

SPECIAL ISSUE

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REPUBLIC OF KENYA

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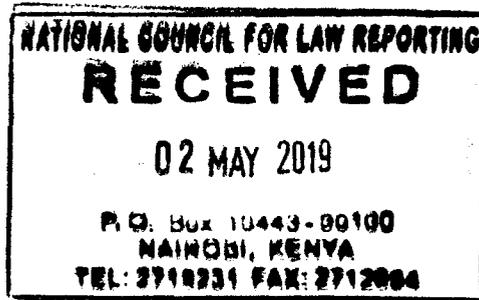
NATIONAL ASSEMBLY BILLS, 2019

NAIROBI, 15th April, 2019

CONTENT

Bill for Introduction into the National Assembly—

	PAGE
The Crops (Amendment) (No. 2) Bill, 2019.....	425



THE CROPS (AMENDMENT) (NO. 2) BILL, 2019

A Bill for

AN ACT of Parliament to amend the Crops Act, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Crops (Amendment) (No. 2) Act, 2019.

Short title.

2. Section 40 of the Crops Act is amended by inserting the following new sub section immediately after sub section (2) —

Amendment of section 40 of No. 16 of 2013.

“(3) For the avoidance of doubt, the regulations made with respect to coffee as a scheduled crop pursuant to subsection (2)(a) shall—

- (a) expressly specify *inter alia* that all coffee grown in any of the counties of Kenya shall undergo processing, production and packaging in Kenya and may only be distributed, marketed or exported in its fully processed form;
- (b) provide that all packages in which processed coffee is exported shall be clearly and conspicuously labelled with the inscription “*made in Kenya*”;
- (c) provide for mechanisms by which county governments may set up parastatals or other bodies to regulate the roasting, milling, packaging and branding of coffee; and
- (d) prohibit any act or conduct of exportation of coffee in its raw form”.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to ensure that for the purposes of a favourable balance of trade and balance of payment coffee shall not be exported from Kenya in its raw form.

The Bill takes cognizance of the fact that several countries to which Kenya exports its raw coffee for purposes of processing, some of which countries re-export back to Kenya its coffee in processed form, occasion an unfavorable balance of trade and balance of payment, which is in turn visited on our hard working coffee farmers who therefore do not reap the maximum benefits from their produce.

The Bill further recognizes that the principal Act provides for coffee in its First Schedule as a scheduled crop which the Agriculture, Fisheries and Food Authority (herein after referred to as “the Authority”) is mandated to develop and promote and for which, the Cabinet Secretary is required under section 40 (1)(a) to make regulations to provide for declaration of regulation, including production, distribution and marketing of coffee among others.

Clause 2 of the Bill seeks to amend section 40 of the Act to compel the Cabinet Secretary in consultations with the Authority and County governments while making regulations, to ensure that Coffee is exported only in processed form having been roasted, milled, packed, branded, and clearly labeled with “*a made in Kenya*” inscription and further to prohibit the raw export of coffee in any form whatsoever or, at all.

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

The Bill does not limit any fundamental rights or freedoms.

Statement that the Bill concerns county governments

The Bill concerns county governments in terms of Article 109(3) of the Constitution and affects the functions and powers of county governments recognized in PART II of the Fourth Schedule to the Constitution to the extent that counties are responsible for Agriculture in terms of crop husbandry.

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 7th March, 2019.

MOSES KURIA,
Member of Parliament.

Section 40 of the (No. 16 of 2013) which it is proposed to Amend—

Regulations

40. (1) The Cabinet Secretary may, in consultation with the Authority and the county governments, make regulations for the better carrying into effect of the provisions of this Act, or for prescribing anything which is to be prescribed under this Act.

(2) Without prejudice to the generality of the foregoing, regulations made under this section may provide for—

- (a) declaration and regulation of a scheduled crop including production, distribution and marketing;
- (b) the areas outside which a scheduled crop may not be cultivated, and regulating and controlling the variety, the cultural conditions, the method of production and grading of a specified crop;
- (c) regulations on the appropriate seeds and planting materials for export and import;
- (d) administration of plant breeder's rights in line with the existing international conventions to which Kenya is a signatory;
- (e) the control of crop pests and diseases;
- (f) standards, testing and certification of seeds and planting materials;
- (g) licensing and regulation of dealers in farm inputs;
- (h) regulation and controlling the method of blending, packaging and labelling of specified crops for purposes of traceability;
- (i) the periods for which licences and registration certificates shall be issued;
- (j) the forms and fees to be paid for anything to be done under this Act;
- (k) rules for ensuring food safety including handling, transportation, processing and market standards of food crops and crop products;
- (l) rules and regulations of any organization dealing with crops and crop products, made by any such organization to be in conformity with the provisions of this Act;
- (m) the submission of returns and reports by the holders of licenses and permits under this Act;
- (n) standards, and the manner of grading and classification of various crop products under this Act;
- (o) measures of maintaining soil fertility including soil testing and regulation of soil salination, chemical degradation and toxic levels in plants;

- (p) developing guidelines for public education on safe use of agrochemicals;
- (q) the procedure for processing of toxic crops;
- (r) the relationship between farmers and other dealers in crops;
- (s) the formula for the pricing of scheduled crops; and
- (t) the regulation of standard industry agreements.