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**SCHEDULE—CONDUCT OF MEETINGS
OF THE BOARD**

**THE NUTS AND OIL CROPS DEVELOPMENT
BILL, 2023**

A Bill for

AN ACT of Parliament to provide for the production, processing, marketing and distribution of nuts and oil crops and their products; establish the Nuts and Oil Crops Board; provide a framework for the nuts and oil crops farming development and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nuts and Oil Crops Development Act, 2023

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

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

“county executive committee member” means the county executive committee member responsible for matters relating to agriculture in the respective county governments;

“Board” means the Nuts and Oil Crops Development Board established under section 4;

“board” means the persons appointed under section 5;

“chief executive officer” means the chief executive officer of the board under Section 13;

“nuts and oil crops” includes coconut, cashew nut, macadamia nut, ground nuts, castor beans, sunflower, oil seed jojoba, shied safflower, sesame, linseed, oil Palm and bambara nut and such other crops as the Cabinet Secretary may by notice in the gazette designate; and

“processor” means a person who does the processing of the nuts and oil crops.

3. The object of this Act is to—

Object.

(a) promote a globally competitive nuts and oil crops industry;

- (b) increase production and processing of safe and healthy nuts and oil crop trees and products;
- (c) promote value addition to the nuts and oil crop trees and their products;
- (d) generate higher income for the nuts and oil crops farmers and traders by introducing better varieties of the nuts and oil crop trees with higher yield;
- (e) provide continuous and sustained research and extension services for the development of the nuts and oil crops industry;
- (f) facilitate the introduction of modern nuts and oil crops farming techniques and general modernization of their industry; and
- (g) implement effective marketing strategies.

**PART II—THE NUTS AND OIL CROPS
DEVELOPMENT BOARD**

4. (1) There is established the Nuts and Oil Crops Development Board.

Establishment
of the nuts
and Oil Crops
Development
Board.

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

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

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

5. (1) The management of the Board shall vest in a board consisting of—

Composition
of the Board.

- (a) a chairperson appointed by the President by notice in the *Gazette*;

- (b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;
 - (c) the Principal Secretary responsible for trade and investments or a representative nominated by the Principal Secretary in writing;
 - (d) five persons with ten years' experience in the nuts and oil industry appointed by the cabinet secretary, of whom—
 - (i) three shall be farmers;
 - (ii) one shall be a processor; and
 - (iii) one shall be a researcher
 - (e) one person nominated by the Council of County Governors; and
 - (f) the chief executive officer who shall be an ex-officio member of the Board.
- (2) A person is not qualified for appointment if that person—
- (a) prior to the consideration for appointment, was convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
 - (b) is a member of Parliament or county assembly; or
 - (c) is adjudged bankrupt.
- (3) The Cabinet Secretary shall in making appointments under subsection (1)(d) have regard to the principle of gender parity, age, regional and ethnic balance and shall, to the extent possible, ensure an equitable representation from different subsectors of the nuts and oil industry.
- (4) The cabinet Secretary shall appoint the members under subsection (1)(d) and (e) by notice in the *Gazette*.
- 6.** A person is qualified for appointment as a member of the Board if that person—
- (a) is a citizen of Kenya;
 - (b) holds a degree from a recognized University in Kenya; and

Qualifications
for
appointment
as a member.

- (c) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

7. The persons appointed under section 6(1)(a), (d) and (e) shall serve for a term of three years renewable for one further term.

Term of appointment.

8. (1) A person ceases to be a member of the Board if that person—

Vacation of office.

- (a) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (b) becomes an officer, agent or member of staff of the Board;
- (c) resigns in writing addressed, in the case of the chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;
- (e) is declared bankrupt;
- (f) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (g) dies.

9. The Board shall—

Functions of the Board.

- (a) regulate and promote the development of the nuts and oil crop industry;
- (b) make recommendations to the Cabinet Secretary, and oversee the implementation of strategies, plans and policy relating to the nut and oil crop sector;
- (c) promote the diversification of nuts and oil crop products and by-products,
- (d) promote the marketing of nuts and oil crops products and by-products in both local and foreign markets and preserve the competitiveness and reliability of the country as a producer and supplier of nuts and oil crop products by establishing national acceptable standards acceptable in the international markets;

- (e) establish linkages with local and international research institutions to conduct scientific research and investigations in all areas pertaining to the development of the nuts and oil crop industry;
- (f) collect, collate and disseminate information on the nut and oil crop industry including the appropriate technology and practices to ensure maximisation of yields by farmers;
- (g) regulate the marketing and the exportation of nuts and oil crop products and by-products to conform to the quality or food standards recognized in the international market;
- (h) put in place a framework for the capacity building and interaction of various players in the nuts and oil crops industry;
- (i) develop and enforce the nuts and oil crop industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards; and
- (j) co-ordinate capacity building training for growers, nursery operators, processors, cooperative societies and other associations in the nuts and oil crops value chain.
- (k) put in place measures for provision of assistance to farmers which may include farm inputs and affordable credit facilities.

10. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Board;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary responsible for matters relating to finance, invest any of the Board's funds not immediately required

Powers of the Board.

for the purposes of this Act, as it may determine; and

- (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.

(2) The Board may, if it considers it necessary become a member of, or associate with a body or corporation designed to assist or promote the nuts and oil crops industry.

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

Delegation by the Board.

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

Remuneration of members of the Board.

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

Chief executive officer.

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

- (a) is a citizen of Kenya;
- (b) holds a degree in law, agriculture or finance, from a university recognized in Kenya;
- (c) has at least five years' experience in public administration or senior management; and
- (d) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

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

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

Functions of the chief executive officer.

- (a) be responsible for the day to day management of the affairs of the Board;

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

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

Removal of chief executive officer.

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

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

Staff of the Board.

17. Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred as a result of an act or omission done in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection of members and staff from liability.

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

Common seal of the Board.

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

Signing authority.

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

Meetings of Boards.

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

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

PART III—ROLE OF COUNTY GOVERNMENTS

21. A county government shall—

Role of county governments.

- (a) implement the National Government policy relating to the nuts and oil crop sector;
- (b) maintain an up to date register of nuts and oil crop growers, nursery operators, processors, cooperatives and other associations in that county;
- (c) licence nuts and oil processors;
- (d) implement national and county legislation on nuts and oil crop industry code of practice, policies and guidelines on corporate governance in the growers' institutions;
- (e) facilitate the production of nuts and oil crop in the respective county by implementing and expanding the planting and replanting program of nuts and oil crops in strategic areas identified as having the most potential and the rehabilitation and fertilization of existing nuts and oil crops;
- (f) offer extension services on nuts and oil crop production and primary processing;
- (g) encourage and promote the organization of nuts and oil crop farmers' co-operatives, associations, and organizations and provide them with credit and financing schemes;

- (h) provide training, extension service programs and disseminate information to nuts and oil crop farmers, farm workers and processors relative to production technology, market systems, farm workers, entrepreneurial and other technical skills and values, attitude formation and socio-economic development strategies;
- (i) collaborate with relevant institutions so as to promote access to credit and other financial services;
- (j) formulate and adopt a general program of development geared towards increased farm productivity, through planting or replanting of suitable seedling varieties, rehabilitation and fertilization of the nuts and oil crop, integrated nuts-based farming systems and product processing;
- (k) inspect value addition industries located within their respective counties;
- (l) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies; and
- (m) establish storage facilities and aggregation centres.

22. (1) A county that produces, processes, distributes or markets nuts and oil crop or products may enact county specific legislation prescribing –

Enactment of county specific legislation.

- (a) the criteria for registration and appeal mechanism;
- (b) information required to be submitted by an applicant for registration;
- (c) the criteria for the issuance of licenses by an applicant within the respective county;
- (d) the conditions for the issuance or renewal of a licence under this Act;
- (e) the grounds for the rejection of an application or cancellation of a licence issued under this Act;
- (f) such other provisions as the county government shall consider necessary.

(2) Where county legislation has not been enacted, the provisions of this Act shall apply.

PART IV—REGULATORY PROVISIONS

23. (1) A county government shall regulate the production and processing of nuts and oil crops with a view to—

Regulation of nuts and oil crops.

- (a) promoting productivity;
- (b) promoting access to markets;
- (c) facilitating provision of infrastructure including farm inputs;
- (d) providing post-harvest services;
- (e) providing extension services;
- (f) providing incentives to farmers; or
- (g) providing credit facilities.

(2) The county government shall maintain the necessary statistical information with respect to nuts and oil crops to enable proper planning.

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

Registration.

(2) Notwithstanding subsection (1), a grower who is a registered member of a nuts and oil cooperative society or association which is registered by a county government, shall be exempted from registration by that county government.

(3) Subsection (2) shall apply to a grower on condition that the cooperative society or association is registered in the same county as that which the grower is carrying out business.

(4) A registered cooperative society or association shall-

- a) submit a register of its members to the respective county government at the beginning of each calendar year; and
- b) furnish the county government with information on any change of membership within thirty (30) days of a change of membership.

(5) A county government shall not charge any fees for the registration of an applicant under this section.

(6) Each county government shall keep and maintain a register under subsection (1).

(7) A register under subsection (6), shall include—

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

(8) Each county government shall submit to the Board a copy of the register under subsection (6).

25. (1) A person shall not engage in the processing of nuts and oil crops and their products unless such person has applied for, and obtained, a licence in accordance with this Act.

Licensing of processors.

(2) A person who intends to process nuts and oil crop products shall submit an application in the form prescribed in county legislation to the county executive committee member together with —

- (a) such documents and information as the county executive committee member may prescribe; and
- (b) the prescribed fees.

(3) A county executive committee member shall consider an application within fourteen days of receipt of the application and may—

- (a) grant a licence unconditionally;
- (b) grant a licence subject to satisfying such conditions as the county executive committee member may impose; or
- (c) with sufficient cause, refuse to issue or renew the licence.

(4) A decision made under subsection (3) shall be communicated to the applicant by the respective county executive committee member, in writing, within seven days from the date of the decision.

(5) Where the county executive committee member refuses to grant a licence, the county executive committee

member shall, in its notification under subsection (3), specify the reasons for the refusal.

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

Publication of
a notice.

(2) The county executive committee member shall, in publishing the notice under subsection (1)—

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

(3) The county executive committee member shall consider any objection submitted to him under subsection (5) and may grant the licence applied for subject to such conditions as the county executive committee member shall consider appropriate to impose.

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

(5) A person who contravenes the provisions of section 25(1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or both.

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

Revocation of
licence

- (a) fails to meet any condition imposed by this Act or county legislation; or
- (b) surrenders the licence together with a notice setting out a request that the licence be revoked.

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

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

28. (1) A compliance notice issued under section 27(2)(b) shall—

Compliance notice

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

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

(3). (1) Where a person who receives a compliance notice under section 27 (2) (b) fails to comply with such notice, the county executive committee member shall —

- (a) revoke the licence of that person;
- (b) notify the person in writing of—
 - (i) the revocation and the reasons thereof; and
 - (ii) indicate the date of revocation.

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

29. An applicant who is aggrieved by the decision of the county executive committee member not to issue a licence under this Act may appeal to the High Court against the decision within fourteen days of receipt of the decision.

Appeal.

PART V—FINANCIAL PROVISIONS

30. The funds of the Board shall consist of—

Funds of the Board

- (a) monies appropriated by Parliament for the purposes of the Board;

- (b) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or any other written law;
- (c) monies received in respect of levies and fees; and
- (d) donations, grants, loans or gifts made to the Board and approved by the Cabinet Secretary for finance.

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

Annual estimates.

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

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

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

Accounts and audit.

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

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

(3) The Board shall submit to the Auditor-General all books and accounts of the Board and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.

33. (1) The Board shall, within a period of three months after the end of each financial year or within such longer

Annual report and publication.

period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the annual balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.

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

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

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

Financial year
of the Board.

PART VI—MISCELLANEOUS PROVISIONS

35. The Cabinet Secretary responsible for finance may from time to time determine by notice in the *gazette* the tax incentives applicable to the nuts and oil crops industry in order to promote the development of the cotton industry

Incentives.

36. (1) The Board shall carry out market research and analysis and disseminate information on its findings to all stakeholders.

Management
of
information.

(2) The Board shall, subject to subsection (3), facilitate access to information held by it in accordance with Article 35 of the Constitution.

(3) Subject to Article 35 of the Constitution, the Board may decline to give information to a person where —

- (a) the request is unreasonable in the circumstances;
- (b) the information requested is at a deliberative stage by the Board;
- (c) the information requested may compromise the working of board; or
- (d) the person fails to satisfy any confidentiality requirements by the Board.

(4) The right of access to information under Article 35 of the Constitution is limited to the nature and extent specified under this section.

(5) Every member and employee of the Board shall sign a confidentiality agreement.

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

Penalties

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

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

commits an offence and is, subject to subsection (3), liable for the offence as if they had committed the offence.

(3) A person shall not be liable for an offence under subsection (2) where they prove that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer concerned as aforesaid and to all the circumstances.

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

Regulations

(2) Without prejudice to the generality of subsection (1), the regulations may provide for —

- (a) conditions for registration;
- (b) forms to be used in the application for registration, and related activities;

- (c) the process of application for registration and related activities; and
- (d) the regulation of contracts between growers, processors and other players in the nut industry.

39. The First Schedule to the Crops Act No. 16 of 2013 is amended by deleting the following items — Amendments

(a) Under Part I—

Sunflower.....*Helianthus annuus*

(b) Under Part II-

(i) Sesame.....*Sesamum Indicum L.*

(ii) Safflower.....*Carthamus tinctorius L.*

(iii) Ground nut.....*Arachis hypogaea L*

(c) Under Part III-

(i) Coconut.....*Cocos nucifera*

(ii) Cashew nut..... *Anacardium occidentale*

(iii) Castor beans.....*Ricinus communis*

(iv) Oil Seed or Rapeseed.....*Brassica napus var. oleifera L*

(v) Jojoba.....*Simmondsia Chinensis*

(vi) Linseed.....*Linum usitatissium L.*

PART VII—SAVINGS AND TRANSITION

40. All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Agriculture and Food Authority with respect to the nuts and oil sector shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board as the case may be. Rights and obligations.

41. All funds, assets, and other property, moveable and immovable which were immediately before the appointed day vested in Agriculture and Food Authority for the carrying out of functions relating to nuts and oil, shall vest in the Board. Assets

42. All actions, suits or legal proceedings pending by or against the Agriculture and Food Authority in relation to the Legal proceedings

nuts and oil sector shall be carried on or prosecuted by or against the Board, and no action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

43. Any reference to the Agriculture and Food Authority in any written law or in any contract, document or instrument of whatever nature, in relation to nuts and oil, shall, be read and construed as a reference to the Board.

Reference to
written law

44. All directions, orders and authorizations given, or licenses or permits issued, or registrations made by the Agriculture and Food Authority in relation to nuts and oil, and subsisting or valid immediately before enactment of this Act, shall be deemed to have been given, issued or made by the Authority as the case may be, under this Act.

Previous
authorization

45. Any person who, at the commencement of this Act, is a member of staff of the Agriculture and Food Authority dealing with the nuts and oil sector shall, upon enactment of this Act, become a member of staff of the Board.

Staff

SCHEDULE (s. 20)

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

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

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

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

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

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

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

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

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

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

(2) The person making the disclosure of interest under subsection (1) shall not, unless the Board or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

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

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

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

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to establish the Nuts and Oil Crops Development Board with the aim of saving the nuts and oil crops industry by revamping the policy and institutional framework within which the industry operates. The nuts and oil crops industry is a significant agricultural industry in Kenya.

There is therefore need for a strong and robust policy and institutional foundation to support and guide the multitude of activities, operations, and interactions within the industry so that the growth of the industry results in a strengthened agricultural economy for the country.

Regulatory challenges, national and international economic realities, and scientific reliability are some of the pressing concerns that need to be addressed by the institution responsible for the nuts and oil crops industry.

The Bill proposes to revamp the nuts and oil crops sector in order to make it a profitable, sustainable and development-oriented activity. It proposes to provide an avenue for appreciating the medicinal, aesthetic, touristic and artistic value of various nuts and oil crops by encouraging value addition in the processing of nuts and its products. The Bill therefore establishes the Nuts and Oil Crops Development Board. It further provides for research and development to cultivate a culture of scientific excellence and professionalism in nuts and oil crops farming and industrial development.

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

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

Part II (clauses 4–20) provides for the establishment, functions and powers of the Nuts and Oil Crops Development Board. It further provides for the composition and qualifications for appointment of the members of the Nuts and Oil Crops Development Board. In addition, it provides for the office of the chief executive officer of the Board and the secretariat.

This part also provides for the establishment of Committees of the Board as well as tenure of office of Board members. It further provides for remuneration of the members as well as the meetings of the Board and other administrative issues revolving around the Board

Clauses 21–22 contain provisions related to the role of county governments in regulating the nuts and oil industry. It allows counties to enact county specific legislation setting out the criteria for registration of the nuts and oil industry stakeholders.

Part IV (Clauses 23–28) sets out the regulatory provisions. The Bill requires the nuts and oil crop growers, nursery operators, association and societies to register with the county government.

Part V (clauses 29–33) sets out the financial provisions of the Board.

This part provides for preparation of annual estimates of income and expenditure of the Board. It further provides for the period of the financial year of the Board and the preparation and auditing of its accounts.

Part VI (Miscellaneous provisions Clauses 34–38) This part provides for tax incentives, management of information by the Board and penalties for non-conformity with the provisions of this Act.

Part VII (clauses 40–45) provides for Savings and Transition clauses.

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

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

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

Statement on how the Bill concerns county governments

Agriculture is a devolved function under paragraph 1 of part 2 of the Fourth Schedule to the Constitution. By facilitating the development of nuts and oil crops industry in the country, the Bill ensures that nuts and oil crops farmers have opportunities to enhance farming and value addition to nuts and oil crops products. This in turn facilitates the growth and development of the economies of the counties that produce nuts and oil crops.

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

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

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

Dated the 19th September, 2023.

HAMIDA KIBWANA,
Senator.