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REPUBLIC OF KENYA

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***KERICHO COUNTY GAZETTE  
SUPPLEMENT***

**BILLS, 2016**

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**THE KERICHO COUNTY TEA BILL, 2016**

**A Bill for**

**AN ACT of the County Assembly of Kericho to provide for the growing; development; processing; marketing and market research; trade promotion; standards; registration and licensing of tea industry players and regulation of the tea industry and for connected purposes thereto**

**ENACTED** by the County Assembly of Kericho, as follows—

**PART I—PRELIMINARY**

**1.** This Act may be cited as the Kericho Tea Act, <sup>Short title.</sup> 2016.

**2.** In this Act, unless the context otherwise requires— <sup>Interpretation</sup>

“auction organizer” means a person, a company or a firm established for the purposes of organizing tea auctions in Kenya;

“blending” means the process of mixing teas of different grades to affect the flavour and characteristics of the tea for the purposes of packing and for sale;

“Board” means the Kericho Tea Development Board established by section 3;

“buyer” means a person, a company or a firm engaged in acquiring manufactured tea for re-sale in the local or export market, including the export of imported tea;

“broker” means a person, company or firm established for the purpose of negotiating the purchase or sale of tea between producers and buyers;

“co-operative society” means a co-operative society registered under the

Co-operative Societies Act (Cap. 490);

“County” shall mean Kericho County;

“customs territory” means the geographical area of the Republic of Kenya or of any other country in relation to which the expression is used;

“director” means the Kericho Tea Directorate

Director appointed under Section 9;

“established agency” means Kenya Tea Development Agency or such other body as may, by notice in the Gazette, be appointed;

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

“export” means to take tea out of Kenya to any place outside Kenya;

“exporter” means a person, a firm, or a corporate body engaged in the business of exporting tea;

“governor” means the governor of Kericho County;

“green tea leaf” means leaf detached from tea plants but not dried or processed in any way;

“grower” means any person who is cultivating tea in any area or who intends to plant and cultivate tea in any area;

“import” means to bring tea into Kenya from any place outside Kenya;

“importer” means a person, a firm, or a corporate body engaged in the business of importing tea;

“licensee” means a person who holds a manufacturing licence under section 13;

“made tea” means the derivative from green tea leaf through a manufacturing process;

“management agent” means any person, co-operative society, marketing board or company established under any written law, that is appointed through a specific management contract or agreement by another person or company to perform or offer professional services in specific functions of production, processing or marketing of tea but does not include a buyer, broker, warehouseman or packer of tea;

“manufacturing licence” means a manufacturing licence issued under section 13;

“packer” means any person who packs tea into packets or containers holding not more than ten

kilogrammes of tea intended for sale;

“person dealing in tea” includes a management agent, a broker, a buyer, an exporter, a packer, a blender, a warehouseman, an auction organizer or an importer;

“planting licence” means a planting licence issued under section 8;

“producer” means a processor of tea and includes a smallholder or a plantation tea producer or their representatives;

“registration” means registration of any person dealing in tea under this Act;

“smallholder” means a grower cultivating tea in a small piece or pieces of land who does not possess his own tea processing factory;

“sun-drying” means the manufacture of green leaf into made tea by using direct heat of the sun;

“tea” means the plant known botanically as *Camellia Sinensis* and includes its seed, tea plants and the leaf, whether on the plant or detached therefrom, and, in the latter case, whether green tea or manufactured tea;

“tea factory” “Tea factories” means a factory to process green tea leaf into made tea and for purposes of this Act includes Toror, Tegat, Momul, Chelal, Litein and Kapkatet tea factories and any other that may be established;

“tea manufacture” means the mechanical or chemical processing and conversion of green tea leaf into made tea or other tea products;

“tea plantation” means a large area of land on which tea is cultivated;

“warehouseman” means a company registered in Kenya which is in the business of storing tea intended for sale from a producer, a buyer, or a packer;

## **PART II—THE KERICHO TEA DEVELOPMENT BOARD**

**3.** (1) There is established a Board, to be known as the Kericho Tea Development Board, which shall consist of—

Establishment of the Board.

- (a) a chairperson, who shall be appointed by the Governor with the approval of the County Assembly;
- (b) the Executive Member responsible for agriculture or a representative nominated by the Executive Member in writing;
- (c) the Executive Member responsible for finance or a representative nominated by the Executive Member in writing;
- (d) Members appointed by Executive Member as follows—
  - (i) one person nominated by each registered tea factory in the County to represent smallholder tea producers;
  - (ii) one person nominated by the Executive Member who possesses such knowledge and experience as the Executive Member considers beneficial to the Board;
- (e) the Director who shall be the Secretary to the Board and an ex officio member of the Board

(2) The Board may co-opt to serve on it for such length of time as it thinks fit any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Board or be counted as a member for the purpose of forming a quorum

(3) The Board shall elect a vice-chairperson from amongst its members.

**4.** (1) This section shall apply to the chairperson and members of the Board other than the members appointed under section 3(1) (b) and (c) <sup>Tenure of Office.</sup>

(2) The appointment of the chairperson and every member of the Board to whom the section applies, shall be by name and by notice in the County Gazette

(3) At the first meeting which shall be held not later than 30 days after the expiry of twelve months after the first members are appointed in accordance with section 3 and at every subsequent after the expiry of twelve months, one-third of such of the members for the time being as are

liable to retire by rotation, or if their number is not three or a multiple of three, then, the number nearest to one-third, shall retire from office

(4) The members to retire by rotation at every such annual meeting shall be those who have been longest in office since their last appointment, but as between persons who became members on the same day, those who are to retire shall, in default of and subject to any agreement among themselves, be determined by lot

(5) Where a member retires as aforesaid, the Executive Member shall inform the nominating authority within 14 days to fill up the vacancy

(6) Any member retiring by rotation shall be eligible for re-appointment

(7) The chairperson and any other member, to whom this section applies, may at any time, by a notice in writing under his hand addressed to the Executive Member, resign his office as such

(8) If the Executive Member is satisfied that the chairperson or any other member to whom this section applies—

- (a) has been absent from three consecutive meetings of the Board without the permission of the Board; or
- (b) has become bankrupt or made an arrangement with his creditors; or
- (c) is incapacitated by physical or mental illness;
- (d) due to death
- (e) has ceased to represent the interests in respect of which he is appointed;
- (f) is otherwise unable or unfit to discharge the functions of his office, the Executive Member may declare his office as chairperson or a member of the Board, as the case may be, to be vacant, and shall notify the fact in such manner as the Executive Member thinks fit; and thereupon the office shall become vacant

(9) Where a vacancy occurs in the office of a member under section 4(8) (e) the Executive Member shall appoint



another person nominated in accordance with section 3 to fill the vacancy.

**5.** (1) It shall be the duty of the Board in exercise of its powers and in the performance of its functions to act in such manner as appears to it best calculated to promote the tea industry in Kericho County

Power and Functions  
of the Board.

(2) In the exercise of its powers and in the performance of its functions under this Act, the Board shall act in accordance with any general or special directions that may be given to it by the Executive Member

(3) The functions of the Board shall include the carrying on of such activities and the doing of such things as are necessary, advantageous, proper or for the benefit of tea growers and the tea industry, and, in particular, but without prejudice to the generality of the foregoing, shall include—

- (a) In consultation with the national ministry responsible for Agriculture, facilitate implementation of general and specific policies for the development of the tea sector;
- (b) Facilitate the marketing and distribution of tea through monitoring and dissemination of market intelligence information including identification of the local and international demand situation, domestic market matching, tea products traceability, local and overseas market intelligence and promotion activities on tea;
- (c) Establish in accordance with regulations and in consultation with tea factories strategies for ensuring growers attain the best prices for tea through effective cost-cutting measures, including but not limited to, the establishment of a county tea brokerage firm;
- (d) Establish, facilitate creation, institute operational framework and undertake infrastructure networks in accordance with global industry practices and regulations and in consultation with tea industry stakeholders the most valuable marketing systems and appropriate strategies by creating the Kericho Tea Auction Centre for the purposes of being a tea auction organizer based in Kericho County for the

local and regional tea industry stakeholder members in the execution of sales of tea through the conventional tea auction systems;

- (e) Assist in the establishment of energy-reducing strategies for the manufacture and processing of tea;
- (f) The regulation of all aspects of tea trade including the licensing of tea factories and registration of all persons dealing in tea;
- (g) The regulation, control and improvement of the cultivation and processing of tea in liaison with the respective factories;
- (h) Issuing refusal, revocation, cancellation, suspension or variation with or without conditions of any licenses or registrations issued under the Crops Act with respect to tea;
- (i) Collect and administer any levies that shall be imposed with respect to tea;
- (j) In consultation with the relevant departments, effect an efficient and economical means of transporting tea to prevent wastage;
- (k) Establish linkages with various government and private research institutions for the conduct of studies and research activities designed to promote the production, marketing, processing and value adding of tea;
- (l) In liaison with the relevant government research institutions determine the research priorities on tea and provide funding for the research programs and advise generally on tea research;
- (m) Conduct farmers training programs aimed at increasing their knowledge in tea production, technology, market potentials and prospects for various types of tea;
- (n) Partner with research institutions in the development of tea varieties suitable to the agro climatic conditions of the tea growing areas and markets that will provide greatest value addition to tea;

- (o) Devise and maintain a system for regular obtaining information on current and future production, prices and movement in tea trade locally and internationally;
- (p) Establish and enforce standards in grading, sampling and inspections, tests and analysis, specifications, units of measurements, code of practice and packaging, preservation, conservation and transportation of tea to ensure healthy and proper trading of tea;
- (q) Promote and advise on strategies for value addition prior to the export of tea from the County;
- (r) Recommend general local and international industry agreements and certifications between tea farmers or tea producers, managing agents, tea buyers, tea packers, tea brokers, tea warehousemen and tea manufacturers;
- (s) Prescribe the minimum period within which tea farmers are to be paid for green leaf tea delivered for processing by tea factories or made tea to packers/blenders and penalties for delayed payments;
- (t) Perform any other relevant functions including the taking of measures to ensure compliance with this Act, relevant national laws or any regulations that may be made thereunder;
- (u) Advise and recommend ways of establishing, documenting, implementing, maintaining and continually improving a sustainable environment practices in the tea industry.

(4) The Board may authorize the Director or any of its members, or any officer employed by it, to exercise on its behalf, at any time when it is not meeting, such of its powers as it may from time to time resolve;

(5) The exercise of powers under subsection (4) shall, unless and so far as the Board may otherwise require, be reported without unreasonable delay to the immediate next meeting of the Board.

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

Incorporation of the Board.

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing or lending money; or
- (d) doing or performing all other things or acts for the furtherance of the provisions of this Act, which may lawfully be performed by a body corporate

(2) The seal of the Board shall be authenticated by the signature of the chairperson, or one member of the Board authorized by the Board to act in that behalf, and of the secretary of the Board

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairperson, or of any member of the Board authorized in that behalf, or of the secretary of the Board.

7. (1) The Board shall meet at such times and places as may be necessary or expedient for the transaction of business and such meetings shall be held at such place and time and on such days as the Board may decide.

Procedures and Meetings of the Board.

(2) The chairperson may at any time call a special meeting of the Board, and shall call a special meeting within seven days after a requisition therefor addressed to him by any three members of the Board.

(3) The chairperson, or in his absence the deputy chairperson, or in the absence of both a member elected by the Board, shall preside at all meetings of the Board, and the deputy chairperson or person presiding at any meeting shall with respect to such meeting or any business transacted thereat have all the powers of the chairperson under this Act

(4) The quorum for the conduct of the business of the Board shall be one-half of the members.

(5) The chairperson, deputy chairperson or other person presiding at any meeting shall have a casting vote as well as a deliberative vote, and subject thereto the decision of the majority of the members present and voting at any meeting of the Board shall be deemed to be the decision of the Board.

(6) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairperson, deputy chairperson or other person presiding at the next succeeding meeting.

(7) Subject to this section, the Board shall have power to regulate its own proceedings, and may delegate to any member, committee of members or officer employed by the Board the power and authority to carry out on behalf of the Board such duties as it may determine.

### **PART III—THE KERICHO COUNTY TEA DIRECTORATE**

**8.** There is established the Kericho County Tea Directorate which shall be an office in the County Public Service Board Establishment of the Kericho County Tea Directorate.

**9.** (1) There shall be a Director who shall be the Chief Executive Officer of the Tea Directorate. The Director shall be appointed by the Board with the approval of the County Assembly through a competitive recruitment process Appointment of the Director of the Kericho County Tea Directorate.

(2) A person shall not qualify for appointment as a Director of the Tea Directorate unless such person—

- (a) holds a Degree from any university recognized in Kenya;
- (b) has such relevant experience as may be determined by the Board;
- (c) fulfills the requirements of Chapter Six of the Constitution of Kenya 2010.

(3) The Head of the Tea Directorate will be an Ex Official Member of the Board.

(4) The Head of the Tea Directorate shall—

- (a) be responsible for the day to day management of the Tea Directorate;
- (b) be responsible for the direction of the affairs and transactions of the Directorate, the exercise discharge and performance of its objectives, functions, powers and duties;
- (c) in consultation with the Board be responsible for the collection and application of all tea levies and the general administration of the Directorate

(5) The Board in consultation with the County Public Service Board shall appoint such officers as are necessary for the proper discharge of the functions of the Tea Directorate, upon such terms and conditions of service as the Board may determine.

#### **PART IV—GROWING TEA**

**10.** (1) Every tea grower shall, upon the commencement of this section, and within six months, register with the tea factory to which he delivers green leaf, by supplying such particulars as the Board may, in regulations, prescribe;

Registration of Tea Growers.

(2) Upon the commencement of this section, every tea grower registered by a tea factory shall be deemed to be a registered tea grower.

Provided that where the particulars supplied to the Board by such factory for purposes of licensing do not meet the requirements of any regulations prescribed under subsection (1), the grower shall comply with such requirements

(3) Where a person starts growing tea at any time after the commencement of this section, such person shall, within six months register with a tea factory in accordance with subsection (1)

(4) Any change in the particulars supplied by a grower for purposes of registration in accordance with subsection (1) shall be notified to the tea factory in writing, without undue delay

(5) The tea factory shall maintain a register for the purposes of this Part and shall record therein the particulars supplied in accordance with this section

(6) Where the tea factory has reasonable cause to believe that a person whose particulars are so recorded has ceased to be a grower, it may, after giving that person written notification by registered post of its intention to do so, remove the name of such person from the register

(7) The register referred to in subsection (5) shall be prima facie proof of the fact that a person is a registered tea grower and the factory shall furnish the Board with particulars of all registered tea growers in such manner as the Board may prescribe. The factory shall be updating its

changes in the register every half yearly and shall be updating the Board through a resolution by the Factory Directors

(8) After the commencement of this section, any grower who carried on business as such without being registered in accordance with this section or knowingly or recklessly supplies false particulars shall be guilty of an offence.

**11.** Subject to this Act, the Board shall maintain a <sup>Register of growers.</sup> register, in such form as it may determine, of all tea factories registering growers under this Part and shall enter therein, in respect of each tea factory—

- (a) the full names of the tea factory;
- (b) the date of issue of the licence;
- (c) the date of submission of annual returns of registered growers by the tea factory;
- (d) the particulars of numbers of registered growers, area planted with tea or variations of these particulars;
- (e) any other particulars the Board may deem necessary.

**12.** (1) The Director shall, on the advice of the Board, <sup>Incentives to Growers.</sup> establish institutional linkages to co-ordinate the provision of credit, farm inputs and marketing.

(2) The Board may, in accordance with rules and regulations made under this Act and subject to any other law, put in place programmes for ensuring the provision of the following incentives and facilities to tea growers—

- (a) credit assistance including provision of equipment for land preparation, tea manufacture and other non-monetary assistance;
- (b) credit guarantee;
- (c) affordable farm-inputs including quality seeds, planting materials and market linkage;
- (d) technical support including research and extension services;
- (e) infrastructural support including physical infrastructure development, financial and market information;

- (f) fertilizer cost-reduction investment projects. With regard to fertilizer subsidy scheme, it will run concurrently with any other that may be running in Kenya;
- (g) pest and disease control;
- (h) post harvest facilities and technologies including storage, processing, distribution and transport facilities;
- (i) a negotiated and mandatory affordable health care scheme covering the farmer and his dependants as the Board may advise.

#### **PART V—REGULATION OF TEA PROCESSING**

**13.** (1) No person shall manufacture tea for sale, whether by sun drying or otherwise, except under and in accordance with a licence issued by the Board. No manufacture of Tea without License.

(2) The Board may, after consultation with the Executive Member, issue a manufacturing licence, in accordance with rules made under this Act.

(3) The Board may, after consultation with the Executive Member, cancel, vary or suspend any licence issued under this section, or suspend any such licence in respect of a specified factory only if in the findings of the Board, the licensee is found to have contravened the rules made under this Act for the operation of tea factories.

(4) Every application for a licence under this section shall be made in writing in the prescribed form.

(5) A manufacturing licence issued under this section shall in addition to authorizing the holder to carry on the business set out in subsection (1), also authorize the holder to carry out the business of quality assessment, purchasing made tea, blending and packing tea.

**14.** (1) Any person who—

- (a) manufactures tea for sale in contravention of section 13;
- (b) buys, sells, exposes for sale, transports or has in his possession any tea which to his knowledge or belief—
  - (i) has been grown, manufactured or dried otherwise than in accordance with this Act;

Illegal Tea processing and unauthorized possession.



- (ii) is from a tea grower not registered with the factory or contracted to supply green leaf to it;

shall be guilty of an offence and liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or to both

(2) Where a person has in his possession or under his control any tea for which he is unable to account to the satisfaction of a person authorized under section 16 or 17, such tea shall be deemed to have been grown, manufactured or dried otherwise than in accordance with this Act until the contrary is proved.

(3) Where a person is convicted of an offence under this section the court shall order that any tea and any vehicle, vessel or other conveyance in relation to which an offence has been committed shall be forfeited to the County Government unless, in the case of a vehicle, vessel or other conveyance, the court sees good reason, to be recorded by it in writing, not to do so.

**15.** The Board shall maintain a register, in such form as it may determine, of all manufacturers licensed under section 13 and shall enter therein, in respect of each tea processing factory or manufacturer—

Register of tea manufacturers.

- (a) the full names of the manufacturer;
- (b) the date of issue of the licence;
- (c) particulars of any cancellation, suspension or variation of the licence;
- (d) any other particulars the Board may deem necessary.

#### **PART VI—ENTRY AND INSPECTION**

**16.** (1) Any person duly authorized in writing in that behalf by the Board may, at all reasonable times and upon production of such authority to any person so requesting, enter any land or buildings occupied by the holder of a manufacturing licence issued under section 14 or a person registered under this Act and make such inspection and enquiries as he may think fit for ascertaining whether the provisions of this Act, or any regulations made thereunder or the terms and conditions of the respective registration or licence are being complied with and may require any

Entry and Inspection.

person found thereon to give such information as he may require.

(2) Any person who hinders or obstructs any person duly exercising or attempting to exercise any of the powers conferred by subsection (1) or who fails to give to the best of his ability any information reasonably required of him under that subsection shall be guilty of an offence.

**17.** (1) An officer of the County Government of Kericho or of the Board, authorized in writing by or on behalf of the Executive Member or the Board, as the case may be, upon production of his authority on demand, and any police officer or administration police officer may —

Powers of Search and Seizure.

- (a) enter and search any premises upon which he has reason to believe there is tea in respect of which an offence under section 13 is being or has been committed;

Provided that, before removing any tea under this paragraph, the person removing it shall furnish the person in whose custody or possession the tea is at the time of removal with a written receipt therefor;

- (b) stop, search and detain any vehicle, vessel or other conveyance which he has reason to believe is being or has been used for conveyance of tea in respect of which an offence under section 13 is being or has been committed

(2) Every seizure under subsection (1) (a) shall be reported without unnecessary delay to a subordinate court, and where any vehicle, vessel or other conveyance has been stopped and detained under subsection (1) (b) the person so stopping and detaining shall forthwith take it or cause it to be taken together with its contents, or report the fact of its detention, to the nearest police station and the officer in charge of the police station may thereupon order that the vehicle, vessel or other conveyance, together with any tea found therein, be seized.

(3) Any person who hinders or obstructs a person acting in the exercise of his powers under this section shall be guilty of an offence.

#### **PART VII—DEALERS IN TEA**

**18.** (1) A person shall not deal in tea unless such person is registered by the Board.

Registration of dealers.

(2) A person who deals in tea in contravention of subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding one million shillings, or imprisonment for a term not exceeding two years, or to both.

(3) All tea dealers comprising tea producers, tea buyers, tea brokers, tea warehousemen, tea packers and managing agents must be registered by Board prior to commencement of operations upon coming in to effect of this Act in the prescribed form.

(4) All the registered tea dealers under (3) above shall be required to apply and obtain operating licences annually after registration using the prescribed form.

(5) All agreements between the management agents, tea brokers, tea warehousemen, must be approved by the Board as to its terms and conditions between the two parties.

#### **PART VIII—ESTABLISHMENT AND ADMINISTRATION OF TEA FUND**

**19.** (1) There is established a fund to be known as the <sup>Establishment of a</sup> Kericho Tea Fund. <sub>Tea Fund.</sub>

(2) The Fund shall consist of—

- (a) such monies as may be appropriated by the County Assembly;
- (b) license and registration fees and other fees as may be payable under this Act;
- (c) sums received, including contributions, gifts or grants from or by way of testamentary bequest by any authority or any person;
- (d) monies earned as interest or arising from any investment of the Fund;
- (e) monies received from the National Government and/or its agents arising from collection of ad valorem levy on tea originating and exported from the County;
- (f) all other sums, which may in any manner become payable to, or vested in, the Fund.

(3) The monies referred to in subsection (2) (a) shall not be less than Kenya Shillings three hundred million in any financial year.

**20.** (1) Subject to subsection (2), the funds accruing to the Board may be used for all or any of the following purposes—

Application of monies of the Board.

- (a) the remuneration of members of the staff and technical advisers of the Board;
- (b) the payment of such remuneration, fees, administration expenses, travelling and other expenses and subsistence allowances to members of the Board on such scale and subject to such conditions as may be approved by the Board;
- (c) the payment of expenses and other charges incurred by the Board or for which the Board may become liable in the course of its operations;
- (d) experiments, investigation and research in connection with the tea industry;
- (e) the collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption;
- (f) the promotion of exhibitions for the display of tea and the processes for manufacture thereof, and matters incidental thereto;
- (g) the establishment of libraries, laboratories, experimental stations, workshops and factories, and the provisions of facilities ancillary thereto;
- (h) advertising the merits of Kericho County tea and increasing its sale by efforts to extend existing markets and exploiting new markets, and matters incidental thereto;
- (i) the payment of expenses and other charges incurred by the Board or for which the Board may become liable in the course of its operations;
- (j) assisting the tea industry of Kericho County in such manner as the Board may think fit.

(2) The Board shall ensure that at least sixty percent of the funds shall be used for the purposes in subsection 20 (1) (d) to (j), subsection 12 (1) (2) and subsection 5 of this Act.

**21.** (1) Subject to subsection (2), the funds accruing to the Board may be used for all or any of the following purposes—

Investment of Funds  
and Borrowing  
Powers.

- (a) the remuneration of members of the staff and technical advisers of the Board;
- (b) the payment of such remuneration, fees, administration expenses, travelling and other expenses and subsistence allowances to members of the Board on such scale and subject to such conditions as may be approved by the Board;
- (c) the payment of expenses and other charges incurred by the Board or for which the Board may become liable in the course of its operations;
- (d) experiments, investigation and research in connection with the tea industry;
- (e) the collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption;
- (f) the promotion of exhibitions for the display of tea and the processes for manufacture thereof, and matters incidental thereto;
- (g) the establishment of libraries, laboratories, experimental stations, workshops and factories, and the provisions of facilities ancillary thereto;
- (h) advertising the merits of Kericho County tea and increasing its sale by efforts to extend existing markets and exploiting new markets, and matters incidental thereto;
- (i) the payment of expenses and other charges incurred by the Board or for which the Board may become liable in the course of its operations;
- (j) assisting the tea industry of Kericho County in such manner as the Board may think fit.

(2) The Board shall ensure that at least sixty percent of the funds shall be used for the purposes in subsection 20 (1) (d) to (j), subsection 12 (1) (2) and subsection 5 of this Act.

**22.** (1) The Board shall cause to be kept such books of account and other books in relation thereto and to all its undertakings, funds, activities and property as the Executive Member may from time to time require; and shall, within a period of four months after the end of its financial year or within such longer period as the Executive Member may approve, cause to be prepared, signed and transmitted to the auditor—

Audit of Accounts.

(a) a balance sheet showing in detail the assets and liabilities of the Board; and

(b) such other statements of account as the Executive Member may require.

(2) The accounts of the Board shall be audited and reported upon by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act, 2003 (No. 12 of 2003)

(3) The Board shall produce and lay before the auditor all books and accounts of the Board, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditor shall be entitled to require from all members, officers, employees and agents of the Board such information and explanation as he may consider to be necessary for the performance of his duties as auditor; and the expenses of and incidental to the audit shall be paid by the Board and approved by the AGM.

**23.** (1) The Board shall, within a period of three months after the end of its financial year or within such longer period as the Executive Member may approve, submit to the Executive Member a report of its operations during such year, and the yearly balance sheet and such other statements of account as the Executive Member may require together with the auditor's report thereon; and the Board shall, if the Executive Member so requires, publish them in such manner as the Executive Member may specify

Report and Accounts to be submitted to Executive Member.

(2) The Executive Member shall lay the Board's report and the auditor's report, together with the balance sheet and such other statements of account as he may have required, before the County Assembly within thirty days after receipt of the reports and statements by him, or, if the County Assembly is not then sitting, within fourteen days after the commencement of the next sitting.

**PART IX—GENERAL PROVISIONS**

**24.** Every person who is guilty of an offence under this Act in respect of which no penalty is specifically provided shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both. Penalties.

**25.** Where any offence under this Act or under any regulations made thereunder is committed by any company or other body corporate, or by any society, association or body of persons, every person charged with, or concerned or acting in, the control or management of the affairs or activities of such company, body corporate, society, association or body of persons shall be guilty of that offence and liable to be punished accordingly, unless it is proved by such person that, through no act or omission on his part, he was not aware that the offence was being or was intended or about to be committed, or that he took all reasonable steps to prevent its commission. Offences by Corporations and Societies.

**26.** (1) The Executive Member may, after consultation with the Board and with approval of the County Assembly, make regulations for the protection and promotion of the tea industry in Kericho County, and generally for the better carrying out of the provisions of this Act Regulations.

(2) Regulations made under this section may, without prejudice to the generality of the power conferred by subsection (1), provide for—

- (a) prescribing the areas outside which tea may not be planted, and regulating and controlling the variety, the cultural conditions, the method of production and manufacture of tea and the grading of manufactured tea, and providing for the control of pests and diseases (including requiring the treatment or destruction of diseased or infested tea and empowering the Board in default of such treatment or destruction to effect such treatment or destruction and to recover from the person in default the cost of so doing);
- (b) regulating and controlling the method of blending, flavourings and packing manufactured tea for sale;
- (c) empowering the Board or other authorized relevant person(s) to give directions to any planter as to the

method of sowing, planting and cultivation of tea and the harvesting, collection, movement, processing and storage of tea, and to delegate the like powers to any servant of the Board or public officer;

- (d) requiring the submission of returns, reports and estimates by the holders of licences and permits under this Act and others;
- (e) prescribing the periods for which licences and registration certificates shall be issued;
- (f) prescribing the fees to be paid for anything to be done under this Act;
- (g) prescribing the forms which may be used under this Act;
- (h) prescribing anything, which under this Act may be prescribed;
- (i) requiring the registration or deregistration of tea producers, tea suppliers, tea buyers, tea brokers, tea packers, tea warehousemen, management agents and any other persons dealing in tea;
- (j) requiring that the rules and regulations of any organization dealing or involved in tea trade do in conformity with the provisions of this Act;
- (k) regulating all aspects of tea trade.

**27.** Any person aggrieved by the refusal of the Board, <sup>Appeals.</sup> or of any person having authority in that behalf, to issue any licence or registration certificate under this Act, or by the cancellation or suspension of any such licence or registration certificate, or by the terms and conditions subject to which the licence or registration certificate is issued, or by any variation thereof, may, within thirty days after being notified of such refusal, cancellation, suspension, issue or variation, as the case may be, appeal to the Board or the Court

#### **PART X—TRANSITIONAL PROVISIONS**

**28.** Every licence issued under the Crops Act, No. 16 <sup>Existing Licences.</sup> of 2013, and in force immediately before the commencement of this Act shall, continue in full force and effect according to the terms and conditions thereof, as if the same had been issued under this Act.



**29.** Every person or entity required to be registered under this Act shall be so registered within six months of the Assent of this Act. Mandatory period for registration.

### **PART XI—MISCELLANEOUS PROVISIONS**

**30.** (1) There shall be established tea farmers' co-operative societies and tea associations for the promotion of the purposes of tea development, stakeholder consultations, smallholder tea growers' representations in furtherance of this Act pursuant to the provisions of the Constitution of Kenya 2010, Fourth Schedule Part 2 (1) subsection (7) (e) and Article 36 section 1, 2 and 3 (a) (b) respectively Tea Farmer's Co-operative Societies and Associations.

(2) The Executive Member shall make regulations to give effect to sub-section (1).

**31.** (1) A member of the Committee who has a direct or indirect personal interest in a matter being considered shall disclose the nature of the interest to the Board. Conflict of Interest.

(2) A disclosure of any such interest in a matter shall be recorded in the minutes of the meeting of the Board.

(3) A member shall not be present when a matter where he or she has an interest is being dealt with by the Board and shall not take part in any deliberations or vote relating to the matter.

(4) No member or staff of the Board, including their family members shall transact any business or trade with the Board.

**32.** (1) The Board shall cause an annual report to be prepared for each financial year. Annual Reports.

(2) The Board shall submit the annual report to the Governor and the County Assembly within three months after the end of the year to which it relates.

(3) The Annual report shall contain, in respect of the year to which it relates—

- (a) the financial statements of the Board;
- (b) a description of the activities of the Board;
- (c) such other statistical information as the Board considers appropriate relating to its mandate;
- (d) any other information relating to its functions that the Board considers necessary;

- (e) The annual County Tea Development Plan indicating the programs and activities planned for tea and the plan shall be approved by the County Assembly.

**33.** The Board shall, within two months of submitting the report under Section 10, have a stakeholder's forum with all the tea factories to discuss the report.

Stakeholders  
Forum.

**34.** No matter or thing done by a member of the Board shall, if the matter or thing done in good faith for executing the functions, powers or duties of the Board, render the member personally liable to any action, claim or demand whatsoever

Protection from  
personal liability.

**MEMORANDUM OF OBJECTS AND REASONS**

The Bill is from the Committees on Trade, Agro-marketing and Agriculture.

The objective of this Bill is to accelerate the growth and development of tea in general, enhance productivity and incomes of smallholder tea farmers and the rural population, improve investment climate and efficiency of agribusiness and develop tea as an export crop that will augment the foreign exchange earnings of the country, through promotion of the production, processing, marketing, and distribution of crops in suitable areas of the country and in particular to—

- (a) reduce unnecessary levies, taxes or other barriers to free movement of tea products and provide for a rationalized taxation system;
- (b) promote competitiveness in the tea sector and to develop diversified crop products and market outlets; and
- (c) attract and promote investment in tea.

The county government shall be guided by the following principles in the management and administration of tea:

- (a) agricultural land has a communal function and land ownership has a social responsibility; and
- (b) land owners and lessees of agricultural land, being stewards, have the obligation to cultivate the lands they own or lease and make the land economically productive on a sustainable and environmentally friendly manner.

REASONS – Agriculture and Trade are devolved functions under the Fourth Schedule of the Constitution of Kenya, 2010.

Pursuant to the Fourth schedule of the Constitution, the National Government is in-charge of agricultural policy while the county governments will implement the national government policies to the extent that the policies relate to the county and in particular shall be responsible for—

- (i) development of crops grown within the county;
- (ii) plant disease control;
- (iii) markets;
- (iv) co-operative societies within the county;
- (v) soil and water conservation

In order to achieve the objects and purposes of this Act, it is the duty of the Kericho county government to provide an enabling environment for the development of the tea sector and to further determine and promote the implementation of agricultural policies and measures in a manner designed to promote, support and enhance productivity in the tea sector.

This Act is not prejudicial to the economic development, health policies or security agencies of Kenya or any other county. It also does not impede the implementation of national economic policy and any constitutional provisions in Kenya.

This Act seeks to impact positively on the social, economic status and livelihoods of at least 265,000 households within an estimated population of 760,000 people in Kericho County. There are 66,054 small holder tea growers, with 27,307 acres of mature tea planted served by 6 operational tea factories with 448 green leaf collection centres in Kericho County. The small holder tea growers in Kericho County earned Kes. 3.827 billion in the financial year 2014/15 from the sale of their produce. Upon implementation, the operationalization of this Act shall not incur any additional funds but shall be self financing from its own resources.

LIVINGSTONE KIPKOECH,  
*Vice-Chairperson, Agriculture Committee.*