

No. 9/1/2001-Plant (B)  
Government of India  
Ministry of Commerce & Industry  
(Department of Commerce)

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Udyog Bhawan, New Delhi.  
New Delhi, the 23<sup>rd</sup> March, 2016

OFFICE MEMORANDUM

**Subject: Repeal of Coffee Act, 1942 & Enactment of Coffee Bill, 2016- Reg.**

Department of Commerce is proposing to repeal Coffee Act, 1942 and enactment of Coffee Bill, 2016. As part of pre-legislative consultation, a copy of the draft bill is placed in the Ministry's website (<http://commerce.gov.in>) for seeking comments from public/ stakeholders etc, within thirty (30) days. Comments may be sent to the undersigned within specified time.

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## Explanatory Note for the proposed draft Coffee Bill 2016

The Coffee Act 1942 was enacted in the wake of the 2<sup>nd</sup> World War with the aim to make arrangement to protect the Coffee Industry from adverse effects of the War. The Act empowered the Coffee Board to control marketing of entire coffee produced in India and regulate its sale in the domestic and international market. Planters were required to pool coffee with the Board, which had full control over its price and marketing. At the same time, all owners of coffee estates were required to register their estates with the State government authorities. On receipt of coffee into the Pool known as 'Surplus Pool', it was the responsibility of the Coffee Board to cure, store and dispose it in markets. The Board was also responsible for making payments to the registered owners from out of the Pool Fund after subtracting expenses.

Commencing from the year 1992-93, the pooling system of Coffee was dismantled and gradually replaced by Free Sale. From July 1996 onwards, the pooling system of coffee has come to an end and the Board has wound up its marketing activities. All growers and curers are now allowed to market their entire produce without intervention of the Coffee Board.

The activities of the Coffee Board are now increasingly focused on production, development, research, quality upgradation and market intelligence. It has therefore, become necessary that the existing arrangements for production, pooling and marketing of Coffee are abolished and a liberal regime for functioning of coffee growers, industry and trade is put in place. At the same time, the Coffee Board has to be strengthened to assist the coffee sector in development and growth while regulating the sector. Having regard to these developments, it is proposed that the Coffee Act 1942 is repealed and replaced with a modern legislation.

### **Rationale for repeal of the Coffee Act, 1942**

The principal reason for repealing the Coffee Act, 1942 is that substantive portion of the existing Act dealing with pooling and marketing of coffee have become redundant/ inoperative. Several other provisions need amendment in some form. Further, the legal regime has to be enabled to address several areas of modern functions of the Coffee Board, namely, support for production, research, extension, quality improvement, promotion of coffee and skill development of coffee growers. Many of these activities were originally not included in the mandate of the Coffee Board but now need to be incorporated into its functions and powers.

Accordingly, it is proposed that the Coffee Act, 1942 is repealed and a new legislation is enacted to reflect the present realities and objectives.

**DRAFT COFFEE BILL 2016**

A  
BILL

[to repeal the Coffee Act, 1942 and to enact Coffee Act, 2016]

	Section		
			<b>CHAPTER-1 PRELIMINARY</b>
			An Act to provide for the development and regulation under the purview of the Union, of the coffee industry: WHEREAS it is expedient to provide for the development and regulation under the purview of the Union, of the coffee industry:
Short title extent and duration	1		It is hereby enacted as follows:-
		(1)	This Act may be called the Coffee Act 2016
		(2)	It extends to the whole India.
Declaration as to expediency of Union purview	2		It is hereby declared that it is expedient in the public interest that the Union should develop and regulate the coffee industry.
<b>Definition</b>	3		In this Act, unless there is anything repugnant in the subject context,-
		(a)	“authorization” means an authorization granted under this Act ;
		(b)	“the Board” means the Coffee Board constituted under Section 4;
		(c)	“Chairman” means the Chairman of the Board;
		(d)	“Coffee” means the fruits (Cherries) and seeds (beans) of plants of the genus Coffea, as well as products from these fruits and seeds in different stages of processing and use;
		(e)	“Curing” means the application to raw coffee of mechanical processes other than pulping for the purpose of preparing it for marketing;
		(f)	“Curing establishment” means any establishment where raw coffee is cured;
		(g)	“dealer means a person, firm or company carrying on the business of coffee, whether whole-sale or retail;
		(h)	estate” means a farm or contiguous area administered as one unit of land used primarily for growing coffee ;
		(i)	“export” means, taking out of India by land, sea or air;
		(j)	“import” means bringing into India by land, sea or air;
		(k)	“India” means territory of India
		(l)	“member” means a member of the Board appointed under sub-section 2(b) & 2(c) of section 4 of this Act;

		(m)	“owner” in relation to any land planted with coffee plants, includes- (1) any agent of the owner, and (2) a mortgagee, lessee or other person in actual possession of the land ;
		(n)	“Prescribed” means prescribed by rules made under this Act;
		(o)	“quality” means quality standards as applied to coffee beans in India or in the exporting countries or as per internationally recognised standards ;
		(p)	“registered estate” means an estate in respect of which an owner is registered under sub-section (1) of section 15, and includes also any estate in respect of which an owner if required to be registered under the provisions of that Sub-Section ;
		(q)	“registered owner” means an owner of a registered estate who has been or is required to be registered under Sub-Section (1) of section 15;
		(r)	“regulations” mean, regulations made by the Board under section 29 of this Act;
		(s)	“Year” means the period of twelve months beginning with the first day of October and ending with the thirtieth day of September next following.
			<b>CHAPTER - II THE COFFEE BOARD</b>
Constitution of the Board	4	(1)	The Board constituted by the name of the Coffee Board under Section 4(1) of Coffee Act 1942 shall be the <sup>3</sup> { Coffee Board } for the purpose of this Act with effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf.
Chairman		(2)	The Board shall consist of:-
		(a)	a Chairman to be appointed by the Central Government by notification in the Official Gazette;
Members of Parliament		(b)	three members of Parliament of whom two shall be elected by the House of the People and one by the Council of States; and
Other Members		(c)	such number of other members not exceeding twenty as the Central Government may think expedient to be appointed by that Government by notification in the Official Gazette from among persons who are in its opinion capable of representing:-
			(i) Governments of the Principal coffee growing States;
			(ii) coffee-growing industry;
			(iii) coffee trade interests including marketing and development of coffee;
			(iv) curing establishment;
			(v) Coffee Research; and
			(vi) interests of labour;consumers and such other interests including environment, as in the opinion of the Central Government, ought to be represented on the Board.
		(3)	The number of persons to be appointed as members from each of the categories specified in Clause (c) of Sub Section (2), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Board shall be such as may be prescribed.

		(4)	Any Officer of the Central Government when deputed by that Government in this behalf shall have the right to attend meeting of the Board and take part in the proceedings thereof but shall not be entitled to vote.
		(5)	No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.
		(6)	It is hereby declared that the office of member of the Board shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.
Incorporation of the Board	5		The Board shall be a body corporate by the name of the Coffee Board having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable and to contract, and shall by the said name sue and be sued.
Vesting of property in the Board	6		So long as this Act remains in force all property, movable or immovable, of or belonging to the Coffee Board established under Coffee Act, 1942 shall vest in the Board and all debts and liabilities of the said Coffee Board established under Coffee Act, 1942 shall be transferred to the Board, and the officers and servants of the said Coffee Board established under Coffee Act, 1942 shall be officers and servants on the staff of the Board and the said Coffee Board established under Coffee Act, 1942 shall be suspended.
Functions of the Board	7	(1)	It shall be the duty of the Board to regulate, promote and develop the Coffee Industry by such measures as it may deem fit and necessary.
		(2)	without prejudice to the generality the Sub-Section (1), the measures referred to may provide for ;
		(a)	formulating strategies for development of the coffee industry ;
		(b)	promoting, encouraging and increasing the consumption of coffee and undertaking market development activities in India and abroad;
		(c)	developing, promoting export of coffee;
		(d)	taking up such activities including the plant protection methods as it may consider necessary to improve the production and productivity and quality of coffee;
		(e)	issuing directions to the coffee growers to carry out such preventive or remedial measures as may be required to prevent, control, destroy or eradicate plant pests and diseases;
		(f)	evolving suitable quality standards for coffee ;
		(g)	taking such steps to ensure Quality Standards for coffee by itself or through accredited agencies;
		(h)	serving as a research and development centre for Coffee, to undertake, assist or encourage scientific, technological and economic research, promote training and information programmes designed to assist the transfer of technology relevant to coffee, to the coffee industry;
		(i)	collecting, disseminating and publishing economic and technical information, statistics and studies relevant to the coffee industry;

		(j)	collaborating and cooperating with national and international scientific and economic bodies dealing with plantation crops for the benefit of the coffee industry;
		(k)	subscribing to the share capital of or entering into any arrangement or other arrangements (whether by way of partnership, joint venture or any other manner) with any other body corporate for the purpose of promoting the development of coffee industry or for promotion and marketing of coffee in India or elsewhere;
		(l)	advising the Central Government on all matters relating to the coffee industry;
		(m)	taking steps for promoting the welfare of coffee plantation workers & small growers ;
		(n)	representing India at Inter-Governmental / Multilateral organization(s) like International Coffee Organization;
		(o)	Any other actions in the interest of coffee industry.
Consultation with the Board	8		Before taking any action concerning the Coffee sector and functions of the Board under this Act, the Central Government shall ordinarily consult the Board:  Provided that no action taken by the Central Government shall be invalid or called in question merely on the ground that the action was taken without such consultation.
Committee and Staff	9		The Board may appoint such Committee for such purposes and may employ such staff as it thinks necessary for the efficient discharge of its functions under the Act.
Salary and allowances of Chairman	10		The Chairman shall be entitled to such salary and allowances and such conditions of service in respect of leave, Pension, Provident Fund and other matters as may, from time to time, be fixed by the Central Government.
Vice Chairman	11		The Board shall elect from amongst its members a Vice Chairman who shall exercise such of the powers and perform such of the duties may be prescribed or as may be delegated by the Chairman.
Secretary, Director of Finance and other officers	12	(1)	The Central Government shall appoint Secretary and Director of Finance to the Board and such other officers to exercise such powers and to devolve such duties under the direction of the Central Government or the Chairman as may be prescribed.
		(2)	The Officers appointed under this Section shall be entitled to such salaries and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.
Dissolution of the Board	13		If the Central Government is of considered opinion that the Board is
		(a)	violating the provisions of the Coffee Act or the Rules or the Regulations
		(b)	not functioning as per the prescribed procedure
		(c)	disregarding the directions issued by the Central Government
		(d)	acting against the interest of the Coffee Sector
			and the circumstances exist that it is necessary in the public interest so to do, the Central Government, for such reasons may, by notification in the Official Gazette, direct that the Board shall be dissolved from such date and for such period as may be

			specified in the notification.
	14	(1)	When the Board is dissolved under the provisions of section 13
		(a)	All members shall, from the date of dissolution, vacate their offices as such members;
		(b)	all powers and duties of the Board shall, during the period of dissolution, be exercised and performed by the Chairman.
		(2)	When the Board is dissolved by reason of this Act having ceased to be in force, the unexpended balance of all money received by the Board and all assets shall be disposed off in such manner as the Central Government may direct.
			<b>CHAPTER – III REGISTRATION OF ESTATE, CURING ESTABLISHMENT, ROASTING &amp; GRINDING ESTABLISHMENT AND INSTANT COFFEE MANUFACTURING UNIT</b>
Registration of owners of Coffee Estates	15	(1)	Every owner of land primarily planted with coffee plants, whether such land is comprised in one estate or in more than one estate apply to the Coffee Board to be registered as an owner in respect of each estate owned by him.
		(2)	A registration once made shall continue in force until it is cancelled by the Board due to any reason including change of ownership.
Registration of Curing Establishment	16		Every establishment of curing coffee shall apply to the Coffee Board to be registered to operate as such.
Registration of Roasting & Grinding Establishment and Instant Coffee Manufacturing Unit	17		Every establishment of Roasting & Grinding of coffee and Instant Coffee Manufacturing Unit shall apply to the Coffee Board to be registered to operate as such.
			<b>CHAPTER - IV EXPORT AND IMPORT OF COFFEE</b>
Export and Import of Coffee	18		The Board shall have the power to inspect or get inspected the coffee being exported or imported to satisfy itself that such coffee is in accordance with the quality parameters prescribed by the Board and advise the customs officers to stop export or entry of such coffee that does not comply with such quality parameters.
Re-import of Coffee	19	(1)	No coffee which has been exported from India shall be re-imported into India except with the authorization granted by the Board.
		(2)	The Board may in any fit case grant such an authorization for re-import.
			<b>CHAPTER - V FINANCE AND ACCOUNTS</b>
General Fund	20	(1)	The Board shall maintain a Fund to be called the Coffee Board General Fund.

		(2)	The following shall be credited to the Coffee Board General Fund :
		(a)	all sums transferred to, or vested in the Board ;
		(b)	any grants and loans made to the Board by the Central Government ;
		(c)	all fees levied and collected in respect of licenses, authorizations and certificates granted or registration made under this Act; and
		(d)	all sums received by the Board from such other sources as may be decided upon by the Central Government;
		(e)	all assets and funds transferred from the erstwhile Pool fund.
		(3)	The fund shall be applied :
		(a)	to meet the salary, allowances and other remuneration of the members, officers and other employees of the Board as applicable;
		(b)	to meet the expenses of the Board in the discharge of its functions ; and
		(c)	to meet the expenses relating to such measures as the Board may undertake under Section 7 from time to time.
Powers of the Board to borrow	21	(1)	The Board may, from time to time, with the previous sanction of the Central Government and such conditions as may be prescribed, borrow any sum required for any of the purposes for which it is authorized to expend under this Act, from -
		(a)	any bank or other financial institution by taking loan ; or
		(b)	the public by issue of bonds or debentures or any such instrument in the form and manner approved by the Central Government.
Accounts of the Board	22	(1)	The Board shall keep accounts in such manner as may be prescribed of all money received and expended by it.
		(2)	The Board shall cause the accounts to be audited annually by auditors appointed by the Central Government, and the auditors shall have power to disallow any item of expenditure which has in their opinion been incurred otherwise than in accordance with this Act.
		(3)	The Central Government may, on the application of the Board, allow any item of expenditure disallowed by the auditors under Sub-Section (2).

			<b>CHAPTER - VI PROCEDURES</b>
Officers and employees of the Board to be public servants	23		All Officers and employees of the Board shall be deemed to be the public servants within the meaning of Section 21 of the Indian Penal Code.
Cognizance of an offence	24		No Court shall take cognizance of an offence punishable under this Act except on a complaint made by an officer authorized in this behalf by the Chairman of the Board.
Bar of legal proceedings	25		No suit, prosecution or other legal proceedings shall lie against the Board or any officer of the Board for or in respect of anything in good faith done or intended to be done under this Act.
Power to enter	26		Subject to any rules made in this behalf, any person, generally or specially authorized by the Board or the Chairman in this behalf, may whenever it is necessary to do so, enter any land or premises and make any inspection or inquiry or do such other act or thing as may be prescribed.
<b>CHAPTER - VII CONTROL BY THE CENTRAL GOVERNMENT</b>			
Control by the Central Government	27	(1)	All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.
		(2)	The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.
Power to make rules	28	(1)	The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.
		(2)	Without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters:-
		(i)	the Constitution of the Board, the number of persons to be appointed as members from each of the categories specified in Clause (c) of Sub-Section (2) of Section 4, the term of office and other conditions of service, or, the procedure to be followed by, and the manner of filling vacancies among the members of the Board;
		(ii)	the circumstances in which, and the authority by which, members may be removed;
		(iii)	the procedure to be followed at meetings of the Board and at Committees thereof for the conduct of business and the number of members which shall form a quorum at a meeting;
		(iv)	the maintenance by the Board of records of business transacted by the Board and the submission of copies thereof to the Central Government;
		(v)	the holding of a minimum number of meetings of the Board every year;
		(vi)	the powers of the Board, its Chairman and Committees thereof with respect to the incurring of expenditure;
		(vii)	the conditions subject to which the Board may incur expenditure outside India;

		(viii)	the preparation of budget estimates of receipts and expenditure of the Board and the authority by which the estimates are to be sanctioned;
		(ix)	the maintenance of the accounts of income and expenditure of the Board and the audit of such accounts;
		(x)	the deposits of the funds of the Board in Banks and investments of such funds;
		(xi)	the re-appropriations of the estimated savings from any budget head to any other budget head;
		(xii)	the conditions subject to which the Board may borrow funds;
		(xiii)	the conditions subject to which and the manner in which contracts may be entered into by or on behalf of the Board;
		(xiv)	the delegation to the Committee, or Chairman or Vice-Chairman or members or officers of the Board of any of the powers and duties of the Board under this Act;
		(xv)	the staff which may be employed by the Board and the pay and allowances and leave and other conditions of service of officers (other than those appointed by the Central Government) and other employees;
		(xvi)	the travelling and other allowances of members of the Board and of Committees thereof;
		(xvii)	the maintenance of the registers and other records of the Board and its various Committees;
		(xviii)	the form of, manner of application for, fees payable for, records to be maintained, information or statistics to be furnished, quality parameters to be maintained, conditions governing and procedures in granting / cancellation of registration and granting / cancellation of authorization to be issued by the Board to the grower, curer, roaster and grinder, Instant coffee Manufacturer, exporter and importer as the case may be;
		(xix)	the conditions subject to which and the manner in which the inspection and control of quality at all stages will be carried out by the board;
		(xx)	the collection of any information or statistics including filing of returns in respect of coffee or any product of coffee;
		(xxi)	the penal action that could be initiated for the non-compliance of the provisions of the Act ;
		(xxii)	any other matter which is to be or may be prescribed under this Act.
		(3)	“Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule”.

Appeal to the Central Government	29		Any person aggrieved by an order of the Board refusing to register or cancelling the registration, refusing or cancelling an authorization for export or import of coffee and imposing penal action as per section 15, 16, 17, 18, 19& 28(2)(xx) as the case may be, may within sixty days of the making of the order, appeal to the Central Government.
Power to make regulations	30		The Board may, with the previous approval of the Central Government, make regulations to carry out its functions consistent with the provisions of this Act & Rules made thereunder.
Power to Delegate	31	(1)	The Central Government may, by order notified in the Official Gazette, direct that any power exercisable by it or by the Board or by the Chairman under this Act may also be exercised in such cases and subject to such conditions, if any, as may be specified in the order by such officer or authority as may be specified therein.
		(2)	The Board may, by a resolution passed by it, direct that any power exercisable by it under any order issued under the provisions of the Act may also be exercised in such cases and subject to such conditions, if any, as may be specified in the order by such officer or authority as may be specified therein.
Power to remove difficulties	32	(1)	If any difficulties arises in giving effect to the provisions of this Act the Central Government may, by order, publish in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty;
		(2)	Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.
Repeals Savings	33		The Coffee Act, 1942 is hereby repealed
	34	(1)	The Coffee Market Expansion [Amendment] Act, 1943, The Coffee Market Expansion [Amendment] Act, 1944, The Coffee Market Expansion (Second Amendment) Act, 1944, The Coffee Market Expansion (Amendment) Act, 1947, The Coffee Market Expansion (Amendment) Act, 1949, The Coffee Market Expansion (Amendment) Act, 1954, The Coffee (Amendment) Act, 1961, The Coffee (Amendment) Act, 1985 and the Coffee (Amendment) Act, 1994 are hereby repealed.
		(2)	Without prejudice to the provisions of Section 24 of the General Clauses Act 1897.
		(a)	any trial proceeding under The Coffee Market Expansions Ordinance, 1940, The Coffee Market Expansion [Amendment] Act, 1943, The Coffee Market Expansion [Amendment] Act, 1944, The Coffee Market Expansion (Second Amendment) Act, 1944, The Coffee Market Expansion (Amendment) Act, 1947, The Coffee Market Expansion (Amendment) Act, 1949, The Coffee Market Expansion (Amendment) Act, 1954, The Coffee (Amendment) Act, 1961, The Coffee (Amendment) Act, 1985 and the Coffee (Amendment) Act, 1994 pending at the time of the repeal of the Ordinance and the said acts, may be continued and completed as is such trial or proceeding were a trial or proceeding under this Act;
		(b)	all registrations made, all licences issued and all other things done under the said Ordinance and said acts shall be deemed to have been made, issued or done under this Act.

Validation of certain acts and indemnity in respect thereof			All acts of executive authority, proceedings and sentence which have been done taken or passed with respect to or on account of, coffee during the period commencing on the 26th day of January 1953, and ending with the date of commencement of this Act, by the Government or by any officer of the Government or by any other authority in the belief or purported belief that the acts, proceedings or sentences were being done, taken or passed under the Principal Act shall has been valid and operative as if they had been done, taken or passed in accordance with law, and no suit or other legal proceeding shall be maintained or continued against any authority whatsoever on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with law.
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