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No. 7 of 2015

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Date of Commencement: See Section I

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THE KILIFI COUNTY COCONUT ACT, 2015

AN ACT of the County Assembly of Kilifi to provide for the promotion and regulation of the production, processing, marketing and research of coconut and the development of the coconut industry in Kenya, to provide for the establishment of the Kilifi County Coconut Development Board and for connected purposes

ENACTED by the County Assembly of Kilifi as follows—

PART I— PRELIMINARY

1. This Act may be cited as the Kilifi County Coconut Act, 2015 and shall come into operation on such date as the County Committee Executive Member for the time being responsible for Agriculture may, by notice in the Gazette, appoint.

Short Title and
Commencement.

2. In this Act unless the context otherwise requires—

Interpretation.

“Coconut tree” refers to a tall pinnate -leaved palm bearing a large edible fruit called the coconut;

“Coconut grower” means a person in possession of or controlling land whereon bearing coconut trees are grown;

“Coconut oil” means oil obtained by any process from coconut or copra;

“Copra” means the kernel of the coconut, wholly or partly dried;

“Tapper” means a person who possesses specialized skills in climbing and tapping palm wine from the coconut tree;

“Coconut products” includes coconut oil, copra and any product made wholly or in part from the any part of the coconut;

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

“Export or “Exportation,” with their grammatical variations and cognate expressions, means to take or cause to be taken out of Kilifi County or Kenya thereof;

“Exporter” includes any person by whom any coconuts or coconut products are exported from Kilifi

County, or supplied for the use as motor vehicle, aircraft's or ships' stores;

"Local trader" means any or all of the following—

- i. A person, not being a grower, who sells coconuts for any purpose other than exportation;
- ii. A person who buys coconut for any purpose other than export or the making of copra;

"Government" means the County Government of Kilifi;

"Board" means the Board of the Organization constituted pursuant to section 3 of this Act;

"Governor" means the Governor of the County of Kilifi;

"Chairperson" means the Chairperson appointed by the Governor in accordance with section of this Act to head the Board;

"dealer" means a person, a company, a co-operative society, an association of persons or firm engaged in buying coconut produce and by-products for resale in the local or export market and includes an exporter, an importer, a processor and an agent;

"Licensee" means a person who holds a license granted under this Act.

"Manufacturing" means the processing of all coconut Products and includes the packaging, labeling, distribution or importation of coconut products for sale in Kenya;

"Manufacturer" includes any entity that is involved in the manufacture of a coconut product, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer;

"Package" means the container, receptacle or wrapper in which coconut product including toddy is sold or distributed and includes the carton and crates in which multiple packages are stored;

"Transporter" means a person who is engaged in transportation of any coconut product or a coconut by product; and

"Toddy" means an alcoholic beverage made from the sap of a coconut tree.

PART II—ESTABLISHMENT OF THE BOARD

3. (1) There is established a Board to be known as the Kilifi County Coconut Development Board. Establishment of the Board

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall have power to acquire, own, poses and dispose of property, to contract, sue and be sued in its own name.

4. (1) The Board shall consist of— Composition of the Board

- (a) a Non-executive Chairperson appointed by the Governor with the approval of the Kilifi County Assembly.
- (b) the county chief officer in the county department for the time being responsible for Agriculture;
- (c) the county chief officer in the county department for the time responsible for Trade Industry or his representative duly nominated in writing;
- (d) the county chief officer in the county department for the time being responsible for finance or his representative duly nominated in writing;
- (e) four persons nominated by the Executive Committee Member and appointed by the Governor of whom—
 - (i) one shall represent the interests of coconut growers;
 - (ii) one shall be a vice-chancellor in a university within the county that conducts coconut research; and
 - (iii) two persons co-opted by the Board who may be noncitizen scientists in the field of agriculture and coconut farming and possess such knowledge and experience as may be necessary for the better carrying out of the functions of the Board.

(2) The appointment of the Chairperson under sub-section (1) (a) and members under sub-section (1) (e) shall be subject to such persons—

- (a) satisfying the requirements of Chapter Six of the Constitution;

- (b) holding a minimum of a Bachelors Degree from a university recognized in Kenya;
- (c) on account of their training or experience—
 - (i) having over five years distinguished experience in coconut and coconut farming; and
 - (ii) complying with other criteria the County Executive Committee Member may prescribe.

5. The Chairperson and members of the Board appointed under Section 4(1) (a) and (e) shall hold office for a term of three years and shall be eligible for re-appointment for one further term. Term of office

6. A person shall cease to be a member of the Board if such person— Vacation of office.

- (a) is unable to perform the functions of his office by reason of mental or physical infirmity;
- (b) is adjudged bankrupt;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (d) is absent from three consecutive meetings of the Board without the permission of the Board;
- (e) resigns in writing, addressed, in the case of the Chairman to the Governor, and in the case of any other member, to the Member of the County Executive Committee;
- (f) fails to declare his interest in any matter being considered or to be considered by the Board; or
- (g) violates Chapter Six of the Constitution

7. The functions of the Board shall be to—

Functions of the
Board

- (a) ensure that its activities are consistent with the policy and objectives of the Government, and the national priorities relating to agriculture and agricultural research;
- (b) approve, oversee and evaluate on a continuing basis the programs being implemented by the Board;

- (c) direct strategic research and policy and prioritize and determine the research agenda;
- (d) co-operation with other lead agencies and organizations in carrying out coconut research;
- (e) promotion of the coconut industry including the marketing and processing of coconut and all coconut products, the licensing and control of producers and processors of coconut within the county;
- (f) the Board shall be responsible for constituting within itself a coconut products development unit for purposes of identifying and documenting all coconut products and setting of standards to enhance their production, promotion and marketability;
- (g) perform such other functions as may be necessary for the exercise of its powers and functions under this Act.

8. The Board shall have all the powers necessary for the proper performance of its functions under this Act and subject to the provisions of this Act, the Board shall have the power to—

Powers of the Board

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Board in such manner and for such purposes as best promotes the purpose for which it is established;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement there from;
- (d) open such bank accounts as may be necessary into which all moneys received by the Board shall be paid in the first instance and out of which all payments made by the Board;
- (e) Subject to the approval of the Executive Committee Member for the time being responsible for matters relating to Finance, invest any of the funds not immediately required for the purposes of this Act, as the Board may determine

9. (1) The following provisions shall have effect in relation to meetings of the Board—

Provisions as to
meeting of the
Board.

- (a) the Board shall elect one of its members appointed under the said paragraphs to be the vice-chairman of the Board;
- (b) in the absence of the chairman and the vice-chairman from any meeting, a chairman for that meeting shall be elected by the members present;
- (c) the chairman of a meeting shall have a deliberative vote, and, in the case of equality of votes, also a casting vote;
- (d) the Board shall fix the number of members required for a quorum; and
- (e) the Board shall meet not less than once in every three months

10. No member of the Board or person co-opted to serve on the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith and without negligence in the course of the operations of the Board.

Liability of
members of the
board

PART III—ESTABLISHMENT OF THE RESEARCH INSTITUTE

11. There is established a research institute to be known as the Kilifi County Coconut Research Institute which shall be a unit under the Board.

Establishment of a
Research Institute

12. (1) The functions of the research institute shall be to—

Functions of the
Institute

- (a) advise on and develop appropriate systems to promote balanced, diversified and sustained coconut development and to optimize coconut production through adaptive and investigative research; and
 - (b) facilitate the use of improved production technology and to establish adequate feedback systems from coconut producers in order to achieve and maintain self-sufficiency and export capacities in coconut products.
- (2) for the purpose of carrying out its functions

under subsection (1), the research institutes shall —

- (a) organize, design and carry out on-station and on-farm research in accordance with such policies and in such priorities as may be determined by the Board;
- (b) identify production, policy, market, processing and utilization constraints in coconut production and prepare short and long-term research programmes within the framework of the County and National Agricultural research system;
- (c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanization and technology options to improve coconut production and provide answers to foreseeable problems facing coconut production;
- (d) collaborate with the extension and education services and other organizations, agencies and institutions including schools, technical institutions and universities, public or private, to disseminate research results and technologies;
- (e) establish and maintain regular contact with regional and international coconut research centers to ensure the rapid introduction, evaluation and use of improved technology of potential benefit to the county;
- (f) promote demand-driven participatory research, planning and priority setting;
- (g) train, inform, educate, enlighten and impart knowledge regarding the best and modern agricultural practices to the coconut farmer; and
- (h) perform such other functions as the Board shall determine.

13. (1) The Board shall competitively recruit and appoint a Director for the research institute on such terms and conditions as the Board shall determine.

Director of the
research institute

(2) The Director shall, subject to the directions of the Board, be responsible for the day to day management of the research institute.

PART IV—LICENCING PROVISIONS

14. (1) A person shall not transport or have in his or her possession any coconut products unless he or she is licensed to do any of those acts under a license and is the holder of a movement permit issued by the Board or is acting in the course of his or her employment as a servant or agent of a person holding such a permit.

Prohibition of
certain acts without
a license

(2) This section shall not apply to—

- (a) a person who purchases coconut products for domestic use;
- (b) any grower who processes coconut products for domestic use.

(3) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction to a fine not exceeding Kenya Shillings two hundred thousand or to imprisonment for a term not exceeding two years, or both.

(4) The Board may vary, cancel or attach conditions to or suspend a license if the holder is convicted of an offence under this Act

15. (1) The Board shall not issue a license under this Act unless—

Issue of licenses

- (a) It is of the opinion that the applicant is a fit and proper person to hold such license; and
- (b) It is satisfied that the applicant has sufficient knowledge, experience and capacity to enable him or her to conduct the business or that he or she has employed as staff of the business a person with such knowledge, experience and capacity as may be prescribed.

(2) Every license shall specify the premises upon which the business specified in the license may be carried on.

(3) Licenses issued under this Act shall remain in force until the thirty-first day of December next following the date of issue, unless earlier cancelled.

(4) There shall be payable for the issue of licenses under this Act such fees as the Board, after consultation with the relevant Committee of the house, may prescribe.

(5) The Board shall, at least thirty days before granting a license under this Act, give notice of the proposed grant in the County Gazette and in such other manner as the Board may determine

(6) The Board shall, in the notice referred to in subsection—

- (a) Specify the name or other particulars of the person or class of persons to whom the license is to be granted;
- (b) State the purpose for the proposed license and indicate the date such license is proposed to be issued to the successful applicant; and
- (c) Invite objections to the proposed grant of license and direct that such objections be lodged with the Board within fourteen days next following the date of the notice.

(7) The Board may after considering the objections, if any, made under this section, grant the license applied for, subject to such terms and conditions as may be specified therein.

(8) The issuance of a license to an applicant under this Act shall not be withheld without reasonable cause.

(9) A license issued under this Act shall not be transferable.

16. An application for the renewal of a license under this Act shall be made to the Board not later than the first day of the month of June in which the current license is due to expire but, notwithstanding the foregoing, a late application may be made upon payment of a late application fee as may be prescribed by the Board.

Application for
renewal of a license.

17. (1) A license issued under this Act shall be subject to such conditions as the Board may determine and as are specified in the license and to any conditions which may be prescribed.

Conditions for a
license.

(2) The Board may at any time during the validity of a license—

- (a) Vary the conditions of the license; or
- (b) Impose conditions or further conditions on the license.

18. The Board may revoke a license issued under this Act if in its opinion—

Revocation of a license.

- (a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the license holder or any employee of the license holder; or
- (b) a condition of the license has been contravened or not complied with.

19. (1) The holder of a license which is revoked shall immediately surrender it to the Board.

Surrender of a license

(2) A license holder may at any time surrender his or her license to the Board and the license shall cease to have effect forthwith

20. (1) An applicant for or holder of a license who is aggrieved by a decision of the Board on or in respect of—

Appeals.

- (a) The grant, refusal, renewal, variation or revocation; or
 - (b) The conditions imposed on the grant, renewal or variation, of a license, may appeal to the High Court against the decision.
- (2) An appeal under this section shall be lodged within thirty days from the date on which the aggrieved party first received notice of the decision.

PART V—PROVISIONS RELATING TO PRODUCTION, PROCESSING AND MARKETING OF COCONUT AND COCONUT BY PRODUCTS, COCONUT NURSERIES

21. No person shall establish or operate a commercial coconut nursery in any area unless that nursery is registered in accordance with this Act.

Coconut nursery registration.

22. (1) Every application for registration of a coconut nursery shall be made to the Board before the establishment of such a nursery in the prescribed form.

Application for registration.

(2) The Application for registration of a coconut nursery shall be accompanied by the registration set by the Board.

23. (1) The certificate of registration of coconut nursery operator shall be renewable after three years and only applicable for a specified inspected area.

Nursery registration certificate.

(2) The operator of a coconut nursery shall display the certificate of registration for inspection at all times.

24. No person shall be issued with a certificate of registration for a coconut nursery, under Section 27 unless a coconut inspector—

Conditions for granting coconut nursery certificate.

- (a) has visited and inspected the site and satisfied himself that the site is suitable for a coconut nursery; and
- (b) has satisfied himself the nursery operator or his agent has adequate knowledge of nursery management and coconut production techniques.

25. Every registered coconut nursery operator shall pay nursery operation annual registration fees as prescribed by the board.

Operation annual permit.

26. Every person operating a coconut nursery shall procure planting material or seeds from sources only approved by the Board.

Approved planting material/seed source

27. The main sources of seed nuts shall be the identified and approved coconut mother plants or imports from sources recommended by the Board and the sources shall be published by the Board from time to time in the County Gazette.

Procurement of seed nuts.

28. Every coconut grower shall comply with good agricultural practices in relation to coconut production; site selection, spacing, soil and water analysis, records and documents control, hygiene, cleanliness and workers welfare.

Coconut growing good agricultural practices.

29. Movement of coconut seedlings from nurseries to farms for planting shall be accompanied by a movement permit for commercial coconut seedlings and a notification from the nursery owner for the domestic users.

Movement of seedlings materials.

PART VI—COCONUT AND COCONUT PRODUCTS DEVELOPMENT PROVISIONS

30. (1) The Board shall identify and document all coconut products and by products and provide mechanisms for their processing, marketing and development.

Board to identify and document products..

(2) It shall be the duty of the Board to promote by such means as it deems fit the development under the control of the county government of coconut and coconut products.

(3) without prejudice to the generality of the provisions of sub-section (2), the measures referred to therein may provide for—

- (a) Adopting measures for the development of coconut industry so that farmers, particularly small farmers, may become participants in, and beneficiaries of the development and growth of coconut industry;
- (b) recommending measures for improving the marketing of coconut products within the county and beyond;
- (c) Imparting technical advice on coconut and coconut development to any person who is engaged in the cultivation of coconut or the processing or marketing of coconut and its products;
- (d) providing financial or other assistance for the development of high yielding coconut hybrids, adoption of improved methods of cultivation (including replanting) with a view to improving the growth of coconut industry;
- (e) adopting such measures as maybe practicable for assisting coconut growers to get incentive prices, including recommending, as and when necessary, minimum and maximum prices for coconut and coconut products;
- (f) recommending measures for regulating import and export of coconut and its products;
- (g) collecting statistics from growers of coconut, dealers in coconut, manufactures of coconut products and such other persons and institutions as maybe prescribed, on any matter relating to coconut industry and publishing the statistics so collected or portions thereof or extracts therefore;
- (h) fixing grades, specifications and standards for coconut and its products;

- (i) assisting, encouraging, promoting or financing agricultural, technological, industrial or economic research on coconut and its products in such manner as the board may deem fit by making use of available institutions;
- (j) undertaking such publicity and publishing such periodicals, books, bulletins on research and development of coconut and its products as maybe found necessary; and
- (k) setting up offices within the sub counties and other agencies for the promotion and development of production, grading and marketing of coconut and coconut products for the efficient discharge of the functions and objectives of the board

31. (1) No coconut tree shall be cut except in the following cases and only after a permit has been issued thereof, except in the following circumstances—

Cutting of coconut trees prohibited.

- (a) when the tree is no longer economically productive;
- (b) when the tree is disease-infested;
- (c) when the tree is damaged by typhoon or lightning;
- (d) when the agricultural land devoted to coconut production shall have been converted in accordance with law into residential, commercial or industrial areas;
- (e) when the land devoted to coconut production shall be converted into other agricultural uses or other agriculture-related activities in pursuance to a conversion duly applied for by the owner and approved by the proper authorities; and
- (f) when the tree would cause hazard to life and property.

(2) No other causes other than those abovementioned shall be considered as a valid ground for cutting of a coconut tree.

32. (1) The processing of toddy shall be undertaken in accordance with the provisions of the Kenya Bureau of

Palm wine (toddy)

Standards/national coconut standards on toddy (palm wine) specifications, the Alcoholic Drinks Control Act Cap 121A Laws of Kenya and the Kilifi County Liquor Control Act, 2014.

(2) Toddy shall only be consumed in a designated place duly registered. The County Executive member in charge of Health may make regulations providing for the registration and licensing of palm wine drinking dens (Mangwe) and their hours of operation.

(3) Toddy shall only be sold and consumed by persons aged 18 years and above

PART VI—FINANCIAL PROVISIONS

33. (1) There is established a Coconut Development Fund which shall be administered by the Board in consultation with the County Executive Committee Member for the time being responsible for Finance.

Establishment of the Fund

(2) The Fund shall consist of—

- (a) The development levy;
- (b) interest from loans and advances to coconut farmers, manufacturers and dealers;
- (c) Grants and donations made to the Board; and
- (d) Moneys from any other source approved by the Board.

(3) The Board shall apply the moneys received into the Fund to—

- (a) Advance credit facilities to coconut farmers and manufacturers of coconut and coconut products;
- (b) Conduct research activities; and
- (c) Carry out the operations of the Board.

(4) The percentages for the application of moneys under subsection (3) shall be prescribed by the executive committee member responsible for Agriculture after consultation with the Board and the County Executive Committee member responsible for matters of Finance.

(5) The Board may, from time to time, issue guidelines for better management of the Fund in the best interest of coconut farmers, dealers and manufacturers and may, in the guidelines, provide the terms and conditions, the rate of

interest, the period of repayment and the form of security of guarantee on which loans and advances are to be made and the manner of recovery of credit or advances from coconut farmers, coconut manufacturers and dealers.

34. (1) The County Executive Committee member for Agriculture may, in consultation with the Board, impose a levy to be known as the Coconut Development Levy.

Coconut
Development Levy.

(2) The percentage of Development Levy imposed under subsection (1) shall be prescribed by the County Executive Committee member for Agriculture.

35. (1) The Board may invest any of the funds of the Fund which are not immediately required for its purposes.

Investments of
funds.

(2) The Board may place on deposit with such bank or banks as it may determine, any money not immediately required for the purposes of the Fund.

PART VII—MISCELLANEOUS PROVISIONS

36. The Executive Committee Member, on the advice of the Board, for the better carrying out of the purposes and provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations—

Regulations.

- (a) Prescribing grades for coconut produce, and minimum standards to which the coconut produce shall conform, whether as a condition of importation or exportation or of sale within Kenya;
- (b) Prescribing the manner of handling, transporting and storing of coconut produce;
- (c) Imposing a levy or cess, payable to the Board, on any form of coconut produce;
- (d) Requiring the registration and licensing, in a manner and upon payment of fees as may be prescribed, of producers, processors, transporters and distributors of coconut produce, and of any premises used;
- (e) Prescribing fees or charges for services rendered under this Act by the Board or its officers, servants or agents;
- (f) Regulating and monitoring the entire value chain of the coconut industry;

- (g) Prescribing standard contractual provisions governing the mutual rights and obligations of parties within the industry;
- (h) Prescribing the forms of application, and of licenses, marks, registers and all documents to be used for the purpose of this Act;
- (i) Prescribing the material intended for use in connection with coconut produce, including packages intended to contain coconut produce;
- (j) Prescribing the qualifications, powers and duties of inspectors and other persons appointed to exercise powers and perform duties under this Act;
- (k) Authorizing the examination and inspection of books and documents relating to the production, manufacture, distribution or sale of any coconut produce; and
- (l) Requiring the giving of coconut related information, records to be kept, returns and estimates to be furnished to the Board relating to the industry.
- (m) Prescribing the rules governing, guiding and enforcing the contractual agreement between the coconut growers and the licensed palm wine tapper.