



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

ORDER PAPER

THURSDAY, OCTOBER 02, 2025 AT 2.30 PM

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers (as listed in the Appendix)
6. Notices of Motion (as listed in the Appendix)
7. Questions and Statements (as listed in the Appendix)
8. ******THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL (SENATE BILLS NO. 16 OF 2025)**
(The Senate Majority Leader)

(First Reading)

9. **MOTION - REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS ON A PETITION TO THE SENATE BY MR. JAPHETH MAKOKHA, THE EXECUTIVE DIRECTOR OF TRIPPLE THE IMPACT CBO TO AMEND THE COUNTY GOVERNMENTS ACT 2012, ON THE MANDATE OF THE COUNTY GOVERNORS ASSIGNING PORTFOLIO OF A COUNTY EXECUTIVE COMMITTEE MEMBER (CECM) TO THE DEPUTY COUNTY GOVERNORS**
(The Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

THAT the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on a Petition to the Senate by Mr. Japheth Makokha, the Executive Director of Tripple the Impact CBO to amend the County Governments Act 2012, on the mandate of the County Governors assigning Portfolio of a County Executive Committee Member (CECM) to the Deputy County Governors, laid on the Table of the Senate on Thursday, 25th September, 2025.

***(Resumption of debate interrupted on Wednesday, 1st October, 2025 –
Afternoon Sitting – Mover to reply)***

...../Motion

10. **MOTION - REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS (EQUITABLE SHARE) CASH DISBURSEMENT SCHEDULE FOR FINANCIAL YEAR 2025/2026**

(The Chairperson, Standing Committee on Finance and Budget)

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the County Governments (Equitable Share) Cash Disbursement Schedule for Financial Year 2025/2026, laid on the Table of the Senate on Wednesday, 24th September, 2025 and that, pursuant to Section 17 (7) of the Public Finance Management Act and Standing Order 189 (3), the Senate approves the County Governments (Equitable Share) Cash Disbursement Schedule for Financial Year 2025/2026.

***(Resumption of debate interrupted on Thursday, 25th September, 2025)
(Division)***

11. ***THE OFFICE OF THE COUNTY ATTORNEY (AMENDMENT) BILL (SENATE BILLS NO. 47 OF 2024)**

(Sen. David Wafula Wakoli, MP)

(Second Reading)

***(Resumption of debate interrupted on Thursday, 7th August, 2025)
(Division)***

12. ***THE SEEDS AND PLANT VARIETIES (AMENDMENT) BILL (SENATE BILLS NO. 4 OF 2025)**

(Sen. Ledama Olekina, MP)

(Second Reading)

***(Resumption of debate interrupted on Tuesday, 23rd September, 2025)
(Division)***

13. **COMMITTEE OF THE WHOLE**
***THE COUNTY LIBRARY SERVICES BILL (SENATE BILLS NO. 40 OF 2024)**

(Sen. Joyce Korir, MP)

***(Resumption of debate interrupted on Tuesday, 30th September, 2025)
(Division)***

14. **COMMITTEE OF THE WHOLE**
*****THE TECHNOLIS BILL (NATIONAL ASSEMBLY BILL NO. 6 OF 2024)**

(The Senate Majority Leader)

***(Resumption of debate interrupted on Tuesday, 30th September, 2025)
(Division)***

15. **COMMITTEE OF THE WHOLE**
*****THE COOPERATIVES BILL (NATIONAL ASSEMBLY BILLS NO. 7 OF 2024)**

(The Senate Majority Leader)

16. **COMMITTEE OF THE WHOLE**
***THE LABOUR MIGRATION AND MANAGEMENT (NO. 2) BILL (SENATE BILLS NO. 42 OF 2024)**
(Sen. Tabitha Mutinda, MP)
17. **COMMITTEE OF THE WHOLE**
***THE TOBACCO CONTROL (AMENDMENT) BILL (SENATE BILLS NO. 35 OF 2024)**
(Sen. Catherine Mumma, MP)
18. ***THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 46 OF 2023)**
(Sen. Johnes Mwaruma, MP)
- (Second Reading)*
19. ***THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 49 OF 2023)**
(Sen. Lenku Ole Kanar Seki, MP)
- (Second Reading)*
20. ***THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (CONTROL) (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2024)**
(Sen. Kathuri Murungi, MP)
- (Second Reading)*
21. ***THE COUNTY GOVERNMENTS (STATE OFFICERS REMOVAL FROM OFFICE) PROCEDURE BILL (SENATE BILLS NO. 34 OF 2024)**
(Sen. Karungo Thang'wa, MP)
- (Second Reading)*
22. ***THE STREET NAMING AND PROPERTY ADDRESSING SYSTEM BILL (SENATE BILLS NO. 43 OF 2024)**
(Sen. Fatuma Dullo, MP)
- (Second Reading)*
23. **MOTION - WELFARE OF INTERNS WORKING UNDER THE PUBLIC SERVICE COMMISSION (PSC)**
(Sen. Samson Cherarkey, MP)

THAT, AWARE THAT, the Public Service Commission has provided internship opportunity to many youths in various government Departments and Agencies for a period not exceeding one year pursuant to Guidelines on Management of the Public Service Internship Programme of October, 2019;

...../Motion

APPRECIATING THAT, since its inception, the internship programme in Kenya has been instrumental in providing practical experience to graduates, enhanced employability, offered networking opportunities and has on a number of occasions led to full-time jobs to graduates;

CONCERNED THAT, internship opportunities are limited in number, skewed in distribution across government Departments and Agencies, lack clear pathway to permanent employment, have inadequate opportunities for skill development due to the short duration that they are offered and that the stipend offered to PSC interns is insufficient with an average stipend ranging from Ksh. 15,000 to Ksh. 30,000 per month which is not sustainable especially to interns living in major cities like Nairobi, Mombasa and Kisumu where the cost of living is too high;

NOW THEREFORE the Senate resolves that the Cabinet Secretary for Public Service and Human Capital Development in consultation with the Public Service Commission reviews the Guidelines to the Public Service Internship Programme of October, 2019 with a view to: -

1. increase the stipend offered to interns to cushion them against the high cost of living; and
2. put in place mechanisms to promote and reward innovation by interns.

(Resumption of debate interrupted on Wednesday, 1st October, 2025 – Morning Sitting – Balance of time – 2 hours 55 minutes)

24. **MOTION - REPORT OF THE LIAISON COMMITTEE ON THE ACTIVITIES AND OPERATIONS OF SELECT COMMITTEES DURING THE THIRD SESSION (2024)**

(The Chairperson, Liaison Committee)

THAT, the Senate notes the Report of the Liaison Committee on the activities and operations of Select Committees during the Third Session (2024) pursuant to Standing Order 224 (2), laid on the Table of the Senate on Wednesday, 28th May, 2025.

25. **MOTION - INSTALLATION OF CCTV CAMERAS IN ALL POLICE STATIONS, CELLS AND POLICE REPORTING DESKS**

(Sen. Karen Nyamu, MP)

AWARE THAT Article 51 provides that a person who is detained, held in custody or imprisoned under the law, retains all the rights and fundamental freedoms in the Bill of Rights, except to the extent that any particular right or a fundamental freedom is clearly incompatible with the fact that the person is detained, held in custody or imprisoned;

FURTHER AWARE THAT the National taskforce on improvement of the terms and conditions of service and other reforms for members of the National Police Service and Kenya Prison Service recommended adequate

Government funding for the National Police Service to modernize its facilities, equipment and gear, and enhance its logistical and technological capabilities for National Police Service officers in order to enable the Service discharge its mandate efficiently and effectively;

COGNIZANT THAT the Bill of Rights provides for protection of human rights, prevention of abuse and upholding of the rule of law within detention facilities and police stations;

CONCERNED THAT there has been increasing reports of human rights violations, abuse, unexplained injuries, and deaths in custody, as well as security breaches and escapes from police cells across the country;

FURTHER CONCERNED THAT despite the recommendations by the Justice Maraga task force, little or no efforts have been made to ensure modernization of police cells by installation of Closed-Circuit Television (CCTV) cameras and police reporting desks thereby affecting public trust and accountability on what happens to persons in police custody;

NOW THEREFORE, the Senate resolves that the National Government, through the Ministry of Interior and National Administration:

1. installs functional and tamper-proof CCTV cameras in all police stations, cells and police reporting desks across the country;
2. ensures that all CCTV systems are monitored in real-time and that footage is securely stored and made accessible during investigations, judicial processes; and
3. provides the necessary resources, technical support, and training to law enforcement officers for the effective operation and maintenance of CCTV systems and continuous digitization of Occurrence Book platforms.

26. **MAINSTREAMING GENDER PERSPECTIVES IN LEGISLATIVE AND POLICY PROCESSES**

(Sen. Veronica Maina, MP)

THAT AWARE THAT, Article 27 of the Constitution of Kenya guarantees the right to equality and freedom from discrimination, with Article 27(3) providing that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres;

FURTHER AWARE that Article 27(8) obligates the State to take legislative and other measures to redress any disadvantage suffered by individuals or groups as a result of past discrimination, and to ensure that not more than two-thirds of members of elective or appointive bodies shall be of the same gender;

COGNIZANT THAT mainstreaming gender perspectives in all aspects of governance is essential to achieving inclusive development and safeguarding the rights and welfare of all citizens, particularly women, girls and other marginalized groups;

...../Motion

CONCERNED THAT the integration of gender considerations remain inconsistent across the two levels of government and that legislative processes have often resulted to policies that do not adequately address gender-specific needs and realities;

NOW THEREFORE, the Senate:

- a) urges Parliament, County Assemblies and their respective legislative committees to incorporate a gender analysis in the scrutiny of legislation, policies, programmes and budgets before them, including through the use of gender impact assessments and consultation with gender-focused stakeholders to ensure gender-responsive governance;
- b) recommends that the National Gender and Equality Commission and the State Department for Gender develops clear guidelines and tools to support the integration of gender perspectives in legislative, policy and budgetary analysis, and ensures these are disseminated and adopted by relevant government and legislative bodies;
- c) further urges the National Gender and Equality Commission and State Department for Gender to collaborate with the Kenya Law Reform Commission, and County Assembly Service Boards to build capacity for gender analysis among technical and legislative staff;
- d) urges the State Department for Gender to submit to Parliament a comprehensive biannual report detailing actions taken by Ministries, Departments and Agencies to promote gender mainstreaming, key achievements, emerging challenges, and proposed interventions; and
- e) resolves that the Standing Committee on Labour and Social Welfare continuously monitor the implementation of these resolutions and tables biannual report on the status of implementation.

27. **MOTION – PROMOTION OF ARTIFICIAL INTELLIGENCE (AI) AND INNOVATION POLICY IN KENYA**

(Sen. Karungo Wa Thang’wa, MP)

THAT AWARE THAT, the Fourth Industrial Revolution is redefining economies globally through emerging technologies such as Artificial Intelligence (AI), blockchain, and financial technology (Fintech);

FURTHER AWARE THAT Kenya has made commendable strides in digital infrastructure and mobile innovation, positioning itself as a potential leader in Africa’s tech-driven future;

NOTING THAT in a landmark decision, the African Union Executive Council endorsed the Continental AI Strategy during its 45th Ordinary Session in Accra, Ghana, on July 18-19, 2024 to underscore Africa’s commitment to an Africa-centric, development-focused approach to AI, promoting ethical, responsible, and equitable practices;

...../Motion

COGNIZANT THAT the Continental AI Strategy calls for unified national approaches among AU Member States to navigate the opportunities of AI-driven change, aiming to strengthen regional and global cooperation and position Africa as a leader in inclusive and responsible AI development;

APPRECIATING THAT the Ministry of Information, Communications and the Digital Economy recently formulated and launched the Kenya National Artificial Intelligence (AI) Strategy 2025-2030;

RECOGNIZING the need to align Kenya's development with global standards in AI adoption while also safeguarding national values, inclusivity, and employment;

CONCERNED THAT the absence of a comprehensive framework may hinder innovation among local start-ups and youth-led tech enterprises and slow down Kenya's ability to harness AI for inclusive growth;

NOW THEREFORE, the Senate resolves that the Ministry of Information, Communication and Digital Economy develops a Policy to promote Artificial Intelligence and emerging technologies with particular emphasis on:

- i) promoting research and development of locally relevant AI solutions;
- ii) facilitating ethical guidelines to ensure responsible and beneficial application of AI;
- iii) creating innovation-friendly 'Sandboxes' for supervised testing of AI and emerging technologies;
- iv) strengthening public-private partnerships to build digital skills and innovation ecosystems; and
- v) integrating AI and coding into the education curriculum to prepare the next generation for the digital economy.

(Second Reading)

...../Notice

NOTICE

The Senate resolved on 13th February, 2025 as follows: -

THAT, pursuant to Standing Order 111 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner: -

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

******- Denotes a Majority /Minority Party Bill**

*****- Denotes a National Assembly Bill**

**** - Denotes a Committee Bill**

***- Denotes any other Bill**

-----**XXX**-----

...../Notice of Amendments

NOTICE OF AMENDMENTS

A. *THE COUNTY LIBRARY SERVICES BILL (SENATE BILLS NO. 40 OF 2024)
(Sen. Joyce Korir, MP)

NOTICE is given that the Chairperson, Standing Committee on Labour and Social Welfare, intends to move the following amendments to the County Library Services Bill (Senate Bills No. 40 of 2024) at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended by deleting paragraph (d).

CLAUSE 4

THAT clause 4 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)—

(f) approve and integrate the county libraries annual work plan into the county integrated development plans.

CLAUSE 5

THAT the Bill be amended by deleting clause 5.

CLAUSE 6

THAT the Bill be amended by deleting clause 6 and substituting therefor the following new clause—

Establishment 6. A county government shall establish a county directorate of of a county library services within its county public service.
directorate of
library
services.

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting—

- (a) the words “The Committee” appearing in the introductory phrase and substituting therefor the words “A county directorate of library services”;
- (b) the words “school-going children” appearing at the end of paragraph (l) and substituting therefor the words “members of the public”;
- (c) the words “disadvantaged persons within the society” appearing at the end of paragraph (n) and substituting therefor the words “persons with disabilities”;
- (d) the marginal note and substituting therefor the words —

Functions of a county directorate of library services.

CLAUSE 8

THAT the Bill be amended by deleting clause 8.

CLAUSE 9

THAT the Bill be amended by deleting clause 9.

CLAUSE 11

THAT clause 11 of the Bill be amended—

(a) by deleting the words “the committee” appearing in the introductory phrase and substituting therefor the words “a county directorate of library services”;

(b) by inserting the following new paragraph immediately after paragraph (b)—

(c) offer technical support to libraries recognized under paragraphs (a) and (b).

CLAUSE 12

THAT the Bill be amended by deleting clause 12.

CLAUSE 13

THAT clause 13 of the Bill be amended-

(a) in subclause (1) by deleting the words “in consultation with the committee” appearing immediately after the word “member”;

(b) in subclause (2) by—

(i) deleting the word “section” appearing immediately after the words “generality of” and substituting therefor the word “subsection”; and

(ii) inserting the following new paragraph immediately after paragraph (b)—

(c) provision of technical support to libraries recognized under this Act.

SCHEDULE

THAT Bill be amended by deleting the schedule

CLAUSE 2

THAT clause 2 of the Bill be amended by—

(a) in the definition of the term “book” by inserting the following paragraph immediately after paragraph (d)—

(e) journals and other electronic resources that can be accessed digitally;

(a) deleting the definition of the term “committee”;

(b) deleting the definition of the term “library” and substituting therefor the following new definition—

“library” means an organised collection of printed and digital information resources, books, periodicals or any graphic or audio-visual material to which a member of the public has access free of charge or on payment of fees or by virtue of being a member of an organisation or institution;

(c) inserting the following new definitions in their correct alphabetical order—

“county directorate of library services” means the county directorate of library services established under section 6;

“national library service” means a repository and access point for print, audio, audio-visual, braille and digital materials and documents in braille that serve as the pre-eminent repository of information for the country and as the official national depository for printed works, a general public access library, information and bibliographic centre;

LONG TITLE

THAT the Bill be amended by deleting the long title and substituting therefor the following new long title—

AN ACT of Parliament to provide for the establishment of county libraries and county directorate of library services in each county; the functions and powers of each county directorate of library services; and for connected purposes

B. *THE TECHNOPSIS BILL (NATIONAL ASSEMBLY BILL NO. 6 OF 2024)**
(The Senate Majority Leader)

- A. NOTICE** is given that the Chairperson, Standing Committee on Information, Communication and Technology intends to move the following amendments to the Technopolis Bill (National Assembly Bills No. 6 of 2024), at the Committee Stage—

CLAUSE 7

THAT clause 7 of the Bill be amended by –

(a) in subclause (1) by –

(i) inserting the following new paragraph immediately after paragraph (d) in subclause (1) —

(da) one person nominated by the Council of Governors;

(ii) deleting paragraph (e) and substituting therefor the following new paragraph in subclause (1) —

(e) four persons, not being public officers, appointed by the Cabinet Secretary through a competitive recruitment process; and

(b) in subclause (3) by deleting the words “subsection (1)(e)” appearing immediately after the words, “of the Board under” and substituting thereof the words “subsections (1) (da) and (e)”.

CLAUSE 8

THAT clause 8 of the Bill be amended –

(a) in subclause (1) by deleting paragraph (f) and substituting therefor the following new paragraph—

(f) if incapacitated by physical or mental illness and incapable of discharging their duties for a period exceeding twelve months.

CLAUSE 16

THAT clause 16 of the Bill be amended by inserting the following new subclause immediately after subclause (1)—

(1A) The Cabinet Secretary in exercising powers under subsection (1) shall ensure there is consultation with persons likely to be affected by the establishment of a Technopolis.

CLAUSE 17

THAT clause 17 of the Bill be amended in paragraph (a) by inserting the words “universally accessible” immediately after the words “be equipped with”.

CLAUSE 30

THAT clause 30 of the Bill be amended in subclause (4) by inserting the words “within thirty days” immediately after the words “the Authority may” in the introductory clause.

CLAUSE 31

THAT clause 31 of the Bill be amended in subclause (2) by inserting the words “within fourteen days of such decision” immediately after the words “refuse the application”.

CLAUSE 32

THAT clause 32 of the Bill be amended in subclause (4) by inserting the following new paragraphs immediately after paragraph (4) –

(5) In exercising power under subsection (4), the Authority shall give reasons for the rejection of an application.

(6) Where an application is rejected under subsection (4), the licensee may submit a new application for renewal of the licence.

- B. NOTICE** is given that Sen. William Kisang, MP intends to move the following amendment to the Technopolis Bill, 2024 (National Assembly Bills No. 6 of 2024), at the Committee Stage—

CLAUSE 13

THAT clause 13 of the Bill be amended in subclause (1) by deleting the words “Cabinet Secretary on the recommendation of Board” appearing immediately after the words “appointed by the” and substituting thereof the words “Board through a competitive process”.

C. *THE COOPERATIVES BILL (NATIONAL ASSEMBLY BILLS NO. 7 OF 2024)**

(The Senate Majority Leader)

NOTICE is given that the Chairperson, Standing Committee on Trade, Industrialization and Tourism, intends to move the following amendments to the Cooperatives Bill (National Assembly Bills No. 7 of 2024), at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended in paragraph (a) by deleting sub paragraph (iii) and substituting therefor the following new sub paragraph—

(iii) member economic participation;

CLAUSE 5

THAT the Bill be amended by deleting clause 5 and substituting therefor the following new clause—

Application.

5. (1) This Act shall apply to all cooperatives in Kenya.

(2) The Office of the Commissioner established under section 6, shall register—

- (a) an intercounty primary cooperative;
- (b) an intercounty secondary cooperative;
- (c) a Cooperative Federation; and
- (d) an Apex Cooperative.

(3) The office of the county commissioner for cooperatives in the respective county, shall register—

- (a) an intracounty primary cooperative; and
- (b) an intracounty secondary cooperative.

(4) A cooperative that is registered under the Sacco Societies Act shall —

- (a) comply with subsection (2) of (3) respectively; and
- (b) conduct business, be licensed, be regulated and be supervised by the Sacco Societies Act.

(5) This Act shall apply in any case where there is any inconsistency on any matter between this Act and any other legislation.

Cap 490B.

...../Notice of Amendments

CLAUSE 7

THAT clause 7 of the Bill be amended by renumbering the existing provision as subclause (1) and inserting the following new subclause—

(2) The technical officers appointed under subsection (1) shall have relevant academic qualifications in cooperative management and practice and comply with Chapter Six of the Constitution.

CLAUSE 8

THAT clause 8 of the Bill be amended by –

(a) deleting subclause (1) and substituting therefor the following new subclauses—

(1) Three months prior to a vacancy arising in the office of the Commissioner, the Public Service Commission shall invite applications from persons who qualify for appointment to the office of the Commissioner for Cooperative Development through advertisement in at least two daily newspapers of nationwide circulation.

(1A) The Public Service Commission shall, within six months of a vacancy arising in the position of the Commissioner, fill the vacancy through a competitive recruitment process.

(b) deleting subclause (2) and substituting therefor the following new subclause—

(2) A person is not qualified for appointment as a Commissioner, unless the person has—

(a) a bachelor's degree in cooperative management, cooperative business or other related fields;

(b) a minimum of twenty years' experience in senior management in the Public Service, ten of which should be in the cooperative sector in a position not lower than county commissioner for cooperatives; and

(c) meets the requirements of Chapter six of the Constitution.

CLAUSE 9

THAT clause 9 of the Bill be amended in subclause (2) –

(i) by deleting the words “ register all cooperatives in Kenya, and ” appearing at the beginning of paragraph (c);

(ii) by inserting the words “intercounty primary cooperatives, intercounty secondary cooperatives” immediately after the words “registration of” appearing in paragraph (d);

(iii) by deleting paragraph (e) and substituting therefor the following new paragraph—

(e) establish an integrated cooperatives management information system;

(iv) in paragraph (f)—

(i) by deleting the word “federations” appearing immediately after the words inserting the words “affairs of” appearing in paragraph (f)” and substituting therefor the words “an intercounty primary cooperative, an intercounty secondary cooperative, a cooperative federation”;

(ii) by inserting the following new paragraphs immediately after paragraph (f)—

(fa) enforce remedial measures against non-compliant intercounty primary cooperative, intercounty secondary cooperative, cooperative federations and the Apex Cooperatives and, where necessary, recommend inquiries into the affairs of the cooperatives;

(fb) where appropriate, petition the High Court for the liquidation of intercounty primary, intercounty secondary, cooperative federations and the Apex Cooperatives in accordance to the provisions of this Act;

(v) by deleting the words “governments” appearing immediately after the words “building for cooperatives” appearing in paragraph (g) and substituting therefor the words “Commissioners of Cooperatives, relevant board of directors and relevant chief executive officers”;

(vi) by deleting paragraph (i);

(vii) in paragraph (j) by inserting the words “verified and certified by the National Audit Director or the County Audit Director as the case may be” appearing immediately after the words “audited financial statements”;

(viii) by inserting the following paragraphs immediately after paragraph (n)—

(na) in collaboration with county commissioners for cooperatives conduct public awareness campaigns on cooperatives;

(nb) supervise the elections of an intercounty primary cooperative, intercounty secondary cooperative, cooperative federation and the apex cooperative;

CLAUSE 10

THAT clause 10 of the Bill be amended by renumbering the existing provision as subclause (1) and inserting the following new subclause—

(2) The Commissioner shall prepare and submit an annual report on the performance of all cooperatives to Parliament and the Cabinet Secretary within six months after the end of the financial year.

...../Notice of Amendments

(3) The report shall contain the following information—

- (a) the number if any of cooperatives registered and deregistered;
- (b) the number if any of inspections and inquiries carried out;
- (c) the number if any of board of directors found liable under the Act;
- (d) the number if any of cooperatives that are at risk of liquidation or have been liquidated;

CLAUSE 11

THAT clause 11 of the Bill be amended—

- (a) in the marginal note by deleting the word “Director” appearing immediately after the word “Office of the County” and substituting therefor the word “Commissioner”;
- (b) in subclause (1) by deleting the word “Director” appearing immediately after the word “Office of the County” and substituting therefor the word “Commissioner”;
- (c) in subclause (2) by deleting the word “Director” appearing immediately after the word “Office of the County” and substituting therefor the word “Commissioner”;

CLAUSE 12

THAT clause 12 of the Bill be amended—

- (a) in the marginal note by deleting the word “Director” appearing immediately after the word “Office of the County” and substituting therefor the word “Commissioner”;
- (b) in subclause (1) by deleting the word “Director” appearing immediately after the word “Office of County” and substituting therefor the word “Commissioner”;
- (c) in subclause (2) by inserting the words “and shall comply with Chapter Six of the Constitution” immediately after the words “in cooperative management and practice,”

CLAUSE 13

THAT clause 13 of the Bill be amended by –

- (a) deleting the word “Director” appearing after the words “Office of County” in the marginal note and substituting therefor the word “Commissioner”;
- (b) deleting subclause (1) and substituting therefor the following new subclauses—

...../Notice of Amendments

(1) Three months prior to a vacancy arising in the position of the County Commissioner for Cooperatives, the County Public Service Board shall invite applications from persons who qualify for appointment to the office of the County Commissioner for Cooperatives through advertisement in at least two daily newspapers of nationwide circulation.

(1A) The County Public Service Board shall, within six months of a vacancy arising in the position of the County Commissioner for Cooperatives, fill the vacancy through a competitive recruitment process.

(c) deleting subclause (2) and substituting therefor the following new clause—

(2) A person is qualified for appointment as a County commissioner for cooperatives, if the person has—

- (a) a bachelor's degree in cooperative management or cooperative business;
- (b) a minimum of ten years' experience in cooperative management and practice; and
- (c) meets the requirements of Chapter Six of the Constitution.

CLAUSE 14

THAT clause 14 of the Bill be amended in subclause 2 –

- (a) deleting the word “Director” appearing after the words “of the County” in the marginal note and substituting therefor the word “Commissioner”;
- (b) by renumbering the current paragraph (a) as (b) and inserting the following new paragraph (a)—
 - (a) advice the County Executive Committee Member on the growth and development of cooperatives in the county;
- (c) by inserting the following new paragraphs immediately after paragraph (a)—
 - (aa) register intracounty primary and intracounty secondary cooperatives;
 - (ab) maintain a county cooperatives register;
 - (ac) implement national integrated systems for the registration and management of cooperatives and submit county annual returns to the Commissioner;
 - (ad) enforce remedial measures against non-compliant intracounty primary and intracounty secondary cooperatives and, where necessary, recommend inquiries into their affairs;
 - (af) petition the High Court for the liquidation of intracounty primary and intracounty secondary cooperative where appropriate in accordance to the provisions of this Act;

- (ag) register audited financial statements certified by the county audit director;
- (ah) promote alternative dispute resolution mechanisms for disputes relating to intracounty primary and intracounty secondary cooperatives and their members;
- (d) by renumbering the current paragraph (b) as (ba) and inserting the words “intracounty primary and intracounty secondary cooperatives” immediately after the words “affairs of”
- (e) in paragraph (c) by inserting the words “intracounty primary and intracounty secondary” immediately after the words “supervise the elections of”
- (f) by deleting paragraph (e);
- (g) in paragraph (f) by deleting the word “cooperatives in the counties” appearing immediately after the words “capacity building of” and substituting therefor the words “the board of directors and chief executive officers of cooperatives in the county”
- (h) by deleting paragraph (i) and substituting therefor the following new paragraph—
 - (i) promote partnerships between intracounty primary and intracounty secondary cooperatives and relevant stakeholders, including financial institutions, government agencies, and private sector players, to enhance cooperative development;

CLAUSE 15

THAT clause 15 of the Bill be amended—

- (a) by deleting the word “Director” appearing after the words “by the County” in the marginal note and substituting therefor the word “Commissioner”;
- (b) by renumbering the existing provision as subclause (1) and inserting the following new subclauses—
 - (2) The County commissioner for cooperatives shall prepare and submit an annual report on the performance of all their respective intracounty primary and intracounty secondary cooperatives to the Commissioner, County Assembly, and the County Executive Committee Member within three months after the end of the financial year.
 - (3) The report shall contain the following information—
 - (a) the number if any of intracounty primary and intracounty secondary cooperatives registered and deregistered;
 - (b) the number if any of inspections and inquiries carried out;
 - (c) the number if any of board of directors found liable under the Act; and
 - (d) the number if any of intracounty primary and intracounty secondary cooperatives that are at risk of being liquidated or have been liquidated.

CLAUSE 16

THAT clause 16 (1) of the Bill be amended by—

- (a) deleting the word “directors” appearing immediately after the words “ forty-seven county” and substituting therefor the word “ Commissioners”
- (b) inserting the following new subclause immediately after subclause (1)—
 - (1A) In the absence of the Commissioner, the county commissioners for cooperatives shall nominate one of their own to chair the meeting of the Forum.

CLAUSE 19

THAT clause 19 of the Bill be amended—

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph—
 - (a) intracounty and intercounty primary cooperatives;
- (b) by deleting paragraph (b) and substituting therefor the following new paragraph—
 - (b) intracounty and intercounty secondary cooperatives;

CLAUSE 20

THAT clause 20 of the Bill be amended –

- (a) by deleting subclause (3) and substituting therefore the following new subclause—
 - (3)A primary Cooperative may be formed by at least twenty persons.
- (b) in subclause (4) by deleting the words “that do not share the same objectives or proposes” appearing immediately after the words “two or more cooperatives”
- (c) by deleting subclause (5) and substituting therefor the following new subclauses—
 - (5) A person intending to join two or more cooperatives under subsection (4) shall disclose their membership in any other cooperative they are already a member to the additional cooperative they seek to join.
 - (5A) A person who is a member of multiple cooperatives, shall before applying for a loan in any cooperative, submit a letter from each cooperative they are a member confirming the nature and extent of financial liability of the person.
 - (5B) Despite the provisions of this Act or any other written law, cooperatives may in such manner and to such extent as the Cabinet Secretary may, in regulations prescribe, exchange information on the non-performing loans of their members.

(5C) Without prejudice to subsection (5B) and the regulations made their under, the information may be shared through the credit reference bureaus established under section 31 of the Banking Act.

(d) by deleting subclause (6).

CLAUSE 21

THAT clause 21 of the Bill be amended—

- (a) in subclause (1) by inserting the following words “or the county commissioner for cooperatives, as the case may be” immediately after the words “The Commissioner”.
- (b) in subclause (2) by inserting the words “or the county commissioner for cooperatives, as the case may be” immediately after the words “to the Commissioner”

CLAUSE 22

THAT clause 22 of the Bill be amended—

- (a) in subclause (2) by deleting the words “A secondary Cooperative shall comprise of membership from at least five primary” appearing immediately after the word “A” and substituting therefor the words “An intracounty secondary Cooperative shall comprise of membership from at least five intraprimary”
- (b) by inserting the following new subclause immediately after subclause (2)—
 - (3) An intercounty secondary cooperative shall comprise of membership from at least five intercounty primary cooperatives.

CLAUSE 23

THAT clause 23 (3) of the Bill be amended by inserting the words “and one primary cooperative in a particular value chain, business line or sub-sector” immediately after the words “two secondary cooperatives”

CLAUSE 24

THAT clause 24 (2) of the Bill be amended by deleting the words “Cooperatives shall” appearing at the beginning of the subclause and substituting therefor the words “Cooperatives may”.

CLAUSE 28

THAT clause 28 of the Bill be amended by inserting the words “or the county commissioner for cooperatives as the case may be,” immediately after the words “by the Commissioner” appearing in the first sentence of the last paragraph.

...../Notice of Amendments

CLAUSE 29

THAT the Bill be amended –

(a) in subclause (1) —

(i) by deleting paragraph (a) and substituting therefor the following new paragraph –

(a) by the chief executive officer of the intracounty primary cooperative in case of registration of an intercounty primary Cooperative;

(ii) by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) by at least five intercounty primary Cooperatives in case of registration of an intercounty secondary Cooperative;

(iii) by inserting the words “and one primary cooperative” appearing immediately after the words “two secondary cooperatives” in paragraph (c)

(b) in subclause (3) –

(i) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) in the case of registration of an intercounty primary cooperative under subsection (1) (a) a letter of no objection to the registration of the intercounty primary cooperative, issued by the county commissioner for cooperatives of the county where the intracounty cooperative is registered;

(ii) by deleting paragraph (b);

(iii) by deleting the words “and duly approved by the County Director for Cooperatives, amongst other things providing” appearing in paragraph (c) and substituting therefor the words “providing for amongst other things”

(iv) by deleting the words “County Director for Cooperatives” appearing immediately after the words “certified by the” in paragraph (d) and substituting therefor the word “Commissioner”

(c) in subclause (4) by deleting the words “county director of cooperatives or the appointed representative in the case of a primary or secondary cooperative” appearing immediately after the words “presided over by the” in paragraph (a) and substituting therefor the words “Commissioner or the appointed representative in the case of an intercounty primary, an intercounty secondary cooperative, cooperative federation”

(d) by deleting subclause (5).

CLAUSE 30

THAT clause 30 of the Bill is amended –

- (a) in subclause (1) by deleting the words “The Commissioner may not register a Cooperative under this Act where in the opinion of the Commissioner” appearing in the beginning of the subclause and substituting therefor the words “The Commissioner or county commissioner for cooperatives, as the case may be, may not register a Cooperative under this Act where in their opinion”
- (b) in subclause (2) by inserting the words “or county commissioner for cooperatives as the case may be” immediately after the words “to the Commissioner”

CLAUSE 31

THAT clause 31 of the Bill be amended –

- (a) in paragraph (d) by inserting the words “or county commissioner for cooperatives as the case may be” immediately after the words “by the Commissioner”
- (b) in paragraph (g) by inserting the words “or county commissioner for cooperatives as the case may be” immediately after the words “The Commissioner”

CLAUSE 32

THAT clause 32 of the Bill be deleted and substituted therefor with the following clause—

Registration
of a
Cooperative
and its by-
laws.

32. If the Commissioner or county commissioner for cooperatives, as the case may be, is satisfied that a relevant Cooperative has complied with the provisions of this Act and any Regulations made thereunder and that its proposed by-laws are not contrary to this Act or any Regulations made thereunder, the Commissioner or county commissioner for cooperatives, as the case may be, shall register the Cooperative and its by-laws under this Act within a period not exceeding thirty days from the date of verification.

CLAUSE 33

THAT clause 33 of the Bill be amended by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “by the Commissioner”

...../Notice of Amendments

CLAUSE 34

THAT clause 34 (3) of the Bill be amended by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “reason, the Commissioner”

CLAUSE 35

THAT clause 35 of the Bill be amended by—

- (a) inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “name, the Commissioner” appearing in subclause (1);
- (b) inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “to the Commissioner” appearing in subclause (2).

CLAUSE 37

THAT clause 37 of the Bill be amended—

- (a) in subclause (2) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “to the Commissioner”.
- (b) deleting subclause (3) and substituting therefor the following subclause—
 - (3) If the Commissioner or county commissioner for cooperatives, as the case may be, is satisfied that any amendment of the by-laws of the Cooperative is not contrary to this Act, the Regulations made hereunder and any other written law, they may register the amendment.
- (c) deleting subclause (4) and substituting therefor the following subclause—
 - (4) The Commissioner or county commissioner for cooperatives, as the case may be, may, if satisfied, that an amendment under this section was effected pursuant to a misrepresentation or concealment of a material fact or fraud by the person applying for registration, may cancel the amendment.
- (d) deleting subclause (6) and substituting therefor the following subclause—
 - (6) Upon registering an amendment of the by-laws of a Cooperative, the Commissioner or county commissioner for cooperatives, as the case may be, shall issue to the Board of Directors a copy of the amendment certified by the Commissioner or county commissioner for cooperatives which shall be conclusive evidence of the fact that the amendment has been duly registered.
- (e) in subclause (8).by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “by the Commissioner”

CLAUSE 38

THAT clause 38 of the Bill be amended by inserting the words “or nominee” immediately after the words “personal representatives”

CLAUSE 39

THAT the Bill be amended by deleting clause 39 and substituting therefor the following new clause—

Appeal against
refusal to register.

39. A party aggrieved by the decision of the Commissioner or county commissioner for cooperatives, not to register the Cooperative and its by-laws or any amendments of its by-laws may within thirty days appeal against the decision to the Cooperative Tribunal.

CLAUSE 40

THAT the Bill be amended by deleting clause 40 and substituting therefor the following new clause—

Signature by the
Commissioner or
county
commissioner for
cooperatives.

40. A document purporting to be signed by the Commissioner or county commissioner for cooperatives, shall be presumed to have been signed by them until the contrary is proved.

CLAUSE 43

THAT clause 43 (2) of the Bill be amended by inserting the words “or county commissioner for cooperatives” immediately after the words “by the Commissioner”.

CLAUSE 44

THAT clause 44 of the Bill be amended—

(a) in subclause (1) by inserting the following new paragraph immediately after paragraph (b)—

(ba) is a diaspora based member;

(b) by deleting subclause (2).

CLAUSE 47

THAT clause 47 of the Bill be amended—

(a) by inserting the following new subclauses immediately after subclause (1)—

(1A) The board of directors of a cooperative shall provide for electronic voting by members of the cooperative.

(1B) The board of directors of a cooperative shall ensure that the members are facilitated to vote by secret ballot in the case of any matter requiring a special resolution of two thirds of the members under this Act.

(b) in subclause (2) by deleting the word “shall” appearing immediately after the words “A cooperative” and substituting therefor the word “may”

CLAUSE 51

THAT clause 51 of the Bill be amended by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “send to the Commissioner”.

CLAUSE 53

THAT clause 53 of the Bill be amended –

(a) in subclause (2) by deleting the words “fifteen days” appearing immediately after the words “provided to members” in subclause and substituting therefor the words “twenty-one days”

(b) in subclause (3) by deleting the word “Director” appearing immediately after the words “or the County” and substituting therefor the word “Commissioner”

CLAUSE 54

THAT clause 54 of the Bill be amended—

(a) in subclause (1) (c) by inserting the following new subparagraphs after paragraph (iii)—

(iv) the trial balance;

(v) the cash flow statement;

(vi) the management accounts detailing revenue, expenses, and surplus distribution;

(vii) the reports on member contributions, withdrawals, and refunds; or

(viii) any other financial information prescribed in the regulations based on the size and complexity of the cooperative.

(b) by inserting the following new subclauses immediately after subclause (1)—

(1A) In respect to Savings and Credit Cooperatives (SACCOs) and financial services cooperatives, the Cooperative shall in addition to the books under subsection (1) include—

(a) loan performance report, including the -classification of loans (performing and non-performing loans).

(b) loan provisioning and write-offs;

(c) delinquency ratio and credit risk assessment.

- (d) liquidity and capital adequacy report.
 - (e) investment portfolio statement detailing all cooperative investments, including securities, deposits, and real estate.
- (1B) In respect to member produce cooperatives, the Cooperative shall in addition to the books under subsection (1) include—
- (a) production and inventory report on products and inputs.
 - (b) status of equipment and machinery, including operational efficiency.
 - (c) status of storage facilities and logistics infrastructure.
 - (d) list of cooperative-owned agricultural land and its utilisation status.
- (1C) In respect to Transport Cooperatives (TransCoops), the Cooperative shall in addition to the books under subsection (1) include—
- (a) list of fleet assets, including vehicles, maintenance schedules, and depreciation status.
 - (b) operational income and expenditure report, including fuel costs, repairs, and insurance expenses.
 - (c) loan and lease obligations for fleet expansion and renewal.
 - (d) compliance status with transport regulatory requirements.
- (1D) In respect to Housing Cooperatives, the Cooperative shall in addition to the books under subsection (1) include—
- (a) property ownership report, including details of cooperative-owned land, buildings, and ongoing construction projects.
 - (b) membership subscription payments towards housing projects.
 - (c) loan obligations related to real estate development.
 - (d) occupancy and tenancy reports for rental cooperative properties.
- (1E) In respect to Investment Cooperatives, the Cooperative shall in addition to the books under subsection (1) include—
- (a) breakdown of cooperative investments, including equity holdings in listed and unlisted companies; bonds, treasury bills, and other financial instruments, real estate assets and returns on investment;
 - (b) valuation report on investment properties and other assets;
 - (c) risk exposure analysis related to investments;

- (c) by inserting the following subclause immediately after subclause (2)—
 (2A) A board of directors that fails to comply with sub-section (1) shall be deemed to have committed an offence.
 (2B) The Commissioner or the county commissioner for cooperatives as the case may be may impose a penalty on the board of directors, jointly and severally, as prescribed in the regulations, for each month the cooperative fails to file the required returns.
- (d) in subclause (4) by deleting the words “approved by the Commissioner” appearing immediately after the words “list of auditors” and substituting therefor the words “proposed by the board of directors”;
- (e) in subclause (5) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “appointed the Commissioner”;
- (f) in subclause (6)(d) by inserting the words “chief executive officer” immediately after the words “authenticated by the chairperson”
- (g) in subclause (7) (a) by deleting the words “approved by the Commissioner” appearing immediately after the words “accounts have been” and substituting therefor the words “certified by the National Audit Director of Cooperatives or the County Audit Director of Cooperatives as the case may be and approved by the Commissioner or county commissioner for cooperatives, as the case may be, to be”
- (h) by inserting new sub-clauses immediately after subclause 8—
 (8A) The Auditor shall, in the audit report recommend measures to be adopted by the cooperative to improve performance.
 (8B) The Auditor shall, as part of the audit report submit a risk report.
- (i) in subclause (11) by deleting the words “at such time and in such form as may be prescribed, file with the Commissioner” appearing immediately after the words “Cooperative shall” and substituting therefor the words “within ten days after the general meeting under subclause (8) and in such form as may be prescribed, file with the National Audit Director of Cooperatives or the County Audit Director of Cooperatives as the case may be”
- (j) by inserting the following new subclause immediately after subclause (11)—
 (11A) The National Audit Director of Cooperatives or the County Audit Director of Cooperatives, as the case may be, shall authenticate the documents submitted under subsection (11) and submit them to the Commissioner or county commissioner for cooperative, as the case may be, for registration within a period of one month after receipt of the documents.

- (k) in subclause (12) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “unless the Commissioner”
- (l) by inserting the following new paragraphs after subclause (12)—
- (12A) The Commissioner or the county commissioner for cooperatives as the case may be, may in addition to the power under subsection (12), have the power to—
- (a) dissolve the board of directors and appoint an interim board, which shall serve for three months or until a general meeting is convened to elect a new board whichever is earlier;
 - (b) direct the freezing of capital expenditure until compliance with the audit requirements has been met;
 - (c) place the cooperative under enhanced supervisory and regulatory oversight, until the cooperative complies with the audit requirements;
 - (d) institute recovery measures against members of the board of directors who were in office at the time of non-compliance, where such non-compliance resulted in financial loss, fraud, misappropriation, or misuse of cooperative funds.
- (12B) All members of the Board of Directors of a cooperative that fail to cause an audit of its financial statements within the prescribed period commit an offence and shall be liable upon conviction to imprisonment for three years or a fine not exceeding five hundred thousand or both.
- (12C) An auditor who falsifies the audited financial statements under subclause (8) shall commit an offence and shall be liable upon conviction to imprisonment for three years or a fine not exceeding five hundred thousand or both.
- (m) in subclause (13) by deleting the words “Director for Cooperatives shall ensure that all primary and secondary cooperatives” and substituting therefor “Commissioner for Cooperatives shall ensure that all intracounty primary and intracounty secondary cooperatives”
- (n) in subclause (15) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “The Commissioner”

CLAUSE 55

THAT clause 55 (1) of the Bill be amended by deleting the words “or county director of cooperatives” appearing immediately after the words “required by the Commissioner” and substituting therefor the words “county commissioner for cooperatives, National Audit Director of Cooperatives of County Audit Director of cooperatives”.

CLAUSE 56

THAT clause 56 of the Bill be amended –

- (a) in subclause (3) by deleting the words “director of cooperatives” appearing immediately after the words “commissioner or county” and substituting therefor the words “commissioner for cooperatives as the case may be”.
- (b) by inserting the following new subclause immediately after subclause (5)—
 - (5A) The board of directors shall ensure that the notice issued under subsection (5) shall be shared to members both through their physical addresses and through the official virtual platforms of the respective cooperative.
- (c) in subclause (6) –
 - (i) by inserting the following new paragraph immediately after paragraph (d)—
 - (da) determine the percentage of the surplus that is to be deposited in the reserve fund of the cooperative;
 - (ii) by inserting the words “consider any reports on debt to equity ratio of the cooperative and” immediately before the words “determine where necessary” appearing in paragraph (f);

CLAUSE 57

THAT clause 57 of the Bill be amended—

- (a) in subclause (2) –
 - (i) by deleting the words “director of cooperatives” and substituting therefor the words “commissioner for cooperatives as the case may be”, immediately after the words “Commissioner or county”
 - (ii) by inserting the following subclause immediately after subclause (2)—
 - (2A) The members demanding the special meeting shall ensure that the notice issued to other members in subsection (2) shall be shared to members both through their physical addresses and through the official virtual platforms of the respective cooperative.
- (b) by deleting subclause (3) and substituting therefor the following new subclause—
 - (3) The Commissioner or county commissioner for cooperatives, as the case may be, may convene a special general meeting of the respective cooperative at which the Commissioner or county commissioner for cooperatives may direct the matters to be discussed at the meeting.
- (c) by deleting subclause (4).

...../Notice of Amendments

CLAUSE 58

THAT clause 58 of the Bill be amended by deleting subclause (2) and substituting therefor the following subclause—

(2) Despite the generality of subsection (1), the Commissioner or the County Commissioner for Cooperatives may preside at any meeting of a Cooperative convened pursuant to a directive of the Commissioner or the County Commissioner for Cooperatives.

CLAUSE 59

THAT clause 59 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following subclause—

(1) A Cooperative shall hold its general meetings physically, virtually, or in a hybrid of virtual and physical meeting subject to compliance with such requirements as may be prescribed in the Regulations or by any other written law.

(b) by deleting subclause (2).

CLAUSE 60

THAT clause 60 (2) of the Bill be amended—

(a) by deleting the word “physical” appearing immediately after the words “exclusively discussed at a” in the introductory clause;

(b) by inserting the following new paragraphs immediately after paragraph (d)—

(da) borrowing by the cooperative;

(db) investment in non-core activities by the cooperative;

CLAUSE 61

THAT clause 61 of the Bill be amended—

(a) by inserting the following new subclause immediately after subclause (1)—

(1A) Despite subsection (1), the Commissioner, may in the case of an Apex Cooperative approve the increased membership of the Board of Directors up to a maximum of fifteen members based on the different sectors represented in the Apex cooperative.

(1B) The following cooperatives shall be represented in the membership of the Board of Directors in an Apex Cooperative—

(i) producer cooperatives;

(ii) housing cooperatives;

(iii) savings and credit cooperatives;

...../Notice of Amendments

- (iv) savings and investment cooperatives;
 - (v) transport cooperatives;
 - (vi) worker cooperatives; and
 - (vii) consumer cooperatives.
- (b) in subclause (2) by deleting the words “for one term of three years” appearing immediately after the words “eligible for re-election and shall be eligible for re-election for one term of three years” and substituting therefor the words “by rotation provided the directors retiring by rotation and eligible for reelection shall only constitute one third of the directors who are longest serving in office since the last election”.

CLAUSE 63

THAT clause 63 (1) of the Bill be amended —

- (a) by deleting paragraph (b) and substituting therefor the following new paragraph—
- (b) does not have a minimum of a post- secondary level of education certificate in cooperative management and practice from a university recognised in Kenya, unless exempted by the Cabinet Secretary or by the County Executive Committee member as the case may be in accordance with the regulations:
- Provided that this subparagraph shall not apply to Cooperatives in respect of which the Sacco Societies Act apply;
- (b) by deleting paragraph (h) and substituting therefor the following new paragraph—
- (h) has been removed by the Commissioner or County commissioner for cooperatives as the case may be, after being adversely mentioned in an inquiry report or any inspection report for mismanagement or corrupt practices;
- (c) by deleting the word “charged” appearing in paragraph (i) immediately after the words “has been” and substituting therefor the word “convicted”.
- (d) by deleting the word “three” appearing immediately after the words “a term exceeding” and substituting therefor the word “six”;
- (e) by inserting the words “or any other written law” immediately after the words “Regulations made thereunder” appearing paragraph (k);
- (f) by inserting the following new paragraphs immediately after paragraph (n)—
- (na) has been convicted of an offence financial misconduct;
- (nb) has been found guilty of professional or ethical misconduct;
- (nc) has been found liable for mismanagement or gross misconduct;

(nd) lacks fiduciary indemnity cover or bond;

(ne) failed the prescribed professional and moral suitability test;or

CLAUSE 64

THAT clause 64 of the Bill be amended –

- (a) in subclause (1) by inserting the words “crisis management plan, development and implementation of the data protection policy, policy for protection and reward of whistle blowers, annual member surveys” immediately after the words “internal controls”.
- (b) in subclause (2) (a) by deleting the word “appoint” appearing immediately after the word “shall” and substituting therefor the words “competitively recruit”.
- (c) in subclause (5) (b) by deleting the word “by-laws” appearing immediately after the words “prescribed in the” and substituting therefor the words “board charter”;

CLAUSE 65

THAT clause 65 (4) of the Bill be amended—

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph –
 - (a) County Commissioner for Cooperatives in case of intercounty primary and intracounty secondary Cooperatives;
- (b) by inserting the words “intercounty primary cooperative, intercounty secondary cooperative,” immediately after the words “in the case of” appearing in paragraph (b).

CLAUSE 66

THAT clause 66 of the Bill be amended –

- (a) by inserting the following new subclauses immediately after subclause (2)—
 - (2A) The Board of Directors shall cause to be advertised in one newspaper of nationwide circulation, the website and social media platforms of the cooperative, the vacancy for the persons in subclause (3) (c).
 - (2B) A person shall not be qualified for appointment as a member of the nomination committee if the person—
 - (i) is a member of the Cooperative;
 - (ii) has been a member of the supervisory board or the nomination committee or other management offices of the Cooperative;
 - (iii) is an undischarged bankrupt;

...../Notice of Amendments

- (iv) is of unsound mind;
 - (v) has been removed by the Commissioner or County commissioner for cooperatives as the case may be, after being adversely mentioned in an inquiry report or any inspection report for mismanagement or corrupt practices;
 - (vi) has been convicted in a court of law with an offence relating to a breach of fiduciary duty;
 - (vii) has been convicted of any offence involving dishonesty or an offence under any other written law or has been sentenced to imprisonment for a term exceeding six months;
 - (viii) has been convicted of an offence under this Act or Regulations made thereunder.
- (b) by deleting subclause (3) (a) and substituting therefor the following new paragraph—
- (a) The Commissioner or their representative or the county commissioner for Cooperatives in whose jurisdiction the Cooperative is situated, shall be the chairperson;

CLAUSE 67

THAT clause 67 of the Bill be amended—

- (a) in subclause (7) (c) by inserting the words “county commissioner for cooperatives, as the case may be” immediately after the words “by the Commissioner”
- (b) by deleting subclause (9) and substituting therefor the following new subclause —
 - (9) If, the Commissioner or the county commissioner for cooperatives as the case may be, is satisfied that the secondary resolutions of each of the Cooperatives amalgamating comply with the provision of this section, they may register the amalgamated Cooperative and its by-laws and thereupon—
 - (a) each of the amalgamating Cooperative shall stand dissolved and its registration cancelled except for amalgamation by absorption;
 - (b) the registration of the amalgamated Cooperative shall be a sufficient conveyance to vest the assets and liabilities of the amalgamating Cooperatives in the amalgamated Cooperative;
 - (c) the remaining members of the amalgamating Cooperatives shall become members of the amalgamated Cooperative and will be subjected to its by- laws; and

...../Notice of Amendments

- (d) any shareholders of the amalgamating Cooperatives or any other persons who have claims against the amalgamating Cooperatives and whose claims were not satisfied in accordance with the secondary resolution, may pursue such claims against the amalgamated Cooperative.
- (c) in subclause (10) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “the Commissioner”.

CLAUSE 68

THAT clause 68 of the Bill be amended—

- (a) in subclause (8) (c) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “the Commissioner”
- (b) by deleting subclause (9) and substituting therefor the following new subclause —

(9) The Cooperative may, by further resolution passed by a two-thirds majority of the members present and voting, confirm the preliminary resolution, with or without changes which in the opinion of the Commissioner or county commissioner for cooperatives, as the case may be, are not substantial, and their decision as to whether any changes are or are not substantial shall be final.

- (c) by deleting the introductory section of subclause (10) and substituting therefore the following new subclause—

(10) If the Commissioner or county commissioner for cooperatives, as the case may be, is satisfied within such time as they considers reasonable that the provisions of the secondary resolution and the provisions of this section have been complied with, they may, register the Cooperatives into which the existing Cooperative has been divided and the by-laws of such Cooperative and thereupon.

- (d) in subclause (11) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “the Commissioner”.

CLAUSE 69

THAT clause 69 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the following new subclauses—

(1) A Cooperative which has as one of its objects the disposal of any member's produce may enter into a contract with its members, either in its by-laws or by a separate document binding a member to dispose of all their produce, or such amounts or descriptions of the same as may be stated therein, to or through the Cooperative.

...../Notice of Amendments

(1A) The contract under subsection (1) may –

- (a) bind the member to produce the quantities of the member's produce therein specified, or
- (b) provide for payment of a specific sum per unit of weight or other measure as liquidated damages for any breach of the contract.

(1B) Any sum payable under subsection (1A) (b) shall be a debt due to the Cooperative and shall be a charge upon the immovable property of the member subject to registration of the charge under the relevant law.

(b) by inserting the following paragraph immediately after paragraph (4)—

(5) It shall be the duty of every person applying for membership of a registered Cooperative to disclose to the Cooperative particulars of all such contracts as are mentioned in this section.

CLAUSE 70

THAT clause 70 of the Bill be amended—

(a) in subclause (1) by deleting the words “but no such fine shall be imposed upon any member until written notice of intention to impose the fine and the reason therefore has been served on the member and the member has had an opportunity of showing cause why the fine should not be imposed and, if the member so desires, of being heard with or without witnesses.” appearing immediately after the words “its by-laws,”

(b) by inserting the following new subclause immediately after subclause (1)—

(1A) A fine shall not be imposed upon any member until written notice of intention to impose the fine and the reason therefore has been served on the member and the member has had an opportunity of showing cause why the fine should not be imposed and, if the member so desires, of being heard with or without witnesses.

(c) in subclause (2) by deleting the words “Any such fine” appearing at the beginning of the clause and substituting therefor “A fine under this section”

(d) in subclause (4) by deleting the words “subsection (5)” appearing immediately after the words “in accordance with” and substituting therefor “section 69 (5)”

(e) by deleting subclause (5).

CLAUSE 73

THAT clause 73 of the Bill be amended—

(a) by inserting the following new subclause immediately after subclause (1)—

...../Notice of Amendments

(1A) A Commissioner or a county commissioner for cooperatives as the case may be, shall issue written notice to an employer who fails to remit the sum owing to a cooperative under subsection (1) within seven days of receipt of a notification by a cooperative.

- (b) in subclause (2) by inserting the words “or county commissioner for cooperatives as the case may be” immediately after the word “Commissioner”.
- (c) by deleting subclause (3).
- (d) by deleting subclause (4).
- (e) by deleting subclause (5).
- (f) by deleting subclause (6) and substituting therefor the following new subclause—

(6) The Commissioner or county commissioner for cooperatives as the case may be, shall, by written notice, appoint a person or institution to be an agent of the Cooperative for the purposes of collection and recovery of a debt owed to the Cooperative by an employer that has not complied with the notice issued under subsection (2).

- (g) in subclause (8) by deleting the phrase “subsection (3)” appearing immediately after the words “under subsection” and substituting therefor the phrase “subsection (2)”.
- (h) by deleting subclause (8) and substituting therefor the following new subclause—

(8) Where an agent claims to be unable to comply with subsection (7) by reason of lack of monies held by or due from the agent, the agent shall give a written notification to the Commissioner or county commissioner for cooperatives as the case may be, stating the reasons for the agent’s inability and they may—

- (a) accept the notification and cancel or amend the notice accordingly; or
 - (b) if not satisfied with the reasons, reject the notification in writing.
- (i) in subclause (9) by deleting the words “Where an agent fails to notify the Commissioner or the notification is rejected,” appearing at the beginning of the subclause and substituting therefor the words “Where the agent rejects the notice under subsection (6) or fails to notify the Commissioner or county commissioner for cooperatives, as the case may be, under subsection (8)”;
- (j) by deleting subclause (12) and substituting therefor the following new subclause—

(12) Failure to comply with this section shall constitute an offence by the employer despite the employer facing prosecution under any other written law.

CLAUSE 75

THAT clause 75 of the Bill be amended in subclause (5) by inserting the words “or the county commissioner for cooperatives, as the case may be,” immediately after the words “the Commissioner”

CLAUSE 79

THAT clause 79 of the Bill be amended by deleting the phrase “section 79” appearing immediately after the word “proved under section” and substituting therefor the phrase “section 78”.

CLAUSE 81

THAT clause 81 of the Bill be amended—

- (a) by re-numbering the existing provision as subclause (1)
- (b) by inserting the following new subclauses immediately after the re-numbered subclause (1)—

(2) An employee or a member of the board of directors of a cooperative shall not act as a guarantor of any person with respect to a loan or credit facility advanced to a person by that cooperative.

(3) Despite the provisions of subsection (1), a Cooperative may grant loans or credit facility to an employee or a member of its board of directors which amounts in the aggregate do not exceed ten percent of its gross loan portfolio.

(4) The conditions for the grant of a loan or credit facility to an employee or a member of the board of directors shall comply with all requirements under this Act with respect to grant of loans to other members of the cooperative and shall not be made on terms more favourable than those extended to members of the cooperative.

(5) An employee or a member of the board of directors who has applied for a loan or credit facility under subsection (3) shall not be present while their application is being considered.

(6) The Board of Directors of a Cooperative shall on or before the fifteenth of each month submit to the Commissioner or the county commissioner for cooperatives, as the case may be, the prescribed insider lending and loan performance report made by the cooperative.

(7) Where the Commissioner or county commissioner for cooperatives establishes that an employee of the cooperative failed to comply with the provisions of this section, the Commissioner or county commissioner for cooperatives, may direct that the employee repay the loan amount under this section to the cooperative together with interest at such rate as the Commissioner or county commissioner for cooperatives deems fit.

(8) In addition to the provision under subsection (7), the Commissioner or the county commissioner for cooperatives, may direct the removal of such employee from the service of the cooperative.

(9) This section shall apply despite the act or default by the employee constituting an offence under any other law for which the employee has been prosecuted or is likely to be prosecuted.

CLAUSE 82

THAT the Bill be amended by deleting clause 82 and substituting therefor the following new clause—

Restriction
on
borrowing.

82. (1) Subject to the approval of two thirds of its members at a general meeting, a Cooperative may receive loans of up to thirty percent of its equity from persons who are not members of the cooperative.

(2) The resolution of the Cooperative in subsection (1) shall be submitted to the Commissioner or the county commissioner for cooperatives, as the case may be.

(3) In this section a deposit of money under a hire-purchase agreement shall be deemed to be a loan.

CLAUSE 83

THAT clause 83 of the Bill be amended —

(a) in the introductory phrase by inserting the words “of two thirds of its members” immediately after the words “to the approval of”;

(b) by inserting the following new paragraph immediately after paragraph (e)—

(ea) in real estate, provided the Cooperative shall not invest in a real estate investment which is not for its own accommodation more than twenty-five percentum of its share capital or hold more than twenty-five percentum of equity in the real estate investment;

(c) by re-numbering the existing provision as subclause (1) and inserting the following new subclause immediately after the re-numbered sub clause (1)—

(2) The limitation on investment in real estate shall not apply to a housing cooperative.

CLAUSE 84

THAT the Bill be amended by deleting clause 84 and substituting therefor the following new clause—

Investment in
non-core
activities

84. (1) A Cooperative shall not invest more than twenty-five percentum of its funds or members' deposits in non-core activities;

(2) A Cooperative shall not invest in a real estate investment which is not for its own accommodation more than twenty-five percentum of its share or hold more than twenty-five percentum of equity in the real estate investment.

(3) The limitation on investment in real estate shall not apply to a housing cooperative.

CLAUSE 85

THAT clause 85 of the Bill be amended in subclause 1—

- (i) paragraph (a), by deleting the words “of members” appearing immediately after the words “a special resolution” and substituting therefor the words “is passed by two thirds of the members of the cooperative”
- (ii) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “by the Commissioner” appearing in paragraph (b)

CLAUSE 87

THAT clause 87 of the Bill be amended-

(a) by deleting subclause (2) and substituting therefor the following new subclause—

(2) The members of the cooperative shall upon recommendation by the board of directors, and upon consideration of the liabilities of the cooperative for that year, determine the percentage of the net surplus in each year to be deposited in to the reserve fund.

(a) by inserting the following new subclause immediately after subclause (2)-

(2A) Despite subsection (2), the sum of the reserve fund shall not exceed one point zero five times the liabilities of the Cooperative as at the time of the general meeting.

CLAUSE 91

THAT clause 91 of the Bill be amended—

- (a) in subclause (1) by inserting the words—
 - (i) “or county commissioner for cooperatives, as the case may be” immediately after the words “with the Commissioner” appearing in the introductory phrase;
 - (ii) “or county commissioner for cooperatives, as the case may be” immediately after the words “to the Commissioner” appearing in paragraph (b)
- (b) in subclause (2) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “to the Commissioner”

CLAUSE 92

THAT clause 92 of the Bill be amended –

- (a) in subclause (1) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “The Commissioner” appearing in the introductory phrase;
- (b) by inserting the following new subclause immediately after subclause (1)—
 - (1A) A county commissioner for cooperatives shall submit a copy of their respective register to the Commissioner every quarter.
- (c) in subclause (2) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “The Commissioner”
- (d) in subclause (4) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “The Commissioner”

CLAUSE 93

THAT clause 93 of the Bill be amended by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “The Commissioner”

CLAUSE 94

THAT clause 94 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) If any person obtains an order for the appointment of receiver or manager of the property of a Cooperative, or if the High Court appoints such a receiver or manager pursuant to a petition made by the Commissioner or county commissioner for cooperatives pursuant to the provisions of this Act, they shall, within seven days from the date of the order of the appointment under the said powers, give written notice of the fact to the Commissioner or county commissioner for cooperatives, as the case may be, and the Commissioner or county commissioner for cooperatives, shall enter the notice in the register of charges.

- (b) in subclause (2) by deleting the words “he shall, on so ceasing, give written notice of the fact to the Commissioner and the Commissioner” and substituting therefor the words “they shall, on so ceasing, give written notice of the fact to the Commissioner or county commissioner for cooperatives, as the case may be, and the High Court and the Commissioner or county commissioner for cooperatives”

CLAUSE 98

THAT clause 98 of the Bill be amended—

- (a) in the marginal note by inserting the following words “county commissioner for cooperatives” immediately after the word “Commissioner”
(b) by deleting subclause (1) and substituting therefor the following new sub clause—

(1) The National Audit Director or the county audit director, as the case may be, may on their own accord, or on request of the Authority or on the application of a liquidator or of any creditor or not less than one-third of the members present and voting at a meeting of the Cooperative which has been duly convened, hold an inquiry or direct any person authorized by them in writing to hold an inquiry, into the by-laws, working and financial conditions of any Cooperative registered in Kenya.

- (c) in subclause (3) –

- (i) by deleting the word “Commissioner” appearing in the introductory phrase and substituting therefor the words “National Audit Director or the county audit director, as the case may be”;
(ii) by deleting paragraph (c) and substituting therefor the following paragraph—

(c) provide a copy of the report to the Commissioner or the relevant county commissioner for cooperatives, as the case may be.

- (d) by deleting the introductory phrase in subclause (4) and substituting therefor the following new introductory phrase—

(4) Where the Commissioner or a county commissioner for cooperatives, as the case may be, is satisfied, after due inquiry, that the board of directors or the supervisory board of a Cooperative is not performing its duties properly, they, may—

(e) by deleting subclause (6) and substituting therefor the following new subclause—

(6) Despite subsection (5), where an officer or member of a Cooperative fails to produce records as required by the National Audit Director or the county audit director, as the case may be, without any reasonable cause, the Commissioner or county commissioner for cooperatives, as the case may be, may suspend or remove such officer from the service of the respective Cooperative or such member from membership of the respective Cooperative.

CLAUSE 99

THAT clause 99 of the Bill be amended-

(a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) Where it is established in an inquiry held under section 98 that any person who has taken part in the organisation or management of a Cooperative, or any past or present officer or member of the Cooperative —

(a) has misapplied, retained or become liable or accountable for any money or property of the Cooperative; or

(b) has committed the offence of misfeasance or breach of trust in relation to the Cooperative, and is liable upon conviction to imprisonment for a term of five years or a fine not exceeding one million shillings or the amount of the value of the property of the offence, whichever is higher, or to both the fine and imprisonment;

the Commissioner or the county commissioner for cooperatives may, if he or she considers it appropriate, make an order requiring the person to repay or restore the money or property or any part thereof to the Cooperative together with interest at such rate as the Commissioner or the county commissioner for cooperatives thinks just or to contribute such sum to the assets of the Cooperative by way of compensation as they deem fit.

(b) by inserting the following new subclause immediately after subclause (1)—

(1A) An order under subsection (1) shall be made within twenty-one days from the day the inquiry ends.

...../Notice of Amendments

CLAUSE 100

THAT clause 100 of the Bill be amended in subclause (1) by deleting the words “under section 100” appearing immediately after the words “of the Commissioner” and substituting therefor the words “or the county commissioner for cooperatives under section 99”.

CLAUSE 101

THAT clause 101 of the Bill be amended—

- (a) in subclause (1) by deleting the words “Subject to section 99,” appearing at the beginning of the subclause.
- (b) in subclause (2) by deleting the words “98, the Commissioner,” appearing immediately after the words “surcharge under section” and substituting therefor “99, the Commissioner or the county commissioner for cooperatives, as the case may be”.

CLAUSE 102

THAT clause 102 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) The Commissioner or the county commissioner for cooperatives, may, if they deem fit, on the application of a creditor of a Cooperative, inspect, or direct some persons authorized by the Commissioner or the county commissioner for cooperatives in writing to inspect, the books of the Cooperative, if—

- (a) the creditor satisfies the Commissioner or the county commissioner for cooperatives that the debt is a sum then due, and has demanded payment thereof and has not received satisfaction within a reasonable time; and
 - (b) the applicant deposits with the Commissioner or county commissioner for cooperatives such sum as security for the expenses of the inspection as the Commissioner or the county commissioner for cooperatives may require.
- (b) in subclause (2) by deleting the word “director” appearing immediately after the words “or the county” and substituting therefor the word “commissioner”
 - (c) in subclause (3)—
 - (i) in paragraph (b) by inserting the words “intercounty primary cooperatives, intercounty secondary cooperatives,” immediately after the words “with respect to”;
 - (ii) in paragraph (c) by deleting the words “director for cooperatives shall apply with respect to primary and secondary” appearing immediately after the words “powers of the” and substituting therefor the words “commissioner for cooperatives shall apply with respect to intracounty primary cooperatives and intracounty secondary”

CLAUSE 103

THAT clause 103 of the Bill is amended—

- (a) by deleting words “inquiry and” appearing in the marginal note;
- (b) by deleting subclause (1) and substituting therefor the following new subclause—
 - (1) Where an inspection is held or made under this Act, the Commissioner or the County Commissioner for Cooperatives as the case may be, may, by a certificate under their hand, make an order apportioning the expenses, or such part of the expenses as the Commissioner or the county commissioner for cooperatives considers proper, between the Cooperative, the members or creditor demanding the inquiry or inspection, and the officers or former officers of the Cooperative and the decision of the Commissioner or the county commissioner for cooperatives thereon shall be final.

CLAUSE 104

THAT clause 104 of the Bill be amended—

- (a) in subclause (1) by deleting the words “sections 98 and 102, the Commissioner or County Director” appearing immediately at the beginning of the subclause and substituting therefor the words “section 102, the Commissioner or County Commissioner”
- (b) by deleting subclause (2) and substituting therefor the following new subclause—
 - (2) The inspection reports prepared pursuant to subsection (1) shall be presented to—
 - (a) a joint meeting of the board of directors and supervisory board of the Cooperative for deliberation and implementation; and
 - (b) the general meeting of the cooperative.

CLAUSE 105

THAT clause 105 of the Bill be amended by—

- (a) deleting subclause (1) and substituting therefor the following new subclause—
 - (1) If the National Audit Director or the County Director of Audit as the case may be, after holding an inquiry under section 98 or receiving an application made by at least three fourths of the members of a Cooperative or receiving recommendations from the Authority are of the opinion that the Cooperative ought to be dissolved, the National Audit Director or the County Director of Audit as the case may be, may, recommend the dissolution of the Cooperative and subsequent cancellation of registration.

- (b) By inserting the following new subclauses immediately after subclause (1) —

...../Notice of Amendments

(1A) Upon receipt of the Report of the National Audit Director or the County Director of Audit the Commissioner or the county commissioner for cooperatives as the case may be may—

- (a) recommend a remedial action that may be undertaken by the cooperative within six months; or
- (b) within one month, file a petition for liquidation of the cooperative with the High Court upon failure by the cooperative to fulfil the requirements prescribed under paragraph (a).

(1B) If the High Court resolves that the cooperative should be liquidated, the High Court shall appoint a liquidator from the pool of authorised liquidators.

(1C) Upon the resolution of the High Court to liquidate the cooperative, the appointed liquidator shall notify the Commissioner or county commissioner for cooperatives of their appointment and commence liquidation of the cooperative in accordance with section 108 and the First Schedule.

- (c) in subclause (2) by deleting the words “Cooperative Tribunal with further appeal to the High Court” appearing at the end of the subclause and substituting therefore the words “High Court with further appeal to the Court of Appeal”
- (d) in subclause (3) by deleting the words “Commissioner unless the High Court directs otherwise,” appearing immediately after the words “decision of the” and substituting therefor the word “High court”
- (e) in subclause (4) by deleting the words “Commissioner makes an order under subsection (1), he” appearing immediately after the words “Where the” and substituting therefor the words “High Court makes an order under subsection (1), the Commissioner or County Commissioner for Cooperatives as the case may be,”
- (f) in subclause (5) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “of the Commissioner”.

CLAUSE 106

THAT clause 106 of the Bill be amended in subclause (1) –

- (a) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “The Commissioner” in the introductory phrase;
- (b) by deleting the word “Director” appearing immediately after the words “or the County” in paragraph (b) and substituting therefor the word “commissioner”

CLAUSE 109

THAT clause 109 be amended in subclause (1) by deleting the word “may” appearing immediately after the words “the Commissioner” and substituting therefor the words “shall petition the High Court to”.

CLAUSE 110

THAT the Bill be amended by deleting clause 110 and substituting therefor the following new clause—

Qualifications
of
liquidator.

110. Subject to section 109, a person shall be qualified to serve as a liquidator if that person has—

- (a) atleast five years’ experience in cooperative management and practice; and
- (b) been prequalified by the Official Receiver as a liquidator for cooperatives.

CLAUSE 111

THAT clause 111 of the Bill be amended—

- (a) in paragraph (l) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “by the Commissioner”
- (b) in paragraph (n) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “of the Commissioner”
- (c) in paragraph (o) by deleting the word “Commissioner” appearing immediately after the words “apply to the” and substituting therefor the word “High Court”

CLAUSE 112

THAT clause 112 of the Bill be amended by inserting the words “or the county commissioner for cooperatives as the case may be” immediately after the words “by the Commissioner” .

CLAUSE 113

THAT clause 113 of the Bill be amended —

- (a) in subclause (1)—
 - (i) by deleting the words “and to any limitations imposed by the Commissioner and the Commissioner” appearing immediately after the words “the Commissioner” in the introductory phrase and substituting therefor the words “or the county commissioner for cooperatives as the case may be and to any limitations imposed by the Commissioner or county commissioner for cooperatives, and the Commissioner or county commissioner for cooperatives”;

- (ii) by deleting paragraph (a);
- (iii) by deleting paragraph (b) and substituting therefor the following new paragraph—
 - (b) apply to the High Court for the replacement of a liquidator;
- (iv) by deleting paragraph (d);
- (v) by inserting the words “or the county commissioner for cooperatives” immediately after the words “the Commissioner” in paragraph (e);
- (vi) by deleting the words “grant a discharge to” appearing in paragraph (h) and substituting therefor the words “apply to the High Court for a discharge of”;
- (vii) by inserting the words “or county commissioner for cooperatives as the case may be” immediately after the words “as the Commissioner” appearing in paragraph (i).

(b) in subclause (2) by deleting the words “and shall be exercisable similar to an order made by the Commissioner under subsection (1)(a)” appearing at the end of the subclause.

CLAUSE 114

THAT clause 114 of the Bill be amended by inserting the words “county commissioner for cooperatives,” immediately after the words “of the Commissioner”

CLAUSE 116

THAT clause 116 of the Bill be amended—

- (a) in subclause (2) by inserting the words “or county commissioner for cooperatives as the case may be” immediately after the words “to the Commissioner”
- (b) in subclause (3) by deleting the words “the Commissioner shall take such action as the Commissioner considers” appearing immediately after the words “with subsection (2)” and substituting therefor the words “the Commissioner or county commissioner for cooperatives, as the case may be shall take such action as the Commissioner or county commissioner for cooperatives, consider”

CLAUSE 118

THAT clause 118 of the Bill be amended in subclause (2) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “person, the Commissioner”

CLAUSE 121

THAT clause 121 of the Bill be amended—

- (a) by deleting the introductory phrase in subclause (2) and substituting therefor the following introductory phrase—

...../Notice of Amendments

(2) The Commissioner or county commissioner for cooperatives, as the case may be, may apply to the Tribunal for an order under subsection (3) if they believe that such a transaction-

(b) in subclause (3)—

- (i) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “by the Commissioner” appearing in the introductory phrase;
- (ii) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “to the Commissioner” appearing in paragraph (c);
- (iii) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “to the Commissioner” appearing in paragraph (d).

CLAUSE 123

THAT clause 123 (2) of the Bill be amended by –

- (a) deleting paragraph (b) and substituting therefor the following new paragraph—
 - (b) a deputy chairperson;
- (b) by deleting the word “six” appearing immediately after the words “less than” in paragraph (c) and substituting therefor the word “seven”.

CLAUSE 124

THAT clause 124 of the Bill be amended—

- (a) by inserting the following new subclause immediately after subclause (1)—
 - (1A) The Chairperson of the Tribunal shall be an advocate of the High Court of Kenya of not less than seven years standing.
- (b) in subclause (2) by deleting the words “appointed by the Judicial Service Commission from a list of persons nominated for such appointment by the Cabinet Secretary” appearing at the end of the subclause and substituting therefor the words “competitively recruited by the Judicial Service Commission.”
- (c) in subclause (3)—
 - (i) in paragraph (a) by inserting the words “finance or dispute resolution” immediately after the words “law or practice”
 - (ii) in paragraph (b) by inserting the words “or relevant professional body” immediately after the words “cooperative professionals”

CLAUSE 125

THAT clause 125 of the Bill be amended in subclause (2)(a) by deleting the word “three” appearing immediately after the words “a term of” and substituting therefor the word “five”.

CLAUSE 127

THAT clause 127 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (c)—

(d) dies; or

(e) resigns in writing to the Judicial Service Commission.

CLAUSE 128

THAT clause 128 of the Bill be amended—

(a) in subclause (1) –

(i) by inserting the words “or county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner” in paragraph (a);

(ii) by inserting the words “or county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner” in paragraph (b);

(iii) by deleting paragraph (c); and

(iv) by deleting paragraph (d).

(b) in subclause (2) by—

(i) deleting the word “Director” appearing immediately after the words “Commissioner or county” in paragraph (c) and substituting therefor the word “Commissioner”;

(ii) deleting the word “Director” appearing immediately after the words “Commissioner or the county” in paragraph (e) and substituting therefor the word “Commissioner”

(c) by inserting the following new subclause immediately after subclause (2)—

(3) The Tribunal shall determine a dispute referred to it under this section within six months of the date of filing of the dispute.

CLAUSE 130

THAT clause 130 of the Bill be amended in subclause (2) by deleting the word “Director” appearing immediately after the words “the Commissioner, County” and substituting therefor the word “Commissioner”

CLAUSE 131

THAT clause 131 of the Bill be amended by inserting the following new subclause immediately after subclause (2) –

(2A) The Tribunal shall cause the orders and judgements issued under this section to be published on its website.

CLAUSE 146

THAT clause 146 of the Bill be amended in subclause (2) by deleting the word “Commissioner” appearing at the beginning of the clause and substituting therefor the words “Cabinet Secretary, in consultation with inter-governmental cooperatives relations technical forum”

CLAUSE 148

THAT clause 148 of the Bill be amended –

- (a) In clause (1) by deleting the introductory phrase and substituting therefor the following new introductory phrase—

(1) Subject to the provisions of this Act and any other written law, the intercounty primary, the intercounty secondary, the Apex Cooperative or the Cooperative federations may, with approval of the Commissioner, develop and implement –

- (b) by inserting the following subclause immediately after subclause (1)—

(1A) Subject to the provisions of this Act and any other written law, the intracounty primary or the intracounty secondary, with approval of the respective county commissioner for cooperatives, may develop and implement –

- (a) a procedure and appropriate system or mechanism of exercising self-regulation over its members or affiliates;
- (b) a code of conduct for its members;
- (c) procedure for alternative dispute resolution in Cooperatives;
- (d) mechanism for sector shared common services; and
- (e) guidelines on provision of services through virtual platforms.

CLAUSE 150

THAT clause 150 of the Bill be amended—

- (a) in subclause (2) by deleting the word “Director” appearing immediately after the words “the Commissioner, county” in paragraph (c) and substituting therefor the word “Commissioner”
- (b) in subclause (3) by deleting the word “Director” appearing immediately after the words “The Commissioner, county” in the introductory phrase and substituting therefor the word “Commissioner”

- (c) in subclause (4) by deleting the words “the Authority as the case may be, the Apex Cooperative or a Cooperative federation or a secondary Cooperative” appearing immediately after the words “by the Commissioner” and substituting therefor the words “the county commissioner for cooperatives or the Authority as the case may be, the primary, the secondary, the Cooperative federation or the Apex cooperative”

CLAUSE 152

THAT clause 152 of the Bill be amended—

- (a) in subclause (3) by deleting the words “and shall, if the offence is the contravention of subsection (1) of this section, be ordered to repay the amount of the remuneration, salary, commission or other payment received from the Cooperative in addition to or in lieu of any other punishment, and default in such payment shall be dealt with in the same manner as default in paying a fine imposed by a Tribunal” appearing immediately after the words “and such imprisonment”;

- (b) by inserting the following new subclause immediately after subclause (3)—

(3A) If the offence in subsection (3) is in contravention of subsection (1), the person shall be ordered to repay the amount of the remuneration, salary, commission or other payment received from the Cooperative in addition to or in lieu of any other punishment, and default in such payment shall be dealt with in the same manner as default in paying a fine imposed by a Tribunal.

CLAUSE 153

THAT the Bill be amended by deleting clause 153 and substituting therefor the following new clause—

Establishment
of the National
Co-operative
Development
Fund.

153. (1) There is established the National Co-operative Development Fund.

(2) The National Co-operative Development Fund shall consist of –

- (a) sum of money received from the levy paid by intercounty primary cooperatives, intercounty secondary cooperatives, the federative cooperatives and the Apex cooperative in the sums and rate as the Cabinet Secretary may prescribe; and

- (b) such gifts, donations or grants as may be donated to the Fund.

CLAUSE 154

THAT clause 154 (2) of the Bill be amended—

- (a) by inserting the following paragraph immediately after paragraph (a)—
 - (aA) subject to consultations with the council of county governors prescribe the certificate of registration to be issued by the Commissioner or the county commissioner for cooperatives;
- (b) by deleting paragraph (g);
- (c) by inserting the following paragraph immediately after paragraph (h)—
 - (ha) provide for the guidelines for the implementation of electronic voting in both annual general meetings and special general meetings of cooperatives.
- (d) in paragraph (m) by inserting the words “intercountry primary, intercounty secondary” immediately after the words “compliance certificate to”
- (e) in paragraph (n) by deleting the words “primary and secondary cooperatives by the county director” appearing immediately after the words “compliance certificate to” and substituting therefor the words “intracounty primary cooperatives, and intracounty secondary cooperatives by the county commissioner”
- (f) in paragraph (q) by deleting the word “director” appearing immediately after the words “Commissioner and county” and substituting therefor the word “commissioner”
- (g) in paragraph (v) by deleting the words “Executive Committee Members, with a copy to” appearing immediately after the words “Cooperative to the County” and substituting therefor the words “Director of county cooperatives or”
- (h) in paragraph (w) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “by the Commissioner”;
- (i) by inserting the following new paragraph immediately after paragraph (ll)—
 - (lla)gazette the standard certificate and a common seal for the Commissioner or county commissioner for cooperatives as the case may be”;

CLAUSE 156

THAT clause 156 of the Bill be amended in subclause (2) by deleting the words “Director for Cooperatives as to the exercise of the powers and duties conferred upon the County Director” appearing immediately after the words “direct the county” and substituting therefor the words “commissioner for Cooperatives as to the exercise of the powers and duties conferred upon the county commissioner”

...../Notice of Amendments

CLAUSE 157

THAT clause 157 of the Bill be amended—

(a) in subclause (1)—

- (i) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “Act the Commissioner” in the introductory phrase;
- (ii) by deleting the words “the Commissioner” appearing immediately after the words “to send to” in paragraph (b) and substituting therefor the word “them”;

(b) in subclause (2) by deleting the words “may in writing delegate any of his powers conferred upon him to an” appearing immediately after the words “The Commissioner” and substituting therefor the words “or county commissioner for cooperatives as the case may be, may delegate in writing any of the powers conferred upon them to a relevant”;

CLAUSE 158

THAT the Bill be amended by deleting clause 158.

CLAUSE 159

THAT clause 159 of the Bill be amended in subclause (1) (c) by deleting the words “Director for Cooperatives, or any person duly authorized in that behalf, by the Commissioner or the County Director” appearing immediately after the words “Commissioner or the County” and substituting therefor the words “commissioner for Cooperatives, or any person duly authorized by the Commissioner or the County commissioner”

CLAUSE 162

THAT clause 162 of the Bill be amended in subclause (4) by deleting the word “director” appearing immediately after the words “or the county” and substituting therefor the word “commissioner”.

CLAUSE 163

THAT clause 163 of the Bill be amended by deleting the word “a” appearing immediately after the words “whichever is earlier” in paragraph (b) and substituting therefor the word “and”;

CLAUSE 164

THAT clause 164 be amended –

- (a) in paragraph (a) by inserting the words “provided they meet the qualifications for appointment under this Act” immediately after the words “purposes of this Act”;

(b) by deleting paragraph (b) and substituting therefor the following new paragraph –

(b) the person appointed by a County Public Service Board to serve within a county as the County Director for Cooperatives or as the technical head of Cooperative affairs within the county or by any other name called, shall be deemed to be the county commissioner for cooperatives for purposes of this Act.

(c) by inserting the following new paragraph immediately after paragraph (b)—

(c) the technical officers appointed to serve in the office of the Commissioner for Cooperative Development and County Director for cooperatives or the office of the technical head of cooperative affairs within the county or by any other name called shall be deemed to be technical officers in the office or the Commissioner or the County Commissioner for cooperatives for purposes of this Act and will be required to comply with the necessary academic qualification within three years.

CLAUSE 165

THAT clause 165 be amended by deleting the words “primary and secondary” immediately after the words “in respect of” and substituting therefor the words “intercounty primary and intercounty secondary”

FIRST SCHEDULE

THAT the First Schedule of the Bill be amended—

(a) in paragraph 3 by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner”

(b) in paragraph 6 by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner”

(c) in paragraph 7 (6) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner”

(d) in paragraph 8 (1) by deleting the words “be punished accordingly (in addition to any other punishment to which the person may be subject)” immediately after the words “is liable to” and substituting therefor the words “a fine not exceeding two hundred thousand shillings or to imprisonment in civil jail for a term not exceeding six months, or to both.”

(e) in paragraph 9 (1) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner”

(f) in paragraph 11—

- (i) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner” appearing in subparagraph (1)
- (ii) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner” appearing in subparagraph (2)
- (g) in paragraph 12 –
 - (i) by deleting the words inserting the words “This paragraph does not limit the effect of paragraph 4” immediately after the words “surrender or payment” appearing in subparagraph (5)
 - (ii) by deleting subparagraph (6)
- (h) in paragraph 26 (1) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner”
- (i) in paragraph 29 (1) (b) by deleting the words “of any” appearing immediately after the words “before any”

THIRD SCHEDULE

THAT the Third Schedule of the Bill be amended—

- (a) in paragraph 8 (2) “(directly or indirectly) in a business of the Cooperative with the knowledge that it was being carried on in the manner referred to in subparagraph (1)(a), it may order those persons (or any of them)” and substituting therefor the words “directly or indirectly in a business of the Cooperative with the knowledge that it was being carried on in the manner referred to in subparagraph (1)(a), it may order those persons either jointly or severally”;
- (b) in paragraph 13—
 - (i) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner” appearing in subparagraph (2);
 - (ii) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner” appearing in subparagraph (3);
 - (iii) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner” appearing in the introductory clause of subparagraph (4);
 - (iv) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner” appearing in subparagraph (4)(b); and
 - (v) by inserting the words “county commissioner for cooperatives as the case may be” immediately after the words “the Commissioner” appearing in subparagraph (5).

CLAUSE 2

THAT clause 2 of the Bill be amended—

- (a) in the definition of the word “agricultural produce” by deleting the word “agricultural” appearing at the beginning of the definition and substituting therefor the word “members”;
- (b) by deleting the definition of the word “annual delegates meeting”;
- (c) in the definition of the word “Commissioner” by deleting the phrase “section 5” appearing immediately after the words “under” and substituting therefor the phrase “section 8”
- (d) by deleting the definition of the word “County Director for Cooperatives” and substituting therefor the following new definition—

“County Commissioner for Cooperatives” means the County Commissioner for Cooperatives appointed under section 11;
- (e) by deleting the definition of the word “primary Cooperative”;
- (f) by deleting the definition of the word “secondary Cooperative”;
- (g) by deleting the definition of the word “special delegate meeting”;
- (h) by inserting the following new definitions in their proper alphabetical sequence—

“diaspora-based member” means a member who is a Kenyan citizen but is not resident in Kenya;

“intracounty primary cooperative” means a cooperative formed by individual persons and located in one county for purposes of promoting members’ common socio-economic needs and aspirations;

“intercounty primary cooperative” means a primary cooperative formed for the purposes of promoting members’ common socio-economic needs and aspirations which —

- (a) was initially registered as an intracounty primary cooperative; and
- (b) has additional membership of at least five hundred individual persons per county from more than two counties that are not the original county of registration of the intracounty primary cooperative;

“intracounty secondary cooperative” means a cooperative whose membership is of five or more intracounty primary cooperatives;

“intercounty secondary cooperative” means a cooperative whose membership is of five or more intercounty primary cooperatives;

“levy” means the payment made by cooperatives under section 153;

“reserve fund” means assets set aside from net surplus of a cooperative for investment in fixed assets and liquid assets, shares, supporting working capital and settlement of liabilities;

“subsidiary” means any company that is wholly or partially owned by a cooperative;

LONG TITLE

THAT the Bill be amended by deleting the long title and substituting therefor the following new long title—

AN ACT of Parliament to provide for the registration, management, promotion and regulation of Cooperatives; and for connected purposes.

D. *THE LABOUR MIGRATION AND MANAGEMENT (NO.2) BILL (SENATE BILLS NO. 42 OF 2024)

(Sen. Tabitha Mutinda, MP)

NOTICE is given that the Chairperson, Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Labour Migration and Management (No. 2) Bill (Senate Bills No. 42 of 2024), at the Committee Stage—

CLAUSE 18

THAT clause 18 of the Bill be amended in subclause (1) by—

(a) deleting (d) and substituting therefor the following new paragraph —

(d) market viability;

(b) deleting paragraph (e).

CLAUSE 19

THAT clause 19 of the Bill be amended in subclause (2) by—

(a) deleting the word “and” appearing immediately after the words “certificate of registration in paragraph (a);”

(b) inserting the following new paragraph immediately after paragraph (a)—

(aa) in the name of the private employment agency and shall not be transferable to any other person or entity.

CLAUSE 20

THAT clause 20 of the Bill be amended by inserting the following new subclause immediately after subclause (3)—

(4) A person who provides false or misleading information in relation to the matters specified in subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

CLAUSE 26

THAT clause 26 of the Bill be amended by deleting the word “may” appearing immediately after the words “The Authority” and substituting therefor the word “shall”.

CLAUSE 43

THAT clause 43 of the Bill be amended in subclause (1) by deleting the word “may” appearing immediately after the words “national government” and substituting therefor the word “shall”.

...../Notice of Amendments

CLAUSE 49

THAT clause 49 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (o) —

(oa) reintegration services and programs including recognition of skills and qualifications acquired abroad.

...../Notice of Amendments

E. *THE TOBACCO CONTROL (AMENDMENT) BILL (SENATE BILLS NO. 35 OF 2024)

(Sen. Catherine Mumma, MP)

A. NOTICE is given that the Chairperson of the Standing Committee on Health intends to move the following amendments to the Tobacco Control (Amendment) Bill (Senate Bills No. 35 of 2024), at the Committee Stage –

CLAUSE 4

THAT the Bill be amended by deleting clause 4 and substituting therefor the following –

Amendment 4. Section 7 of the principal Act is amended –
to section 7
of Cap 245A

- a) in subsection (2) by deleting the word “cigarette” appearing immediately after the words “by any licensed” in paragraph (f) and inserting the words “tobacco product”; and
- b) in subsection (4) by inserting the following new paragraph immediately after paragraph (a) –
 - (aa) treatment of chronic illnesses caused by the use of tobacco products.

CLAUSE 6

THAT the Bill be amended by deleting clause 6 and substituting therefor the following –

Amendment 6. Section 12 of the Principal Act be amended by inserting the following new paragraph immediately after paragraph (b) –
of section 12 of Cap
245A

- (bb) undertake periodical review and adjustment of tax rates to ensure they reflect current public health objectives and inflation.

CLAUSE 7

THAT clause 7 of the Bill be amended—

- (a) in the proposed section 14A by deleting the words “a disposable” appearing immediately after the words “ten milliliters, in” in paragraph (a) and substituting therefor the word “an”.

- (b) in the proposed section 14E by –

- (i) deleting the proposed subsection (2) and substituting therefor the following –
 - (2) The Cabinet Secretary shall cause the samples submitted to be tested by the Kenya Bureau of Standards —

...../Notice of Amendments

- (a) for conformity with the requirements under the Act; and
 - (b) to confirm the accuracy of the information submitted in the request for approval.
- (ii) deleting the proposed subsection (3).

NEW CLAUSES

CLAUSE 2A

THAT the Bill be amended by inserting the following new clause immediately after clause 2 –

Amendment of section 4 of Cap 245A 2A. Section 4 of the principal Act is amended by inserting the following new paragraph immediately after paragraph (e) —

(f) prohibit the manufacture, sale, distribution, or importation of a tobacco product that does not comply with the provisions of this Act.

CLAUSE 5A

THAT the Bill be amended by inserting the following new clause immediately after clause 5 –

Amendment of section 9 of Cap 245A 5A. Section 9 of the principal Act is amended in subsection (5) by deleting the words “local authority” appearing immediately before the words “in collaboration” and substituting therefor the words “county government”.

CLAUSE 16A

THAT the Bill be amended by inserting the following new clause immediately after clause 16 –

Amendment of section 36 of Cap 245A 16A. Section 36 of the principal Act is amended—

- (a) in subsection (1) by deleting the words “Director of Medical Services” appearing immediately after the word “the” and substituting therefor the words “Director-General for health”.
- (b) in subsection (2) by deleting the words “Director of Medical Services” appearing immediately after the word “the” and substituting therefor the words “Director-General for health”.

CLAUSE 2

THAT clause 2 of the Bill be amended –

...../Notice of Amendments

- (a) in paragraph (c) by deleting the definition of the word “nicotine pouch” and substituting therefor the following –

“nicotine pouch” means a prefilled packet containing powdered nicotine intended for oral use.

B.NOTICE is given that Sen. Catherine Mumma, MP, intends to move the following amendments to the Tobacco Control (Amendment) Bill, 2024 (Senate Bills No. 35 of 2024), at the Committee Stage—

CLAUSE 7

THAT clause 7 of the Bill be amended –

- (a) in the proposed section 14A –

- (i) by renumbering the existing section as sub-section 14A (1); and
- (ii) inserting the following new sub section immediately after the proposed subsection 14A (1) —

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

- (b) in the proposed section 14B by inserting the following provision immediately after the proposed subsection 14B (1) —

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

- (c) in the proposed section 14D by inserting a new paragraph (g) immediately after paragraph (f) as follows –

(g) such other information as may be prescribed by the Cabinet Secretary.

- (d) in the proposed section 14J by deleting the introductory clause and substituting therefor the following –

A person shall not manufacture, sell, distribute, or import a tobacco product that contains an additive that —

CLAUSE 10

THAT clause 10 of the Bill is amended in the proposed section 19A (1) by deleting the word “online” and substituting therefor the words “through an online platform or any form of e-commerce.”

CLAUSE 11

THAT clause 11 of the Bill be amended by deleting the proposed section 20B.

CLAUSE 14

THAT clause 14 of the Bill be amended by deleting the words “whether online or offline”

CLAUSE 17

THAT clause 17 of the Bill be amended –

- (a) in paragraph (a) by deleting the words “Council of County Governors” and substituting therefor the words “County Governments”
- (b) in the proposed subsection (1A) by inserting a new paragraph (g) immediately after paragraph (f) as follows –
 - (g) prescribe health messages to be displayed on every package containing a tobacco product.

NEW CLAUSES

CLAUSE 3A

THAT section 5 of the Principal Act be amended by deleting section 5 and substituting therefor the following sections –

Establishment of the Tobacco Control Advisory Committee

5. There is established the Tobacco Control Advisory Committee.

Membership of the Committee

5A. (1) The committee shall comprise of –

- (a) a chairperson appointed by the Cabinet Secretary;
- (b) the Principal Secretary responsible for matters relating to public health or a designated representative;
- (c) the Principal Secretary for the National Treasury or a designated representative;
- (d) the Principal Secretary responsible for matters relating to crop production the Director-General for health or a designated representative;
- (e) three persons nominated by the Council of County Governors as follows–
- (f) the chairperson of the Council of County Governors health committee; and
- (g) two additional persons with relevant competence.
- (h) one person with special expertise on matters relating to tobacco, appointed by cabinet secretary;
- (i) one person nominated by the Kenya Medical Association;
- (j) one person representing non-governmental organizations involved in matters relating to tobacco control; and
- (k) the chief executive officer of Kenya National Youth Council or a designated representative.

(2) The members of the Committee, other than ex-officio members, shall be appointed by the Cabinet Secretary, by notice in the Gazette.

Disqualification from the position of a member of the Committee. **5B.** (1) A person shall not be appointed as a member of the Committee if that person—

- (a) is an employee, agent, or representative of a person, company, or association engaged in the manufacture, sale, or distribution of tobacco or tobacco products; or
- (b) has any direct or indirect pecuniary interest in the tobacco industry; or
- (c) has contravened the Conflict-of-Interest Act.

(2) A member who fails to disclose his or her affiliation to the tobacco industry or its subsidiary commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a period not exceeding five years or both.

Qualifications of a chairperson of the Committee **5C.** A person is qualified for appointment as the Chairperson of the Committee, if the person has at least ten years of experience in public health, five of which shall be at a senior management level.

The office tenure of the chairperson and members of the committee **5D.** (1) The Chairperson shall hold office for a term of three years and shall be eligible for re-appointment for one further term.
(2) The members of the committee appearing in subsection (1)(e) to (j), shall hold office for a term of three years and are eligible for re-appointment for one further term.

Powers of the committee to invite a person to the committee **5E.** The Committee may invite any person, who is not affiliated to the tobacco industry, to attend a meeting of the Committee for the purpose of assisting or advising the committee on any particular matter, but such person shall have no right to vote at the meeting.

Powers of the committee to regulate its own procedures. **5F.** Subject to this Act and to any general or special directions in writing by the Cabinet Secretary, the committee shall regulate its own procedures.

Committee expenses **5G.** The expenses of the Committee shall be defrayed out of monies appropriated by the National Assembly for that purpose.

CLAUSE 6A

THAT section 12 of the Principal Act be amended by deleting section 12 and substituting therefor the following –

- Price and 12. The Cabinet Secretary for the time being in charge of finance shall
Tax —
Policies
- (a) implement—
 - (i) tax measures on unprocessed tobacco and tobacco products to contribute to the objectives of this Act;
 - (ii) periodic review and adjustment of tax rates to ensure they reflect current public health objectives and inflation
 - (b) apply adjustment for inflation for tobacco products that have specific tax rates;
 - (c) prohibit sale of or importation of tax-free tobacco and tobacco products;
 - (d) allocate a portion of tobacco and tobacco products tax revenues for the prevention and control of non-communicable diseases;
 - (e) implement measures to prevent illicit trade in tobacco and tobacco products; and
 - (f) exclude manufacture, repackaging, processing or importation of tobacco and tobacco products from duty-free zones.

CLAUSE 7A

THAT section 14 of the Principal Act be amended in sub-section (2) by inserting the word “product” immediately after the word “tobacco”.

CLAUSE 8A

THAT section 15 of the Principal Act is amended by inserting the following new subsection immediately after subsection (5) –

Amendment (5A). A person shall not sell a tobacco product within a radius of
of section one hundred metres from any place primarily serving persons
15 of Cap under the age of eighteen years.
245A

CLAUSE 8B

THAT section 16 of the Principal Act is amended in –

- (a) subsection (2) by —
 - (i) deleting the expression “12” by “8” appearing in paragraph (a) and substituting therefor the expression “20” by “12”;

- (ii) deleting the words “black on a white background or white on a black background” appearing in paragraph (b) and substituting therefor the words “red on a white background”.
- (b) subsection (3) by deleting the words “fifty thousand shillings, or to imprisonment for a term not exceeding six months” and substituting therefor the words “five hundred thousand shillings, or to imprisonment for a term not exceeding one year.”

CLAUSE 12A

THAT section 21 of the Principal Act is amended—

- (a) in subsection (2) by deleting subsection (2) and substituting therefor the following new subsections –

(2) Every package containing a tobacco product shall —

- (a) bear a health warning in English and Kiswahili covering ninety percent of the principal display areas on the front and back of the package;
- (b) have the warning printed in black text on a white background in a manner that contrasts with any other material on the package;
- (c) bear a statement of the harmful constituents of the tobacco product in a conspicuous and prominent format on the right-hand side of the package.

(2A) A person —

- (a) shall not dispense with or modify the requirements specified in subsection (2).
- (b) shall not manufacture, sell, distribute, or import a tobacco product unless it complies with plain packaging requirements prescribed by the Cabinet Secretary.

- (b) In subsection (6) by deleting the words “five hundred thousand shillings” and substituting therefore with the words “one million shillings”

- (c) by inserting the following new sections immediately after section 21 –

Registration of dealers 21A. (1) A person shall not undertake an activity relating to the manufacture, importation, sale, or distribution of a tobacco product unless the person is registered by the Ministry responsible for health.
(2) The Cabinet Secretary may prescribe the conditions and the manner for the registration under this section.
(3) Any registration fee levied under this section shall be payable into the Fund.
(4) A person who contravenes this section commits an offence and is liable on conviction, to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding three years, or to both.

Prohibition of single use plastics. 21B. (1) A person shall not manufacture, sell, distribute, or import a tobacco product, its packaging, or a disposable electronic delivery system that uses single-use plastics. (2) A person who contravenes subsection (1) commits an offence and is liable on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years, or to both.

CLAUSE 16A

THAT section 35 the Principal Act be amended by deleting subsection (2) and substituting therefore the following –

(2) A designated smoking area shall be —

(a) a fully enclosed, separate room, isolated from non-smoking areas, with walls, a ceiling, and a self-closing door sealed to prevent air leakage;

(b) equipped with an independent ventilation system that —

- (i) exhausts air directly to the outside without recirculation;
- (ii) maintains negative air pressure relative to adjacent areas;
- (iii) is certified by a qualified engineer to prevent smoke or aerosol drift to non-smoking areas;
- (iv) inaccessible to non-smokers for any purpose during smoking or ENDS use;
- (v) cleaned and maintained only when no smoking or ENDS use is occurring, with measures to protect workers from residual contaminants;
- (vi) clearly marked with signs in English and Kiswahili indicating it is a designated smoking area and warning of health risks, as prescribed by the Cabinet Secretary.

CLAUSE 17A

THAT the Principal Act be amended by deleting the schedule.

CLAUSE 17B

THAT the Principal Act be amended by inserting the following new section immediately after section 61 –

Consequential amendments **61A.** The principal Act is amended by deleting the word “Board” wherever it appears in the Act and substituting thereof with the word “committee”

CLAUSE 2

THAT the Bill be amended by deleting clause 2 and substituting thereof the following—

Amendment of Cap 245A 2. The Tobacco Control Act, in this Act referred to as “the principal Act”, is amended in section 2 by —
 (a) deleting the definition of the word “cinema”;

...../Notice of Amendments

- (b) deleting the definition of the word “ingredients” and substituting therefor the following new definition—

“ingredients” means the substances added to tobacco products during the manufacturing process or arising from agricultural practices, including—

- (i) tobacco, nicotine and chemicals used in the creation of aerosol or vapour in electronic cigarettes and related products;
- (ii) components and materials used in the manufacture of those components;
- (iii) additives and processing aids;
- (iv) residual substances resulting from agricultural practices, storage and processing; and
- (v) substances that migrate from the packaging material into the product or are otherwise present in the product;

- (c) deleting the definition of the word “information advertising”

- (d) deleting the definition of the word “manager” and substituting therefor the following new definition –

“manager” means “manager” means the owner, occupier, lessee, or a person in-charge or in control of the specified institution, place or premises.

- (e) deleting the definition of the term “specially designated smoking area”

- (f) deleting the definition of the word “smoking” and substituting therefor the following new definition —

“smoking” means inhaling or exhaling the smoke or vapor of any tobacco product or any other substance delivered through electronic means, and includes the holding of, or control over, any ignited or activated tobacco product, device containing an ignited or activated tobacco product, or electronic delivery System or other substances via vaporising;

- (g) deleting the definition of the term “tobacco product” and substituting therefor the following –

“tobacco product” means any product whether composed in whole or in part of —

- (a) tobacco, including tobacco leaves and any extract of thereof;

(b) nicotine from any source, including synthetic nicotine formulations; or

(c) nicotine analogues;

intended for use by smoking, inhalation, chewing, sniffing, vaping or sucking or to be consumed by any other means, and includes cigarette papers, tubes, filters, any electronic delivery systems, and the solutions or liquids intended for use in such devices;

(h) inserting the following new definitions in their proper alphabetical sequence —

“additive” means means a substance, other than tobacco, that is added to a tobacco product, unit pack or container pack during manufacturing process or through agricultural practices;

“Advertisement” means the promotion of a tobacco product by means of its brand characteristics.

“characterising flavour” means a smell or taste other than one of tobacco which —

(a) is clearly noticeable before, during or after consumption of the product; and

(b) results from an additive or a combination of additives, including fruit, spice, herbs, alcohol, candy, menthol or related flavours;

“electronic cigarette” means a product that —

(a) can be used for the consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank (regardless of whether the product is disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges); and

(b) is not a medicinal substance or a medical device as defined in the Pharmacy and Poisons Act (Cap 244);

“electronic nicotine delivery system” means an electronic device, and any associated accessories, components, or parts, that is designed, manufactured, or capable of being used to —

(a) aerosolize, vaporize, or otherwise convert a substance into an inhalable form; and

(b) deliver such aerosol, vapour, or other substance to a person through inhalation,

whether or not the substance contains nicotine, and includes but is not limited to electronic cigarettes, electronic cigars, electronic cigarillos, electronic hookahs, vape pens, vape pods, and similar devices, regardless of their shape, size, or appearance;

“institution of basic education and training” has the meaning assigned to it under the Basic Education Act (Cap 211);

“nicotine pouch” means a prefilled packet containing powdered nicotine;

“tobacco smoke” means—

(a) smoke, fumes, gases, or particulate matter produced by the burning, heating, or combustion of tobacco or any tobacco product; and

(b) aerosol, vapour, or emissions produced by the use of an electronic nicotine delivery system,

and includes any combination thereof, whether visible or invisible, that is released into the air and capable of being inhaled by persons in the vicinity

“unit pack” means the smallest individual packaging in which a tobacco product or related product is, or is intended to be, presented for retail sale.

APPENDIX**1. PAPERS**

- i) Annual Report of the Independent Electoral and Boundaries Commission (IEBC) for financial year ending 30th June, 2025.
- ii) Annual Report and Financial Statement of the National Police Service for the Financial Year 2024/2025
- iii) The National Treasury and Economic Planning Report on all new loans contracted by the Government of Kenya from 1st May, 2025 to 31st August, 2025.

(The Senate Majority Leader)

- iv) Report of the Standing Committee on Health on the County Oversight and Networking engagements to Mandera, Wajir and Marsabit Counties.

(The Chairperson, Standing Committee on Health)

2. NOTICE OF MOTION – REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE COUNTY OVERSIGHT AND NETWORKING ENGAGEMENTS TO MANDERA, WAJIR AND MARSABIT COUNTIES

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health regarding the County Oversight and Networking engagements to Mandera, Wajir and Marsabit Counties, laid on the Table of the Senate on Thursday, 2nd October, 2025.

3. QUESTIONS AND STATEMENTS**a) Requests for Statements pursuant to Standing Order 53 (1)**

- i) The Senator for Nakuru County (Sen. Tabitha Keroche, MP) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the humanitarian and environmental impact of rising waters at Lake Naivasha in Nakuru County.
- ii) The Senator for Nyandarua County (Sen. John Methu, MP) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the death of Mr. Simon Warui while in police custody at the Central Police Station in Mombasa County.

...../Appendix

- iii) The Senator for Kiambu County (Sen. Karungo Thang'wa, MP) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the ongoing revocation of the title deeds and demolitions at Imani Estate/Kangaita farm land in Ruiru, Kiambu County.
- iv) The Senator for Busia County (Sen. Andrew Omtatah, MP) to seek a Statement from the Standing Committee on Roads and Transportation concerning the failure to operationalize trailer park infrastructure in Busia County.
- v) The Senator for Busia County (Sen. Andrew Omtatah, MP) to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the stalled Dairy Parks Programme in Busia County.
- vi) The Senator for Busia County (Sen. Andrew Omtatah, MP) to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the status of operationalization of the Simbachai Cassava Processing Plant in Busia County.
- vii) The Senator for Busia County (Sen. Andrew Omtatah, MP) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the stalled construction and modernization of Busia Stadium.

b) Statements pursuant to Standing Order 56 (1) (b)

- i) The Chairperson, Select Committee on County Public Investments and Special Funds to make a Statement relating to the activities of the Committee for the period, April to July, 2025.
- ii) The Chairperson, Select Committee on Delegated Legislation to make a Statement relating to the activities of the Committee for the period, April to July, 2025.

c) Statement Pursuant to Standing Order 57 (1)

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 7th October, 2025.

NOTICE PAPER

Tentative Business for Tuesday, October 07, 2025

(Published pursuant to Standing Order 43 (1))

It is notified that the Senate Business Committee has approved the following **tentative** business to appear in the Order Paper for Tuesday, 7th October, 2025.

BILLS AT THE SECOND READING STAGE

- i) ***THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILLS NO. 72 OF 2023)
(The Senate Majority Leader)
 - ii) *THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 18 OF 2023)
(Sen. Miraj Abdillahi Abdulrahman, MP)
 - iii) *THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 3 OF 2024)
(Sen. Ledama Olekina, MP and Sen. William Kisang, MP)
-