee Exchange
- receiving proceeds of sale and promptly remitting the same to growers after making deductions specified hereunder
- promoting and marketing the Kenya Coffee within Kenya and abroad.
- Conducting market research and promoting value adding speciality and organising markets.
- Promoting coffee production and good husbandry and offering extension service to coffee farmers in their areas of operation; and
- Sourcing and providing to coffee farmers cherry or parchment advances on the strength of crop deliveries.



Clause 34
(Page 674)

By deleting clause 34(1) and replacing it with the following:

34(1) The Board shall from time to time determine the deductions to be made by the Marketing Agents from the net coffee sales provided that such deductions shall not exceed.

- (a) Marketing Agency fees – not exceeding 1%
- (b) Ad Vorerum CRF levy – not exceeding 2%
- (c) Ad Vorerum CBK levy – not exceeding 0.5%
- (d) Coffee Road Cess – not exceeding 1%
- (e) Coffee Development Fund Levy – 1%
- (f) Nairobi Coffee Exchange charges – not exceeding 0.1%
- (g) Milling charges – not exceeding 1%

and by deleting clause 34 (2) and inserting the following new clause to replace the same:

34(2) The marketing agent shall remit to the grower and to the respective institutions the monies due to them within seven days of receipt of the proceeds of coffee sales from the dealer.

Clause 35
(Page 675)

By deleting clause 35 and inserting the following new clause and sub title

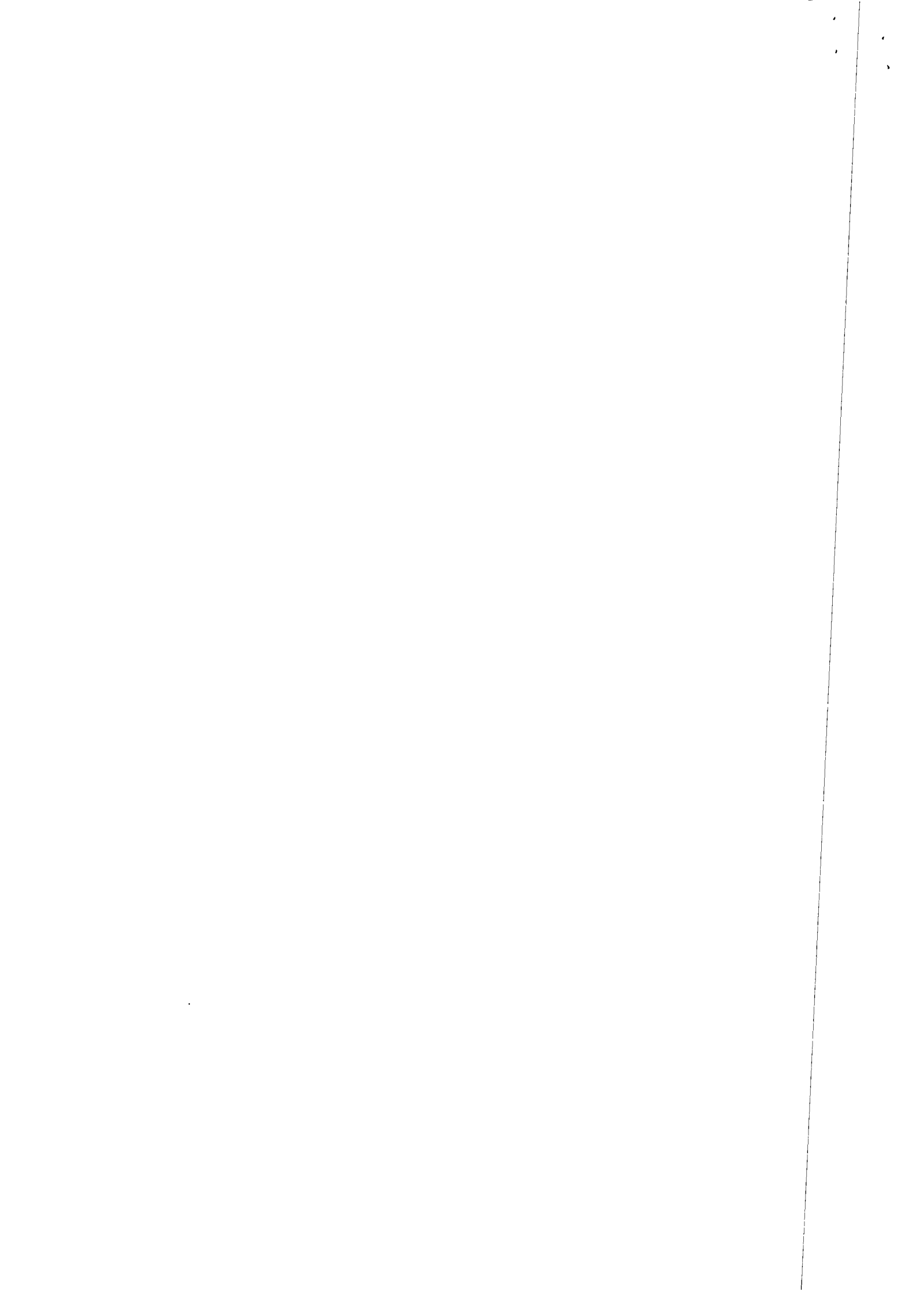
ESTABLISHMENT OF THE COFFEE DEVELOPMENT FUND

35(1) There is hereby established a fund to be known as the Coffee Development Fund.

(2) The Fund shall consist of:-

- (a) Coffee development levy;
- (b) Fund provided by bilateral or multi-lateral donors, for the purpose of the fund.
- (c) Moneys provided by Parliament specifically for the purposes of the Fund;
- (d) Interest from loans and advances;
- (e) Any other source approved by the Trustees.

(3) The fund shall be managed by a Board of Trustees.



(4) The Board of Trustees shall consist of:-

- The Permanent Secretary, Treasury;
- The Permanent Secretary, Ministry of Agriculture;
- Five members elected by members of Coffee Co-operative Societies;
- Three members elected by Plantation Coffee Growers;
- The Managing Trustee who shall be the secretary.

(5) The purposes for which the Fund is established are to provide sustainable affordable credit and advances to coffee farmers for all or any of the following purposes:-

- farm development;
- farm inputs;
- farming operations
- Price stabilization

(6) The Trustees shall from time make rules for the better management of the Fund in the best interest of coffee farmers, including prescribing the terms and conditions, the rate of interest, the period of repayment, the form of security or guarantee, on which the loans and advances are to be made, and the manner of recovery thereof from coffee farmers.

Clause 36 be deleted

Clause 45 by substituting the term "minister" for "Board" and vice versa.



MINUTES OF THE HUNDRED AND SIXTY-EIGHTH (168TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN THE MAIN CONFERENCE, COUNTY HALL, PARLIAMENT BUILDINGS ON WEDNESDAY, 19TH SEPTEMBER, 2001 AT 3.00 P.M.

PRESENT: The following Members were present:

Hon. Peter N. Ndwiga, M.P. - Ag. Chairman
Dr. the Hon. Odongo Omamo, MP
Hon. Daniel Khamasi, MP
Hon. David W. Murathe, M.P.
Hon. Peter N. Ndwiga, M.P.
Hon. Ali I. Shaaban, MP

ABSENT WITH APOLOGY:

Hon. John Sambu, MP Chairman
Hon. Joseph Munyao, MP
Hon. Molu G. Shambaro, MP
Hon. Mohammed A. Galgallo, MP
Hon. Mohammed D. Weyrah, M.P.

IN ATTENDANCE - **NATIONAL ASSEMBLY**

Mr. J.N. Mwangi - Principal Clerk Assistant
Mrs F. Abonyo - Clerk Assistant

MIN.714/01: CONSIDERATION OF THE PROPOSED AMENDMENTS BY COTEPA TO THE COFFEE BILL, 2001

The Committee considered the proposed amendment by COTEPA as follows:

(i) Long Title

The long title is amended by inserting before the word "development" the words and commas "production, processing and marketing".

The committee observed that the additional words would make the title unnecessarily long hence the proposed amendment not necessary.

(ii) Clause 4

4(b) immediately after the word "small " by deleting the word "hold" and inserting in place thereof the word "holder".



The Committee agreed to.

(iii) Clause 13

By deleting clause 13

The Committee sought to know the rationale for withdrawing all powers from the Minister.

(iv) Clause 20

In Clause 20(4) by deleting the comma and the words "after consultation with the Minister". The Committee agreed to.

(v) Clause 23

By inserting the following new clause immediately after Clause 23(2)

- (3) no person licenced to operate a pulping station shall pulp any coffee not produced by that person.

The committee sought to know the rationale.

(vi) Clause 27(e)

Functions of Kenya Marketing Agency and other marketing agents. The Committee sought to know why they should only facilitate the auctioning of coffee at the NCE and not auction outright.

MIN.715/01: ADJOURNMENT

The Ag. Chairman (Hon. Mohamed Galgallo) adjourned the sitting at fifteen minutes past Six O'clock until Thursday, 20th September, 2001 at 10.00 a.m.

Confirmed: 
(Chairman)

Date: 19th November 2001



MINUTES OF THE HUNDRED AND SIXTY-NINTH (169TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN THE MAIN CONFERENCE, COUNTY HALL, PARLIAMENT BUILDINGS ON THURSDAY, 20TH SEPTEMBER, 2001 AT 11.00 A.M.

PRESENT: The following Members were present:

Hon. John Sambu, MP- Chairman
Hon. Peter N. Ndwiga, M.P.
Dr. the Hon. Odongo Omamo, MP
Hon. Daniel Khamasi, MP
Hon. David W. Murathe, M.P.
Hon. Mohammed A. Galgallo, MP

ABSENT WITH APOLOGY:

Hon. Joseph Munyao, MP
Hon. Mohammed D. Weyrah, M.P.
Hon. Ali I. Shaaban, MP

IN ATTENDANCE - Hon. Kiraitu Murungi - Vice Chairman, COTEPA

NATIONAL ASSEMBLY

Mr. J.N. Mwangi - Principal Clerk Assistant

MIN.716/01: DELIBERATIONS ON THE COFFEE BILL 2001

Hon. Kiraitu Murungi, Vice Chairman of COTEPA presented the views of the Association on the Coffee Bill, 2001 to the Committee. Hon. Murungi took the Committee members through a paper prepared by the Association. The following issues were raised:

- (i) Establishment of Coffee Development Fund.
- (ii) Strengthening of Coffee Research Foundation
- (iii) Writing off of loans owed by farmers.
- (iv) Shortening of the marketing chain
- (v) Reduction of the powers given to the minister
- (vi) Reduction of deductions made by marketing agents from net coffee sales
- (vii) Should the Local Authority Cess be retained or not?
- (viii) (the committee to make a decision as to whether the cess should be maintained).



