

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT
SECOND SESSION

THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK
REPORT ON THE STATUTE LAW MISCELLANEOUS AMENDMENT BILL (NO. 2)
NATIONAL ASSEMBLY BILLS NO. 13 OF 2018

DIRECTORATE OF COMMITTEE SERVICES,
THE NATIONAL ASSEMBLY,
PARLIAMENT BUILDINGS,
NAIROBI.



JUNE 2018



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CHAIRMAN'S FOREWORD

The Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2018 National Assembly Bill No. 13 of 2018 was published on 10th April 2018 and read first time on 18th April, 2018. The bill is in keeping with the practice of making amendments which do not merit the publication of separate Bills and consolidating them to one Bill. The bill therefore proposes amendments to various Acts of Parliament. Pursuant to the provisions of Standing Order 127 (1), of the National Assembly Standing Orders which provides *that a Bill having been read a first time shall stand committed to the relevant Departmental Committee* it is on this basis that the Committee makes this Report.

I take this opportunity to thank all Members of the Committee for their input in the consideration of the Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2018. The Committee also takes this opportunity to thank the Offices of the Speaker and of the Clerk of the National Assembly for the logistical support accorded to it during the exercise. The Committee also appreciates the role played by the media following its coverage of the proceedings, thus enhancing accountability and transparency.

Pursuant to provisions of Standing Order 199 (6), and on behalf of the Departmental Committee on Agriculture and Livestock, it is my pleasant privilege and honor to present to this House the Report of the Committee on the Statute Law (Miscellaneous Amendments) (No. 2) National Assembly Bill No. 13, 2018.

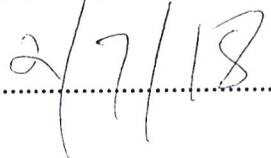
In considering the bill, the Committee received submissions from the following stakeholders;

- i. The Ministry of Agriculture and Irrigation
- ii. The Kenya Dairy Processors Association
- iii. The Commodities Fund
- iv. Kenya Bixa Limited
- v. The Attorney General

The Committee sincerely thanks the Offices of the Speaker and the Clerk of the National Assembly for the immense and timely technical and logistical support accorded to it in the execution of its mandate. I also thank all the Members of the Committee for their commitment and hard work which enabled us to complete the tasks related to the scrutiny of the proposed amendments and compilation of this report.

The Committee is also grateful to stakeholders who made submissions in relation to the Consideration of the Bill.

On behalf of the Departmental Committee on Agriculture and Livestock pursuant to provisions of Standing Order 127, it is my pleasant privilege and honor to present the Report of the Committee on its consideration of the Statute Law (Miscellaneous Amendments) (No. 2) National Assembly Bill No. 13 of 2018.

SIGNED..........DATE..........

THE HON. HON. ADEN HAJI ALI, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK COMMITTEE MANDATE

The Departmental Committee on Agriculture and Livestock is established pursuant to the provisions of Standing Order No. 216(5) of the National Assembly and in line with Article 124 of the Constitution which provides for the establishment of the Committees by Parliament. The mandate and functions of the Committee is to;

- a) *Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- b) *Study the programmes and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
- c) *Study and review all legislation referred to it;*
- d) *Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;*
- e) *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;*
- f) *Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and*
- g) *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

COMMITTEE MEMBERSHIP

1. Hon. Adan Haji Ali, M.P.
2. Hon. Emmanuel Wangwe, MP.
3. Hon. Florence Mutua, MP.
4. Hon. Maison Leshoomo, MP.
5. Hon. Silas Kipkoech Tiren, M.P.
6. Hon. Ferdinard Wanyonyi, MP
7. Hon. Francis Munyua Waititu, M.P.
8. Hon. Simba Arati, MP.
9. Hon. Dr. John Kanyuithia Mutunga, M.P.
10. Hon. Yegon Brighton Leonard, MP
11. Hon. Gabriel Kago Mukuha, M.P.
12. Hon. John Paul Mwirigi, M.P.
13. Hon. Adan Haji Yussuf, M.P.
14. Hon. Janet Jepkemboi Sitienei, M.P.
15. Hon. Dr. Daniel Kamuren Tuitoek, M.P.
16. Hon. Joyce Kamene, MP.
17. Hon. Fred Ouda, M.P.
18. Hon. Justus Makokha Murunga, MP.

Chairperson
Vice- Chairperson

COMMITTEE SECRETARIAT

First Clerk Assistant	-	Ahmad Kadhi
Third Clerk Assistant	-	Nicodemus Maluki
Legal Counsel II	-	Colletah Sigilai
Fiscal Analyst	-	Omar Abdirahim
Research Officer III	-	Eric Kariuki
Rose Apalat Omtere	-	Audio Officer
Sergeant At arms	-	Alex Mutuku
Sergeant At arms	-	Faith Makena

INTRODUCTION

This report details the Consideration of the Statute Law (Miscellaneous Amendments) (No. 2) (**NATIONAL ASSEMBLY BILL NO. 13 OF 2018**). The Bill's main objective is to amend the following;

1. **The Dairy Industry Act (Cap.336)**

The Bill proposes to amend the Dairy Industry Act to enlarge the definition of milk to include goat and camel milk. It also seeks to enhance penalties under the Act as well as allow for regulations on the standards, manner of installation and operation of milk dispensers.

2. **The Crops Act, 2013 (No. 16 of 2013)**

The Bill seeks to amend the Crops Act, 2013 to provide for the benefit of value addition to agricultural produce in relation to export.

3. **The Fisheries Management and Development Act, 2016 (No. 35 of 2016)** The Bill proposes to amend the Fisheries Management and Development Act, 2016, to harmonize various definitions in the Act.

It also seeks to introduce a new provision which empowers the Cabinet Secretary to make Regulations with regard to the conduct of the affairs of the standing committee and the technical committee and to prescribe the minimum standards for crew working on fishing vessels.

The Committee considered the amendment proposals in the Bill during its sitting of Tuesday 31st May and Thursday 7th June, 2018.

The Committee's decisions on the amendments were based on the Constitutional requirements and views from the relevant stakeholders. The Committee has deliberated on the Bill and considering the views from the stakeholders, recommends that the House approves the amendments as below;

PUBLIC PARTICIPATION

Article 118 of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the Legislative and other business of Parliament and its committees

Standing order 127 (3) provides that, ‘ the Departmental Committee to which a bill is committed shall facilitate public participation and shall take in to account views and recommendations of the public when the committee makes its report to the House.

STATUTE LAW (MISCELLANEOUS AMENDMENT) (NO.2) BILL 2018

In the Consideration of the Bill, the committee invited memoranda from the public vide a notice in the local dailies Pursuant to Article 118 of the Constitution and Standing order 127 (3).

The Committee received various memoranda from institutions and persons who are stakeholders. Their proposals are presented in a concise manner in the table below;

The Dairy Industry Act (Cap. 336)					
ACT	PROPOSED AMENDMENT	KENYA DAIRY PROCESSORS ASSOCIATION	COUNCIL OF GOVERNORS		
3. Interpretation “milk” means milk from a cow; “producer” means a person who produces, processes, manufactures, prepares or treats dairy produce for sale;	s.3 Insert the words “goat or camel whether in liquid, solid or any other form” immediately after the word “cow” appearing in the definition of “milk”. Insert the word “imports” immediately after the word “manufactures” appearing in the definition of “producer”.	We unanimously support this inclusion as it will improve on the quality of milk consumed in the country including previously excluded sectors. “This would include Importers in the regulation by the KDB. Support the recommendation in so far as it does not contradict any signed treaties by the Government such as COMESA, EAC Treaties. In the event that such contradiction occurs, it would have a punitive impact on processors who wish to export to those countries due to counter measures likely to be imposed			
		NEW (b) five members, being producers selected for appointment from a			

		<p>panel of not less than ten names submitted to the Minister by the Central Agricultural Board;</p> <p>Proposal</p> <p>(b) Delete five members to three being producers. Include 2 Members from processors</p> <p>Two Members will represent over 40 processors operating in Kenya</p> <p>-Processors views will be taken into consideration of the Dairy Industry</p>			
<p>19. Power to make regulations</p> <p>The Minister may, on the advice of the Board, make regulations generally for the better carrying out of the purposes and provisions of this Act, and, without prejudice to the generality of the foregoing, may make regulations with regard to dairy produce—</p> <p>(a) prescribing grades for any form of dairy produce, and minimum standards to which dairy produce shall conform, whether as a condition of importation or of exportation or of sale within Kenya;</p> <p>(b) fixing the price to be paid for any grade or type of dairy produce to producers, distributors or retailers, with power to fix different prices on a basis of quota or for different seasons or circumstances;</p> <p>(c) prescribing the manner of handling, transporting and storing of dairy produce intended for the use of or consumption by any person other than the producer thereof;</p>	<p>s.19(e) Delete and substitute the following new paragraph—</p> <p>“(e) the manner of collection of the dairy regulatory levy referred to in section 23A.”</p>	<p>We recommend the following words to be inserted</p> <p>“The Minister may, on the advice of the Board and in Consultation with stakeholders make regulations.....</p> <p>Current 19(a) is under the umbrella of Kenya Bureau of Standards. We recommend that this is deleted.</p> <p>Current 19(b) will lead to price fixing by the government. We recommend a liberal market as currently the government does not offer any subsidies on the milk industry.</p> <p>Section (f). We recommend deletion of this paragraph (f) and all other subsequent provisions.</p>	<p>Amend to read as follows:</p> <p>“The Cabinet Secretary may, in consultation with the Board and the County Governments, shall regulations generally for</p> <p>the better carrying out of the purposes and provisions of this Act, and, without</p> <p>prejudice to the generality of the foregoing, may make regulations with regard to dairy produce”</p> <p><i>Article 6 of the Constitution stipulates that both level of government shall conduct their mandates in a consultative manner. Since</i></p>		

<p>(d) regulating and controlling the manufacture of any form of dairy produce;</p> <p>(e) imposing a levy or cess, payable to the Board, on any form of dairy produce, or imposing different rates as between different forms of produce, or as between produce for export and produce for consumption in Kenya;</p> <p>(f) prescribing the terms and form in which contracts for the sale of milk by producers, other than producers who sell direct to consumers, shall be made, and making provision for the Board to be joined as an additional party to any such contract;</p> <p>(g) providing for the creation and administration by the Board of schemes for the pooling of dairy produce by producers in such area or areas as may be prescribed and for the distribution to producers of the proceeds of sale of such dairy produce after payment to the Board, therefrom, of such sums as may be prescribed;</p> <p>(h) controlling the sale, purchase and delivery by any person of dairy produce in such area as may be prescribed:</p> <p>Provided that no distributor or retailer shall be compelled to buy dairy produce from a producer or distributor unless the Board guarantees a regular and sufficient supply of the dairy produce;</p> <p>(i) prescribing the areas within which retailers may sell dairy produce to consumers;</p> <p>(j) requiring the registration and licensing, in such manner and upon payment of such fees as may be prescribed, of distributors of dairy produce;</p> <p>(k) requiring the giving of such security to the Board as the Board may specify a licensed distributor or retailer in respect of payment for dairy produce which a producer or distributor is</p>			<p><i>agriculture is a developed function, any policy and regulation formulated by National government concerns County Governments and as such consultation is inevitable</i></p>		
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<p>directed by the Board to sell to the distributor or retailer;</p> <p>(l) prescribing fees or charges for services rendered under this Act by the Board or its officers, servants or agents;</p> <p>(m) prescribing the manner in which delegates to represent registered producers for the purposes of section 21 may be selected;</p> <p>(n) equiring returns, reports and estimates to be furnished to the Board by producers, distributors and retailers;</p> <p>(o) prescribing the forms of application, and of licences, marks, registers and all other documents to be used for the purpose of this Act;</p> <p>(p) prescribing the manner of marking articles intended for use in connection with dairy produce, including wrappers or packages intended to contain dairy produce;</p> <p>(q) prescribing the qualifications, powers and duties of inspectors and other persons appointed to exercise powers and perform duties under this Act;</p> <p>(r) for the examination, inspection, analysis and testing of dairy produce or any article used in connection with dairy produce, prescribing charges in respect thereof, and the conditions upon and the manner in which samples of such produce may be taken, whether compulsorily or otherwise;</p> <p>(s) authorising the opening by prescribed persons or officers, for the purpose of inspection, of any package which contains or is reasonably thought to contain dairy produce;</p> <p>(t) prescribing the books, accounts, vouchers and records to be kept by persons carrying on business in dairy produce;</p> <p>(u) authorising the examination and inspection by prescribed persons or officers of all books and documents relating to the production, manufacture,</p>					
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<p>distribution or sale of any dairy produce;</p> <p>(v) making different provisions with respect to different cases or classes of case, different areas, seasons or circumstances, and for different purposes of this Act and may impose conditions and restrictions and make exceptions.</p>				
	<p>New Insert the following new paragraphs immediately after paragraph (v)–</p> <p>“(w) prescribing the requirements for the licensing of milk dispensers and other dispensers of other dairy produce;</p> <p>(x) prescribing the manner of handling, storage, dispensing and the general management dairy produce.”</p>	<p>Improve on the quality of dispensed milk.</p> <p>Further consultation to ensure that the proposed regulations and in line with discussions held at KARI.</p> <p>All stakeholders should be involved</p>		
<p>20. General provisions with regard to regulations</p> <p>Regulations made under this Act may provide for—</p> <p>(a) their application to any specified area, or class of persons, or type or description of dairy produce;</p> <p>(b) empowering such authorities or persons as may be specified in the regulations to make orders or issue directions for any of the purposes for which regulations are authorised by this Act to be made;</p> <p>(c) imposing a fine or imprisonment or both for the breach of any such regulation, order or direction but so that the fine shall not exceed ten thousand shillings and the period of imprisonment shall not exceed one year;</p> <p>(d) the particulars, information, proof or evidence to be furnished as to any question or matter arising under this Act or such regulations;</p>	<p>s.20 Insert the following new paragraphs immediately after paragraph (e)–</p> <p>“(f) punishment for a fine not exceeding three million shillings or a term of imprisonment not exceeding three years or both.”</p>	<p>Contradicts with the current Section 20(c) which prescribes a fine not exceeding ten thousand shillings and a period of imprisonment not exceeding one year.</p> <p>Reconcile the two conflicting sections.</p> <p>Define what breaches will lead to imprisonment to avoid misuse of the act.</p>		

<p>(e) imposing on any person accused of an offence under this Act or regulations the burden of proving particular facts, but not so as to impose on an accused person the general burden of proving his innocence.</p>					
	<p>New Insert the following new section immediately after section 23–</p> <p>Dairy regulatory levy.</p> <p>23A. (1) There shall be payable to the Board by every producer a dairy regulatory levy at the rate of one per centum of ex-factory price per kilogram of marketed processed milk and milk products.</p> <p>(2) Despite subsection (1), a county government may, pursuant to Article 209(3) (c), impose a cess, payable to the county government on any milk or milk product</p>	<p>We oppose any new levies to be charged on dairy products for the following reasons:-</p> <p>1. Only 20% of milk produced in Kenya is sold in the formal sector. KPDA, in line with the government policy to improve on the manufacturing sector, (Big Four) is committed to reduce the price of processed milk to the consumer and hence increase milk consumption in Kenya as recommended by the World Health Organization.</p> <p>Double taxation particularly on processors who are based in all the counties.</p> <p>Different rates may be imposed by different county governments hence increasing the cost of doing business in Kenya which will ultimately make Kenyan milk uncompetitive.</p> <p>Further consultation on this matter with dairy stake holders.</p> <p>Status quo to remain</p>	<p>Insert the following new subsection 23A (1A) immediately after section 23A(1) –</p> <p>23A (1A) the levy shall be shared between the Board and County Governments on a ratio of 40%:60% respectively. The amount due to County Governments shared on prorata basis based on production</p> <p><i>Justification</i></p> <p><i>Regulation of dairy products is done by both County and national government with big chunk of activities happening at the County Level happens. Thus the Council is of the opinion the sharing formulae takes account of the functional mandate of both level to develop the dairy industry</i></p>		

	produced within the county.				
31. "Primary producer" defined In this Part, "primary producer" means a person who produces milk for sale, but does not include persons employed by him for that purpose.	s.31 Insert the words "or an import" immediately after the word "produces" appearing in the definition of "primary producer".	We welcome this amendments as it protects the Kenyan dairy industry.	"or import"		
33. Penalty for failure to register After the appropriate period of one month referred to in section 32 has elapsed, a primary producer to whom this Part applies who carries on business as such without being registered in accordance with this Part, or who wilfully neglects to supply the particulars prescribed by that section, or who knowingly or recklessly supplies any such particulars which are materially false, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.	s.33 Delete the expression "two thousand shillings" and substitute therefor the expression "one million shillings or imprisonment for a term not exceeding one year or to both"	We welcome the amendment.			
The Crops Act, 2013 (No.16 of 2013)					
ACT	PROPOSED	COMMODITIES FUND	COUNCIL OF GOVENORS	KENYA BIXA LTD	
2. Interpretation	s.2 Insert the following new definitions in proper alphabetical sequence— "Board of Trustees" means the board trustees of the Fund; "Fund" means the commodities fund established under section 9 of the Act.	"Board of trustees" means the Board of the Commodities Fund. "The Fund "means the Commodities Fund established under section 9 of the Act.		Include Bixa has a Scheduled crop	Outside the scope of proposed amendments-SO 133(5)
8. Promotion of scheduled crops In addition to the functions stipulated under any other law, the Authority shall— (a) formulate general and specific policies for the development of	s.8(n) Insert the following words at the beginning of the paragraph "in consultation with the Ministry responsible for industrialization".		Add the following word "in consultation with County Governments" immediately after the following words, "the Authority " as		Redraft

<p>scheduled crops specified in the First Schedule;</p> <p>(b) facilitate marketing and distribution of scheduled crops through monitoring and dissemination of market information, including identification of the local supply-demand situation, domestic market matching and overseas market intelligence and promotion activities on scheduled crops;</p> <p>(c) enjoin the Ministry responsible for transportation and communications to effect an efficient, regular and economical means of transporting scheduled crops, for purposes of reducing marketing costs and ensuring stable consumer supply;</p> <p>(d) promote the establishment of wholesale markets in identified major centres of the country;</p> <p>(e) promote the establishment of agricultural produce collection centres in viable areas to serve as buying stations of farm products, packaging houses, pick-up points and meeting places of farmers' and growers' cooperatives;</p> <p>(f) establish linkages with various governments and private research institutions for the conduct of studies and researches designed to promote the production, marketing and processing of scheduled crops;</p> <p>(g) in consultation with the National Biosafety Authority, advise the government on the introduction, safe transfer, handling and use of genetically modified species of plants and organisms in the country;</p> <p>(h) conduct farmers' training programs aimed at increasing their knowledge on production technologies and on market potentials and prospects for various types of crops, through farmer training institutions;</p> <p>(i) establish experimental stations and seed farms for the development of varieties suitable to the agro-climatic conditions of the area and markets that will provide greatest value added to scheduled crops;</p>			<p>appearing in section 8 of Act</p> <p><i>Article 6 of the Constitution stipulates that both level of government shall conduct their mandates in a consultative manner. Since agriculture is a developed function, any policy and regulation formulated by National government concerns County Governments and as such consultation is inevitable</i></p> <p>Delete the entire section 8(h)</p> <p><i>Under the Fourth Schedule Constitution extension services are devolved to</i></p>		
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<p>(j) devise and maintain a system for regularly obtaining information on current and future production, prices and movement in trade, to determine and effect a balanced distribution of scheduled crops by means of inter-trading or intra-trading among the established wholesale markets;</p> <p>(k) establish and enforce standards in grading, sampling and inspection, tests and analysis, specifications, units of measurement, code of practice and packaging, preservation, conservation and transportation of crops to ensure health and proper trading;</p> <p>(l) ensure secure domestic food supply for the country;</p> <p>(m) formulate policies and guidelines on dealing with other crops;</p> <p>(n) promote and advise on strategies for value addition prior to the export of crops from Kenya;</p> <p>(o) recommend general industry agreements between farmers and processors of scheduled crops;</p> <p>(p) prescribe the minimum period within which farmers are to be paid for crops delivered and penalties for delayed payments; and</p> <p>(q) perform any other relevant function.</p>			<p><i>County Government. National government role is capacity building to County Technical department to effectively deliver extensions services</i></p> <p>Delete the word "enforce" appearing immediately before the word "standards"</p> <p><i>Schedule 4 part 2(7) of the Constitution gives County Governments powers to develop and regulate markets including- markets, trade licensing and fair trading practices. In realizing this mandate County Government enforce National standards on marketing and trade practices. Thus, National governments should only enforce standards on export and imports.</i></p>	
<p>9. Commodities Fund</p> <p>(1) There is established a Fund to be known as the Commodities Fund.</p> <p>(2) The Fund shall consist of-</p> <p>(a) monies paid as license fees, commission, export or import agency fees and fees that may accrue to or vest in the Authority</p>		<p>By declaring the Fund a body corporate with perpetual succession and a common seal, the Fund obtains legal entity status. This should be inserted immediately after the establishment of the Fund to read as follows.....</p> <p>"the Fund shall be a body corporate with</p>	<p>9(2)(a) Add the word "export and import" immediately after the words " monies paid as"</p> <p><i>Schedule 4 part 2(7) of the Constitution gives the County Governments the</i></p>	

<p>in the course of exercise of its functions under the Act;</p> <p>(b) funds from any other lawful source approved by the Trustees; and</p> <p>(c) funds appropriated by Parliament for this purpose.</p> <p>(3) The Fund shall be managed by a Board of Trustees to be appointed by the Cabinet Secretary.</p>	<p>s.9 Insert the following new subsections immediately after subsection (3)–</p> <p>“(4) The Board of Trustees shall comprise of–</p> <p>(a) a non-executive chairperson;</p> <p>(b) the Principal Secretary in the Ministry responsible for matters relating to agriculture or a designated representative;</p> <p>(c) the Principal Secretary in the Ministry responsible for matters relating to finance or a designated representative;</p> <p>(d) the Principal Secretary in the Ministry responsible for matters relating to Cooperatives or a designated representative;</p> <p>(e) three persons appointed by virtue of their knowledge and experience in</p>	<p>perpetual succession and a common seal and shall, in its corporate name, be capable of:-</p> <p>a) Suing and being sued;</p> <p>b) Taking purchase, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;</p> <p>c) Borrowing and lending money; and</p> <p>d) Doing or performing all such other acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.</p>	<p><i>mandate of Trade development and regulation including- markets, Trade licensing (excluding regulation of the profession), fair trading practices, cooperatives and societies</i></p> <p><i>The crops act gives counties powers on issuance of trade licenses to any person trading in scheduled crops within the county;</i></p> <p><i>County Government will administer agricultural licenses except for exports and imports as per the Constitution 2010</i></p> <p>- Amend the proposed amendment by deleting 4(c) and replace with the following:</p> <p>4(e) three persons appointed by the Council of Governors to represent interests of County Governments</p> <p><i>Under section 10 of the Crops Act, the purpose of the Fund is affordable credit and advances to farmers for all or any of the following purposes; farm improvement; farm inputs; farming operations; price stabilization.</i></p>	
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	<p>matters relating to human resource management, accounting and auditing respectively;</p> <p>(f) one person appointed by virtue of knowledge and experience in matters relating to agriculture, co-operative or law;</p> <p>(g) the Director-General of the Authority or a designated representative; and</p> <p>(h) the Managing Trustee appointed under section 9A who shall be an ex-officio member and Secretary of the Board of Trustees.</p> <p>(5) The members of the Board of Trustees appointed under paragraph (c) and (f) shall serve for a term of three years and shall be eligible for reappointment for one further term.”</p>		<p><i>These are devolved functions as per the Fourth Schedule of the Constitution hence representation of County Governments is inevitable..</i></p>		
	<p>New Insert the following new section immediately after section 9—</p> <p>Managing Trustee of Fund. 9A. (1) The Board of Trustee shall appoint a Managing Trustee of the Fund through a competitive process, who shall serve on terms and conditions to be specified in the instrument of appointment.</p> <p>(2) The Board of Trustees shall conduct its affairs in accordance with regulations prescribed by the Cabinet Secretary and subject to the</p>				

	law relating to trustees.				
<p>10. Application of the Fund</p> <p>(1) The Fund shall be used to provide sustainable affordable credit and advances to farmers for all or any of the following purposes—</p> <p>(a) farm improvement;</p> <p>(b) farm inputs;</p> <p>(c) farming operations;</p> <p>(d) price stabilization; and</p> <p>(e) any other lawful purpose approved by the Authority.</p>	<p>s.10(1) Insert the expression “, processors, and other value chain actors” immediately after the word “farmers” appearing in the opening statement.</p> <p>Insert the following new paragraph immediately after paragraph (c) –</p> <p>(ca) other value chain activities including processing, transportation, storage and warehousing.</p>				
<p>(2) The Authority shall, from time to time, make rules for the better management of the Fund in the best interest of farmers.</p>	<p>(2) Delete the word “Authority” and substitute therefor the expression “Cabinet Secretary”.</p>	<p>Deleting the word ‘Authority’ in between the words ‘the’ and ‘shall’ and replacing it with the words ‘Cabinet Secretary’</p>			
<p>13. Regulation of scheduled crops</p> <p>(1) The Authority shall regulate all aspects of scheduled crops with a view to—</p> <p>(a) promoting productivity;</p> <p>(b) facilitating the provision of farm inputs;</p> <p>(c) promoting trade and access to markets;</p> <p>(d) facilitating provision of infrastructure;</p> <p>(e) providing post-harvest services and technology;</p> <p>(f) facilitating the collection of farm products and storage;</p> <p>(g) training of farmers and provision of extension services;</p>	<p>s.13(1)(j) Insert the following words “in consultation with the Ministry responsible for industrialization” immediately after the word “addition”.</p>		<p>Amend the section 13(1) by inserting the following words, “in consultation with County Governments” before “regulate all aspects of scheduled crops”</p> <p><i>Agriculture is a fully devolved function under the Fourth Schedule of the Constitution as such anything done or to be done by the Authority should be in consultation with the County Governments</i></p>		

(h) providing of incentives to farmers; (i) availing credit facilities; and (j) value addition				
18. Manufacturing licence (1) A person shall not manufacture or process a scheduled crop product for sale except under and in accordance with a licence issued under this Act.	s.18(1) Insert the following expression "and other applicable Acts including Special Economic Zones Act, 2015; Export Processing Zones Act, 1990 and Micro and Small Enterprises Act, 2012" immediately after the word "Act".			
The Fisheries Management and Development Act, 2016 (No. 35 of 2016)				
		COUNCIL OF GOVERNORS		
2. Interpretation In this Act, unless the context otherwise requires— "artisanal fishing vessel" means any local fishing vessel, canoe or un-decked vessel with a length overall of not more than ten meters, which is motorised or not motorised by an outboard or inboard engine not exceeding forty horsepower, or powered by sails or paddles, but does not include decked or undecked semi-industrial fishing vessels or vessels used for recreational fishing; "fishing" means— (a) searching for or taking of fish; (b) the attempted searching for or taking of fish; (c) engaging in any other activity which can reasonably be expected to	s.2 Delete the definitions to the expressions "artisanal fishing vessel", "fishing", "fish product", "industrial fishing vessels" and "semi-industrial fishing vessel" and substitute therefor the following new definitions in proper alphabetical sequence— "artisanal fishing" means small scale traditional fishing carried out for subsistence purposes in which the owner is directly involved in the day-to-day running of the enterprise and relatively small amounts of capital are used; "fishing" means attempting, attracting, searching for, locating, catching, taking or harvesting or any	The definition of the following words should be maintained; "artisanal fishing vessel" "industrial fishing vessels" and "semi-industrial fishing vessel" <i>The Bill does not give an alternative definition yet the words are used widely in the parent Act.</i>		

<p>result in the locating or taking of fish;</p> <p>(d) placing, searching for or recovering any fish aggregating device or associated equipment including radio beacons;</p> <p>(e) any operation on Kenya fishery water or on the high seas in support of or in preparation for any activity described in paragraphs (a), (b), (c) or (d);</p> <p>(f) use of an aircraft which is related to any activity described in paragraphs (a), (b), (c) or (d), except for flights in emergencies involving the health or safety of a crew member or the safety of a vessel, but does not include aquaculture or the transportation of fish;</p> <p>"fish product" means any product or part thereof (including oil) obtained by fish processing, and intended for use as human food, animal feed or raw material ingredient in the manufacture of other commodities of commercial or ornamental value;</p> <p>"industrial fishing vessel" means a decked fishing vessel with an overall length of twenty meters or greater and with an inboard engine;</p> <p>"semi-industrial fishing vessel" includes—</p> <p>(a) a decked fishing vessel with an overall length of not less than ten meters and.</p>	<p>activity which can reasonably be expected to result in the attempting, attracting, searching for, locating, catching, taking or harvesting of fish, and includes the use of an aircraft for any of the aforementioned activities, except for flights in emergencies involving the health or safety of a crew member or the safety of the vessel, but does not include aquaculture or the transportation of fish; and</p> <p>"fish product" means any product or part thereof (including oil) obtained from nature by fish processing, or as products secreted by fish and intended for use as human food, animal feed or raw material ingredient in the manufacture of other commodities of commercial or ornamental value;</p>			
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<p>not more than fifty GRT and not powered by an inboard engine ; and</p> <p>(b) an undecked vessel with a length of not ten meters and more than two meters with 150 GRT and powered by engine of at least 150 HP;</p>				
<p>58. Competent authority</p> <p>(1) The Ministry responsible for the Service shall be the competent authority responsible for the official control of the safety of fish, fish products and fish feed.</p> <p>(2) The Cabinet Secretary shall establish a technical committee on Fish Quality and Safety.</p> <p>(3) The functions of the Committee shall be to—</p> <p>(a) monitor the production of fish products and fish feed with a view to assessing risks to humans;</p> <p>(b) regulate fish handling, landing, transportation, processing and marketing;</p> <p>(c) work in collaboration with other Government agencies in matters related to this section;</p> <p>(d) carry out inspection of operational fishery enterprises for compliance with fish safety regulations issued by the Cabinet Secretary;</p> <p>(e) lay down all procedures to be followed for compliance with provisions under paragraph (f);</p> <p>(f) specify conditions for the placing on the market of fish, fish products and fish feed;</p> <p>(g) maintain a register of fishery enterprises approved by the competent authority.</p> <p>(h) issue health certification of fish, fish products and fish feed subject to the consignment meeting set requirements;</p>	<p>s.58(2)</p> <p>Insert the expression “standing committee” immediately before the expression “technical committee”.</p>	<p>1. Delete the proposed amendment and maintain the section 58(1) of the Act.</p> <p>2. amend section 58(2) to read as follows:</p> <p>58 (2) The Cabinet Secretary shall establish a technical committee on Fish Quality and Safety which shall include representation from the County Governments.</p> <p><i>The technical Committee is sufficient for the purposes of assessing fish quality and safety in the Country.</i></p> <p><i>Further, under the Fourth Schedule of the Constitution fisheries is a devolved function and as such the County Governments who are the primary implementers should be represented in the technical Committee.</i></p>		

<p>(i) perform such other functions as may be necessary or expedient for food safety conditions of fish products in accordance with this Act.</p> <p>(4) The Cabinet Secretary may for the purposes of subsection (2) make regulations, and such regulations shall regard to conduct of the affairs of the standing committee.</p>	<p>Delete and substitute therefor the following new subsection -</p> <p>(4) The Cabinet Secretary may, for purposes of subsection (2), make regulations with regard to the conduct of the affairs of the standing committee and the technical committee.</p>	<p>Amend by deleting the word "standing Committee" and replace with "Technical Committee" to read as follows:</p> <p>58(4) The Cabinet Secretary may for the purposes of subsection (2) make regulations, and such regulations shall regard to conduct of the affairs of the technical committee.</p> <p><i>The Council opines that the standing Committee being proposed will have no role under the Act hence the technical committee should be maintained</i></p>		
<p>81. Registers of licences and authorizations</p> <p>(1) The Director-General shall establish and maintain a national register of licences and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Minister.</p> <p>(2) The register established under subsection (1) shall include—</p>				

<p>(a) information on applications for licences and authorizations under this Act;</p> <p>(b) information on each licence and authorization issued, renewed, suspended or cancelled under this Act, including the activity, date and duration;</p> <p>(c) information on each licensed or authorized person;</p> <p>(d) information on the relevant vessel, facility, and/or licensed or authorized activity;</p> <p>(e) any record of non-compliance with the licence or authorization;</p> <p>(f) any record of action taken as a result of non-compliance;</p> <p>(g) the requirements of any relevant international conservation and management measures of an organization of which Kenya is a member or cooperating non-member; and</p> <p>(h) such other information that may be prescribed or required by the Director-General.</p> <p>(3) The register established under subsection (1) shall contain information relating to fishing vessels licensed or authorized for fishing or fishing related activities—</p> <p>(a) within areas under national jurisdiction; and</p> <p>(b) in areas beyond national jurisdiction.</p> <p>(4) The Director-General shall, in respect of information contained in the register in accordance with subsection (2), provide access to such information on request by directly interested Government bodies, regional fishery bodies including regional fisheries management organizations, international organizations and foreign States or entities, taking into account any applicable laws regarding the confidentiality or release of such information.</p> <p>(5) The Director-General shall ensure that the information on each license and authorization in the database is sufficient for</p>				
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s.81(3) Delete and substitute therefor the following new subsection-

<p>purposes of fisheries management and monitoring, control and surveillance, and to implement the international and regional agreements to which Kenya is party or cooperating non-party.</p> <p>(6) The Director-General shall ensure that, where appropriate, information is released from the database and communicated to other States and regional and international organizations in a timely manner to ensure the discharge of the regional and international obligations of Kenya including as a flag State and as a member of regional fisheries management organizations.</p> <p>(7) Registration of a licence or authorization in the national register shall not be considered a licence or authorization for the purposes of this Act.</p> <p>(8) A person may, upon payment of such fee as may be prescribed, access any non-confidential information from the register.</p>	<p>(3) The register established under subsection (1) shall contain information relating to fishing vessels licensed to engage in fishing or fishing-related activities in Kenya fishery waters and to Kenya fishing vessels authorised to operate in areas beyond national jurisdiction.</p>			
<p>84. Licences and authorizations required</p> <p>(1) valid and applicable licence issued in accordance with section 92(3) shall be required for—</p> <p>(a) using an industrial fishing vessel for fishing or fishing related activities in the Kenya fishery waters;</p> <p>(b) using a semi-industrial fishing vessel for fishing or related activities in the Kenya fishery waters;</p> <p>(c) using an artisanal fishing vessel for commercial purposes;</p> <p>(d) commercial aquaculture; and</p> <p>(e) such other activity or activities within the scope of this Act for which a licence or authorization may be required by the management measures in an applicable Fisheries Management Plan adopted in accordance with the requirements in this Act, or as may be prescribed from time to time.</p>	<p>s.84(1) Delete the expression “92(3)” and substitute therefor the expression “93(3)”.</p> <p>Insert the following new paragraph immediately after paragraph (e) -</p> <p>(f) ornamental fishing.</p>			

<p>(2) The respective county governments shall be responsible for issuing licenses with respect to—</p> <p>(a) using any vessel for recreational fishing in the Kenya fishery waters; and</p> <p>(b) operating a fish processing establishment within the respective county.</p>	<p>(2) Delete paragraph (b).</p>	<p>The section 84(2)(b) should be maintained as provided for under the Act.</p> <p><i>Under the Fourth Schedule of the Constitution, fisheries is a devolved function as such County Governments are responsible for issuance of licenses for operating a fish processing establishment within the respective county as provided for under Section 84(2)(b) of the Act.</i></p>		
<p>(3) The Cabinet Secretary shall prescribe the standards for the registration of vessels and grant, renewal and revocation of licences by a county government under sub-section (2).</p>				
<p>(4) Each County Government may enact county specific legislation setting out the—</p> <p>(a) criteria for the registration of a vessel and issuance of a licence to an applicant for a licence under subsection (2);</p> <p>(b) information required to be submitted by an applicant for registration or issuance of a licence;</p> <p>(c) process of determination of an application;</p> <p>(d) conditions for the issuance or renewal of a licence under this Act;</p> <p>(e) grounds for the rejection of an application or cancellation of a licence issued under this Act;</p> <p>(f) process of application for the renewal of licences, de-registration of a vessel and revocation of a licence issued to an applicant by the county government; and</p> <p>(g) appointment of inspectors or such other authorised officers to carry out such inspections as the county executive committee member responsible for fisheries</p>	<p>(4) Delete paragraph (g).</p>	<p>Maintain the section 84(4)(g) as provided for under the Act.</p> <p><i>Since the fisheries is a devolved function as per the Fourth Schedule of the Constitution, the is justiciability for the Bill to try and remove the mandate of appointment of inspectors or such other authorized officers to carry out such inspections from the County Governments as provided for under the Act.</i></p>		

may consider necessary for the implementation of this Act.			
<p>(5) A valid and applicable written authorization issued in accordance with section 88 and 89 shall be required for—</p> <p>(a) using a Kenyan fishing vessel in areas outside the Kenyan fishery waters;</p> <p>(b) each transshipment, including the transfer of fish from a fishing vessel to a carrier vessel or a shore based facility for the purpose of export;</p> <p>(c) using any vessel for marine scientific research or test fishing;</p> <p>(d) using any foreign fishing vessel to enter a port in Kenya; and</p> <p>(e) deployment and maintenance of any fish aggregating device in the Kenya fishery waters.</p>	<p>(5) Insert the following new paragraph immediately after paragraph (e)-</p> <p>(f) conducting fishing operations for educational purposes;</p> <p>(g) the supply of food in case of emergency.</p>		
<p>85. Subsistence exemption from licence requirements</p> <p>(1) Any person fishing only for purposes of non-commercial subsistence, intended to result in consumption of the fish caught, shall be exempt from the requirement for a licence but shall require to apply to the respective county government for registration.</p> <p>(2) The Cabinet Secretary may by order published in the Gazette determine the quantity of fish which may be deemed to be fish for own consumption under subsection (1), and different quantities may be determined for different areas of Kenya.</p> <p>(3) Subsection (1) shall not apply to a person employed by a licensee, or, subject to section 23 of the Penal Code, to a company which is a licensee, in respect of any act done by the person or company as such licensee.</p>	<p>s.85(1) Delete and substitute therefor the following new subsection -</p> <p>(1) A person engaged in artisanal fishing shall be exempted from the requirement for a licence but shall require to be registered.</p>	<p>Amend the proposed amendment to read as follows:</p> <p>85(1) A person engaged in artisanal fishing shall be exempted from the requirement for a licence but shall apply to the respective county government for registration.</p> <p><i>Regulation of artisanal fishing is purely a County Mandate and as such the person who intends to engage in such fishing shall apply to be registered by the respective County Governments.</i></p>	
<p>86. Grant, renewal and issuance of licences and authorizations</p> <p>(1) The Board, on the recommendation of the Director-General may approve the grant or renewal of licences or authorizations for any purpose</p>	<p>s.86(1) Place a full-stop immediately after the word "discharged" and delete the rest of the subsection.</p>		

<p>specified in section 87 after all inspections, verifications and other pre-licensing requirements under this Act have been discharged and each licence or authorization shall be issued or renewed upon the written endorsement of the Cabinet Secretary.</p> <p>(2) A licence or authorization shall not have legal force or effect unless it has been approved and endorsed as required in subsection (1).</p> <p>(3) The Director-General shall, in approving or renewing a licence under subsection (1), act in accordance with the procedures required pursuant to this Act and such other transparent and accountable standards as may be determined and published.</p> <p>(4) The Director-General shall promptly issue such licences or authorizations when all required conditions under this Act have been met and the Cabinet Secretary has endorsed such licence or authorization.</p> <p>(5) Where the Director-General declines to approve, issue or renew a licence or authorization, the Director-General shall state in writing reasons for the decision, and promptly transmit them to the applicant.</p>	<p>(3) Insert the words "or an authorised officer" immediately after the expression "an inspector".</p>	<p>No such provision</p>		
<p>88. Requirements for denial of licences and authorizations</p> <p>(1) A licence or authorization shall not be approved, endorsed, issued or renewed where—</p> <p>(a) a relevant vessel is not intended for use as a fishing vessel;</p> <p>(b) a relevant vessel does not hold a valid and applicable registration, or holds more than one registration;</p> <p>(c) a relevant vessel is not a Kenya vessel and does not have a valid and applicable authorization or licence from its flag State to fish in areas beyond national jurisdiction, including in Kenya fishery waters;</p>	<p>s.88(1) Delete the words "Kenyan fishery waters"</p>			

<p>(d) the issuance of a licence would be contrary to any applicable fisheries management plan or an aquaculture development plan;</p> <p>(e) the applicant for a commercial aquaculture licence has not undertaken an environmental impact assessment as required in respect of an aquaculture licence, or that such an assessment concludes that a licence should not be approved, endorsed, issued or renewed;</p> <p>(f) the species of fish that the applicant for a commercial aquaculture licence proposes to farm, the method of aquaculture that the applicant proposes to employ or the proposed site for aquaculture do not meet standards or requirements that may be prescribed or publicly notified for aquaculture;</p> <p>(g) within the previous six years, the applicant, or a vessel or person closely connected with the applicant in respect of activities falling within the scope of this Act, has been convicted of a serious offence pursuant to this Act or any international agreement and has not complied with a judgment or administrative determination unless, in respect of a vessel there has been a change of ownership of the vessel and there is no connection between the former owner(s) and the new owner(s), and the new owner(s) do not have a history of engaging in illegal, unreported or unregulated fishing;</p> <p>(h) the applicant, vessel, or associated person has been charged with an offence pursuant to this Act more than three times and has—</p> <p>(i) not submitted to judicial or administrative procedures; or,</p> <p>(ii) has submitted to judicial or administrative procedures but has not fully complied with the final decision or determination;</p> <p>(i) the issuance of the licence or authorization would be</p>	<p>appearing in paragraph (c).</p> <p>Insert the words “or any relevant international conservation and</p>	<p>Wrong referencing. May be (i)</p>		
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<p>inconsistent with an international agreement to which Kenya is party;</p> <p>(j) the operator of the fishing vessel has not provided a performance bond if so required pursuant to section 134;</p> <p>(k) the activity is likely to threaten the sustainability of a fishery resource;</p> <p>(l) in the case of a foreign fishing vessel, an agent has not been appointed; or</p> <p>(m) the vessel in respect of which the licence is sought has been included on a list of illegal, unreported and unregulated fishing vessels established and maintained by a competent regional fishery body in accordance with its rules and procedures.</p> <p>(2) A licence or authorization shall not be approved, issued or renewed for any fishing vessel if that vessel was previously licensed or authorized by a foreign State for fishing within or in areas beyond national jurisdiction and was convicted of a violation under national law or undermined the effectiveness of international conservation and management measures, and, as a consequence—</p> <p>(a) the foreign State suspended such licence or authorization because of illegal, unreported or unregulated fishing activities by the vessel, and the suspension has not expired; or</p> <p>(b) the foreign State within the last three years preceding the application for a licence under this Act withdrew such licence or authorization for illegal, unreported or unregulated fishing activities.</p> <p>(3) The restriction in subsection (2) does not apply if the ownership of the vessel has changed since the vessel undermined international conservation and management measures, and the new owner has provided sufficient evidence to the Director-General demonstrating that the previous owner or operator has no further</p>	<p>management measures” immediately after the expression “international agreement” appearing in paragraph (g).</p>			
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<p>legal, beneficial or financial interest in the vessel.</p> <p>(4) For the purpose of subsection (1) (e) the term 'associated' shall include situations where the same legal or beneficial owner, or agent is shared.</p>	<p>(2) Insert the following new paragraph immediately after paragraph (b) -</p> <p>(c) no fishing licence shall be issued to a fishing vessel that has changed its flag within the same fishing season; or</p> <p>(d) a fishing vessel which is connected with any offence under this Act and which subsequently changes its flag but retains the ownership</p>			
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	<p>shall not be issued with a licence as a fishing vessel.</p>			
<p>91. Preference for employment of citizens of Kenya</p> <p>(1) Where commercial employment is foreseen in relation to the activity for which the licence or authorization is sought, it shall be a condition of the licence or authorization is sought, it shall be a condition of the licence or authorization that citizens of Kenya possessing the necessary qualifications and experience shall be given preference for employment, and such employment shall be in accordance with the Employment Act, No. 1 of 2007.</p> <p>(2) A licensee shall not—</p> <p>(a) import unskilled labour; or</p> <p>(b) in any case use child labour,</p> <p>for the carrying out of any of its operations undertaken under the terms of the applicable licence or authorization.</p> <p>(3) Where the applicant for a licence or authorization is partly or wholly a foreign citizen or company, or where an applicable fisheries access agreement, arrangement, right, licence or authorization has been entered into pursuant to section 89 and 90, such applicant shall be required, to the extent possible and in such manner as the Director-General may in consultation with the Cabinet Secretary approve, to contribute to the training and employment of Kenya citizens taking into account the requirements of safety and the need to maintain acceptable standards of</p>	<p>s.91(2) Insert the following new subsection immediately after subsection (2) -</p> <p>(2A) A licensee shall not use forced labour and shall ensure that the fishing vessel is sufficiently and efficiently manned and under the</p>			

<p>fishing activities shall include the following conditions—</p> <p>(a)</p> <p>the fishing vessel shall clearly display at all times such markings as may be prescribed and shall not change such markings without written permission from the Director-General;</p> <p>(b)</p> <p>the fishing vessel shall at all times fly the flag of the State of which it is national;</p> <p>(c)</p> <p>the operator shall hold a valid registration in respect of the fishing vessel as may be required by the flag State or entity for that type of vessel and issued by such flag State or entity;</p> <p>(d)</p> <p>the operator shall hold only one valid registration in respect of the fishing vessel and shall not at the same time hold more than one such registration;</p> <p>(e)</p> <p>the operator shall comply at all times with such requirements for trawling gear as may be prescribed;</p> <p>(f)</p> <p>the operator shall not carry on board the fishing vessel any fishing gear that has not been approved for fishing activities pursuant to the fishing licence or authorization;</p> <p>(g)</p> <p>the operator shall not carry firearms aboard unless</p>	<p>prescribe, are citizens of Kenya.</p>			
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<p>authorized by the Director-General;</p> <p>(h)</p> <p>unless otherwise authorized by the Director-General, the operator shall ensure that at least forty five percent of the crew members on board each fishing vessel are citizens of Kenya;</p> <p>(i)</p> <p>the operator shall comply with all relevant provisions of national law relating to navigational standards, standards relating to work conditions on board fishing vessels and the safety of vessels at sea;</p> <p>(j)</p> <p>the operator shall comply with any direction given by the Director-General for inspection of the vessel prior to departing from the Kenya fishery waters; and</p> <p>(k)</p> <p>such other conditions that are required pursuant to this Act, or that may be required by Public Notice by the Cabinet Secretary by notice in the Gazette or as may be prescribed.</p>				
<p>112.</p> <p>Conditions for fish processing licence</p> <p>(1) Each licence to operate a fish processing establishment shall be subject to the following conditions in addition to any other conditions required pursuant to this Act—</p> <p>(a) the fish processed shall not exceed the total amount permitted for that operation, including such limits on species and quantity as the respective county executive committee member responsible for fisheries may, in consultation with Director-General may set;</p> <p>(b)</p>	<p>s.112(1) Insert the following expression “Special Economic Zones Act 2015 and Export Processing Zones Act 1990” immediately after the word “Act” appearing in the opening statement.</p> <p>(a) Insert the following words “and Ministry responsible for industrialization” immediately after the expression “Director-General”.</p>			

<p>the operator of the fish processing facility shall ensure that—</p> <p>(i) all relevant health, hygiene and environmental laws and standards of Kenya are complied with; and</p> <p>(ii) no fish is accepted for processing which has been caught in illegal, unreported or unregulated fishing operations.</p> <p>(c)</p> <p>any change in the information submitted in the application form shall be notified to the respective county executive committee member responsible for fisheries as soon as practicable and in any case not later than three working days from the date of change; and</p> <p>(d)</p> <p>each licensee shall comply with the requirements of applicable laws in Kenya relating to food safety</p> <p>(2)</p> <p>Each licence to engage in fish processing operations shall be posted in a conspicuous location and produced for inspection at the request of an officer or inspector authorized to carry out an inspection by the county executive committee member responsible for fisheries.</p> <p>(3)</p> <p>Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding five years or to both.</p>				
<p>114.</p> <p>Inspectors to request information and keep records</p> <p>(1)</p> <p>An inspector appointed under this Act shall request such information and keep such records in relation to fish processing operations as may be authorized under this Act or</p>	<p>s.114(2) Insert the following new paragraph immediately after paragraph (q)-</p> <p>(r) the origin of fish or fish consignments.</p>			

<p>required by the Director-General or the county executive committee member responsible for fisheries, as the case may be.</p> <p>(2)</p> <p>Information requested and records kept by an inspector in relation to fish marketing may include, inter alia, the following—</p> <p>(a)</p> <p>name of the seller;</p> <p>(b)</p> <p>name of the County;</p> <p>(c)</p> <p>name of the village the seller is from;</p> <p>(d)</p> <p>species of fish being sold;</p> <p>(e)</p> <p>number of fish being sold;</p> <p>(f)</p> <p>type of product being sold;</p> <p>(g)</p> <p>destination of the shipment;</p> <p>(h)</p> <p>name of the buyer;</p> <p>(i)</p> <p>date of sale;</p> <p>(j)</p> <p>date of shipment;</p> <p>(k)</p> <p>total weight of species being sold;</p> <p>(l)</p> <p>price per kilogram;</p> <p>(m)</p> <p>price of shipment;</p>				
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<p>(n) means of transportation;</p> <p>(o) name of ship or plane;</p> <p>(p) number of flight or voyage; and</p> <p>(q) customs requirements.</p>				
<p>140. Powers of entry and search of authorized officers</p> <p>(1) An authorized officer may, in the performance of his functions under this Act, without a warrant at any reasonable time—</p> <p>(a) stop, enter, board, stay on board, examine and search any vessel, vehicle or aircraft, including—</p> <p>(i) any Kenya vessel outside the fisheries waters; and</p> <p>(ii) any other vessel to which this Act or any international agreement applies;</p> <p>(b) enter, examine and search any premises or place, other than premises used exclusively as a dwelling house, or which are part of or attached to a dwelling house, which the authorized officer reasonably suspects are used for activities falling within the scope of this Act and—</p> <p>(i) in or on which he has reason to suspect that evidence of an offence against this Act may be found; or</p> <p>(ii) which it is necessary or expedient to enter or search to ascertain whether this Act is being or has been complied with;</p> <p>(c)</p>	<p>s.140(1) Delete subparagraph (a)(i) and substitute therefor the following new subparagraph -</p> <p>(i) any Kenyan fishing vessel within or outside the Kenyan fishery waters.</p>			

<p>stop any person and examine any record, article, container, gear, apparatus, device, or fish in the possession of that person; and</p> <p>(d)</p> <p>pass across any land,</p> <p>and may examine and search any document, record, article, container, gear, equipment, apparatus, device, container, fish and contents of any kind found therein or thereon.</p>				
<p>201.</p> <p>Board of Directors</p> <p>(1)</p> <p>There shall be a Board of Directors of the Fish Marketing Authority which shall consists of—</p> <p>(a)</p> <p>a chairperson appointed by the President;</p> <p>(b)</p> <p>the Principal Secretary of the Ministry for the time being responsible for matters relating to fisheries or his representative;</p> <p>(c)</p> <p>the Principal Secretary of the ministry for the time being responsible for matters relating to finance or his representative;</p> <p>(d)</p> <p>The Principal Secretary for the time being responsible for matters related to Trade and Industry;</p> <p>(e)</p> <p>The Principal Secretary in the ministry for the time being responsible for planning and economic development, or his representative;</p> <p>(f)</p> <p>one person, who has knowledge and experience in matters relating to fisheries, nominated by the Council of Governors;</p>	<p>s.201(1) Delete paragraph (g).</p>			

<p>(g) the Chief Executive Officer of the Fund;</p> <p>(h) the Chief Executive Officer of the Fish Marketing Authority, who shall be the secretary; and</p> <p>(i) four other members nominated or selected through a competitive process taking into consideration regional balance and gender parity and appointed by the Cabinet Secretary, of whom—</p> <p>(i) two shall be nominated by the registered national fisheries associations; and</p> <p>(ii) two shall be persons with knowledge or experience in matters relating to international fisheries, finance, business administration, law, marketing or a related discipline.</p>				
<p>202. Tenure of office and vacation of office</p> <p>(1) A member of the Board of Directors appointed under section 201 (1) (a) and (f) shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.</p> <p>(2) A member of the Board of Directors, other than an ex officio member may, at any time, resign from office by giving notice, in writing, addressed to the appointing authority</p> <p>(3) A member of the Board of Directors, other than an ex-officio member, who is absent from three consecutive meetings of the Board of Directors without sufficient cause shall cease to be a member of the Board of Directors.</p> <p>(4)</p>	<p>s.202(2) Delete the expression “t (1) (a) and (f) and substitute therefor the expression (i) (a), (f) and (h)”.</p>			

<p>Where a member of the Board of Directors is, for sufficient cause, unable to act as a member, the Cabinet Secretary shall determine whether the inability would result in the declaration of a vacancy.</p> <p>(5)</p> <p>Where there is a vacancy—</p> <p>(a)</p> <p>under subsection (2) or (3) or section 35(2); or</p> <p>(b)</p> <p>as a result of declaration under subsection (4); or</p> <p>(c)</p> <p>by reason of the death of a member,</p> <p>the Cabinet Secretary shall appoint another person in accordance with the provisions of section 201 (1) to fill that vacancy.</p>				
<p>206.</p> <p>Appointment of chief executive and other staff</p> <p>(1) The Cabinet Secretary shall, in consultation with the Board of Directors and subject to subsection (2), through a competitive process, appoint a person to be the Chief Executive Officer of the Fish Marketing Board.</p> <p>(2)</p> <p>A person shall not be qualified for appointment as the Chief Executive Officer under subsection (1) unless that person has an advanced degree in marketing, business administration or related discipline and has at least ten years' experience at a senior management level in matters relating to Fisheries, marketing or other related sector.</p> <p>(3)</p> <p>The chief executive officer shall hold office for a term of three</p>	<p>s.206(1) Delete the expression "Fish Marketing Board" and substitute the expression "Fish Marketing Authority".</p>			

<p>years and shall be eligible for re-appointment for one further term.</p> <p>(4)</p> <p>The Board of Directors may appoint such officers and other staff as may be necessary for the proper and effective performance of the functions of the Fish Marketing Authority.</p>				
<p>207.</p> <p>Funds of the Fish Marketing Authority</p> <p>(1) There shall be a general fund of the Fish Marketing Authority which shall vest in the Board of Directors and into which shall be paid—</p> <p>(a)</p> <p>monies appropriated by Parliament for the purposes of the Fish Marketing Authority;</p> <p>(b)</p> <p>monies that may accrue to or vest in the Fish Marketing Authority in the course of the performance of its functions under this Act or any other law and approved by Parliament;</p> <p>(c)</p> <p>monies provided to the Fish Marketing Authority from the Fund;</p> <p>(d)</p> <p>donations, grants and gifts made to the Fish Marketing Authority, and</p> <p>(e)</p> <p>monies from any other source approved by the Cabinet Secretary for the time being responsible for matters relating to finance.</p>	<p>s.207(1) Delete the introductory portion and substitute therefor the following words -</p> <p>“The funds of the Authority shall consist of —”</p>			

COMMITTEE’S OBSERVATIONS

The Committee made the following observations;

1. **The Dairy Industry Act (Cap.336)**

The Bill proposes to amend the Dairy Industry Act to enlarge the definition of milk to include goat and camel milk. It also seeks to enhance penalties under the Act as well as allow for regulations on the standards, manner of installation and operation of milk dispensers.

The Committee agreed to the Ministry of Agriculture and Irrigation, as well as the Attorney General's proposal that, Committee stage amendments are prepared to delete the provisions relating to the Dairy Industry Act.

The justification by the Ministry was that there was need for more consultation on the matters.

2. **The Crops Act, 2013 (No. 16 of 2013)**

The Bill seeks to amend the Crops Act, 2013 to provide for the benefit of value addition to agricultural produce in relation to export. Members agreed with the proposals contained in the Bill as published.

3. **The Fisheries Management and Development Act, 2016 (No. 35 of 2016)** The Bill proposes to amend the Fisheries Management and Development Act, 2016, to harmonize various definitions in the Act.

It also seeks to introduce a new provision which empowers the Cabinet Secretary to make Regulations with regard to the conduct of the affairs of the standing committee and the technical committee and to prescribe the minimum standards for crew working on fishing vessels. The bill sought to introduce new provisions to streamline the issue of licensing for fisheries activities.

COMMITTEE'S RECOMMENDATIONS

The Committee having considered the Bill, made the following recommendations

1. **The Dairy Industry Act (Cap. 336)**

Clause (3) The Committee proposes deletion.

Clause (19) The Committee proposes deletion.

Clause (20) The Committee proposes deletion.

Clause (31) The Committee proposes deletion.

Clause (33) The Committee proposes deletion.

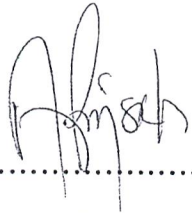
2. **The Crops Act, 2013 (No. 16 of 2013)**

The Committee agreed to the proposals contained in the Bill.

3. **The Fisheries Management and Development Act, 2016 (No. 35 of 2016)**

Clause 86.(3) The Committee Proposes deletion.

Clause 88.(1) The Committee Proposes the deletion of the words "including in" after national jurisdiction.



SIGNED.....DATE.....

THE HON. HON. ADEN HAJI ALI, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

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