

HORTICULTURAL CROPS AUTHORITY BILL 2020: COMMENTS FROM THE NATIONAL PARLIAMENTARY COMMITTEE ON AGRICULTURE AT THE ENASHIPAI RESORT & SPA ON 19/11/2020

SECTION OF THE HORTICULTURAL BILL, 2020.	NARRATIVE	ISSUES RAISED	ACTION/ RESPONSE
<p>Sec 4:</p> <p>Functions of the Authority and</p> <p>Sec 9(2): Powers of the Board</p>	<p>(2) The Board of Directors shall have all the powers necessary for the proper performance of its oversight functions over the Authority and the exercise of its responsibilities as provided in this Act, the State Corporations Act or any other applicable law, and without limiting the generality of the foregoing, has power to—</p>	<p>What is the difference between the board and authority ?</p>	<p>Clear distinction between their roles, board provides oversight whereas the authority deals with the day to day running of the organisation.</p>
<p>Sec 5(1&2) :</p> <p>Appointment and composition of the Board</p>	<p>Appointment and composition of the Board, Four members appointed by the Cabinet Secretary for the time being responsible for Crop development, one member representing, -</p> <ul style="list-style-type: none"> a) Flowers, fruit and vegetables growers’ association, b) Nursery operator’s association, c) Exporters association, and d) Association of horticulture marketing agents. 	<p>-Private sector representatives should not be appointed by the CS. -The board should take into the consideration the gender rule as anchored the constitution, 2020.</p>	<p>The CS will gazette the names of the four representatives nominated by the respective associations has been adopted.</p> <p>Gender rule on board appointees adopted</p>
<p>Sec 6(2&3):</p> <p>Qualification of a Board Member</p>	<ul style="list-style-type: none"> 1) A person appointed as a member of the Board under Sub-section 8 (1) shall; <ul style="list-style-type: none"> a) Be 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 	<p>To stand alone as a Paragraph in the Bill.</p>	<p>Has been adopted.</p>

	<p>d) Has knowledge and experience either agriculture, finance, law, administration, human resource management or such other expertise as the appointing authority may consider relevant.</p> <p>2) The members appointed under subsection 8(g) shall serve for a three-year term, but may be eligible for reappointment for a second term.</p> <p>The Cabinet Secretary shall publish in the Gazette the Names of the appointed Board members within a period of sixty (60) days after the enactment of this Act.</p>		
<p>Sec 32 (a)(b): Production of flowers</p>	<p>All growers of flowers shall adhere to,</p> <p>a) Sustainable environmental conservation practices and</p> <p>b) Social welfare for workers.</p>	<p>Why has so much emphasis been put on flowers and not other horticulture crops?</p>	<p>Was not revised. This is because fruits and vegetables has been extensively covered in the Horticultural crops bill, 2020 part VIII under Food safety and quality assurance.</p> <p>On the other hand, so much water abstraction is involved in flower production and its paramount that in the process, due consideration be made for other water users downstream and the need to recycle water use.</p>
<p>Sec 40 (1) (2): Food safety control</p>	<p>1) All dealers shall ensure the purposes of food safety,</p> <p>a) produce and products are handled, graded, packaged, transported and stored in a manner to prevent produce contamination,</p> <p>b) source produce from production sites that comply with the National Horticulture standard, and</p>	<p>Add a clause to address farming using sewerage water and dumping sites.</p> <p>The General penalty fines are too low, need to be increased.</p>	<p>Adopted.</p> <p>The fines to remain the same as the stakeholders concerned are small enterprises</p>

	<p>c) All personnel handling horticultural produce shall meet personnel hygiene standards as outlined in the National horticulture standard.</p> <p>2) A person who contravenes sub-section 42(1b) and 42(1c) commits an offence.</p>		
<p>Sec 41(1):</p> <p>Enforcement of safety and quality standards:</p>	<p>The Authority may conduct inspection, surveillance and sampling of horticultural produce at collection centres, aggregation centres, warehouses, markets, packing and storage facilities to ensure compliance with national, regional and international quality food safety and standards.</p> <p>a) Produce which does not conform to 42(1) shall be seized and destroyed.</p> <p>b) The Authority shall inspect imported produce and products for conformity with national, regional and international food safety and quality standards.</p> <p>c) The Authority shall prescribe the requirements for packaging, labelling, transportation and storage of horticultural produce and products.</p> <p>Exports and imports of immature Avocado and Mango is prohibited, unless approved by;</p>	<p>Ensure imported Horticultural products are not contaminated with pests and diseases to meet phytosanitary requirements.</p>	<p>Will make a cross reference to KEPHIS on plant health matters.</p>
<p>Sec 43:</p> <p>Safe use of pesticides</p>	<p>a) A person shall use pest control products in accordance to set National horticulture standards and as prescribed by regulations under this Act</p> <p>b) The mixing, spraying, storage and disposal of pest control products shall be done by trained personnel.</p> <p>c) A person who contravenes sub-section 2 commits an offence.</p>	<p>Include use of herbicides.</p>	<p>Herbicides are part of Pesticides. An interpretation on pesticides has been provided.</p>

<p>Sec 51 (3f): Horticultural research and development fund</p>	<p>1) There is established a fund to be known as the Horticultural Research and development Fund, which shall be administered by the Authority.</p> <p>(2) The Fund shall consist of—</p> <ul style="list-style-type: none"> (a) 10% of the levy imposed on export under section 49 (2); (a) support research and technology for horticulture industry; (b) Support skills development for horticulture; (c) Maintenance of pest free areas and management of emerging pests; (d) Development of emerging crops and markets; and (e) Support conservation and protection of indigenous horticulture technologies and genetic resources; <p>3) The administration of the fund shall be prescribed by regulations under this Act.</p>	<p>Include varietal improvement and development, crop productivity and user-friendly varieties.</p>	<p>Incorporated into the Bill.</p>
<p>Sec 60: General penalties</p>	<p>Any person who is guilty of an offence under this act for which no penalty has been provided shall be liable to a fine not exceeding Two hundred thousand shillings or to imprisonment for a term not exceeding six months or both.)</p>	<p>The penalty is too low</p>	<p>Most vegetable vendors/distributors/nursery operator's annual turnover is less than One hundred thousand Kenya shillings, a higher penalty will be punitive. Other measures in place include seizure and destruction of non – compliant produce at the dealers cost, which already is punitive.</p>

GENERAL COMMENTS

- a) There was general concern on the financing of women in the horticulture industry since their contribution is immense compared to their male counterparts
- b) There was a need to create a horticulture fund to facilitate advancement of the production dynamics e.g. leasing of land, acquiring machinery and technical personnel
- c) Reduction of involvement of the government/liberalization has pushed farm gate prices to be controlled by marketplace dynamics rewarding the producer with low returns.
- d) There were general concerns on the need to create leaner/specialized agencies/entities to manage specific crops/products
- e) There was general concern on the level of exploitation of farmers by dealers/and or exporters.