

THE NUTS AND OIL CROPS BILL, 2020

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THE NUTS AND OIL CROPS BILL, 2020

A Bill for:

An Act of Parliament, to provide for the development, regulation and promotion of the nuts and oil crops industry, to provide for establishment, powers and functions of the Nuts and Oil Crops Board of Kenya, and for connected purposes

	PART 1 - PRELIMINARY
Short title	1. This Act may be cited as the Nuts and Oil Crops Act, 2020.
Interpretation	<p>2. In these Act unless the context otherwise requires—</p> <p>“agent” means a dealer acting on behalf of a licensed player and can be a marketing agent or clearing agent;</p> <p>“annual crop” means plants that complete their entire life cycle from seed to flower and to seed within a single growing season and in this case includes the crops listed in Part 1 of the First Schedule</p> <p>“authorized agent” means a person appointed in writing by the Board to carry out specific duties and functions in the nuts and oil crops subsector on behalf of the Board;</p> <p>“Board” means the Nuts and Oil Crops Board of Kenya established by Section 3 of this Act;</p> <p>“certificate” means a document issued by the Board or the County Government for a specified purpose upon fulfilling certain requirements;</p> <p>“collection center” means a designated site that is established for the purposes of aggregation, storage and marketing of different nuts and oil crops produce and products;</p> <p>“commercial nursery” means an approved site where nuts and oil crops</p>

seedlings are raised for sale;

“County Government” shall have the meaning assigned to it under Article 176 of the Constitution;

“inspectors” means persons gazetted as inspectors in accordance with section 50 (3) of this Act;

“dealer” includes a person engaged in either collecting, transporting, storing, distributing, or buying and selling nuts and oil crops produce, products or by-products and includes marketing agents, exporters, importers and ship chandlers and “dealing” shall be construed accordingly.

“export” means to move or ship nuts and oil crops produce or products to another country;

“grower” means any person who cultivates nuts and oil crops in Kenya excluding a person who cultivates nuts and oil crops for subsistence;

“grower associations” means any association, common interest group, community-based group, co-operative, union or federation of nuts and oil crops growers or any other legal entity comprised of nuts and oil crops growers;

“import” means to bring into Kenya, nuts and oil crops produce or products from another country;

“inspector” means a person gazetted as an inspector by the Board in accordance with section 50(3) of this Act

“license” means a license issued under this Act

“license holder” means a person who holds a valid license issued under this Act

“processing” means partial or complete transformation of all or parts of nuts and oil crops into intermediate or final produce or products and the extent of transformation for each individual nuts and oil crop produce and product as prescribed by regulations under the Act

“processor” means a person who transforms nuts and oil crops produce or products into various end use products;

“nuts and oil crops” means any of the crops listed under the First Schedule and includes such other crops that the Cabinet Secretary may on the advice of the Board, gazette to be a scheduled crop;

“perennial crop” means plants that lives for many growing seasons and in this case includes the crops listed under Part II of the First Schedule in this Act;

“person” includes a company or association or body of persons, corporate or incorporate;

“nuts and oil crops produce” means the nuts and oil crops as harvested before processing;

“nuts and oil crops products” means the nuts and oil crops produce that has undergone some form of processing;

“record” means a written or electronic data or information;

“stakeholder” means any person involved directly or indirectly in the

	<p>nuts and oil crops industry; and</p> <p>“traceability” means ability to track nuts and oil crops produce and products from production to the final consumer and vice versa.</p> <p>“tree nuts” means a category of nuts and oil crops produce from woody plants which includes cashew nuts, macadamia nuts, coconut, oil palm and such other tree nuts as may be scheduled for the purposes of this Act</p> <p>“warehouse” means a licensed building or protected enclosure in which goods are stored for the purpose of safe keeping, issuance of warehouse receipt or licence and includes field warehouses and a plant or other facility where the goods are packed processed or otherwise transformed</p>
	<p>PART II - ESTABLISHMENT OF THE NUTS AND OIL CROPS BOARD & NUTS AND OIL CROPS COUNCIL</p>
<p>Establishment of the Board</p>	<p>3. (1) There is established a Board to be known as the Nuts and Oil Crops Board of Kenya</p> <p>(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—</p> <ul style="list-style-type: none"> (a) suing and being sued; (b) purchasing or otherwise acquiring, holding, charging or disposing of moveable and immovable property; (c) borrowing and lending money; and (d) doing or performing all such other acts or things necessary for the proper performance of its functions under this Act as may be lawfully done or performed by a body corporate.
<p>Composition of the Board</p>	<p>4. (1) The Board shall consist of –</p> <ul style="list-style-type: none"> (a) chairman appointed by the Cabinet Secretary from amongst three (3) names elected by the members during their first sitting from (b) (c) and (d) (b) two persons nominated by the umbrella body representing processors of nuts and oil crops and appointed by the Cabinet Secretary (c) three members, nominated by the umbrella body representing the nuts and oil crops growers’ associations and appointed by the Cabinet Secretary (d) two members nominated by the umbrella body representing nuts and oil crops dealers’ organizations, registered under any written law and appointed by the Cabinet Secretary (e) the Principal Secretary in the Ministry for the time being responsible for Agriculture or his representative; (f) the Principal Secretary responsible for the time being for finance or his representative;

	<ul style="list-style-type: none"> (g) the Principal Secretary in the Ministry responsible for co-operative development or his representative; (h) one person nominated by the Council of Governors who should have relevant knowledge in the nuts and oil crops subsector and appointed by the Cabinet Secretary; (i) the Chief Executive Officer appointed under section 12 who shall be an ex-officio member of the Board: <p>(2) the Board may from time to time co-opt professional experts in financial management, international commodity trade or in any other area where they need support</p> <p>(3) A person shall be qualified for appointment under Sub-section 1 (a) if that person;</p> <ul style="list-style-type: none"> (a) Is a citizen of Kenya; (b) Meets the requirements of leadership and integrity outlined in Chapter 6 of the Constitution; (c) Holds a Degree from a University recognized in Kenya; and (d) Has experience of at least 3 years in the nuts and oil crops sub-sector. <p>(4) The Cabinet Secretary shall publish in the Gazette the appointed Board members</p> <p>(5) The Chairman and other nominated members of the Board shall hold office for a term of three years and shall be eligible for re-appointment once:</p> <p>(6) Members nominated to the Board shall comply with the requirements of Chapter 6 of the Constitution of Kenya</p> <p>(7) The Cabinet Secretary shall make rules for nomination of the members of the Board under (b), (c) and (d)</p> <p>(8) The rules made under sub section (7) shall provide for mechanisms to ensure that not more than two thirds of members so nominated are of the same gender</p>
Cessation of membership to the Board	<p>5. A member of the Board other than the Chief Executive Officer shall cease to be a member of the Board if that person—</p> <ul style="list-style-type: none"> (a) resigns from his office as such in writing to the Board; (b) is absent for three consecutive meetings of the Board without the permission of the chairman; (c) is adjudged bankrupt; (d) is incapacitated by prolonged physical or mental illness; (e) ceases to represent the interest in respect of which he was appointed or nominated to the Board; (f) is otherwise unable or unfit to discharge the functions of his office. (g) contravenes the provisions of Chapter 6 of the Constitution of Kenya.

	<p>(h) is convicted of a Criminal offence and imprisoned for a period of not less than six months</p> <p>(i) dies</p>
Replacement of a Board member	6. If the office of a member of the Board becomes vacant, the Board shall notify the interested group, office or organization which nominated that member to the Board under section 4, which shall nominate a replacement.
Functions of the Board	<p>7. (1) The object and purpose for which the Board is established is to, in consultation with the county governments, promote competitiveness in the nuts and oil crops sub-sector, production, processing and marketing of nuts and oil crops locally and internationally, and generally to regulate the nuts and oil crops sub-sector in the public interest.</p> <p>(2) Without prejudice to the generality of subsection (1), the Board shall-</p> <ul style="list-style-type: none"> (a) participate in formulation of policies in the nuts and oil crops sub-sector; (b) carry out registration of and regulate the operations of processors and dealers; (c) license processors and dealers; (d) undertake capacity building, technology transfer and technical assistance to the counties on matters relating to nuts and oil crops and provide advisory services related to nuts and oil crops production, promotion, quality enhancement and compliance with standards and regulations; (e) collect, collate and analyze data, maintain a database on nuts and oil crops, and document and monitor nuts and oil crops (f) partner and collaborate with the relevant Research Institutes and institutions of higher learning in determining the research agenda for the nuts and oil crops sub-sector; (g) represent the country in national and international fora on nuts and oil crops related matters; (h) Collaborate with national and international trade bodies on nuts and oil crops related matters; (i) establish standards on production, processing, transportation, packaging, storage and warehousing of nuts and oil crops; (j) conduct surveillance and enforce compliance to policies, nuts and oil crops standards, food safety measures, nuts and oil crops Act and any regulations made under this Act; (k) advise the Cabinet Secretary on levies, fees and import or export duties on nuts and oil crops; (l) carry out market research and analysis and disseminate information on its findings to all stakeholders. (m) conduct local and international nuts and oil crops market intelligence and promotional activities (n) carry out such other functions as may be assigned to it by this Act, and any written law while respecting the roles of the two levels of government. <p>(2) The Board may, subject to the directions of the Cabinet Secretary, participate in matters pertaining to international agreements made or to be</p>

	made in relation to nuts and oil crops.
Powers of the Board	<p>8. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act, including the power to—</p> <ul style="list-style-type: none"> (a) impose a levy or levies upon exporters, importers and processors for the purposes of giving effect to the provisions of this Act; and issue clearance permits thereto (b) impose such fees as prescribed under this Act for the purposes of giving effect to the provisions of this Act; (c) control, supervise and administer the assets of the Board in such manner and for such purpose as best promotes the purpose for which the Board was established; (d) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom; (e) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board; (f) lay down policy guidelines for the operations and management of all the funds collected by the Board; (g) access all such relevant information as may be necessary for the efficient administration of the industry; (h) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Board is established; (i) open a bank account or bank accounts for the fund of the Board, and (j) invest any funds of the Board not immediately required for its purposes.
Authority to raise or borrow money	<p>9. The Cabinet Secretary, after consultation with the Cabinet Secretary responsible for Finance, may authorize the Board to raise or borrow such sums of money to finance its operations as it may think fit and the Board may secure the repayment of such sums.</p>
Power to employ officers	<p>10. (1) The Board may appoint and employ, on such terms and conditions as it may from time to time determine, such officers as it may consider necessary for the proper and efficient administration of the work of the Board.</p> <p>(2) In the exercise of its powers and in the performance of its functions under this Act, the Board shall act in accordance with any general or special directions as may be given to it by the Cabinet Secretary</p>
Conduct of business and affairs of the	<p>11. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Third Schedule.</p>

Board	(2) without prejudice to (1) the Board may regulate its own procedure.
The Chief Executive Officer	12. (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 may determine. (2) The Chief Executive Officer shall be responsible for the day to day running of the affairs of the Board.
Qualifications of the Chief Executive Officer	13. A person shall qualify to be appointed to the position of a Chief Executive Officer if such person; (a) 'holds a relevant advanced degree from a University recognized in Kenya' (b) 'has at least ten years' knowledge and experience in a relevant field'; (c) 'has at least five years' experience in a position of senior management.' (d) 'meets the requirements of Chapter Six of the Constitution'.
Corporation Secretary	14. (1) There shall be a Corporation Secretary who shall be the secretary to the Board; (2) The terms and conditions of service of the corporation secretary shall be determined by the Board
Employment and Appointment of Agents of the Board	15. The Board may appoint and employ, on such terms and conditions as it may determine, agents to carry out any of its functions under this Act.
Delegation of powers of the Board	16. The Board may, by resolution either generally or in any particular case delegate any of the powers conferred on it by this Act to any of its members, officers, agents or to any committee, whether constituted wholly of members of the Board or jointly with members of anybody established in any other country and having responsibilities similar to those of the Board.
Remuneration of Board members	17. The Board shall pay to its members, such remuneration, fees or allowances for expenses as determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.
Personal liability of Board members	18. No member of 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; Provided that in the conduct of the affairs of the Board, members of the Board shall exercise due prudence and diligence and shall be held jointly and severally responsible for any losses incurred due to any act done by them and which is contrary to this Act or the regulations under this Act or the directions of the Board.
Staff of the Board	19. The Board may appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and

	conditions of service as the Board may determine.
Personal liability of employees	20. An officer, employee or agent of the Board shall not be held personally liable for any action, claim or demand for a matter or thing done bona fide for the purpose of executing the functions, powers or duties of the Board.
Liability of the Board for damages	21. Section 20 shall not relieve the Board of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially, of any works.
Establishment of the Kenya Nuts and Oil Crops Council	22. (1) There is hereby established a body to be known as the Kenya Nuts and Oil Crops Council; (2) The function of the Council shall be to: - (a) provide general advisory to the Board and the National Government on the development of the nuts and oil crops sub-sector (b) advocate for the interests of the nuts and oil crops sub-sector players, (3) The council membership shall be drawn from nuts and oil crops value chain actors registered individually or through associations, societies and companies in the subsector (4) The Council shall, in consultation with the Cabinet Secretary formulate rules to guide membership, governance, its operations and the conduct of its business and affairs
	PART III - ROLE OF COUNTY GOVERNMENTS
Role of County Governments	23. (1) Pursuant to the Fourth schedule of the Constitution, the County Governments will implement the national government policies to the, extent that the policies relate to the county and in particular shall be responsible for- (a) development of nuts and oil crops grown within the county; (b) development and regulation of nuts and oil crops marketing within the county; (c) registration of collection centers, commercial nursery operators, warehouses, growers and grower associations (d) issuance of licenses of commercial nurseries, collection centers and warehouses

	<ul style="list-style-type: none"> (e) issuance of nuts and oil crops movement permits; (f) offering and coordination of extension services on nuts and oil crops; (g) inspection of commercial nurseries and warehouses located within their respective counties; (h) enforcement of county and national legislation on nuts and oil crops code of practice and other industry standards; (i) in collaboration with law enforcement agencies, enforcement of regulations and enhancement of security of nuts and oil crops in the county; (j) enforcement of policies and guidelines on corporate governance in institutions along the nuts and oil crops value chain; and (k) monitoring and reporting of incidences of pests and disease outbreaks and taking appropriate action in collaboration with the Board and other relevant government agencies. <p>(2) the county governments shall consult and cooperate with the Board in the development, promotion and regulation of the nuts and oil crops sub-sector in accordance with Article 6 (2) of the Constitution,</p> <p>(3) The County Governments may, in accordance with regulations made under this Act and subject to any other law, put in place programs for ensuring the provision of the following incentives and facilities to growers;</p> <ul style="list-style-type: none"> (a) affordable farm-inputs including quality seeds, planting materials and market linkages; (b) technical support including research and extension services; (c) infrastructural support including physical infrastructure development, financial and market information; <p>(4) In execution of the roles provided for in sub-section (1), the county governments may establish County Nuts and Oil Crops Committees to provide technical guidance in nuts and oil crops matters.</p>
	<p>PART IV: REGISTRATION AND LICENSING PROVISIONS</p>

<p>Registration by the Board</p>	<p>24. (1) A person shall not deal or process nuts and oil crops unless that person is registered by the Board in accordance with this Act.</p> <p>(2) The Board shall issue a certificate of registration upon registration of the applicants in (1) above</p> <p>(3) No fee shall be charged in respect of any registration or certificate of registration issued under this section.</p> <p>(4) Registration of the players under this Part shall only be done once.</p> <p>(5) The Board shall maintain an up-to date register of all registered players, and share the register with the respective county government</p> <p>(6) All registered players shall complete and submit to the Board, monthly and/or annual returns as shall be specified in the regulations under this Act</p> <p>(7) A person who contravenes any provision of this Section commits an offence</p>
<p>Registration by the County Government</p>	<p>25. (1) A nuts and oil crops grower may register with County Government or with the co-operative society, Association, company to which he delivers nuts and oil crops produce and products,</p> <p>(2) Every cooperative society, Association or company in (1) above, and nuts and oil crops nursery operators shall register with the County government</p> <p>(3) Where a person starts growing nuts and oil crops at any time after the commencement of this Act, such person may, within six months' register in accordance with the provisions of sub-section (1) or (2)</p> <p>(4) The co-operative society, association, company and the county government shall each maintain a register for the purpose of this Part and shall record therein the particulars supplied in accordance with this section.</p> <p>(5) The county government shall share the data so captured in this section with the Board on annual basis</p> <p>(6) Where a co-operative society, association, company or the county government has reasonable cause to believe that a person whose particulars are recorded has ceased to be a grower, it may, after giving that person written notification by registered post of its intention to do so, remove the name of such person from the register of nuts and oil crops growers.</p> <p>(7) The requirements and procedures for registration of growers, nursery operators, co-operative society, association and company shall be</p>

	<p>prescribed in regulations under this Act</p> <p>(8) After the commencement of this Act, any grower, nursery operator, co-operative society, association and company who carries on business as such without being registered in accordance with subsection (1) and (2) or knowingly or recklessly supplies false particulars commits an offence.</p>
<p>Changes of entries in the register</p>	<p>26. (1) For purposes of the keeping of accurate and reliable statistics, any person intending to plant, cut or uproot tree nuts shall notify the co-operative society, association, company or the County Government</p> <p>(2) Any change in the particulars supplied by a grower for purposes of registration shall be notified to the County Government or the co-operative society, association or company in writing, without undue delay.</p> <p>(3) County Governments shall update the changes reflected in subsection(1)</p>
<p>Registration of distinguishing marks</p>	<p>27. (1) The County government shall in consultation with the Board register distinguishing marks on nuts and oil crops as prescribed in the regulations under this Act.</p> <p>(2) No person offering for sale or exporting nuts and oil crops shall use any distinguishing mark unless the mark is registered in his favor.</p> <p>(3) Any person who contravenes any of the provisions of this section commits an offence</p>

Licenses issued by the Board	<p>28. (1) No person shall—</p> <p>(a) buy, sell, process, warehouse, import, export or otherwise deal in nuts and oil crops unless he is a holder of a valid licence issued by the Board for that purpose;</p> <p>(b) transport or have in his possession any nuts and oil crops unless he is licensed to do any of the things specified in paragraph (a) and is the holder of a movement permit or is acting in the course of his employment as a servant or agent of a person holding such a permit.</p> <p>(2) The following licences shall be issued by the Board;</p> <p>(a) a processor licence, authorizing the holder to process nuts and oil crops in Kenya,</p> <p>(b) an import license authorizing the holder to bring nuts and oil crops into Kenya from another country,</p> <p>(c) an export licence authorizing the holder to move or ship nuts and oil crops produce and products to another country,</p> <p>(d) an agent’s licence, authorizing the holder to act on behalf of a licensed player and can be a marketing agent or a clearing agent;</p>
Licenses issued by County Governments	<p>29. (1) No person shall—</p> <p>(a) warehouse, operate a commercial nursery, operate a collection center or otherwise deal in nuts and oil crops unless he is a holder of a valid licence issued by the county government for that purpose;</p> <p>(b) transport or have in his possession any nuts and oil crops unless he is licensed to carry out any of the activities specified in subsection (a) and is the holder of a movement permit issued by the county government or is acting in the course of his employment as a servant or agent of a person holding such a permit.</p> <p>(2) The following licences shall be issued by the respective county government;</p> <p>(a) a commercial nursery licence authorizing the holder to raise nuts oils crops seedlings for sale;</p> <p>(b) a warehouse licence authorizing the holder to store nuts and oil crops;</p> <p>(c) a collection centre licence authorizing the holder to warehouse and market nuts and oil crops produce and products within the respective county</p>

Issuance of movement permits	<p>30. (1) A person intending to transport nuts and oil crops produce or products shall apply to the respective County Government where the produce is sourced for a movement permit</p> <p>(2) The manner of form and procedure for application, issuance and validity of such permits shall be prescribed in the regulations under this Act</p>
Application for renewal of licence	<p>31. (1) An application for the renewal of a licence shall be made at least thirty days before the expiry of the current licence,</p> <p>(2) a late application may be made upon payment of a late application fee of ten per cent (10%) of the application fee.</p>
Licensing provisions	<p>32.</p> <p>(1) Licenses issued under this section as specified shall remain in force for a period of twelve months after the date of issue, unless earlier suspended or revoked.</p> <p>(2) The Board in Consultation with the Cabinet Secretary may prescribe fees payable for the issuance of licenses.</p> <p>(3) The Board shall, at least fifteen days before issuance of a processor licence under this Act, give notice of the proposed issuance in the Kenya Gazette and invite comments and objections if any in such other manner as the Board may determine.</p> <p>(4) The rules and procedures for the hearing and determination of the objections raised in (3) above shall be prescribed in the Regulations under this Act</p> <p>(5) The Board may after considering the objections, if any, made under this section, issue the licence applied for, subject to such terms and conditions as may be specified therein.</p> <p>(6) The Board and County Government shall not issue a license under this Act unless the applicant has met the requirements prescribed in the Regulations made under this Act</p>
Suspension, variation and revocation of licenses	<p>33. A license issued under this Act may be:</p> <p>(1) suspended or revoked if the holder of the license has breached the conditions this Act and the regulations under this Act.</p> <p>(2) varied pursuant to a valid application by the licence holder</p>
Breach of license conditions	<p>34. (1) Any person who contravenes the provisions of this Part or acts in contravention of the conditions of any license issued thereunder, commits an offence and is liable upon conviction to a fine of not less than one hundred thousand shillings but not exceeding one million shillings or to imprisonment</p>

	<p>for a term of not less than six months but not exceeding two years, or both.</p> <p>(2) Where a person is convicted of an offence under this section, the court may order that any nuts and oil crops in relation to which the offence has been committed be forfeited to the Board</p> <p>(3) Any nuts and oil crops forfeited to the Board under subsection (2) shall be auctioned and the proceeds accruing from such sale be credited to the Board.</p>
	PART V– PRODUCTION AND PROCESSING
Seed and planting material source	35. A person growing nuts and oil crops shall use seeds or planting materials or seedlings from sources approved by the government agencies responsible for inspection and certification of seeds and planting materials or seedlings.
Production of nuts and oil Crops	<p>36. (1) Nuts and oil crops produce shall be produced, harvested, sorted, graded, packaged, transported and warehoused in accordance with the guidelines and regulations developed under this Act</p> <p>(2) Nut tree logging is prohibited unless approval is obtained from the respective County Government as shall be provided in the regulations under this Act</p>
Nuts and Oil Crops Industry Standards and guidelines.	<p>37. (1) All the nuts and oil crops produced and processed in the country shall conform to the national, regional and international standards for nuts and oil crops and guidelines developed under this Act</p> <p>(2) The Board shall register and monitor the certification schemes for compliance of Kenyan nuts and oil crops in accordance with the international market requirements.</p>
Branding and geographical indications	38. The Board may promote and register all Kenyan nuts and oil crops produced in accordance with geographical indications or regions as a Certification Mark of origin of all nuts and oil crops produced in Kenya.
Nuts and oil crops development	<p>39. (1) The Cabinet Secretary may, on the advice of the Board, establish institutional linkages to coordinate the provision of appropriate technologies, credit, farm inputs and marketing.</p> <p>(2) The Board shall conduct training programs aimed at capacity building county officers and industry players towards enhancing their knowledge and skills in nuts and oil crops production, processing technology, marketing and prospects for various types of nuts and oil crops.</p> <p>(3) The Board shall in collaboration with County Governments, other government agencies and industry players develop the Kenya nuts and oil</p>

	<p>crops standards and codes of practice.</p> <p>(4) Players in the value chain may enter into contracts with growers.</p> <p>(5) the contracts under sub section (4) shall be;</p> <p>(a) in such a manner as shall be prescribed by the regulations.</p> <p>(b) registered with Board.</p> <p>(6) Where a farmer has entered into an agreement with an organization representing the interest of such farmer, the Board and every dealer in nuts and oil crops shall respect and enable the carrying out of the terms of such agreement, including the remission to the farmers' organization of any contributions that may, pursuant to such agreement, be deductible from the farmer.</p>
Traceability of produce and products.	<p>40. (1) The Board shall develop, implement and maintain a traceability system for produce and products to improve quality control systems and mitigate against risks along the various nuts and oil crops value chains.</p> <p>(2) The traceability procedures and responsibilities for players along the value chain shall be prescribed in the rules and regulations developed under this Act.</p>
Processing of nuts and oil crops	<p>41. (1) Nuts and oil crops processing shall be carried out by licenced processors in accordance with this Act;</p> <p>(2) Nuts and Oil crops processing shall only be conducted at premises that are specified under the license issued by the Board</p> <p>(3) The licence holder shall allow access to the premises by inspectors</p> <p>(4) All nuts and oil crops processors shall comply with the licensing requirements, nuts and oil crops standards and regulations made under this Act</p> <p>(5) The licence holder shall submit returns on the nuts and oil crops produce and products handled to the Board in the manner prescribed in the regulations under this Act.</p> <p>(6) Any person who contravenes the provisions of this part commits an offence</p>
	PART VI-NUTS AND OIL CROPS TRADING AND MARKETING
Nuts and oil crops trading	<p>42. (1) The Board shall promote nuts and oil crops produce and products locally and internationally</p> <p>(2) The Board may co-ordinate nuts and oil crops stakeholders, including County Governments, growers and buyers at national and international events for the purpose of promoting nuts and oil crops produced in</p>

	<p>Kenya.</p> <p>(3) The County Governments may designate points for purchase of nuts and oil crops</p> <p>(4) The trading of nuts and oil crops produce and products shall conform to the prescribed packaging materials, grades and applicable standards</p> <p>(5) Nuts and oil crops growers may enter into marketing agreements with various nuts and oil crops buyers in accordance with the guidelines prescribed in the Regulations under this Act</p> <p>(6) County governments in the nuts and oil crops growing areas may facilitate growers for nuts and oil crops marketing and promotion activities separately or in collaboration with the Board.</p>
<p>Conduct of nuts and oil crops produce Marketing</p>	<p>43. (1) A buyer shall upon purchase of nuts and oil crops produce effect payment of such produce upon completion of the purchase process.</p> <p>(2) Where a buyer intends to purchase nuts and oil crops produce from a grower and does not intend to effect payment of such produce upon completion of the purchase process, such a buyer shall first notify the Board of his intention to do so and furnish the Board with a payment plan in writing</p> <p>(3) Where a buyer purchases nuts and oil crops produce and payment is not made upon completion of the purchase process, such a buyer shall enter into an agreement with the grower specifying the period within which such payment shall be made</p> <p>(4) Any person who contravenes the provisions in sub-section (2) and (3) may have his license suspended or revoked and be compelled by the Board to make payment within such period as may be stipulated by the Board.</p> <p>(5) Any person who contravenes provision in sub-section(2) and (3) commits an offence.</p>
<p>Imports and exports of nuts and oil crops produce and products.</p>	<p>44. (1) No person shall import or export nuts and oil crops produce and products without a valid license issued in accordance with this Act.</p> <p>(2) All nuts and oil crops produce and products shall be imported or exported through a designated customs port of entry or exit.</p> <p>(3) All nuts and oil crops produce and products intended for import or export shall adhere to the quality and food safety standards.</p> <p>(5) The Board may, in collaboration with other government agencies detain</p>

	<p>or seize any consignment that does not conform to the quality standards set by the Board or is not accompanied by the documents required;</p> <p>Provided that the Board may, upon an order of a court obtained in proceedings instituted by the Board with due notice to the importer destroy the consignment</p> <p>(6) The imposition and suspension of the measures prescribed in sub-section (4) above shall be outlined in the Regulations under this Act.</p> <p>(7) All importers and exporters of nuts and oil crops produce and products shall submit returns on the nuts and oil crops produce and products handled to the Board in the manner prescribed in the regulations under this Act.</p> <p>(8) Any person who contravenes provision in sub-section(1), (2) and (3) commits an offence.</p>
Restrictions on export of some nuts and oil crops produce	<p>45. (1) No person shall export macadamia nut-in-shell (NIS) and cashew nut-in-shell (NIS) except with written Authority of the Cabinet Secretary</p> <p>(2) The Board may impose conditions on export of nuts and oil crops produce, other than those provided for in sub-section (1) above, by notice in the Kenya gazette</p> <p>(3) A person who contravenes any provision in this Section commits an offence and shall upon conviction be liable to fine twice the custom’s value of the consignment or Kenya shillings five hundred thousand, whichever is higher, or to imprisonment for a period not less than one year but not exceeding five years or to both such fine and sentence.</p>
Contravention of the provisions of trading and marketing of nuts and oil crops	<p>46. (1) Without prejudice to Section 45, any person who contravenes the provisions of this Part commits an offence and shall on conviction be liable to a fine of not less than one hundred thousand shillings but not exceeding one million shillings or to imprisonment for a term of not less than six months and not exceeding two years or to both such fine and sentence</p> <p>(2) Where a person is convicted of an offence under this Part the court may order that any nuts and oil crops produce or product in relation to which the offence has been committed shall be forfeited to the Board.</p>
	PART VII- QUALITY ASSUARANCE
Quality and safety control measures.	<p>47. (1) The Board shall ensure that quality control of all Nuts and oil crops produce and products in Kenya is maintained as prescribed in the Regulations under this Act.</p>

	<p>(2) For purposes of sub section (1) produce and products shall cover all nuts and oil crops produce and products which have not undergone certification or do not bear the national standards mark of quality.</p> <p>(3) The Board, in consultation with accredited institutions of higher learning, and industry stakeholders, may develop a training curriculum on nuts and oil crops production, value addition and marketing</p> <p>(4) The Board may sample nuts and oil crops produce and products at any stage of the value chain to test for quality and safety.</p> <p>(5) The Board may, in collaboration with other government agencies detain, seize or remove any consignment that does not conform to the quality standards set by the Board or is not accompanied by the documents required;</p> <p style="text-align: center;">Provided that the Board may, upon an order of a court obtained in proceedings instituted by the Board with due notice to the owner destroy the consignment</p>
Surveillance and enforcement	<p>48. (1) The Board shall conduct periodic surveillance in the nuts and oil crops subsector to assess the degree of compliance with the subsector policy, standards, codes of practice and laws.</p> <p>(2) The Board and County Governments shall collaborate to ensure harmony and coordinated enforcement of nuts and oil crops subsector regulations and standards</p>
Nuts and oil crops Inspectors	<p>49. (1) The Board may appoint qualified persons from among its employees, to be inspectors for Nuts and oil crops for the purposes of this Act.</p> <p>(2) The Board may authorize the following as inspectors to carry out functions stipulated under this Act:</p> <p style="margin-left: 40px;">a) Persons appointed by the County Governments</p> <p style="margin-left: 40px;">b) Any other competent persons</p> <p>(3) The Board shall gazette inspectors under subsections (1) and (2)</p> <p>(4) The qualifications, appointment procedures, functions and powers of inspectors shall be stipulated in the regulations under this Act.</p> <p>(5) Inspectors under this Act shall conduct inspections of nuts and oil crops farms, commercial nurseries, warehouses, processing premises, transportation vessels to ascertain compliance with the requirements of</p>

	<p>this Act.</p> <p>(6) A grower, dealer and processor shall accord an inspector access and all necessary assistance during the inspection.</p> <p>(7) A person shall not prevent, hinder or obstruct an inspector in performance of the functions, and duties or exercise of powers conferred by this Act.</p> <p>(8) A person who contravenes the provisions of this section commits an offence</p>
	PART VIII- FINANCIAL PROVISIONS
Funds of the Board	<p>50. (1) The funds of the Board shall comprise—</p> <p>(a) such monies as may be appropriated by the National Assembly for the purposes of the Board;</p> <p>(b) all monies received in respect of the fees and levies</p> <p>(c) such monies 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; and</p> <p>(d) all monies from any other source provided for or donated or lent to the Board.</p> <p>(2) The Cabinet Secretary may, in consultation with the Board, by order in the Gazette, impose the following levies;</p> <p>a) Not more than 0.25% of FOB export levy on finished products to the for regulatory purposes</p> <p>b) Not more than 4% of CIF import levy on finished products remitted to the Board to support nuts and oil crops promotion</p> <p>c) Not more than 2% of CIF import levy on raw materials of which half of it will be used for Board operations and the other half for nuts and oil crops development.</p> <p>d) Not more than Ksh 5 per Kg FOB export levy on raw produce for nuts and oil crops research.</p> <p>(3) Subject to the provisions of subsection (2) the Cabinet Secretary may by regulations specify the exact amounts to be levied</p> <p>(4) All nuts and oil crops importers or exporters shall remit to the Board, the amount specified in subsection (2) upon clearance of the</p>

	<p>consignment.</p> <p>(5) All moneys due on account of fees and levies specified under this section shall be a debt due to the Board.</p> <p>(6) Any person who fails to remit the fees and levies specified in this section commits an offence and is liable to a fine of not less than fifty thousand shillings or imprisonment for a term of not less than six months or to both, in addition to the recovery of the amount due to the Board and such amount due shall attract interest .</p>
Financial Year of the Board	51. The financial year of the Board shall be the period of twelve months ending on the 30 th June of every year.
Annual estimates.	<p>52. (1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of revenue and expenditure of the Board for that financial year.</p> <p>(2) The annual estimates shall make provision for all the estimated expenditure of the Board for the financial year concerned and in particular, shall provide for—</p> <ul style="list-style-type: none"> (a) the payment of salaries, allowances and other charges in respect of the staff of the Board; (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Board; (c) the proper maintenance of the buildings and grounds of the Board; (d) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Board; (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Board may deem appropriate. <p>(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.</p>
	PART IX- AUDIT AND REPORT

Accounts and audit	<p>53. (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-</p> <p>(a) A balance sheet showing in detail the assets and liabilities of the Board; and</p> <p>(b) Such other statements of accounts as the Cabinet Secretary may approve.</p> <p>(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.</p> <p>(3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as the Auditor-General may consider necessary for the performance of his duties</p>
Annual report.	<p>54. (1) The Board shall, within three months after the end of each financial year or within such period as the Cabinet Secretary may require, prepare and submit to the Cabinet Secretary a report of operations of the Board during such year.</p> <p>(2) The Cabinet Secretary shall lay the report submitted to him under subsection (1) before the National Assembly within three months of the day the Assembly next sits after the receipt of the report.</p> <p>(3) The Board shall, within a period of seven months after the end of its financial year or within such longer period as the Cabinet Secretary may approve, publish the report in such a manner as the Cabinet Secretary may specify.</p>
	PART X – GENERAL PROVISIONS
Appeals on decisions of the Board and County Governments	<p>55. (1) Any person aggrieved by the refusal of the Board, or of any person authorized by the Board in that behalf, to issue any licence or registration certificate, or by any decision of the Board may within thirty days after being notified of such refusal, cancellation, suspension or decision,</p>

	<p>appeal to the Cabinet Secretary,</p> <p>(2) Any person aggrieved by the refusal of the County Government,</p> <p>or of any person authorized by the county government in that behalf, to issue any licence or registration certificate, or by any decision of the county government may within thirty days after being notified of such refusal, cancellation, suspension or decision, appeal to the County Executive Member for that time responsible for matters relating to Agriculture</p>
Dispute resolution	<p>56. (1) There is established a committee to be known as the Nuts and oil crops Dispute Resolution Committee for the purpose of facilitating resolution of disputes arising between any parties other than the Board and the County Governments.</p> <p>(2) The Cabinet Secretary shall prescribe in Regulations under this Act,</p> <p>the membership and rules of procedure for the Committee</p>
Service of notices	<p>57. Where any notice is required by or under this Act or any Rules made thereunder to be served on any person, service thereof may be effected either personally on such person, by registered post or courier services; and, where the person to be served is a body corporate or a co-operative society or other body of persons, service of any such notice may be effected by serving it personally on any secretary, director or other officer thereof, or by leaving or sending it by registered post addressed to the body corporate, co-operative society or body of persons at its registered office, or, where there is no registered office, at any place where it carries on business or by courier services.</p>
General penalty	<p>58. Any person who is guilty of an offence under this Act for which no penalty is provided shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.</p>
General restrictions in Nuts and Oil Crops.	<p>59. (1) Subject to the provisions of this Act, the Board may impose restrictions on activities undertaken by various players which may impinge the nuts and oil crops subsector</p> <p>(2) The restrictions in sub-section (1) shall be imposed as prescribed by regulations under this Act</p>
Regulations	<p>60. (1) The Cabinet Secretary may, after consultation with the Board,</p> <p>make Regulations for prescribing anything which by this Act is</p>

required to be prescribed, and generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1) Regulations thereunder may prescribe for all or any of the following matters—

- (a) the manner of nominating the members of the Board, who are required by this Act to be nominated to represent nuts and oil crops growers, interests and the manner in which the lists of nominees shall be published;
- (b) the manner, conditions and forms for registration and de-registration, licensing, and revocation or suspension of licenses of growers, dealers, agents and processors and any other persons dealing in nuts and oil crops, the manner of form and procedure for application, issuance and validity of movement permits;
- (c) the guidelines for production, harvesting, sorting, grading, packaging, transportation and storage or warehousing of nuts and oil crops produce;
- (d) the qualifications, appointment procedures, functions and powers of inspectors; and guidelines on the manner of conducting inspections;
- (e) the manner in which nuts and oil crops may be traded and warehoused, with a view to maintaining order, fair trade practices, and ensuring quality of the traded produce and products;
- (f) the types of records to be kept and the returns to be submitted to the Board as required by this Act;
- (g) guidelines for services which may be offered and agreements which the dealers, processors and agents may enter into with growers;
- (h) restrictions on activities undertaken by various players which may impinge the nuts and oil crops subsector
- (i) the forms and procedure for appeals under this Act;
- (j) the fees, which may be charged for anything to be done under this Act;
- (k) and provide for produce and products traceability and the manner of standards, grading and classification for ensuring food safety, and other quality parameters of nuts and oil crops meant for trade under this Act;

	<p>(l) the guidelines for appointment of the Dispute Resolution Committee members and the rules of procedure and,</p> <p>(m) without prejudice to any provision in this Section, prescribing anything, which under this Act may be prescribed.</p>
	PART XI: CONSEQUENTIAL AMENDMENTS
Amendment of the First Schedule to Agriculture and Food Authority Act, No. 13 of 2013	61. The Agriculture and Food Authority Act, 2013 is amended in the First Schedule section 10 of the Transitional Provisions by excluding its application to the Nuts and Oil Crops Directorate
Amendment of the First Schedule to Crops Act No. 16 of 2013	62. The Crops Act, 2013 is amended in the First Schedule by deleting the crops as provided in the Second Schedule of this Act
	PART XII – SAVING AND TRANSITIONAL PROVISIONS
Rights and obligations	<p>63. (1) In this Act; “appointed day” means the day the Act comes into operation;</p> <p>(2) Notwithstanding any other provisions, all rights, obligations, liabilities and contracts relating to nuts and oil crops which immediately before the commencement of this Act were vested in or imposed on Agriculture and Food Authority with respect to nuts and oil crops, shall from the commencement of this Act be deemed to be the rights, obligations, liabilities and contracts of the Board.</p>
Transfer of staff	<p>64. (1) Any person who, at the commencement of this Act is an officer or member of staff of Agriculture and Food Authority dealing with the Nuts and oil Crops subsector, shall on the appointed day, become a member of staff of the Board on the same or improved terms and conditions of service</p> <p>(2) “Notwithstanding the provision of section 64(1) if a person does not intend to become an officer or member of staff of the Board they shall within a period of twenty-one days from the appointed day; give notice in writing to the Board and such person shall be deemed not to have become such an officer or member of staff under subsection (1)</p>
Transfer of assets and liabilities <i>No13 of 2013</i>	65. All property, except such property as the Cabinet Secretary may specify in writing, which, immediately before the commencement of this Act, was vested in the Government for the use of the Nuts and Oil Crops Directorate established pursuant to Section 10 of Transitional Provisions of the Agriculture and Food Authority Act shall, on the date of commencement of this Act, vest in the Board subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Reference to the Board	66. Any reference to the Authority on matters relating to Nuts and Oil Crops from the appointed day shall be construed to mean the Board.
Previous authorizations	67. (1) 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 crops, shall on the commencement of this Act, be read and construed as a reference to the Board (2) 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 crops, and subsisting or valid immediately before the appointed day, shall be deemed to have been given, issued or made by the Board as the case may be, under this Act.
Pending proceedings and claims	68. All legal proceedings and claims pending in respect of actions and activities to which this Act applies shall be continued or enforced by or against the Board in the same manner as they would have been continued or enforced by or against the Agriculture and Food Authority had this Act not been enacted.

FIRST SCHEDULE:

SCHEDULED NUTS AND OIL CROPS

PART ONE

1. "Cashew".
.....*Anacardium occidentale* L
2. "Coconut"
.....*Cocos nucifera* L
3. "Macadamia"*Macadamia integrifolia* Maiden and Betche
Macadamia tetraphylla L.A.S Johnson
4. "Oil palm"
.....*Eleis guineensis* Jacq

PART TWO

5. "Peanuts"
..... *Arachis hypogaea* L.
6. "Jojoba"
..... *Simmondsia chinensis*(Link)CK

7. "Linseed(Flax)"*Linum usitatissimum L.*
8. "Oil seed rape/rape seed" *Brassica napus var oleifera L.*
9. "Bambara nuts"*Vigna subteranea (L)Verde*
10. "Safflower"
..... *Carthamus tinctorius L.*
11. "Sesame (sim sim)"
..... *Sesamun indicum L.*
12. "Sunflower" *Helianthus annuus L.*
13. "Castor bean"*Ricinus communis L.*

SECOND SCHEDULE:

List of nuts and oil crops deleted from the First Schedule of Crops Act 2013

1. "Sunflower" *Helianthus annuus L.*
2. "Sesame " *Sesamun indicum L.*
3. "Safflower "*Carthamus tinctorius L.*
4. "Groundnuts " *Arachis hypogaea L.*
5. "Castor bean" *Ricinus communis L.*
6. "Jojoba" *Simmondsia chinesis*
7. "Linseed " *Linum unitatissimum L.*
8. "Flax"*Linum usitatissimu L.*
9. "Oil seed rape" *Brassica napus L.*
10. "Coconut" *Cocos nucifera*
11. "Cashewnut "
12. "Macadamia" *Integrifolia*
13. "Macadamia" *Tetrafilla*
14. "Oil palm"*Eleis guineansis L.*
15. "Bambara nuts " *Vigna subterranean L.*

THIRD SCHEDULE:

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Meetings

1. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- (2) Notwithstanding the provisions of subparagraph (1), the

Chairperson

may, or upon request in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(3) The quorum for the conduct of the business of the Board shall be seven members

(4) The Chairperson shall preside at every meeting of the Board at which he is present but in his absence, the vice-Chairperson shall preside and shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(5) In the event of the absence of both the Chairperson and the vice-Chairperson, the members present shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or the vice-Chairperson or the person presiding shall have a casting vote.

(7) Subject to paragraph (4), no proceeding of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

Disclosure of interest

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under this paragraph shall be recorded

in the minutes of the meeting at which it is made.

Common seal

3. The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson and the Chief Executive Officer:

Provided that the Board shall, in the absence of either the Chairperson or the Chief Executive Officer in any particular matter, nominate one member to authenticate the seal of the Board on behalf of either the Chairperson or the Chief Executive Officer.

Contracts and instruments

4. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.