



REPUBLIC OF KENYA

MURANG'A COUNTY ASSEMBLY

FIRST ASSEMBLY (THIRD SESSION)

ORDERS OF THE DAY

TUESDAY, JULY 21, 2015 AT 9.30 A.M

(MORNING SITTING)

ORDER OF BUSINESS

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notice of Motion
7. Statements
8. Motions

10* BILLS – COMMITTEE OF THE WHOLE ASSEMBLY

THE MURANG'A COUNTY TEA BILL (BILL NO. 14 OD 2014)

(Chairperson Trade, Industrialization, Tourism and Wildlife Committee)

11* BILLS – THE MURANG'A COUNTY TEA BILL (BILL NO. 14, 2014)

(Chairperson, industrialization, tourism and Wildlife Committee)

Third reading

THAT, the Murang'a County Tea Bill (Bill No. 14 of 2014), be now read a Third Time.

*Denotes orders of the day

NOTICES

THE MURANG'A COUNTY TEA BILL, (COUNTY ASSEMBLY BILL NO. 14 OF 2014).

Proposed amendments to the Murang'a County Tea Bill (Bill No. 14 of 2014)

CLAUSE 3

THAT, clause 3 of the Bill be amended by deleting the whole clause and substituting therefor the following new clause—

3. (1) There is established a Committee to be known as the Murang'a County Tea Advisory Committee.
- (2) The Committee shall advise the Executive Member on -
 - (a) marketing and distribution of tea ;
 - (b) strategies for ensuring growers attain the best prices for tea;
 - (c) adoption of alternative and green energy solutions for manufacture and processing of tea;
 - (d) refusal, revocation, cancellation, suspension or variation with without conditions of any licenses or registration issued under the *Crops Act* with respect to tea.
 - (e) receive and consider applications for licenses for production, manufacturing and marketing of tea;
 - (f) strategy for value addition of tea;
 - (g) recommend general industry agreements and certifications between tea farmers, managing agents, tea packers, brokers and manufactures;
 - (h) recommend special audits of licensees and manufactures' of tea;
 - (i) arbitrating disputes between factories and farmers; and
 - (j) incentives to be offered to tea growers.

CLAUSE 4:

THAT, Clause 4 of the Bill be amended by deleting the entire clause and inserting the new clause

4. The Committee shall comprise of –
 - (a) eight members;
 - (b) a Chairperson; and
 - (c) the director of the Directorate of Tea Development established under Section 12 who shall be an ex-official member and shall serve as the secretary of the Committee; appointed by the governor with the approval of the County Assembly through a competitive recruitment process.
- (2) A person shall qualify for appointment as a member under this Section if the person -
 - (a) is a holder of a Diploma from any institution recognized in Kenya;
 - (b) is a Kenyan Citizen;
 - (c) has the requisite knowledge and at least five years' experience in-
 - i. economics;
 - ii. finance;

- iii. administration;
- iv. marketing;
- v. Management
- vi. Tea Industry
- vii. Agriculture

(d) fulfils the requirements of Chapter Six of the Constitution of Kenya.

- (3) A person shall not be qualified for appointment as a member of the Committee if such a person-
- (a) is a member of Parliament
 - (b) is a member of a County Assembly;
 - (c) is an undischarged bankrupt; or
 - (d) has been removed from office for contravening the provisions of the Constitution or any other written law.

CLAUSE 5:

THAT, clause 5 of the Bill be amended by deleting clause 5 and substituting therefor the new clause –

5. (1) At the end of each financial year, the Committee shall develop and send to the Executive Member an annual County Tea Development Plan indicating the programs and activities planned for Tea and the plan shall be approved by the County Assembly.

(2) The Plan under subsection (4) shall be financed by the Agriculture Produce Cess paid into the Murang'a County Tea Fund established under Section 27.

CLAUSE 6:

THAT, clause 6 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

6. (1) The business and affairs of the Committee shall be conducted in accordance with the Schedule.
- (2) Except as provided for in the Schedule, the Committee may regulate its own procedure.
- (3) The Committee may invite any person to attend its meetings but shall person shall not be entitled to vote.

CLAUSE 7:

THAT, clause 7 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

7. (1) The Chairperson shall be appointed for a term of six years an but shall be eligible for only one further term of six years.

(2) Members of the Committee shall be appointed for a term of five years but shall be eligible for only one further term of five years.

CLAUSE 8:

THAT, clause 8 of the Bill be amended by deleting the entire clause and substituting

therefor the following new clause-

8. (1) The appointing authority may remove the chairperson or a member appointed under section 7 for –

- (a) inability to perform the functions of the office by reason of mental or physical infirmity;
- (b) failure to declare his or her interest in any matter being considered or to be considered by the Committee; or
- (c) any other sufficient reason as may be prescribed.

(2) The office of chairperson or member shall become vacant if the member -

- (a) ceases to represent the interests in respect of which he she is appointed;
- (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 Committee without reasonable cause;
- (e) is incapacitated by physical or mental illness; or
- (f) resigns in writing addressed to the Executive Member

CLAUSE 9:

THAT, clause 9 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

9. The County Public Service Board shall appoint such other officers and employees as are necessary for the proper discharge of the functions of the Committee and the directorate upon terms and conditions of service as the Service Board may determine.

CLAUSE 10:

THAT, clause 10 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

10. The Committee shall, at the end of June and January each year, submit to the Executive Member and the County Assembly a report on-

- (1) tea developmet progress reports; and
- (2) earnings per factory.

CLAUSE 11:

THAT, clause 11 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

11. The Committee and the Directorate 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.

CLAUSE 12:

THAT, clause 12 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

12. There is established within the County Public Service a directorate to be known as the Directorate of Tea Development.

CLAUSE 13:

THAT, clause 13 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

13. The Directorate shall have a Director who shall be appointed by the County Public Service Board with the approval of the County Assembly through a competitive recruitment process.

(2) A person shall not qualify for appointment as a Director under this section unless that person –

(a) is a holder of a Degree from any university recognized in Kenya;

(b) has the relevant experience that may be determined by the Public Service Board;

(c) fulfils the requirements of Chapter VI of the Constitution of Kenya.

(3) The Director shall be –

(a) responsible for the day to day administration and management of the Directorate;

(b) responsible for the direction of the affairs and discharge of the functions of the Directorate; and

(c) the principal adviser and Secretary of the Committee.

CLAUSE 14:

THAT, clause 14 of the the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

14. (1) The functions of the Directorate shall –

(a) in consultation with the Ministry responsible for Agriculture, facilitate implementation of general and specific policies for the development of the tea industry;

(b) facilitate the marketing and distribution of tea through monitoring and dissemination of market information, including identification of the local markets, matching of domestic markets, tracing of tea products in the county, and promotion of tea activities;

(c) establish, in accordance with the applicable regulations and in consultation with tea factories in the County, strategies for ensuring that growers attain the best prices for tea through effective cost-cutting measures;

(d) assist in the establishment of energy-reducing strategies for the manufacture and processing of tea;

(e) regulate all aspects of tea trade, including the licensing of tea factories and registration of all persons dealing in tea in the County;

- (f) regulate, control and improve the cultivation and processing of tea in liaison with the respective factories;
- (g) administer levies collected in the tea industry;
- (h) in consultation with the relevant county departments, facilitate an efficient and economical means of transporting tea to prevent wastage.
- (i) establish linkages with various government and private research institutions for the conduct of studies and researches designed to promote the production, marketing and processing of tea;
- (j) in consultation with the relevant government research institutions determine the research priorities on tea and provide advice on tea research and funding for the research programs generally.
- (k) conduct farmers training programs aimed at increasing their knowledge in tea production, technology, market potentials and prospects for various types of tea;
- (l) 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;
- (m) develop and maintain a system for obtaining information on current and future production, prices and movement in tea trade locally and internationally;
- (n) 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;
- (o) promote and advise on strategies for value addition prior to the export of tea from the County;
- (p) recommend general industry agreements and certifications between tea farmers, managing agents, packers, brokers and manufacturers;
- (q) prescribe the minimum period within which tea farmers are to be paid for tea delivered and penalties for delayed payments;
- (r) perform any other relevant function, including the taking of measures to ensure compliance with the this Act, relevant national laws or any regulations that may be necessary; and
- (s) generally advice and recommend ways of maintaining, improving a sustainable environment practices in the tea industry.

(2) The Directorate may authorize any of its members, or the Director, officer or employee of the Directorate, to carry on any function or exercise any power on its behalf at any time when it is not meeting.

(3) Any function carried on or power exercise under subsection (2) shall, unless the otherwise requires, be reported without unreasonable delay to a meeting of the Directorate.

CLAUSE 15:

THAT, clause 15 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

15. (1) Any tea grower shall, within six months of starting to grow tea, register with the tea factory to which he or she delivers or intends to deliver green leaf.

(2) Every tea factory shall maintain a register of tea growers supplying green leaf to the factory and the register shall include particulars and information required to be supplied under section 16.

(3) The register referred to in subsection (2) shall be *prima facie* proof that a person is a registered tea grower and the factory shall submit a copy of the register to the Committee in such manner as the Committee may prescribe and the factory shall update its register every after six months and accordingly update the Committee through a resolution of the factory directors.

CLAUSE 16:

THAT, clause 16 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

- 16.** Subject to this Act, the Executive Member shall maintain a register of tea factories registering tea growers, and shall enter into the register –
- (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 and number of registered growers including any updates which may be submitted from time to time any other particulars and information that the Committee may deem necessary.

CLAUSE 17:

THAT, clause 17 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause-

- 17.** (1) No person shall –
- (a) manufacture tea for sale, whether by sun drying or otherwise; or
 - (b) carry on the business of packing and blending tea; without a licence issued by the County Executive Member.
- (2) The Executive Member may make regulations prescribing-
- (a) the requirements for applying for a licence under this section;
 - (b) the procedure for processing applications for a licence;
 - (c) the form of application for a licence; and
 - (d) the form of a licence.
- (3) The Executive Member may, after ensuring that all the prescribed requirements are met by the applicant, issue a manufacturing licence, in accordance with regulations made under this section.
- (4) The Executive Member may, on advice of the Committee vary or suspend any licence issued under this section if the factory or licensee is found to have contravened the conditions of a licence or regulations made under this Act for the operation of tea factories.
- (5) A licence issued under this section may authorize the holder to carry on all or any of the businesses referred to under subsection (1).

CLAUSE 18:

THAT, clause 18 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

- 18.** (1) The Executive Member shall maintain a register of all tea manufacturers, packers and blenders licensed under section 17 in a form determined by the Executive Member.
- (2) A register maintained under subsection (1) shall include -
- (a) the full names of the manufacturer, packers or blenders;
 - (b) the date of issue of the licence;
 - (c) particulars of any cancellation, suspension or variation of the licence;
- any other information or particulars as the Executive Member may deem necessary.

CLAUSE 19:

THAT, clause 19 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

19. (1) Any person who—
- (a) manufactures packs or blends tea for sale without a licence issued under section 17;
 - (b) buys, sells, exposes for sale, transports or has in possession any tea which to his or her knowledge or belief—
 - (i) has been grown, manufactured, dried or dealt with contrary to this Act,
 - (ii) is from a tea grower who is not registered with any factory, or
 - (iii) is from a tea grower who is not contracted to supply green leaf to a factory;
- commits an offence.
- (2) Where a person has in possession or control any tea for which he or she is unable to account for, to the satisfaction of a person authorized under section 17, such tea shall be deemed to have been grown, manufactured, dried or dealt with contrary to this Act until otherwise proved.
- (3) Where a person is convicted of an offence under this section the court may, in addition to the punishment given under section 29, order that any tea and the vehicle, vessel or other conveyance in relation to the offence be forfeited to the County Government.
- (4) This section shall not apply to buyers of tea in good faith.

CLAUSE 20:

THAT, clause 20 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

- 20.** (1) Any person authorized in writing by the Committee may, at all reasonable times and upon giving sufficient notice, enter any land or buildings occupied by the holder of a manufacturing, packing or blending licence issued under section 17 or a person registered under this Act and make inspection and enquiries as he or she may think fit for ascertaining whether –
- (a) the provisions of this Act, or any regulations made thereunder; or
 - (b) the terms and conditions of the respective registration or licence are being complied with;
- and may require any person found thereon to give the information required.

(2) Any person who hinders or obstructs a person exercising or attempting to exercise the powers conferred upon him or her under subsection (1) or who fails to give any information reasonably required, to the best of his or her knowledge and ability commits an offence.

CLAUSE 21:

THAT, clause 21 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

21. (1) An officer of the County Government or the Committee, authorized in writing by the Executive Member or the Committee, upon issuing sufficient notice as the case may be, upon production of his or her authority on demand, and any police officer or administration police officer may—

- (a) enter and search any premises upon which he or she has reason to believe that there is tea in respect of which an offence under section 18 is being or has been committed;
- (b) stop, search and detain any vehicle, vessel or other conveyance which he or she has reason to believe is being or has been used for conveyance of tea in respect of which an offence under section 18 is being or has been committed.

(2) Any person who hinders or obstructs a person acting in the exercise of his or her powers under this section commits an offence.

CLAUSE 22:

THAT, clause 22 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

22. A person shall not deal in tea unless that person is registered by the Executive Member.

(2) Any person who deals in tea in contravention of subsection (1) commits an offence.

CLAUSE 23:

THAT, clause 23 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

23. (1) Where a tea factory contracts an agent to manage the factory or any of its functions, the management agreements between the tea factory and management agent shall be deposited with and registered by the Directorate.

(2) The management agent shall open a county office and shall provide personnel for operations of management functions.

CLAUSE 24:

THAT, clause 24 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

24. (1) There is established a fund to be known as the Murang'a Tea Fund pursuant to Section 116 of the Public Finance Management Act.

(2) The Fund shall consist of-

- (a) monies appropriated by the County Assembly for the purpose;
- (b) licence and other fees payable under this Act;
- (c) legally received contributions, gifts, bequests or grants from any authority or person;
- (d) moneys earned or arising from any investment of the Fund;
- (e) any other sums which may in any manner become payable to or vested in the Fund.

(3) The monies appropriated by the County Assembly under subsection (2) (a) shall not be less than 5 % of the annual budget in any financial year.

(4) The fund will be managed by the Committee.

(5) The County Executive member in charge of Finance shall issue regulations for the management of the Fund with the approval of the County Assembly.

CLAUSE 25:

THAT, clause 25 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

25. There shall be paid from the Fund monies –

- (a) fees and other expenses relating to experiments, investigation and research in connection with the tea industry;
- (b) expenses relating to the collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption;
- (c) the promotion of exhibitions for the display of tea and the processes for manufacture thereof, and matters incidental thereto;
- (d) costs for the establishment of libraries, laboratories, experimental stations, workshops and factories, and the provisions of facilities ancillary thereto;
- (e) costs for advertising the merits of Murang'a County tea and increasing its sale; and costs for developing the tea industry of Murang'a County in such manner as the Committee may think fit.

CLAUSE 26:

THAT, clause 26 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

26. (1) The Committee may, with the approval of the Executive Member, invest any funds which may from time to time be standing to its credit and which are not immediately required for any of the purposes specified in section 25, in such investments as the Executive Members responsible for agriculture and finance may approve.

CLAUSE 27:

THAT, clause 27 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

27. (1) Subject to Article 201 of the Constitution, there shall be an Agricultural Produce Cess which shall be one per centum of the value of the tea produced by the tea factories.

(2) The Managing Agent appointed by the County Executive Member shall be the collecting agent for the Agriculture Produce Cess.

(3) The collecting agent shall pay 80% of the Agriculture Produce Cess to the factories and 20% of the Agriculture Produce Cess into the Fund established under Section 24 on a monthly basis.

CLAUSE 28:

THAT, clause 28 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

28. (1) The Directorate shall, within a period of three months after the end of each financial year or within such longer period as the Executive Member may approve, submit to the Executive Member a report of its operations during that year, the balance sheet and such other statements of account as the Executive Member may require together with the auditor's report and the Directorate shall, publish the report in such manner as the Executive Member may specify.

(2) The Executive Member shall lay the report and the auditor's report, together with the balance sheet and such other statements of account received from the Directorate before the County Assembly within thirty days after receipt of the reports and statements, or, if the County Assembly is not sitting, within fourteen days after the commencement of the next sitting.

CLAUSE 29:

THAT, clause 29 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

29. A person convicted of an offence under this Act in respect of which no penalty is 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.

CLAUSE 30:

THAT, clause 30 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

30. Where any offence under this Act or under any regulations made under this Act is committed by a company, body corporate, society, association or body of persons, every person charged with the control or management of the affairs or activities of that body shall be deemed to have committed offence and is liable on conviction to the relevant punishment accordingly, unless it is proved by such person that, through no act or omission on his or her part, he or she was not aware that the offence was being or was intended or about to be committed, or that he or she took all reasonable steps to prevent its commission.

CLAUSE 31:

THAT, clause 31 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

31. The Executive Member, may, after consultation with the Directorate and the Committee, and with the approval of the County Assembly, make regulations for carrying this Act into effect.

CLAUSE 32:

THAT, clause 32 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

32. Every licence issued under the Crops Act, 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.

CLAUSE 33:

THAT, clause 33 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

33. Every person or entity required to be registered under this Act shall do so within six months of the coming into effect of this Act.

CLAUSE 34:

THAT, clause 34 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

34. (1) A member of the Advisory Committee who has a direct or indirect personal interest in a matter being considered or to be considered by the Committee shall, as soon as reasonably practicable after the relevant facts concerning the matter have come to their knowledge, disclose the nature of the interest to the Committee.

(2) A disclosure of any such interest in a matter shall be recorded in the minutes of the meeting of the Advisory Committee and the member shall not be present when that matter is being dealt with by the Committee and shall not take part in any deliberations or vote relating to the matter.

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

CLAUSE 35:

THAT, clause 35 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

35. (1) The Committee shall cause an annual report to be prepared for each financial year.

(2) The Committee 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 Committee;
- (b) a description of the activities of the Committee;
- (c) such other statistical information as the committee considers appropriate relating to its mandate;
- (d) any other information relating to its functions that the Committee considers necessary; and

the annual County Tea Development Plan.

CLAUSE 36:

THAT, clause 36 of the Bill be amended by deleting the entire clause and substituting therefor the following new clause –

36. No action by a member of the advisory Committee shall, if done in good faith for executing the functions, powers or duties of the Committee, render the member personally liable to any action, claim or demand whatsoever.

NEW SCHEDULE

THAT, a new schedule be inserted after clause 36 as follows;

SCHEDULE

PROCEEDINGS OF MEETINGS OF THE ADVISORY COMMITTEE

(1) The Committee 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 Committee may decide.

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

(3) The chairperson, or in his absence the deputy chairperson, or in the absence of both a member elected by the Committee, shall preside at all meetings of the Committee, 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 Committee 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 Committee shall be deemed to be the decision of the Committee.

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

CLAUSE 2:

THAT, clause 2 of the Bill be amended-

(a) by deleting the following terms, “ auction organizer” “board” “customs territory” “established agency” “import” “made tea” “ planting licence” “small holder” “tea plantation” “warehouseman”

(b) by inserting the following new terms in the alphabetical order in which they follows;

“committee” means the Murang’a County Tea Advisory Committee under section 3;

(c) on the term “director” by deleting the words “Murang’a Tea Directorate” immediately after the word “the” and by deleting the letter “9” immediately after the word section, and replacing with “13” ;

(d) on the term “manufacturing licence”, by deleting the letter “ 13” immediately after the word “section” and replacing it with the letter “17”

CLAUSE 1:

THAT, clause 1 be amended by deleting the word “Bill” immediately after the word “this” and the word “County” and replacing with the word “Act”
