




*Approved  
SNA  
7/4/26*

**THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT - FIFTH SESSION - 2026**

**DIRECTORATE OF DEPARTMENTAL COMMITTEES  
DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES**

**REPORT ON:**

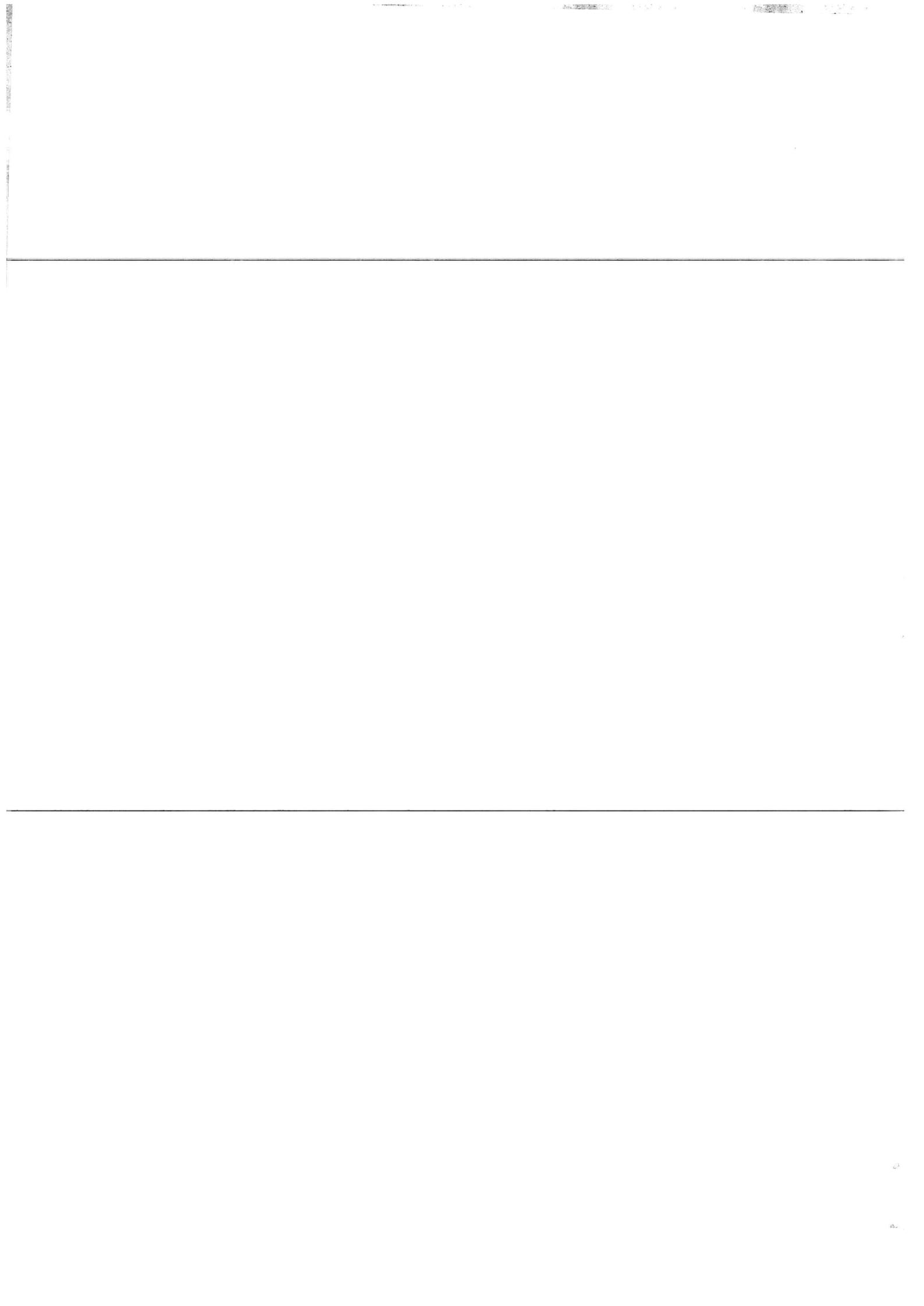
**SENATE AMENDMENTS TO THE COOPERATIVES BILL (NATIONAL ASSEMBLY BILL  
NO. 7 OF 2024)**

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 07 APR 2026	<b>DAY:</b> Tuesday
<b>TABLED BY:</b>	Hon. Bernard Shikuku (Chairperson)
<b>CLERK-AT THE-TABLE:</b>	A. Shikuku

**CLERKS CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI**

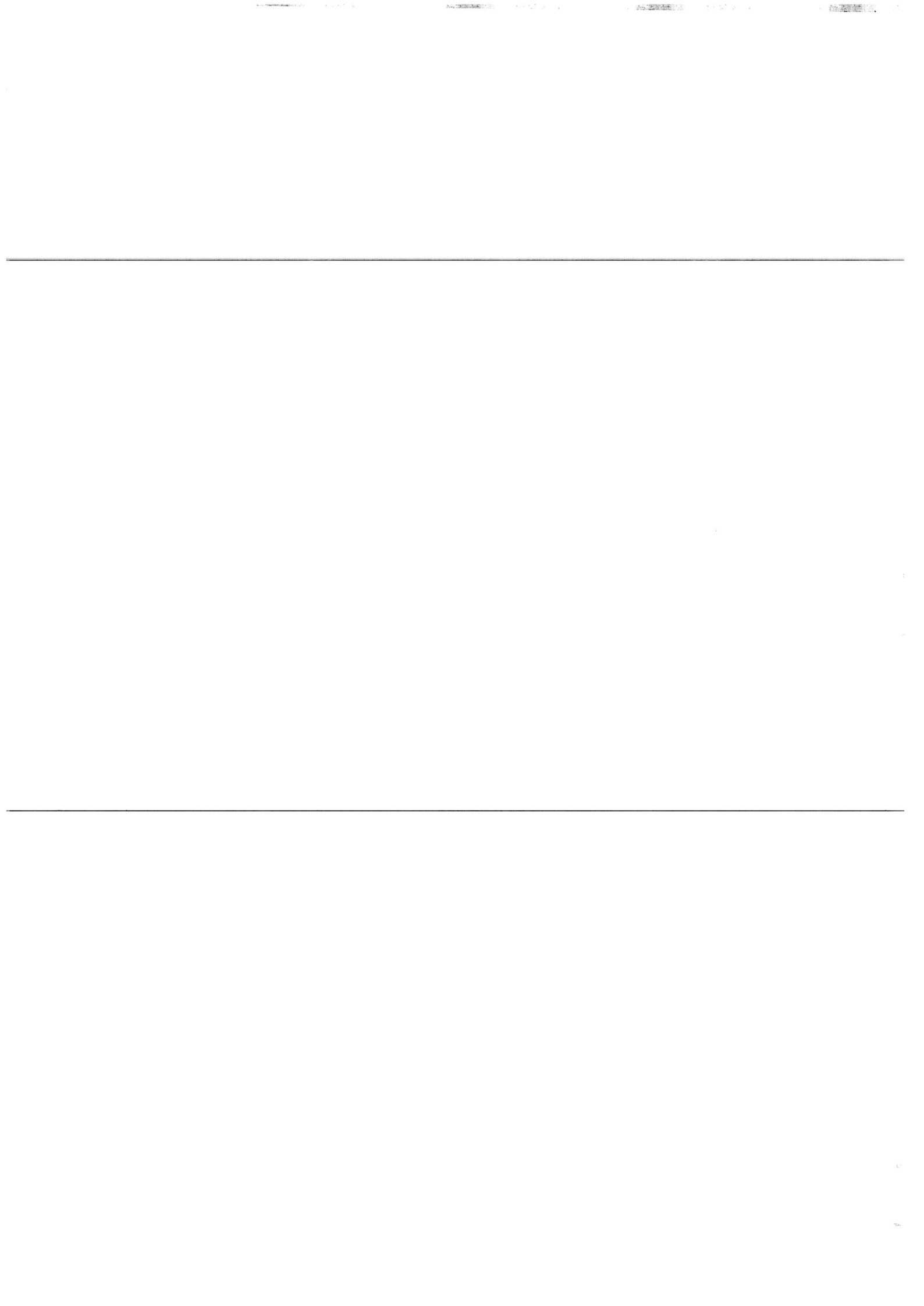


**APRIL 2026**



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## **ANNEXURES**

Annexure 1: Adoption Schedule for this report

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Annexure 2: Minutes

Annex 2 (a): Minutes of the 18<sup>th</sup> Sitting

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## **CHAIRPERSON'S FOREWORD**

This report contains proceedings of the Departmental Committee on Trade, Industry and Cooperatives on its consideration of the Senate Amendments to the Cooperatives Bill (*National Assembly Bill No. 7 of 2024*) which was passed by the National Assembly on 3<sup>rd</sup> December 2024 and submitted to the Senate pursuant to the provisions of Standing Order 142 of the National Assembly Standing Orders. The Senate considered and passed the Bill with amendments on Wednesday, 12<sup>th</sup> November 2025.

The Senate amendments to the Bill were referred to the Departmental Committee on Trade, Industry and Cooperatives for consideration and reporting back to the House on 19<sup>th</sup> November 2025.

The Committee held meetings on Wednesday, 25<sup>th</sup> and Thursday, 26<sup>th</sup> March 2026 to consider the Senate Amendments to the Cooperatives Bill (*National Assembly Bill No. 7 of 2024*). The Committee agreed with the amendments proposed by the Senate to: Long Title; clause 2 (commissioner, diaspora-based member, reserve fund, and subsidiary); clause 4; subclause 8 (1); subclause 13 (1); paragraphs 14(2)(a) and (e); subclause 20 (5); clause 38; paragraph 44(1) (ba); subclause 47 (1); subclause 53 (2); subclauses 54 (12B), and (12C); subclause 56 (5); new subclause 57 (2A); new subclause 61 (1A); subclause 61 (2); paragraphs 63(1)(i), (j), and (na); subclauses 64(1) and (2); paragraphs 66 (2B) (i), (iii), (iv), (vi), (vii), and (viii); clause 69; clause 70; subclause 73(12); subclauses 81(1), (2), (3), (4), (5), and (9); clause 82 (3); clause 83 (2); paragraph 99(1) (a); subclause 99(1A); subclause 101(1); subclause 104 (2); clause 109; clause 110; subclauses 124 (2) and (3); clause 127; subclause 128 (3); clause 131; clause 152; paragraph 154 (2) (v); clause 163; paragraph 164 (a); First Schedule (paragraph 8(1), paragraph 12, paragraph 29(1) (b)); and Third Schedule (Paragraph 8(2)).

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee also thanks the Senate for their input into the Bill.

Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Trade, Industry and Cooperatives and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of Senate Amendments to the Cooperatives Bill (*National Assembly Bill No. 7 of 2024*).

It is my pleasure to report that the Committee has considered the Senate Amendments to the Cooperatives Bill (*National Assembly Bill No. 7 of 2024*) and has the honour to report back to the National Assembly with the recommendation that the House adopts the Committee's recommendations on the Senate Amendments.

**Hon. Benard Shinali, CBS, MP**  
**Chairperson,**  
**Departmental Committee on Trade, Industry and Cooperatives**

## CHAPTER ONE

### I.0 PREFACE

#### I.1 ESTABLISHMENT OF THE COMMITTEE

- I. The Departmental Committee on Trade, Industry and Cooperatives is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates pursuant to the **Standing Order 216 (5)** are as follows:
  - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
  - ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
  - iii. *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
  - iv. **To study and review all the legislation referred to it;**
    - v. *To study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
    - vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
    - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);*
    - viii. *To examine treaties, agreements and conventions;*
    - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
    - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
    - xi. *To examine any questions raised by Members on a matter within its mandate.*

#### I.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider trade, including securities exchange, consumer protection, pricing policies, commerce, industrialisation including special economic zones, enterprise promotion & development including micro, small & medium enterprises (MSMEs), and small and medium enterprises (SMEs), intellectual property, industrial standards, anti-counterfeit policies and cooperatives development.
3. In executing its mandate, the Committee oversees the Ministry of Investment, Trade and Industry; and the Ministry of Cooperatives and MSMEs.

### 1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Agriculture and Livestock was reconstituted by the House on 5<sup>th</sup> March 2025 and comprises the following Members:

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#### Chairperson

Hon. Bernard Masaka Shinali, CBS, MP  
Ikolomani Constituency  
**ODM Party**

#### Vice-Chairperson

Hon. Marianne Jebet Kitany, MP  
Aldai Constituency  
**UDA Party**

Hon. Adhe Wario, MP  
North Horr Constituency  
**KANU Party**

Hon. Adams Korir Kipsanai, MP  
Keiyo North Constituency  
**UDA Party**

Hon. Anthony Tom Oluoch, MP  
Mathare Constituency  
**ODM Party**

Hon. Alfred Kiprono Mutai, MP  
Kuresoi North Constituency  
**UDA Party**

Hon. (Dr.) Beatrice Kahai Adagala, MP  
Vihiga County  
**ANC Party**

Hon. Amos Maina Mwago, MP  
Starehe Constituency  
**Jubilee Party**

Hon. Joshua Mbithi Mutua Mwalyo, MP  
Masinga Constituency  
**Independent Party**

Hon. Samuel Sakimba Parashina, MP  
Kajiado South Constituency  
**ODM Party**

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Hon. Joyce Kamene, MP  
Machakos County  
**WDM-K Party**

Hon. John Okano Bwire, MP  
Taveta Constituency  
**WDM-K Party**

Hon. Robert Githinji Gichimu, MP  
Gichugu Constituency  
**UDA Party**

Hon. Michael Wainaina Wambugu, MP  
Othaya Constituency  
**UDA Party**

Hon. (Dr.) Wilberforce Ojiambo Oundo, MP  
Funyula Constituency  
**ODM Party**

## **I.4 COMMITTEE SECRETARIAT**

5. The Committee is facilitated by the following staff:

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**Ms. Laureen Omsa Wesonga**  
**Clerk Assistant I/Head of Secretariat**

**Ms. Carolyn Musyoka**  
**Hansard Reporter II (Clerk Assistant)**

**Ms. Doreen Karani**  
**Principal Legal Counsel II**

**Ms. Priscilla Wangu**  
**Fiscal Analyst II**

**Ms. Pauline Sifuma**  
**Hansard Reporter II**

**Ms. Priscilla Saidi**  
**Research Officer III**

**Mr. Ambrose Nguti**  
**Media Relations Officer III**

**Ms. Margaret Wainaina**  
**Protocol Officer III**

**Ms. Peris Kaburi**  
**Serjeant-at-Arms**

**Mr. Kelvin Lengasi**  
**Audio Assistant**

## CHAPTER TWO

### 2.0 SENATE AMENDMENTS TO THE COOPERATIVES BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2024)

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#### 2.1 INTRODUCTION

6. The Cooperatives Bill (*National Assembly Bill No. 7 of 2024*) is sponsored by Hon. Kimani Ichung'wah, EGH, MP, Leader of the Majority Party.
7. The Bill was published vide Kenya Gazette Supplement No. 32 of 9<sup>th</sup> February 2024 and was considered and passed with amendments by the National Assembly on 3<sup>rd</sup> December 2024. The Bill, being a Bill concerning counties was forwarded to the Senate for consideration pursuant to Standing Order 142 of the National Assembly Standing Orders.
8. The Senate considered and passed the Bill with amendments on 12<sup>th</sup> November 2025 and transmitted the amendments to the National Assembly seeking concurrence.

#### 2.2 AMENDMENTS PROPOSED BY THE SENATE

The Senate proposed the following amendments to the Cooperatives Bill (*National Assembly Bill No. 7 of 2024*):

##### Long Title

9. **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”.*

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##### Clause 2

10. **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.

#### Clause 4

11. **THAT**, clause 4 of the Bill be amended in paragraph (a) by deleting sub paragraph (iii) and substituting therefor the following new sub paragraph, "*member economic participation*".

#### clause 5

12. **THAT**, the Bill be amended by deleting clause 5 and substituting therefor the following new clause—

5. (1) This Act shall apply to all cooperatives in Kenya.
- (2) The Office of the Commissioner established under section 6, shall register—
- an intercounty primary cooperative;
  - an intercounty secondary cooperative;
  - a Cooperative Federation; and
  - an Apex Cooperative.
- (3) The office of the county commissioner for cooperatives in the respective county, shall register—
- an intracounty primary cooperative; and
  - an intracounty secondary cooperative.
- (4) A cooperative that is registered under the Sacco Societies Act shall —
- comply with subsection (2) of (3) respectively; and
  - 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.

#### Clause 7

13. **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

14. **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, “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

15. **THAT**, Clause 9 of the Bill be amended in subclause (2)—

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

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

c) by deleting paragraph (e) and substituting therefor the following new paragraph, “(e) establish an integrated cooperatives management information system;

d) in paragraph (f)—

(i) by deleting the word “federations” appearing immediately after the words “affairs of” 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;

e) 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”;

f) by deleting paragraph (i).

g) 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”.

h) 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**

16. **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.
  - 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**

17. **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**

18. **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**

19. **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—
    - (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, “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

20. **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), “advise 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;
    - (ae) petition the High Court for the liquidation of intracounty primary and intracounty secondary cooperative where appropriate in accordance to the provisions of this Act;
    - (af) register audited financial statements certified by the county audit director; and
    - (ag) 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, “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

21. **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

22. **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

23. **THAT**, Clause 19 of the Bill be amended—
- a) by deleting paragraph (a) and substituting therefor the following new paragraph, “intracounty and intercounty primary cooperatives”.
  - b) by deleting paragraph (b) and substituting therefor the following new paragraph, “intracounty and intercounty secondary cooperatives”.

### Clause 20

24. **THAT**, Clause 20 of the Bill be amended—
- a) by deleting subclause (3) and substituting therefore the following new subclause, “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**

25. **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**

26. **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**

27. **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”.
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### **Clause 24**

28. **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**

29. **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.

### **Clause 29**

30. **THAT**, the Bill be amended—
- a) in subclause (1)—

- (i) by deleting paragraph (a) and substituting therefor the following new paragraph, “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**

**31. 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**

**32. 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

33. **THAT**, Clause 32 of the Bill be deleted and substituted therefor with the following clause, “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

34. **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”.

### Clause 34

35. **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

36. **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

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**

38. **THAT**, Clause 38 of the Bill be amended by inserting the words “or nominee” immediately after the words “personal representatives”.
- 

### **Clause 39**

39. **THAT**, the Bill be amended by deleting Clause 39 and substituting therefor the following new clause, “**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**

40. **THAT**, the Bill be amended by deleting clause 40 and substituting therefor the following new clause, “**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**

41. **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**

42. **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**

43. **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**

44. **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

45. **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

46. **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)—
  - (IA) 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.
  - (IB) 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.
  - (IC) 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.
  - (ID) 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;
- e) 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.
- f) 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”.
- g) in subclause (5) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “appointed the Commissioner”.
- h) in subclause (6)(d) by inserting the words “chief executive officer” immediately after the words “authenticated by the chairperson”.
- i) 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”.
- j) 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.
- k) 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”.
- l) 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”.
- m) in subclause (12) by inserting the words “or county commissioner for cooperatives, as the case may be,” immediately after the words “unless the Commissioner”.
- n) 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; and
  - ~~(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.
- o) 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”.
  - p) 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**

47. **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**

48. **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**

49. **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).

#### **Clause 58**

50. **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**

51. **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**

52. **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**

53. **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;
- (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

54. **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; and
  - (ne) failed the prescribed professional and moral suitability test.

### Clause 64

55. **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

56. **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

57. **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;
    - (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; and
    - (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

58. **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
  - (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

59. **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

60. **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.
  - (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

61. **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

62. **THAT**, clause 73 of the Bill be amended—

- a) by inserting the following new subclause immediately after subclause (1), “(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

63. **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

64. **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

65. **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**

66. **THAT**, the Bill be amended by deleting clause 82 and substituting therefor the following new clause—

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**

67. **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 per centum of its share capital or hold more than twenty-five per centum 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**

68. **THAT**, the Bill be amended by deleting clause 84 and substituting therefor the following new clause—

84. (1) A Cooperative shall not invest more than twenty-five per centum 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 per centum of its share or hold more than twenty-five per centum of equity in the real estate investment.
- (3) The limitation on investment in real estate shall not apply to a housing cooperative.

#### **Clause 85**

69. **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**

70. **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”.
- b) 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**

71. **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**

72. **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**

73. **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

74. **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

75. **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

76. **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”.

## Clause 100

77. **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

78. **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

79. **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 then 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

80. **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

81. **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

82. **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)—
- (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**

83. **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**

84. **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**

85. **THAT**, the Bill be amended by deleting clause 110 and substituting therefor the following new clause, “110. Subject to section 109, a person shall be qualified to serve as a liquidator if that person has—
- a) at least five years’ experience in cooperative management and practice; and

b) been prequalified by the Official Receiver as a liquidator for cooperatives.

### Clause 111

86. **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

87. **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

88. **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

89. **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

90. **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**

91. **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**

92. **THAT**, Clause 121 of the Bill be amended—
- a) by deleting the introductory phrase in subclause (2) and substituting therefor the following introductory phrase, “(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**

93. **THAT**, Clause 123 (2) of the Bill be amended by—
- a) deleting paragraph (b) and substituting therefor the following new paragraph, “(a) 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**

94. **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”.
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### **Clause 125**

95. **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**

96. **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**

97. **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”.
    - (iii) 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**

98. **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**

99. **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

100. **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

101. **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

102. **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

103. **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

104. **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

105. **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

106. **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”.

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### **Clause 157**

107. **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**

108. **THAT**, the Bill be amended by deleting Clause 158.

### **Clause 159**

109. **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”.

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### **Clause 162**

110. **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**

111. **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**

112. **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, “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**

113. **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”.

### **The First Schedule**

114. **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”.

## The Third Schedule

115. **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).

## CHAPTER THREE

### 3.0 COMMITTEE OBSERVATIONS ON THE SENATE AMENDMENTS TO THE COOPERATIVES BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2024)

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The Committee having considered the Senate amendments to the Cooperatives Bill (National Assembly Bill No. 7 of 2024) observed that:

#### Long Title

1. **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”.*

#### Committee Observation

The amendment makes the title concise and focused on the Bill’s core regulatory purpose, removing the listing of specific offices which are better dealt with in the body of the Act.

#### Clause 2

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”.

#### Committee Observation

The Committee rejected the proposed amendment since definition of agricultural produce is clear.

- b) by deleting the definition of the word “annual delegates meeting”.

#### Committee Observation

The Committee rejected the proposed deletion since delegate system is captured under sub-clause 60 (I). It is therefore important to retain the definition in the Bill.

- 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”.

#### Committee Observation

The Commissioner is appointed under section 8 of the Act and not section 5. The amendment therefore corrects the mistake in cross referencing.

- 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.

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### **Committee Observation**

**The Committee rejected this amendment. The County Directors for Cooperatives are technical officers appointed by County Public Service Boards and substituting the word “Director” with “Commissioner” does not reflect their designation within the county public service framework. All subsequent Senate amendments substituting “County Director for Cooperatives” for “County Commissioner for Cooperatives” are accordingly rejected and the title is retained as in the National Assembly Bill throughout.**

- 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”.

### **Committee Observation**

**The three definitions should be retained because they have been used in the body of the Bill.**

- 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.

### **Committee Observations**

- a) **The Senate proposal to include definition of “diaspora based member” was adopted by the Committee because it recognises cooperative members who reside outside the country.**  
b) **The proposal by the Senate to delete definitions of “primary cooperative” and “secondary cooperative” and substitute with definitions of “intra county primary cooperative”, “intercounty primary cooperative”, “intracounty secondary**

cooperative” and “intra county secondary cooperative” was rejected by the Committee. The Committee considered the proposal, and resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives. This framework protects the authenticity of the register of cooperatives.

- c) The proposal by the Senate to insert definition of the word “levy” was not adopted by the Committee. The Committee found that a levy would be an unjustifiable financial burden to cooperatives.
- d) The proposal by the Senate to insert definition of the word “reserve fund” was adopted by the Committee because it enhances clarity and the term has been used in the Bill.
- e) The proposal by the Senate to insert definition of “subsidiary” was adopted by the Committee because it enhances clarity in the definition of “cooperative company”.

#### Clause 4

- 3. **THAT**, clause 4 of the Bill be amended in paragraph (a) by deleting sub paragraph (iii) and substituting therefor the following new sub paragraph, “*member economic participation*”.

#### Committee Observation

The Committee agreed with the Senate proposed definition as it aligns the guiding principles with International Cooperative Alliance (ICA) terminology

#### Clause 5

- 4. **THAT**, the Bill be amended by deleting clause 5 and substituting therefor the following new clause—
  - 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.

## Committee Observation

The Committee considered the Senate's proposal to introduce a dual-level registration system categorising cooperatives as intracounty and intercounty, with county governments registering intracounty primary and intracounty secondary cooperatives. The Committee resolved that the Commissioner shall register all cooperatives and the County Directors for Cooperatives shall regulate cooperative operations within their respective counties.

The Committee noted that vesting registration in forty-seven county directors would fragment the national register, create duplication and inconsistency, and undermine the integrated cooperatives management information system proposed in the Bill. A central national registry under the Commissioner is therefore necessary to avoid duplicity and ensure coherent management of the cooperative sector. The no-objection letter requirement proposed in Clause 29(3)(a) would additionally vest a county government veto over a national government registration function, which is constitutionally untenable.

On the applicable legal framework, the Committee noted that the Senate's amendments are premised on Gazette Notice No. 16472 of 16th December 2024, gazetted thirteen days after the National Assembly passed the Bill on 3rd December 2024. The Committee was not persuaded to revise a considered legislative position on the basis of a subsequent executive instrument. The Committee further found that Gazette Notice No. 16472 is a public notification and not a Legal Notice constituting subsidiary legislation. It does not carry the normative legal force of Legal Notice No. 85 of 2021, which was made under section 12(b) of the Intergovernmental Relations Act as a formal delineation instrument and which the National Assembly applied in granting registration power to the Commissioner. A Gazette Notice cannot repeal, amend, or supersede a Legal Notice. Legal Notice No. 85 of 2021 accordingly remains the operative delineation instrument assigning registration of all cooperatives to the national government. In any event, upon enactment, the Act as primary legislation prevails over any inconsistent executive instrument.

The Committee also noted a drafting concern with the Senate's proposed substitution of Clause 5. The proper function of an application clause is to define the scope of the legislation that is, to answer the question of who the law covers. The Senate's proposed substitution goes further by specifying which authority registers which category of cooperative, thereby embedding administrative functions into a scope provision. This is problematic for three reasons: it places registration functions in the wrong part of the Bill; it conflates scope with administration; and it creates internal inconsistency and redundancy with Clauses 9 and 14 which already assign registration and regulatory functions to the Commissioner and County Directors respectively. The correct approach is to retain Clause 5 as a strict application clause covering all cooperatives in Kenya, with registration functions addressed in Clause 9 and county-level functions in Clause 14.

The intra and intercounty classification being consequential to the dual registration framework the Committee has rejected, all Senate amendments premised on that classification fall away accordingly.

#### Clause 7

5. **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.

#### Committee Observation

The Technical officers who serve at the Office of the Commissioner should have a wide range of qualifications including but not limited to cooperative management, economics, agribusiness, finance, accounting, statistics, business administration, community service, education and ICT. The proposal by the Senate was therefore rejected.

#### Clause 8

6. **THAT**, clause 8 of the Bill be amended by—
- c) 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.
- d) deleting subclause (2) and substituting therefor the following new subclause, “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.

#### Committee Observation

The process provides guarantee of continuity in case the office is vacant. The qualifications proposed are prescriptive and hence encroach on the mandate of the Public Service Commission. The Committee adopted the process as proposed by Senate but retained the qualifications and experience required for appointment as provided by the National Assembly. The proposal is narrow and is rigid in primary legislation. Most senior regulatory heads in Kenya including PS and CS positions do not require twenty years of experience in primary legislation.

## Clause 9

7. **THAT**, Clause 9 of the Bill be amended in subclause (2)—
- a) by deleting the words “register all cooperatives in Kenya, and” appearing at the beginning of paragraph (c).
  - b) by inserting the words “intercounty primary cooperatives, intercounty secondary cooperatives” immediately after the words “registration of” appearing in paragraph (d).

### Committee Observation

**The Committee resolved that the Commissioner shall register all cooperatives and maintain the national register, and that the County Directors for Cooperatives shall regulate cooperative operations within their respective counties. The intra and intercounty classification being consequential to the dual registration framework the Committee has rejected, all Senate amendments premised on that classification fall away accordingly.**

- c) by deleting paragraph (e) and substituting therefor the following new paragraph, “(e) establish an integrated cooperatives management information system.

### Committee Observation

**The committee agreed with the proposal for establishment of an integrated information management system but not to the deletion of paragraph (e) since the Commissioner should retain the role of inquiring into the conduct of the affairs of cooperatives.**

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

### Committee Observation

**The intra and intercounty classification being consequential to the dual registration framework that the Committee rejected, all Senate amendments premised on that classification fall away accordingly.**

- (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; and
  - (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.

### **Committee Observation**

**The Committee resolved that the Commissioner shall register all cooperatives and maintain the national register, and that the County Directors for Cooperatives shall regulate cooperative operations within their respective counties. The intra and intercounty classification being consequential to the dual registration framework that the Committee rejected, all Senate amendments premised on that classification fall away accordingly.**

- e) 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”.

### **Committee Observation**

**The Committee rejected the proposed amendment and resolved that the Commissioner should retain the capacity building for county governments not just CEOs and boards of directors. Substituting "County Commissioner" for "County Director" would cause confusion with the Commissioner for Cooperatives.**

- f) by deleting paragraph (i).

### **Committee Observation**

**Deletion of paragraph (i) was rejected as it is important for the commissioner to prequalify auditing firms that may be engaged by cooperatives.**

- g) 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”.

### **Committee Observation**

**The Committee rejected the proposed introduction of the National Audit Director of Cooperatives and the County Audit Director of Cooperatives. The Bill contains no establishment clause for either office, rendering all amendments premised on their existence inoperable. The existing Directorate of Cooperative Audit within the Commissioner's office already performs the functions proposed for these offices and has the institutional capacity and mandate to continue doing so. All subsequent Senate amendments premised on the existence of the National Audit Director or County Audit Director fall away accordingly.**

- h) by inserting the following paragraphs immediately after paragraph (n)—
- (na) in collaboration with county commissioners for cooperatives conduct public awareness campaigns on cooperatives; and
  - (nb) supervise the elections of an intercounty primary cooperative, intercounty secondary cooperative, cooperative federation and the apex cooperative.

### **Committee Observation**

The committee agreed to the new (na) but with reference to county directors of cooperatives and not county commissioners.

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The Committee agreed with the supervision of election of the secondary, federative and apex cooperatives but not the references of intercounty primary and intercounty secondary cooperatives.

### **Clause 10**

8. **THAT**, clause 10 of the Bill be amended by renumbering the existing provision as subclause (1) and inserting the following new subclauses—
- 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.
  - 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; and
    - d) the number if any of cooperatives that are at risk of liquidation or have been liquidated.

### **Committee Observation**

The Office of the Commissioner is not a Constitutional Office and therefore may report to Parliament through the Cabinet Secretary. Additionally, details of what should be contained in the report can be provided for in regulations to avoid overlegislating. The Senate amendment also introduces a constitutional problem. By stripping out the distinction between financial and non-financial reports and replacing it with a single performance report going to Parliament and the CS. The Commissioner only reports on items specified under subclause (3).

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### **Clause 11**

9. **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”.

### **Committee Observation**

The Committee rejected this amendment. The title "County Commissioner for Cooperatives" would cause confusion with the "Commissioner for Cooperative Development" which is a distinct national office established under the Bill.

## Clause 12

### 10. **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”.

## Committee Observation

**Changing the name from county director for cooperatives to county commissioner for cooperatives will bring confusion between the Commissioner and the county commissioner for cooperatives.**

## Clause 13

### 11. **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—
  - (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, “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.

## Committee Observations

- a) **Changing the title of director for cooperatives to county commissioner for cooperatives will bring confusion between the Commissioner and the county commissioner for cooperatives. The Committee agreed to the proposed clause (b) but with retention of the nomenclature for the County Director for Cooperatives.**
- b) **The process of recruitment of the County Director for Cooperatives provides guarantee of continuity in case the office is vacant. The qualifications proposed are prescriptive and hence encroach on the mandate of the County Public Service Board. The Committee adopted the process as proposed by Senate but retained the qualifications as provided by the National Assembly.**

## Clause 14

12. **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), “advise 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;
    - (ae) petition the High Court for the liquidation of intracounty primary and intracounty secondary cooperative where appropriate in accordance to the provisions of this Act;
    - (af) register audited financial statements certified by the county audit director; and
    - (ag) promote alternative dispute resolution mechanisms for disputes relating to county 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, “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”.

## Committee Observations

- a) **Changing the title of the county director for cooperatives to county commissioner for cooperatives will bring confusion between the Commissioner and the county commissioner for cooperatives.**
- b) **Advising the CEC on the growth and development of cooperatives is an important function of the county director. This proposal was adopted by the Committee.**
- c) **Registration of all cooperatives is a function of the National Government through the Commissioner. The County Director for Cooperatives can only be mandated to maintain a register of cooperatives operating in their county.**
- d) **The office of the County Director for Cooperatives may not have the capacity to audit all cooperatives in the county.**

## Clause 15

### 13. **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—
    - e) the number if any of intracounty primary and intracounty secondary cooperatives registered and deregistered;
    - f) the number if any of inspections and inquiries carried out;
    - g) the number if any of board of directors found liable under the Act; and
    - h) the number if any of intracounty primary and intracounty secondary cooperatives that are at risk of being liquidated or have been liquidated.

## Committee Observations

- a) **Changing the title of the county director for cooperatives to county commissioner for cooperatives will bring confusion between the Commissioner and the county commissioner for cooperatives.**
- b) **The County Director for Cooperatives can only report to county assemblies through the county executive committee members. Details of the report should be captured in regulations.**
- c) **The intra and intercounty classification being consequential to the dual registration framework the Committee has rejected, all Senate amendments premised on that classification fall away accordingly.**

## Clause 16

### 14. **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)—
  - (IA) In the absence of the Commissioner, the county commissioners for cooperatives shall nominate one of their own to chair the meeting of the Forum.

## Committee Observations

- a) **The Committee rejected both amendments. On paragraph (a), changing the title of the county director for cooperatives to county commissioner for cooperatives will bring confusion between the Commissioner and the county commissioner for cooperatives.**
- b) **On paragraph (b), the Committee found the proposed subclause unnecessary. The absence of a chairperson at any statutory body meeting is a standard**

**administrative occurrence adequately addressed by the Forum's rules of procedure and the general law on conduct of meetings.**

### **Clause 19**

15. **THAT**, Clause 19 of the Bill be amended—

- a) by deleting paragraph (a) and substituting therefor the following new paragraph, “intracounty and intercounty primary cooperatives”.
- b) by deleting paragraph (b) and substituting therefor the following new paragraph, “intracounty and intercounty secondary cooperatives”.

### **Committee Observation**

**The intra and intercounty classification being consequential to the dual registration framework the Committee has rejected, all Senate amendments premised on that classification fall away accordingly.**

### **Clause 20**

16. **THAT**, Clause 20 of the Bill be amended—

- a) by deleting subclause (3) and substituting therefor the following new subclause, “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 thereunder, the information may be shared through the credit reference bureaus established under section 31 of the Banking Act.
- d) by deleting subclause (6).

### **Committee Observations**

- a) **The amendments to subclauses (3) and (4) were rejected by the Committee to ensure consistency and safeguard the values and principles of cooperatives. Further the proposed insertion of 20 persons to form primary cooperatives is already provided for in sub clause 6.**
- b) **The amendments proposed to subclause (5) were adopted by the Committee because it is necessary to impose conditions on joining multiple cooperatives with the same objectives to avoid instances of defaults in repayment of loans.**

- c) **The proposed deletion of subclause 6 was rejected as 20 persons may form a primary cooperative**

#### **Clause 21**

17. **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”.

#### **Committee Observation**

**Registration of cooperatives is a function of the National Government through the Commissioner**

#### **Clause 22**

18. **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.

#### **Committee Observation**

**The intra and intercounty classification being consequential to the dual registration framework the Committee has rejected, all Senate amendments premised on that classification fall away accordingly.**

#### **Clause 23**

19. **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”.

#### **Committee Observation**

**Subclause 23(3) is not in the Bill.**

#### **Clause 24**

20. **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”.

## **Committee Observation**

**Voluntary membership to the Apex Cooperative risks fragmenting the cooperative movement and weakening Kenya's representation in international cooperative forums.**

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### **Clause 28**

21. **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.

## **Committee Observation**

**Registration of cooperatives is a function of the National Government through the Commissioner.**

### **Clause 29**

22. **THAT**, the Bill be amended—
- a) in subclause (1)—
    - (i) by deleting paragraph (a) and substituting therefor the following new paragraph, “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).

## Committee Observations

- a) The intra and intercounty classification being consequential to the dual registration framework the Committee has rejected, all Senate amendments premised on that classification fall away accordingly.
- b) Primary cooperatives will be part of cooperative federations through the secondary cooperatives.
- c) There is need for the legislation to provide for the procedure for registration of a cooperative federation hence Senate's deletion of subclause 5 was rejected.

## Clause 30

23. **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”

## Committee Observation

**Registration of cooperatives is a function of the National Government through the Commissioner.**

## Clause 31

24. **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”.

## Committee Observation

**Registration of cooperatives is a function of the National Government through the Commissioner.**

## Clause 32

25. **THAT**, Clause 32 of the Bill be deleted and substituted therefor with the following clause, “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”.

### **Committee Observation**

**The proposal by the Senate adds value to the Bill but the function should be reserved to the Commissioner.**

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### **Clause 33**

26. **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”.

### **Committee Observation**

**Registration of cooperatives is a function of the National Government through the Commissioner.**

### **Clause 34**

27. **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”.

### **Committee Observation**

**Registration of cooperatives is a function of the National Government through the Commissioner.**

### **Clause 35**

28. **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).
- 

### **Committee Observation**

**Registration of cooperatives is a function of the National Government through the Commissioner.**

### **Clause 37**

29. **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”.

### **Committee Observation**

**Registration of cooperatives is a function of the National Government through the Commissioner. The Commissioner is therefore mandated to register amendment to by-laws of cooperatives.**

### **Clause 38**

- 30. **THAT**, Clause 38 of the Bill be amended by inserting the words “or nominee” immediately after the words “personal representatives”.

### **Committee Observation**

**Addition of nominee addresses a practical gap, particularly in the case of SACCOs and investment cooperatives where members designate beneficiaries. The Senate amendment was adopted by the Committee.**

### **Clause 39**

- 31. **THAT**, the Bill be amended by deleting Clause 39 and substituting therefor the following new clause, “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”.

### **Committee Observation**

**Registration of cooperatives is a function of the National Government through the Commissioner. The provision of an opportunity for a cooperative to appeal the Commissioner’s refusal to register them is progressive. The thirty days appeal window is appropriate.**

### **Clause 40**

- 32. **THAT**, the Bill be amended by deleting clause 40 and substituting therefor the following new clause, “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”.

### **Committee Observation**

**Registration of cooperatives is a function of the National Government through the Commissioner. Registration documents can therefore only be signed by the Commissioner.**

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### **Clause 43**

33. **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”.

### **Committee Observation**

**Only the Commissioner can impose fines to cooperatives. The County Director for Cooperatives has no role in this.**

### **Clause 44**

34. **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).

### **Committee Observation**

- a) **Recognition of diaspora-based members is a significant and progressive amendment that enables Kenyans abroad to participate in the cooperative movement.**
  - b) **Deletion of the requirement for approval for corporate membership simplifies the process but removes an important democratic safeguard.**
- 

### **Clause 47**

35. **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”.

### **Committee Observations**

- a) **Electronic voting will increase member participation, particularly diaspora members. Secret ballot for special resolutions protects members from undue process.**

- b) Removal of mandatory prohibition of membership classification reduces protection against vote manipulation.**

#### **Clause 51**

- 36. 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”.

#### **Committee Observation**

**The amendment is necessary but the relevant office is that of the County Director for Cooperatives.**

#### **Clause 53**

- 37. 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”.

#### **Committee Observation**

- a) **Extending the time from fifteen to twenty-one days gives members more time to review financial estimates before the meeting which is likely to improve member participation.**
- b) **The Committee resolved to adopt the title County Director for Cooperatives and thus rejected the Senate amendment.**

#### **Clause 54**

- 38. 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; and
  - (c) risk exposure analysis related to investments.

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### **Committee Observation**

**The amendments proposed by the Senate contain details that can change from time to time hence requiring flexibility in amendment of their enactment instrument. Such fine details ought therefore to be provided for in Regulations.**

- 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.

### **Committee Observation**

**Imposition of penalties is a function of the Commissioner, the County Director for Cooperatives therefore has no role in it.**

- 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”.

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### **Committee Observation**

#### **Auditors of a cooperative shall be proposed by the board of directors from a list of auditors approved by the Commissioner.**

- 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; and  
(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".

### **Committee Observations**

- a) **The County Director for Cooperatives has no role in the auditing of cooperatives. The Committee rejected the proposed introduction of the National Audit Director of Cooperatives and the County Audit Director of Cooperatives. The Bill contains no establishment clause for either office, rendering all amendments premised on their existence inoperable. The existing Directorate of Cooperative Audit within the Commissioner's office already performs the functions proposed for these offices and has the institutional capacity and mandate to continue doing so. All subsequent Senate amendments premised on the existence of the National Audit Director or County Audit Director fall away accordingly.**
- b) **The intra and intercounty classification being consequential to the dual registration framework that the Committee rejected, all Senate amendments premised on that classification fall away accordingly.**
- c) **Non-compliance matters do not warrant criminal prosecution.**

### **Clause 55**

39. **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 or County Audit Director of cooperatives".

### **Committee Observations**

- a) **The Committee resolved to adopt the title County Director for Cooperatives and thus rejected the Senate Amendment.**
- b) **The Committee rejected the proposed introduction of the National Audit Director of Cooperatives and the County Audit Director of Cooperatives. The Bill contains no establishment clause for either office, rendering all amendments premised on their existence inoperable. The existing Directorate of Cooperative Audit within the Commissioner's office already performs the functions proposed for these offices and has the institutional capacity and mandate to continue doing so. All subsequent Senate amendments premised on the existence of the National Audit Director or County Audit Director fall away accordingly.**

## Clause 56

### 40. **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);

### Committee Observations

- a) **The Committee resolved to adopt the title County Director for Cooperatives and thus rejected the Senate Amendment.**
- b) **Using virtual platforms to issue notices will ensure that the notices are received by more members of the cooperative.**
- c) **Determination of percentages of the surplus to be deposited in the reserve fund of a cooperative should be prescribed in Regulations.**

## Clause 57

### 41. **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).

### Committee Observations

- a) **The Committee resolved to adopt the title County Director for Cooperatives and thus rejected the Senate Amendment.**
- b) **Using virtual platforms to issue notices will ensure that the notices are received by more members of the cooperative.**

**c) Calling for a special general meeting is the responsibility of the Commissioner and not the County Director for Cooperatives.**

#### **Clause 58**

42. **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”.

#### **Committee Observation**

**The Committee resolved to adopt the title County Director for Cooperatives and thus rejected the Senate Amendment.**

#### **Clause 59**

43. **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).

#### **Committee Observation**

**The Committee rejected this amendment. In the Committee's view, meetings involving weighty matters such as amalgamation, dissolution, and major financial decisions require physical attendance to ensure meaningful member participation, informed deliberation, and the democratic legitimacy that such consequential decisions demand, except in exceptional circumstances such as those experienced during the COVID-19 pandemic.**

#### **Clause 60**

44. **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.

#### **Committee Observation**

- a) **The matters outlined are very sensitive and should therefore be discussed in a physical meeting so as not to disadvantage people who have no access to the internet or are not tech savvy.**

- b) **The Committee rejected the Senate amendment to insert paragraphs (da) and (db) because the generalities can be set in an AGM then decisions left to board of directors.**

#### **Clause 61**

45. **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;
- (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”.

#### **Committee Observations**

- a) **A board membership of fifteen in the Apex Cooperative is too high. The membership should be capped at eleven.**
- b) **Representation of the listed cooperatives in the Apex Cooperative was adopted by the Committee.**
- c) **The proposal by the Senate on retirement by rotation was adopted by the Committee.**

#### **Clause 63**

46. **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; and
  - (ne) failed the prescribed professional and moral suitability test.

### **Committee Observations**

- a) **Secondary school education is adequate particularly for small rural cooperatives. Imposing a mandatory post-secondary education qualification for board membership would exclude experienced and capable members from cooperative leadership contrary to the cooperative principle of democratic member control and open membership.**
- b) **The term "convicted" is legally more appropriate than "charged" as it ensures that disqualification occurs only after due process has been followed. This represents an important procedural safeguard.**
- c) **The amendment to allow for competitive recruitment is progressive as it promotes merit-based selection and enhances transparency and accountability in the appointment process.**
- d) **The committee was convinced that the current three-month imprisonment threshold captures individuals convicted of relatively minor offences, including traffic violations and petty misdemeanours, which do not necessarily reflect on a person’s suitability for cooperative board service. Increasing the threshold to six months appropriately narrows disqualification to more serious offences, thereby enhancing proportionality without undermining governance standards. Additionally, the introduction of a specific disqualification for financial crimes under paragraph (na) directly targets misconduct most relevant to board fitness, ensuring that the overall framework remains robust.**
- e) **The requirement for fiduciary indemnity cover (nd) is innovative but may be onerous for small cooperatives.**

### **Clause 64**

47. **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”.

## Committee Observation

- a) The Committee agreed with amendments to subclause (1) and (2)(a) as a competitively recruited CEO ensures a merit based criteria that attracts skilled managers and ensures professional management of cooperatives.
- b) The Committee rejected the amendment to subclause (5)(b). The term "board charter" is a new introduction that is unfamiliar to the cooperative movement in Kenya. Co-operators are familiar with "by-laws" as the governing instrument of a cooperative.

## Clause 65

48. **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).

## Committee Observation

The intra and intercounty classification being consequential to the dual registration framework the Committee has rejected, all Senate amendments premised on that classification fall away accordingly.

## Clause 66

49. **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;
      - (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”.

### **Committee Observations**

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- a) Subclause 66(2A) should be amended to allow for advertising through a media that can reach every member of the cooperative. Apex and Cooperative Federations may advertise through newspapers of countrywide circulation. The Clause may be amended to read, “The Board of Directors shall cause to be advertised in one newspaper of nationwide circulation or the website or social media platforms of the cooperative, the vacancy for the persons in subclause 3(c)”.
- b) The proposed amendments (2B) may disadvantage start-ups and small cooperatives and therefore such qualifications should be provided through respective electoral policies.
- c) The substitution of clause 3(a) was rejected.

### **Clause 67**

50. **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
- (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.
- (e) in subclause (10) by inserting the words “or county commissioner for cooperatives, as the case may be” immediately after the words “the Commissioner”.

### **Committee Observations**

**The Committee resolved to adopt the title County Director for Cooperatives and Commissioner for Cooperative development thus rejected the Senate amendments making reference to the County Commissioner for Cooperatives.**

## Clause 68

51. **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”.

## Committee Observation

**The Committee resolved that the Commissioner for Cooperative Development shall register all cooperatives hence it therefore follows that division and classification of cooperatives squarely fall within that same office. Accordingly, the proposed amendments to subclauses 8(c), 9 and 10 were rejected.**

## Clause 69

52. **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.
  - (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”.

## **Committee Observation**

**The amendment to insert a new subclause 69(5) was rejected because a member may elect to be paid directly less any liabilities to the Cooperative through a manual or electronic system.**

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## **Clause 70**

53. **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).

## **Committee Observation**

**The amendments were adopted by the Committee.**

## **Clause 73**

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54. **THAT**, clause 73 of the Bill be amended—

- a) by inserting the following new subclause immediately after subclause (1), “(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”.

### **Committee Observations**

- a) The Committee rejected the amendments proposing the insertion of a new subclause (1A), the deletion of subclauses (3), (4), and (5), and the substitution of subclauses (6), (8), and (9), as it resolved to maintain the distinct roles as set out under clause 73.
- b) However, the Committee considered the proposed amendment creating an offence for employers who fail to comply with this section to be necessary in order to enhance compliance and enforceability.

### **Clause 75**

55. **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”.

### **Committee Observation**

The Committee resolved that the registration of all cooperatives is vested in the Commissioner for Cooperative Development. It therefore follows that the issuance of an agency notice to a defaulting cooperative's bank under section 75 is a function of the Commissioner, and it is not necessary to assign this role to the County Director for Cooperatives.

### **Clause 79**

56. **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”.

## Committee Observation

This proposal was adopted by the Committee as it is correcting a cross referencing error.

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### Clause 81

57. **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.

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## Committee Observation

The new provisions included in this clause are relevant and were therefore adopted by the Committee. However, the inclusion of the County Director for cooperatives in subclauses (6), (7) and (8) was rejected by the Committee.

### Clause 82

58. **THAT**, the Bill be amended by deleting clause 82 and substituting therefor the following new clause—

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.

### Committee Observation

The substituted provision was adopted by the Committee as a democratic safeguard against unsustainable debt. The 30% equity cap provides a clear borrowing limit included in this clause are relevant and were therefore adopted by the Committee. However, the Committee adopted use of the term County Director for cooperatives in subclause (2).

### Clause 83

59. **THAT**, clause 83 of the Bill be amended—
- in the introductory phrase by inserting the words “of two thirds of its members” immediately after the words “to the approval of”.
  - 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”.
  - 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”.

### Committee Observation

The proposed amendment was rejected by the Committee on the basis that it is overly restrictive. The Committee observed that requiring virtually all investment decisions to await approval at a physical Annual General Meeting would be impractical and could significantly hinder the operations of a cooperative.

### Clause 84

60. **THAT**, the Bill be amended by deleting clause 84 and substituting therefor the following new clause—
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.

## Committee Observation

The committee proposed that the non-core activities which are prohibited may be prescribed in the regulations.

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### Clause 85

61. **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).

### Committee Observations

- a) The proposal to amend subclause 85(a) was rejected by the Committee because a special resolution has been defined in the interpretations of terms.
- b) The County Director for Cooperatives has no role in this hence the amendment was rejected by the Committee.

### Clause 87

62. **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”.
  - b) 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”.

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### Committee Observation

**Giving members the discretion to decide on the percentage of the surplus to be placed under reserve fund is not feasible. Members will generally recommend minimal or zero allocations since they are more interested in maximising dividends thus risking under-capitalisation. The proportion of net surplus to be allocated to the reserve fund should be prescribed in regulations, while allowing members the flexibility to approve higher allocations where appropriate. Further, the reserve fund is indivisible and cannot be used to pay dividends or bonuses. This proposal was therefore rejected.**

### Clause 91

63. **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”.

#### **Committee Observation**

**The Committee resolved to adopt the title County Director for Cooperatives thus rejected the Senate Amendment. Registration of a charge is the role of the Commissioner hence not necessary to include the County Director for Cooperatives.**

#### **Clause 92**

64. **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”.

#### **Committee Observation**

**The Committee resolved to adopt the title County Director for Cooperatives thus rejected the Senate Amendment.**

#### **Clause 93**

65. **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”.

#### **Committee Observation**

**The Committee resolved to adopt the title County Director for Cooperatives thus rejected the Senate Amendment. Registration of a charge is the role of the Commissioner hence not necessary to include the County Director for Cooperatives.**

#### **Clause 94**

66. **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”.

### **Committee Observation**

**The Committee rejected the proposal for dual-level administration of cooperatives and resolved to retain the title *County Director for Cooperatives*, thereby rejecting the Senate Amendment. The Committee further observed that the County Director for Cooperatives has no role in the appointment of receivers, and that the proposed amendment would also remove the important provision relating to the appointment of a manager.**

### **Clause 98**

67. **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”.

### **Committee Observations**

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- (a) This proposal was rejected by the Committee because the Act should not have multiple implementers at the county and national level.**
- (b) The Committee rejected the proposed introduction of the National Audit Director of Cooperatives and the County Audit Director of Cooperatives. The Bill contains no establishment clause for either office, rendering all amendments premised on their existence inoperable. The existing Directorate of Cooperative Audit within the Commissioner's office already performs the functions proposed for these offices and has the institutional capacity and mandate to continue doing so. All subsequent Senate amendments premised on the existence of the National Audit Director or County Audit Director fall away accordingly.**

### **Clause 99**

68. **THAT**, Clause 99 of the Bill be amended—

- a) by deleting subclause (I) and substituting therefor the following new subclause, “(I) 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 (I), “(IA) An order under subsection (I) shall be made within twenty-one days from the day the inquiry ends”.

### **Committee Observations**

- a) The changes (insertion of the County Commissioner of Cooperatives) are not necessary.**
- b) Twenty-one (21) days provided by subclause (IA) is an improvement to the Bill and was therefore adopted by the Committee.**

## Clause 100

69. **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”.
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### Committee Observation

The Committee resolved to adopt the title *County Director for Cooperatives* thus rejected the Senate Amendment. The Commissioner has no role in this hence not necessary to include the County Director for Cooperatives. However, the committee accepted the correction to erroneous cross-referencing.

## Clause 101

70. **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”.

### Committee Observation

The Committee rejected this amendment as the surcharge function under Clause 99 is vested exclusively in the Commissioner as a national regulatory power and the County Directors for Cooperatives have no role in surcharge proceedings under the Bill. However, the committee accepted the correction to erroneous cross-referencing.

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## Clause 102

71. **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 then 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”.

### **Committee Observation**

- a) **The intra and intercounty classification being consequential to the dual registration framework the Committee has rejected, all Senate amendments premised on that classification fall away accordingly.**
- b) **The Committee resolved to adopt the title *County Director for Cooperatives* thus rejected the Senate Amendments in this respect.**

### **Clause 103**

72. **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.

### **Committee Observation**

**The Committee rejected the proposed introduction of the National Audit Director of Cooperatives and the County Audit Director of Cooperatives and any consequential amendments in the Bill that accommodate the proposed offices and functions.**

### **Clause 104**

73. **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—
  - (c) a joint meeting of the board of directors and supervisory board of the Cooperative for deliberation and implementation; and
  - (d) the general meeting of the cooperative.

## Committee Observations

- a) The Committee resolved to adopt the title **County Director for Cooperatives** thus rejected the **Senate Amendment**.
- b) ~~Requiring inspection reports to be presented to both the joint board/supervisory board meeting and the general meeting significantly improves transparency. Members will have access to inspection findings, an improvement in accountability.~~

## Clause 105

74. **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)—
  - (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 therefor 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”.

## **Committee Observations**

a) It is important to provide for voluntary dissolution of cooperatives in the Bill and for liquidation to be a judicial process.

b) However, the Committee rejected the proposed introduction of the National Audit Director of Cooperatives and the County Audit Director of Cooperatives and any consequential amendments in the Bill that accommodate the proposed offices and functions.

## **Clause 106**

75. **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”.

## **Committee Observation**

The Committee resolved to adopt the title County Director for Cooperatives thus rejected the Senate Amendment. Cancellation of registration is the role of the Commissioner hence not necessary to include the County Director for Cooperatives.

## **Clause 109**

76. **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”.

## **Committee Observation**

The amendment in this clause that recommends that the Commissioner petitions the High Court to appoint liquidators was rejected because the uniqueness of Cooperatives demand that registration, cancelation and liquidation be domiciled in one office.

## **Clause 110**

77. **THAT**, the Bill be amended by deleting clause 110 and substituting therefor the following new clause, “110. Subject to section 109, a person shall be qualified to serve as a liquidator if that person has—

a) at least five years’ experience in cooperative management and practice; and

b) been prequalified by the Official Receiver as a liquidator for cooperatives.

## **Committee Observation**

The committee found merit in the proposed qualifications

### Clause 111

78. **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”.

### Committee Observations

- a) **The Committee resolved to adopt the title County Director for Cooperatives thus rejected the Senate Amendment. Liquidation of a cooperative is the role of the Commissioner hence not necessary to include the County Director for Cooperatives.**
- b) **The amendment to paragraph 111 (o) was accepted by the Committee as the High Court would be discharging a liquidator.**

### Clause 112

79. **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”.

### Committee Observation

**The Committee resolved to adopt the title County Director for Cooperatives thus rejected the Senate Amendment. Liquidation of a cooperative is the role of the Commissioner hence not necessary to include the County Director for Cooperatives.**

### Clause 113

80. **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.
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### **Committee Observation**

**Transferring discharge and replacement of applications to the High Court provides judicial oversight of liquidation management which is consistent with the broader shift towards court-supervised cooperative liquidation.**

### **Clause 114**

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

### **Committee Observation**

**The Committee resolved to adopt the title County Director for Cooperatives thus rejected the Senate Amendment. Liquidation of a cooperative is the role of the Commissioner hence not necessary to include the County Director for Cooperatives.**

### **Clause 116**

82. **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”.

### **Committee Observation**

**The Committee resolved to adopt the title *County Director for Cooperatives* thus rejected the Senate Amendment. Liquidation of a cooperative is the role of the Commissioner hence not necessary to include the County Director for Cooperatives.**

### **Clause 118**

83. **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”.

### **Committee Observation**

**The Committee resolved to adopt the title *County Director for Cooperatives* thus rejected the Senate Amendment. This is the role of the Commissioner hence not necessary to include the County Director for Cooperatives.**

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### **Clause 121**

84. **THAT**, Clause 121 of the Bill be amended—
- a) by deleting the introductory phrase in subclause (2) and substituting therefor the following introductory phrase, “(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).

### **Committee Observation**

**The Committee resolved to adopt the title *County Director for Cooperatives* thus rejected the Senate Amendment. This is the role of the Commissioner hence not necessary to include the County Director for Cooperatives.**

### **Clause 123**

85. **THAT**, Clause 123 (2) of the Bill be amended by—
- a) deleting paragraph (b) and substituting therefor the following new paragraph, “(a) 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”.

### **Committee Observation**

**The proposed amendments to paragraph 123 (2) (b) reduces the number of deputy chairmen from two (2) to one (1) and may have an effect on the dispensation of disputes as it reduces the possible numbers of benches from three to two as only the chairperson and deputy chairperson who are judicial officers can chair the benches. The amendment was therefore rejected by the Committee.**

### **Clause 124**

86. **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”.

### **Committee Observation**

**Amend the new subclause (1A) further by including the words “deputy chairpersons” immediately after the word “chairperson” and provide for their qualification as advocates. The other amendments proposed by the Senate were adopted by the Committee.**

### **Clause 125**

87. **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”.

### **Committee Observation**

**The term of office for most tribunals in Kenya is three years. This proposal was therefore rejected by the Committee.**

### **Clause 127**

88. **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.

### **Committee Observation**

**This proposal was adopted by the Committee**

### **Clause 128**

89. **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”.
  - (iii) 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”.

### **Committee Observations**

- a) **The Committee resolved to adopt the title *County Director for Cooperatives* and thus rejected the Senate Amendment.**
- b) **The proposal to insert sub-clause 128(3) was adopted by the Committee because it is important to have a timeline within which the Tribunal should determine disputes.**

### **Clause 130**

90. **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”.

### **Committee Observation**

**The Committee resolved to adopt the title *County Director for Cooperatives* thus rejected the Senate Amendment.**

### **Clause 131**

91. **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”.

### **Committee Observation**

**Mandatory publication of Tribunal decisions on the website is an important transparency measure that creates a body of cooperative case law, provides guidance to cooperative members and deters misconduct. This amendment was adopted by the Committee.**

## Clause 146

92. **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”.

### Committee Observation

**The Cabinet Secretary is in charge of policy direction in the Ministry and therefore is responsible for policies, legislation and regulations. The Commissioner is in charge of implementation of the policies, legislations and regulations where from time to time he will issue circulars on this. In addition, as per the Bill, the Cabinet Secretary is not a member of the Inter-Governmental Cooperatives Relations Technical Forum. This proposal was therefore rejected by the Committee.**

## Clause 148

93. **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”.

### Committee Observation

**The intra and intercounty classification being consequential to the dual registration framework the Committee has rejected, all Senate amendments premised on that classification fall away accordingly.**

## Clause 150

94. **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”.
- 

### **Committee Observation**

**The Committee resolved to adopt the title *County Director for Cooperatives* and thus rejected the Senate Amendment.**

### **Clause 152**

95. **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.

### **Committee Observation**

**The amendment by the Senate was adopted by the Committee because it provides better due process protection. Restructuring ensures that repayment of excess remuneration is explicitly tied to a conviction and court order rather than being an administrative determination.**

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### **Clause 153**

96. **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—

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

### **Committee Observation**

**The amendment was rejected. The provisions establishing the Fund had not been subjected to money bill analysis as required under Article 114 of the Constitution.**

Further, levying cooperatives connotes a mandatory financial obligation which had not been subjected to public participation as required. The dual level registration framework having been rejected by the Committee, the intra and intercounty classification on which the amendment is premised falls away accordingly.

#### Clause 154

97. **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”.

#### Committee Observations

- a) The Committee resolved to adopt the title *County Director for Cooperatives* thus rejected the Senate Amendment.
- b) The amendment to paragraph v was accepted but retain the title *County Director for Cooperatives*
- c) The dual level registration framework having been rejected by the Committee, the intra and intercounty classification on which the amendment is premised falls away accordingly.

#### Clause 156

98. **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”.

#### **Committee Observation**

**The Committee resolved to adopt the title County Director for Cooperatives and thus rejected the Senate Amendment.**

#### **Clause 157**

99. **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”.

#### **Committee Observation**

**The Committee resolved to adopt the title County Director for Cooperatives thus rejected the Senate Amendment. The clause provides for other powers of the Commissioner and therefore not necessary to include the County Director for Cooperatives.**

#### **Clause 158**

100. **THAT**, the Bill be amended by deleting Clause 158.

#### **Committee Observation**

**The Senate’s proposal to delete clause 158 was rejected by the Committee.**

#### **Clause 159**

101. **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”.

#### **Committee Observation**

**The Committee resolved to adopt the title County Director for Cooperatives and thus rejected the Senate Amendment.**

## Clause 162

102. **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”.

### Committee Observation

The Committee resolved to adopt the title **County Director for Cooperatives** and thus rejected the **Senate Amendment**.

## Clause 163

103. **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”.

### Committee Observation

The proposal by the Senate was adopted by the Committee because it was correcting a grammatical error.

## Clause 164

104. **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, “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”.

### Committee Observations

- a) The Senate’s proposal under paragraph 164(a) was rejected by the Committee because requiring the Commissioner and existing officers to immediately meet prescribed qualifications upon enactment of the Act would be prejudicial to serving officers who were validly appointed under existing schemes of service and have been performing their functions competently. The three-year compliance window proposed in paragraph (c) adequately addresses the transition without

imposing immediate and potentially unfair qualification requirements on the Commissioner and other serving officers.

- b) The Senate's proposed amendments to paragraphs 164 (b) and 164 (c) were adopted by the Committee subject to retention of the title as county director for cooperatives. The deeming provisions ensure continuity of service for existing officers and provide a clear transitional framework while allowing a three-year compliance window for officers to meet the academic qualifications prescribed under the Act.

### Clause 165

105. **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".

### Committee Observation

The dual level registration framework having been rejected by the Committee, the intra and intercounty classification on which the amendment is premised falls away accordingly.

### The First Schedule

106. **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 1—
    - (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”.

### **Committee Observations**

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- a) **The dual level registration framework having been rejected by the Committee, the intra and intercounty classification on which the amendment is premised falls away accordingly.**
- b) **The Committee resolved to adopt the title County Director for Cooperatives and thus rejected the Senate Amendments.**
- c) **The committee agreed to the proposed amendments to paragraph 8, paragraph 12 and paragraph 29.**

### **The Third Schedule**

107. **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).

### **Committee Observations**

- a) **The committee agreed to the proposed amendments to paragraph 8.**
- b) **The Committee rejected the amendments there was no role for the county directors of cooperatives**

## CHAPTER FOUR

### 4.0 COMMITTEE RECOMMENDATIONS

From the above observations, the Committee recommends as follows on the Senate Amendments to the Cooperatives Bill (*National Assembly Bill No. 7 of 2024*), That:

### 4.1 CLAUSES ADOPTED BY THE COMMITTEE

The House **AGREES** with the Senate amendments to:

1. The Long Title
2. Clause 2: Commissioner, diaspora-based member, reserve fund, and subsidiary
3. Clause 4
4. Subclause 8 (1)
5. Subclause 13 (1)
6. Paragraphs 14(2)(a) and (e)
7. Subclause 20 (5)
8. Clause 38
9. Paragraph 44(1) (ba)
10. Subclause 47 (1)
11. Subclause 53 (2)
12. Subclauses 54 (12B), and (12C)
13. Subclause 56 (5)
14. New subclause 57 (2A)
15. New subclause 61 (1A)
16. Subclause 61 (2)
17. Paragraphs 63(1)(i), (j), and (na)
18. Subclauses 64(1) and (2)
19. Paragraphs 66 (2B) (i), (iii), (iv), (vi), (vii), and (viii)
20. Clause 69
21. Clause 70
22. Subclause 73(12)
23. Subclauses 81(1), (2), (3), (4), (5), and (9)
24. Clause 82 (3)
25. Clause 83 (2)
26. Paragraph 99(1) (a)
27. Subclause 99(1A)
28. Subclause 101(1)
29. Subclause 104 (2)
30. Clause 109
31. Clause 110
32. Subclauses 124 (2) and (3)
33. Clause 127
34. Subclause 128 (3)
35. Clause 131
36. Clause 152
37. Paragraph 154 (2) (v)

- 38. Clause 163
  - 39. Paragraph 164 (a)
  - 40. First Schedule
    - a) Paragraph 8(1)
    - b) Paragraph 12
    - c) Paragraph 29(1) (b)
  - 41. Third Schedule
    - Paragraph 8(2)
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## 4.2 CLAUSES REJECTED BY THE COMMITTEE

The House **REJECTS** the Senate's amendments to:

1. Clause 2
  - a) Agricultural produce
  - b) Annual delegates meeting
  - c) County director for cooperatives
  - d) County commissioner for cooperatives
  - e) Primary cooperative
  - f) Secondary cooperative
  - g) Special delegate meeting
  - h) Intracounty primary cooperative
  - i) Intercounty primary cooperative
  - j) Intracounty secondary cooperative
  - k) Intercounty secondary cooperative
  - l) Levy
2. Clause 5
3. Clause 7
4. Subclause 8(2)
5. Clause 9
6. Clause 10
7. Clause 11
8. Clause 12
9. Clause 13
  - a) Marginal note
  - b) Subclause 13(2)
10. Subclause 14(2)
11. Paragraphs 14(2)(aa), (ab), (ac), (ad), (af), (ag), (ah), (ba), (c), (f), and (i)
12. Clause 15
13. Clause 16
14. Clause 19
15. Subclauses 20 (3), (4), and (6)
16. Clause 21
17. Clause 22
18. Clause 23
19. Clause 24
20. Clause 28
21. Clause 29
22. Clause 30
23. Clause 31
24. Clause 32
25. Clause 33
26. Clause 34
27. Clause 35
28. Clause 37
29. Clause 39
30. Clause 40

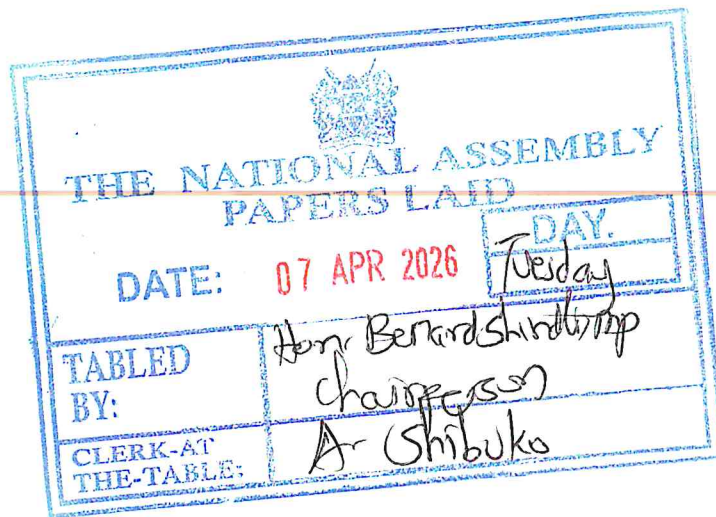
31. Clause 43
32. Clause 44 (2)
33. Subclause 47(2)
34. Clause 51

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35. Subclause 53(3)
36. Paragraph 54(1)(c)
37. Subclause 54(12A)
38. New subclauses 54 (1A), (1B), (1C), (1D), (1E), (2A), and (2B)
39. Subclauses 54(4), and (5)
40. Paragraph 54(6)(d)
41. New subclauses 54(8A) and (8B)
42. Subclauses 54(11), (11A), (12), (12A), (13), and (15)
43. Clause 55
44. Subclause 56(3)
45. Paragraphs 56(6)(d), and (f)
46. Subclauses 57 (2), (3), and (4)
47. Clause 58
48. Clause 59
49. Clause 60
50. Subclauses 61(1)
51. Paragraphs 63(1)(b), (h), (k), (nb), (nc), (nd), and (ne)
52. Subclause 64(5)
53. Clause 65
54. Subclause 66(2A)
55. Paragraphs 66 (2B)(ii), and (v)
56. Paragraph 66 (3)(a)
57. Clause 67
58. Clause 68
59. Subclauses 73(1), (2), (3), (4), (5), (6), (8) and (9)
60. Clause 75
61. Clause 79
62. Subclause 81(6), (7) and (8)
63. Subclause 82(1) and (2)
64. Clause 83
  - a) Introductory phrase
  - b) Paragraph 83(ea)
65. Clause 84
66. Clause 85
67. Clause 87
68. Clause 91
69. Clause 92
70. Clause 93
71. Clause 94
72. Clause 98
73. Paragraph 99(1) (b)
74. Clause 100
75. Subclause 101(2)
42. Clause 102

43. Clause 103
44. Subclause 104(1)
45. Clause 105
46. Clause 106
47. Clause 111
48. Clause 112
49. Clause 113
50. Clause 114
51. Clause 116
52. Clause 118
53. Clause 121
54. Clause 123
55. Subclause 124(1A)
56. Clause 125
57. Subclauses 128(1) and (2)
58. Clause 130
59. Clause 146
60. Clause 148
61. Clause 150
62. Clause 153
63. Paragraphs 154 (2) (a), (g), (h), (m), (n), (q) and (w)
64. Clause 156
65. Clause 157
66. Clause 158
67. Clause 159
68. Clause 162
69. Paragraph 164(b) and (c)
70. Clause 165
71. First Schedule
  - a) Paragraphs 3, 6 and 7 (6)
  - b) Paragraphs 9(1) and 11
  - c) Paragraph 26(1)
72. Third Schedule
 

Paragraphs 8(13) (i), (ii), (iii), (iv) and (v)



SIGNED.....  ..... DATE 07/04/2026.....

**HON. BENARD MASAKA SHINALI, CBS, MP  
CHAIRPERSON,  
DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES**



THIRTEENTH PARLIAMENT - FIFTH SESSION - 2026

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

ADOPTION SCHEDULE

We, the undersigned Honorable Members of the Departmental Committee on Trade, Industry and Cooperatives today, **Thursday, 26<sup>th</sup> March 2026** do hereby affix our signatures to this **Report on the Senate Amendments to the Cooperatives Bill (National Assembly Bill No. 7 of 2024)** to affirm our approval and confirm its accuracy, validity and authenticity:

S/NO.	NAME	SIGNATURE
1.	Hon. Benard Masaka Shinali, CBS, MP - <b>Chairperson</b>	
2.	Hon. Marianne Jebet Kitany, MP - <b>Vice-Chairperson</b>	
3.	Hon. Adhe Wario Guyo, MP	
4.	Hon. Anthony Tom Oluoch, MP	
5.	Hon. (Dr.) Beatrice Kahai Adagala, MP	
6.	Hon. Joshua Mbithi Mutua Mwalyo, MP	
7.	Hon. Joyce Kamene, MP	
8.	Hon. Robert Githinji Gichimu, MP	
9.	Hon. (Dr.) Wilberforce Ojiambo Oundo, MP	
10.	Hon. Adams Korir Kipsanai, MP	
11.	Hon. Alfred Kiprono Mutai, MP	
12.	Hon. Amos Maina Mwago, MP	
13.	Hon. John Okano Bwire, MP	
14.	Hon. Samuel Sakimba Parashina, MP	
15.	Hon. Michael Wainaina Wambugu, MP	

