

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

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REPORT ON:

THE CONSIDERATION OF THE COOPERATIVES BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2024) BY HON. KIMANI ICHUNG'WAH, MGH, MP, THE LEADER OF THE MAJORITY PARTY

THE NATIONAL ASSEMBLY PAPERS LAID	
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CLERK-AT THE TABLE:	JN28PU MWALE
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**DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI**

NOVEMBER 2024





SUBMISSIONS FROM THE COUNCIL
OF GOVERNORS



LEGISLATIVE MEMORANDUM ON THE DRAFT COOPERATIVE BILL, 2024

TO

THE NATIONAL ASSEMBLY

FROM

THE COUNCIL OF GOVERNORS

Introduction

THE COUNCIL OF GOVERNORS,

In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Article 6 (2);

In further recognition of the need to ensure that all legislation are cognizant of the fact that Trade development and regulation, including—cooperatives societies is a fully devolved function under section 7 of Part 2 of the Fourth Schedule to the Constitution;

Aware of the need for coordinated action and approach between the National and County Governments in promoting the development of cooperatives in Kenya for the benefit of our farmers.

Having reviewed the **draft Cooperative Bill, 2024** in its entirety, the Council of Governors recommends the following amendments for better implementation of the proposed Act by the County Governments:

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
2. interpretation	“County director for Cooperatives” means a public officer appointed by a County Public Service Board to be responsible for the promotion, regulation, supervision and development of Cooperatives in a county;	Amend the definition of the word “County Director for Cooperatives” to read as follows: “County Director” means the County Director for the time being responsible for Cooperatives development in a county;	To avoid ambiguity and provide for clarity as to the definition of County Director
	“Secondary Cooperative” means a Cooperative whose membership is restricted to primary Cooperatives;	“Secondary Cooperative” means a cooperative whose membership is two or more primary cooperatives	To provide clarity on the definition of the term
9. Functions of the Commissioner.	9.(1) The Commissioner shall be responsible for the growth, development and regulation of Cooperatives in Kenya	Amend clause 9(1), 9(2)(c) and (e) to read as follows: 9. (1) The Commissioner shall be responsible for provision of technical assistance to the County Governments in the growth and development of cooperatives.	To align to the provisions of the Fourth Schedule to the Constitution which has devolved trade development and regulation including cooperatives societies to County Governments and capacity building and provision of technical assistance to the

	<p>(2) Despite the generality of subsection (1), the Commissioner shall:</p> <p>(a) ...;</p> <p>(b) co-ordinate the implementation of an intergovernmental relations mechanism in the Cooperatives sector;</p> <p>(c) „</p> <p>(d) register all Cooperatives in Kenya, and maintain a national register of all Cooperatives;</p> <p>(e) conduct inquiries into the affairs of cooperatives in accordance with this Act;</p> <p>(f) ...;</p> <p>(g) ...;</p>	<p>(2) Despite the generality of subsection (1), the Commissioner may:</p> <p>(a) recommend to the Cabinet Secretary the formulation of a national policy framework and standards for the development and growth of cooperatives;</p> <p>(b) ... Intergovernmental relations if any, should be strictly within the confines of policy development and capacity building;</p> <p>(c) register cooperative federations and the apex Cooperative in Kenya, and</p> <p>(d) maintain a national register of all Cooperatives;</p> <p>(e) conduct inquiries into the affairs of Cooperative federations and the Apex Cooperative in accordance with this Act;</p>	<p>counties as the functions of National Government.</p> <p>2. Replace the word “shall” with the word “may”</p> <p>The use of the word “shall” make it mandatory for the commissioner to co-ordinate the implementation of an intergovernmental mechanisms. This is unconstitutional and contravenes the fully devolved functions requirement.</p> <p>b). This section purports to force a consensus on sharing of functions between Counties and National Government yet cooperatives are constitutionally fully devolved functions.</p> <p>*** The Functions of the Commissioner should be limited to the formulation of national policy framework and standards for development and growth of cooperatives.</p> <p>This has been unbundled exhaustively during the unbundling exercise.</p> <p>d. Cooperatives being fully devolved, registration thereof should be done at County level by the respective County Governments, who in turn, submit the registration returns to the commissioner. This will also be a source of own source revenue for the counties.</p>
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	(h) develop and enforce good governance, ethics and integrity guidelines in Cooperatives;	(f) develop good governance and ethics in <u>cooperative federations and the apex cooperative</u> in accordance with this Act;	Delete the word "enforce". enforcing will amount to meddling and overstepping.
12. Staff of the office of the County Director for Cooperatives	12. The County Public Service Board shall appoint such number of technical officers to the office of County Director for Cooperatives, as may be necessary for the implementation of the provisions of this Act.	Amend clause 12 to read as follows: 12. The County Public Service Board shall in <u>consultation with the respective County Department, competitively recruit and</u> appoint such number of technical officers to the office of County Director for Cooperatives, as may be necessary for the implementation of the provisions of this Act.	To provide for a consultative mechanism between the County Public Service Board and the County Department of Cooperative in the identification of the necessary human resource for the office.
14. Functions of the County Director for Cooperatives	14. (1) The County Director for Cooperatives shall be responsible for promoting the formation of Cooperatives and day-to-day supervision of Cooperatives in the county. (2) Despite the generality of subsection (1), the County Director for Cooperatives shall— (a) formulate and implement strategies, guidelines, and measures in cooperative matters in accordance with the national policy framework; (b) carry out inspections into the affairs of Cooperatives in the county; (c) supervise elections of Cooperatives within the county; (d) enforce good governance in the	Amend by deleting <u>clauses 14(1) and (2)</u> and replace with the following <u>new clauses 14(1) and (2)</u> 14(1) <u>The County Director for Cooperatives shall be responsible for the growth, development, regulation and day-to-day supervision of Cooperatives in the county.</u> (2) <u>Despite the generality of subsection (1), the County Director for Cooperatives shall:-</u> (a) <u>recommend to the County Executive Committee Member the formulation of policies, strategies guidelines and measures for growth, development, and regulation in the county;</u>	To align to the provisions of Article 209(4) & (5) and Part 2 sections 7 of the Fourth Schedule to the Constitution, which allows the county governments to impose charges for services as well as mandate of trade development and regulation including cooperatives societies.

	<p>management of Cooperatives in the county;</p> <p>(e) provide external auditing services to Cooperatives in the county;</p> <p>(f) carry out capacity building of Cooperatives in the counties;</p> <p>(g) promote value addition, joint venture and adoption of appropriate technology in Cooperatives;</p> <p>(h) establish and maintain a county Cooperative research and information centre;</p> <p>(i) facilitate collaboration and linkages between primary and secondary Cooperatives;</p> <p>(j) collect, collate, analyse, and disseminate data on the activities of Cooperatives in the county;</p> <p>(k) develop strategies on the improvement of governance and growth of Cooperatives in the county; and</p> <p>(l) perform such other functions as may be necessary for the implementation of this Act.</p>	<p>(b) <u>implement policies, strategies, guidelines, and measures in line with the national policy framework;</u></p> <p>(c) <u>Register all the primary and secondary cooperatives and maintain a county register of cooperatives;</u></p> <p>(d) <u>carry out inspections into the affairs of cooperatives in the county;</u></p> <p>(e) <u>supervise over elections of cooperatives within the county;</u></p> <p>(f) <u>facilitate and promote the registration of primary and secondary cooperatives;</u></p> <p>(g) <u>conduct inquiries into the affairs of primary and secondary cooperatives in the county;</u></p> <p>(h) <u>enforce good governance in the management of the primary and secondary cooperatives in the county;</u></p> <p>(i) <u>provide external auditing services to cooperatives in the county;</u></p> <p>(j) <u>carry out capacity building of cooperatives in the county;</u></p>	
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		<p>(k) promote value addition, joint venture and adoption of appropriate technology in cooperatives;</p> <p>(l) establish and maintain a county cooperative research and information centre;</p> <p>(m) facilitate collaboration and linkages between primary and secondary cooperatives;</p> <p>(n) collect, collate, analyze, and disseminate data on the activities of cooperatives in the county;</p> <p>(o) develop strategies on the improvement of governance and growth of cooperatives in the county;</p> <p>(p) perform such other functions as may be necessary for the fulfilment of the provisions of this Act.</p> <p>(3) Upon registration, the County Director shall share with the Commissioner all the registered primary and secondary cooperatives for purposes of national statistics.</p> <p>3) A county government may, pursuant to the Fourth Schedule of the Constitution, impose fees for issuance of licenses for cooperative societies within the county.</p>	
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		<p>(4) <u>The fees imposed by a county government under subsection (3) shall not in any way prejudice national economic policies, economic activities across county boundaries or national mobility of goods, services, capital or labour.</u></p> <p>(5) <u>Despite the provisions of this section, cooperatives in respect of which the provisions of the Sacco Societies Act apply shall be supervised and regulated in accordance with the provisions of the Sacco Societies Act.</u></p>	
<p>Other powers of the Commissioner.</p>	<p>158(1) Without prejudice to any other powers under this Act the Commissioner may—</p> <p>(a) call for elections in any Cooperative;</p> <p>(b)</p> <p>(c) issue circulars and guidelines for the better administration of this Act;</p> <p>(d) require that Cooperatives update their by-laws; and</p> <p>(e) exercise such other powers consistent with this Act as may be prescribed in Regulations.</p> <p>(2) The Commissioner may in writing delegate any of his powers conferred upon him to an officer or any other person.</p>	<p>Delete the entire section</p>	<p>The section allows the Commissioner to over step the mandate outlined in section 9 of the Bill.</p> <p>The Commissioner has no power to delegate powers to any other person</p>

Conclusion

The centrality of devolution in the cooperatives sector is something that cannot be wished away in the process of developing a legal framework for promotion and supervision of cooperatives in the country. It is therefore imperative that the Cooperative Bill is aligned to the provisions of the Constitution. We therefore urge the National Assembly to ensure that the functions of Commissioner of Cooperatives is only limited to provisions of technical assistance and capacity buildings to the County Governments and development of standards for cooperatives in Kenya. On the other hand, the role of County Governments is to ensure development and regulation of cooperatives in their respective jurisdictions as well as registration of primary and secondary cooperatives as this is a function fully devolved under the Fourth Schedule to the Constitution.

Further, centralizing regulatory functions of the cooperatives at the National Level through the Bill undermines the objects and principles of devolution, particularly section 174 (f) which stipulates that ***“to promote social and economic development and the provisions of proximate, easily accessible services through Kenya”***

27th May, 2024

The Clerk of the National Assembly,
Parliament Building,
Parliament Road,
P.O. Box 41842.
NAIROBI

**RE: COMMITTEE STAGE AMENDMENTS TO THE
COOPERATIVES BILL, 2024**

NOTICE is given that Hon., Leader of Majority in National Assembly Hon Kimani Ichungwah, intends to move the following amendments to the Cooperatives Bill, 2024 at the Committee Stage—

CLAUSE 124

THAT, clause 124 of the Bill be amended —

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

(1) There is hereby established a Tribunal to be known as the Co-operative Tribunal which shall consist of—

- (a) a chairperson and two deputy chairpersons appointed by the Cabinet Secretary on the nomination of the Judicial Service Commission;
- (b) one member being an Advocate of the High Court nominated by Law Society of Kenya;
- (c) two members nominated by the Council of Governors;
- (d) two members nominated by Cabinet Secretary; and
- (e) two members nominated by the Cabinet secretary who are members in good standing of the Kenya Society of Professional Co-operators (KSPC).

(b) by deleting sub-clause (2);

CLAUSE 125

THAT, clause 125 of the Bill be amended—

(a) by deleting the sub-clause (1);

- (b) by deleting the sub-clause (2);
- (c) in sub-clause (3) by deleting the words “sub section (2)” and substituting therefor the words “sub section (1)”;
- (d) in sub-clause (3) by deleting paragraph (b);
- (e) in sub-clause (4) by deleting paragraph (a);

CLAUSE 127

THAT, Clause 127 of the Bill be amended by deleting the words “Judicial Service Commission and substituting therefor the words “Cabinet Secretary”;

CLAUSE 130

THAT, Clause 130 of the Bill be amended in sub-clause (3) by deleting the words “Deputy Registrar” and substituting therefor the word “chairperson”;

CLAUSE 135

THAT, Clause 135 of the Bill be amended in sub-clause (1) by deleting the word “vice” and substituting therefor the word “deputy”;

CLAUSE 136

THAT, Clause 136 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Deputy Registrar in charge of tribunals” and substituting therefor the words “deputy chairpersons”;
- (b) in sub-clause (2) by deleting the words “Deputy Registrar” and substituting therefor the words “deputy chairpersons”;

CLAUSE 139

THAT, Clause 139 of the Bill be amended by deleting the word “vice” and substituting therefor the word “deputy”, and by deleting the word “chairman” and substituting therefor the word “chairperson”;

CLAUSE 141

THAT Clause 141 of the Bill be amended by deleting the word “chairman” and substituting therefor the word “chairperson”;

CLAUSE 142

THAT, Clause 142 of the Bill be amended in sub-clause (2) by deleting the words “Contempt of Tribunal Act, 2016” and substituting therefor the words “Contempt of Court Act (Cap 8F)”;

CLAUSE 143

THAT, Clause 143 of the Bill be amended—

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

(1) The Cabinet Secretary and the Council of Governors shall each appoint a public officer qualified to serve as Cooperative Officers.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(2) The Cooperative Officers appointed in sub-clause (1) shall serve on such terms and conditions of service as are applicable to Cooperative Officers and shall be responsible for—

(a) serving as the liaison and communication link between the Cooperative Tribunal, the Ministry, the county governments and the Cooperative Sector; and

(b) any other matter assigned under this Act or any other written law;

CLAUSE 145

THAT, Clause 145 of the Bill be amended in sub-clause (1) by deleting the word “chairman” and substituting therefor the word “chairperson”;

CLAUSE 167

THAT Clause 167 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) a person who immediately before the commencement of this Act was a member of the Cooperative Tribunal established under the repealed Act, shall remain in office for their unexpired term or for a period of 18 months whichever is earlier, provided that they meet the criteria and qualifications for appointment as such in accordance with this Act; and

MEMORANDA ON THE AMENDMENTS TO THE COOPERATIVES BILL, 2024

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
4	Guiding principles	<p>Include the following sub-clause (c) Affirmative action for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalised communities.</p> <p>Recognize the critical role of women as individuals and collectives to the economy particularly through the informal sector</p>	To affirm that bridging the inequality gap is a foundational objective of the Act.
9	Functions of the Commissioner	<p>Include the following sub-clause</p> <p>Coordinate the development of an affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalised communities in cooperatives.</p>	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.
14	Functions of the County Director for	Include the following sub-clause	To ensure the affirmative action is monitored and carefully implemented



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INTRODUCTION

The African Women Studies, UON WEE Hub takes a keen interest in Kenya's Fiscal Policy situation with the view of supporting the increased participation of women in the Kenyan Economy. The engagements of the African Women Studies, UON WEE Hub on Kenya's Fiscal Policy environment is a deliberate approach to support the policymakers (National Treasury, County Assemblies and Parliament) by providing alternative choices on matters that directly affect the plight of women in the country and their involvement in economic activities. The focus is on women's economic empowerment by pin-pointing the inclusion, omission, reduction and increment of the funds that have an impact on the economic empowerment and participation of women in the economy. The analysis and proposals given is in line with the critical areas that the AWSC UON WEE Hub attaches importance in uplifting the lives of women which are Health, Primary Education, Water and Sanitation, Clean and Affordable Energy and Unpaid Domestic and Care Work. Directing efforts on policies aimed at improving food security, Women's Economic Empowerment, childcare, financial inclusion, social protection among other issues would directly impact on the abilities of women to engage more in the economy and that would yield accelerated growth.

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
	Cooperatives	Coordinate the implementation of the affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalised communities in cooperatives at the County level.	vertically; from the county to the national level.
15	Annual Report by the County Director for cooperatives	<p>Include the following sub-clause</p> <p>(2) Without prejudice to the generality of subsection (1) the report shall detail:</p> <p>(i) The progress of the implementation of the affirmative action framework for the benefit of special interest groups at County level.</p>	Reporting serves as a Monitoring Evaluation, Reporting and Learning tool for the affirmative action framework.
17	Functions of Inter-Governmental Cooperatives Relations Technical Forum	<p>Include the following sub-clause:</p> <p>(f) Formulate the development of an affirmative action framework for the benefit of special interest groups of</p>	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
		women, youth, persons with disability, and minority and marginalised communities in cooperatives.	
20	Primary Cooperatives	<p>Include the following sub-clause under clause (1):</p> <p>(h) women empowerment cooperatives</p> <p>Include the following sub-clause under clause (2):</p> <p>(h) A women empowerment cooperative shall be a cooperative registered under this Act with the object of advancing the economic empowerment of women.</p>	This would serve as a novel cooperative dedicated to women economic empowerment.
43	Mandatory usage of names in certain cooperatives	<p>Include the following sub-clause under clause (1):</p> <p>(d) Where a cooperative is registered as a women empowerment cooperative, the cooperative shall:</p> <p>(i) Incorporate the word "women empowerment" immediately before the</p>	Necessary for ease of identification of the cooperative by potential members.

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
		<p>word "cooperative", as part of its name; and</p> <p>(ii) At all times use the said name or the abbreviation WOM-EMP-COOP or any of its derivatives or any other words indicating the transaction of women empowerment business or the equivalent, in the name, description or title under which it transacts business.</p>	
125	Appointment of members of the Cooperative Tribunal	<p>Amend clause 125 (1) as follows:</p> <p>The Chairperson and Deputy Chairperson of the Cooperative Tribunal shall be appointed by the Judicial Service Commission from persons of the opposite gender.</p>	To cement gender equality in the leadership of the Cooperative Tribunal.
148	Enforcement of Ethics and Integrity in Cooperatives	<p>Include the following sub-clause:</p> <p>(4) Cooperatives shall develop a code of conduct for the benefit</p>	To ensure each cooperative is conscious of the need to safeguard and promote the place of special interest groups.

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
		of special interest groups of women, youth, persons with disability, and minority and marginalised communities in the cooperative.	
155	Regulations	Introduce the following sub-clause under clause (2) (mm)prescribe affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalised communities in cooperatives.	The Cabinet Secretary sits at the apex position in regulation of cooperatives. Through regulation the Cabinet Secretary is able to offer affirmative action guidelines for special interest groups. The guidelines will inform the subsequent affirmative action guidelines to be coordinated by the Commissioner.

Other Comments

Regulations concerning the composition of directors within cooperatives should be clearly outlined in the bill, including a prescribed gender ratio. This is critical for fostering inclusivity and equitable participation in decision-making processes, addressing historical imbalances, and promoting gender diversity within leadership structures. Robust conflict resolution mechanisms must also be established to handle disputes arising from profit-sharing and gender dynamics, ensuring a fair and conducive environment for cooperative operations.

Empowering women within cooperatives is paramount for sustainable development, particularly through government support in regions with significant female participation. Advocacy efforts should prioritize addressing challenges such as leadership conflicts, sexual harassment, and the marginalisation of women within cooperatives. Additionally, provisions promoting the establishment and growth

of women's cooperatives should be integrated, acknowledging their unique contributions and fostering a more inclusive and supportive cooperative environment



COUNCIL OF GOVERNORS

DOC
2015/24

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Our Ref: COG/2/19 Vol.3 (88)

16th May, 2024

Mr. Samuel Njoroge
Clerk of the National Assembly
Parliament Buildings
NAIROBI

Attn: Jeremiah Ndombi, MBS

LETTER FORWARDING THE JOINT AGREEMENT ON THE CONTENTIOUS ISSUES IN THE COOPERATIVES BILL, 2024

The above subject matter refers.

Reference is made to the stakeholder engagement meeting on the Cooperatives Bill 2024 held on 6th May 2024 at Bunge Towers, between the National Assembly departmental committee on Trade and Cooperatives, the Ministry of Cooperatives, and the Council of Governors concerning the Cooperatives Bill 2024.

During the meeting, the Council of Governors made submissions on the Cooperative Bill 2024. While significant progress was made, some contentious issues in the Bill remained unresolved. Consequently, the chair of the National Assembly Trade and Cooperatives Committee called for further consultation between the Ministry of Cooperatives and the Council of Governors to agree on the contentious issues.

In response to this recommendation, the Ministry of Cooperatives organized a follow-up meeting on 16th May 2024 at Weston hotel. The meeting brought together key stakeholders, including the Cabinet Secretary of Cooperatives, the Governors, and the principal secretary for cooperatives. The meeting resulted in the development of a joint submission signed by the Cabinet Secretary and the Chair of the Cooperatives committee, Council of Governors.

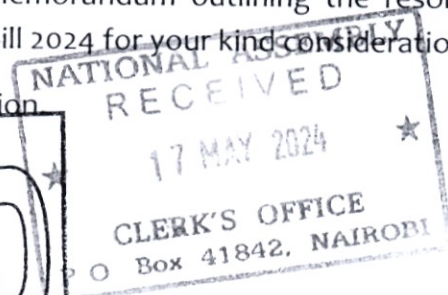
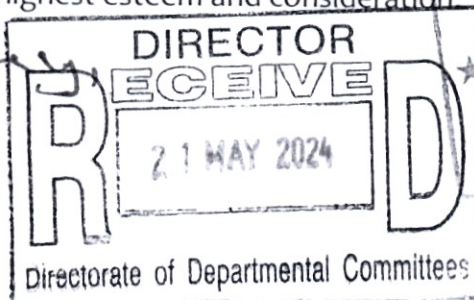
Enclosed herewith, please find a copy of the joint memorandum outlining the resolutions reached on the contentious issues in the Cooperatives Bill 2024 for your kind consideration.

Please be assured of our highest esteem and consideration.

Yours

Sincerely,

Mary Mwiti
Chief Executive Officer



Copy:

Mr. Simon K. Chelugui, EGH

Cabinet Secretary

Ministry of Cooperatives and Micro, Small & Medium Enterprises (MSMEs)

Development

NAIROBI

Mr. Patrick Kilemi

Principal Secretary

State Department for Cooperatives

NAIROBI.



JOINT AGREEMENT ON CONTENTIOUS ISSUES IN THE COOPERATIVES BILL, 2024

RESOLUTIONS MADE DURING THE CONSULTATIVE MEETING BETWEEN THE COUNCIL OF GOVERNORS AND THE CABINET SECRETARY, MINISTRY OF COOPERATIVES AND MSMEs DEVELOPMENT HELD ON THURSDAY, 16TH MAY 2024.

Background

The Constitution of Kenya, entrusts County Governments with the responsibility of trade development and regulations including cooperative societies. Further, the **Gazette Supplement notice 116 of 2013** unbundled this function, providing clarity on the functions assigned to the County Governments including the promote cooperative societies, process applications for registration, inspection and investigations.

The ongoing exercise of unbundling and transfer functions has delineated the respective functions of the National and County Governments. This has provided clarity on the roles and linkages between the two levels of Government.

The Bill was tabled before the National Assembly for approval. The National Assembly select committee on delegated legislations on Cooperatives invited the Council of Governors to give views on regulations on 6th May 2024.

The Council raised some concerns in the Bill including the functions on registration of cooperatives, conducting inquiries into the affairs of the cooperatives, inspection of cooperatives and issuance of demand and agency notices.

The National Assembly Select Committee on Delegated Legislations directed that the Ministry and the COG to consult and resolve the issues raised by the Council.

The Ministry led by the Cabinet Secretary Hon. Simon Chelugui, EGH and Council of Governors represented by Hon. Ken Lusaka EGH, CBS held a meeting on 16th May 2024 at Weston Hotel.

Recognizing the importance of cooperative legislations in developing a robust legal framework to govern the operations and management of cooperatives in the Country, and **further recognizing** that the Constitution of Kenya in the Fourth Schedule assigns functions between the National Government and the County Governments, the following matrix represents the resolutions arrived at.

Two handwritten signatures in black ink. The signature on the left is more complex and scribbled, while the signature on the right is more fluid and cursive.

Clause	Provision of the Bill	Proposed amendment to Clause of the Bill	Rationale for the proposal
Functions of the Commissioner	9(2)(b) co-ordinate the implementation of an inter-governmental relations mechanism in the Cooperatives sector;	delete	It is provided for in clause 16
Establishment of the Intergovernmental Cooperatives Relations Technical Forum	16(1) There is established an Inter-Governmental Cooperatives Relations Technical Forum as an unincorporated body comprising of— (a) the Commissioner, who shall be the chairperson; (b) the directors of Cooperatives from the forty seven counties; (c) the Chief Executive Officer of the Authority; (d) a representative of the Council of Governors; (e) the Chief Executive Officer of the Intergovernmental Relations Technical	16(1)(a) to be co-chaired between the Commissioner and the chairperson of the caucus of the County Executive Committee Members responsible for Cooperatives 16(1)(b) change the membership from the directors of cooperatives to the responsible CEC	All intergovernmental relations bodies by tradition are co-chaired The executive power in the county government is vested in the CEC



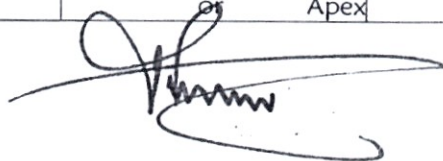
Clause	Provision of the Bill	Proposed amendment to Clause of the Bill	Rationale for the proposal
	Committee; and a representative of the Apex Cooperative who shall be an ex-officio member.		
	9(2)(c) register all Cooperatives in Kenya, and maintain a national register of all Cooperatives;	promote and register Cooperative Federations and the Apex and diaspora Cooperative in Kenya	To align with the Fourth Schedule of the Constitution
	New clause 9(d) & (e)	develop guidelines in consultation with the Council of Governors for registration and a standard certificate with a common seal and signature from the commissioner To be submitted to the CS for gazette establish an integrated cooperatives management information system	The Cabinet Secretary is typically mandated to develop regulatory instruments The guidelines will standardise registration processes in the country in accordance with the Constitution
2. Interpretation	"secondary Cooperative" means a Cooperative whose membership is restricted to primary Cooperatives;	"secondary Cooperative" means a cooperative whose membership is two or more primary cooperatives	To avoid ambiguity and provide clarity

the Commissioner	conduct inquiries into the affairs of Cooperatives in accordance with this Act;	the affairs of federations, apex and diaspora cooperatives in accordance with this Act conduct inquiries into the affairs of primary and secondary cooperatives on recommendation by the county governments in accordance with this Act	agreed to split the inquiries function to provide clarity on the role of the commissioner
Inquiry, inspection and surcharges	99(1) The Commissioner, may on the Commissioner's own accord, and shall on request by the County Director for Cooperatives or 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 the Commissioner in writing to hold an inquiry, into the by-laws, working and financial conditions of any Cooperative registered in Kenya.	The Commissioner, shall on request by the CECM for Cooperatives or 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 the Commissioner in writing to hold an inquiry, into the by-laws, working and financial conditions of any Cooperative registered in Kenya.	Amend this clause to remove "may on the commissioner's own accord" The technical committee agreed that there shall be no any direct request by the members on inquiry to the commissioner
Functions of the County Director for Cooperatives. amend to read CEC	14(1) The County Director for Cooperatives shall be responsible for the growth and development of cooperatives in the county. 14(2) New clause (b) 14(2) New clause (c) 14(2) New clause (d)	The County Director for Cooperatives shall be responsible to the County Executive Committee Member for the growth and development of cooperatives in the county. register primary and secondary cooperatives shall maintain a county cooperatives register recommend conduct of inquiries to the	To align with the executive authority of the county executive



		commissioner into the affairs of primary and secondary cooperatives in accordance with this Act	
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Failure to remit the sum deducted.	73(1) New clause	<p>county governments to issue demand notices for primary and secondary cooperatives</p> <p>national governments to issue agency notices for all cooperatives including primary and secondary cooperatives upon recommendation by the county governments</p>	<p>County Government to issue the demand notices and where it fails to achieve remittance they shall escalate the issue for enforcement of agency notices to National Government.</p> <p>The technical committee agreed to split the two points in-order to provide clarity</p>
Establishment of the Cooperative Tribunal.	124(2) The Cooperative Tribunal shall consist — (a) a chairperson; (b) a deputy chairperson; and not less than seven other members.	<p>The tribunal to consists of nine; the chairperson, the deputy chairperson and not less than seven other members</p> <p>The Council of county governments to nominate two representatives</p>	Increase the membership to 9 members and include county governments' representation
Cooperatives Development Fund	Introduce new Section 154(4)	The Fund shall be shared between the national and county governments at the ratio of 60:40 <i>percentum</i>	To allow development of the cooperatives sector at both levels of government
Other powers of the Commissioner or CEC	158. Without prejudice to any other powers under this Act the Commissioner may— (a) call for elections for Cooperative Federations or Apex Cooperative;	158. Without prejudice to any other powers under this Act, the Commissioner may— (a) call for elections for Cooperative Federations, Diapora Cooperatives or Apex	

	<p>(b) attend meetings of a Cooperative and require every Cooperative to send to the Commissioner at a proper time, notice and agenda of every meeting and all minutes and communications in respect thereof;</p> <p>(c) issue circulars and guidelines for the better administration of this Act;</p> <p>(d) require that Cooperatives update their by-laws; and</p> <p>(e) exercise such other powers consistent with this Act as may be prescribed in Regulations.</p>	<p>Cooperative;</p> <p>(b) attend meetings of a Cooperative Federations, Diapora Cooperatives or Apex Cooperative and require every Cooperative Federations, Diapora Cooperatives or Apex Cooperative to send to the Commissioner at a proper time, notice and agenda of every meeting and all minutes and communications in respect thereof;</p> <p>(c) issue circulars and guidelines for the better administration of this Act Cooperative Federations, Diapora Cooperatives or Apex Cooperative;</p> <p>(d) require that Cooperative Federations, Diapora Cooperatives or Apex Cooperative update their by-laws; and</p> <p>(e) exercise such other powers consistent with this Act</p>	
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		as may be prescribed in Regulations.	
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Signed by on 18th day of May 2024



.....
Hon. Simon Chalugut EGH
Cabinet Secretary
Ministry of Cooperatives and MSMEs
Development

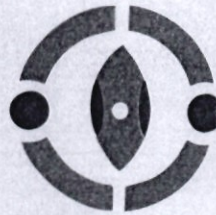


.....
H.E. Kenneth Lusaka EGH, CBS
Chairperson
Agriculture, Livestock and Cooperatives
Committee





REPUBLIC OF KENYA



IGRTC
INTERGOVERNMENTAL
RELATIONS TECHNICAL
COMMITTEE

Consultation, Cooperation & Coordination in Devolution

When replying please quote:
Ref: IGR/LGL/10/20/ Vol. III

17th May 2024

Hon. James Mwangi Gakuia
Chair, Committee on Trade, Industry and
National Assembly
Parliament Building
NAIROBI



24

Dear *Hon Gakuia,*

**RE: STAKEHOLDER ENGAGEMENT ON THE COOPERATIVES BILL 2024
(NATIONAL ASSEMBLY BILL NO.7.OF 2024) BY THE DEPARTMENTAL
COMMITTEE ON TRADE INDUSTRY AND COOPERATIVES.**

Reference is made to the above subject matter

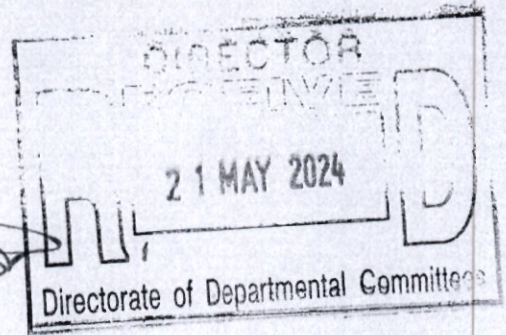
Following the stakeholder meeting at the National Assembly on 6th May 2024 regarding the above subject matter, where IGRTC was asked to submit a signed document by the two parties. IGRTC is pleased to share with you a copy of document that was signed by both the Council of Governors and the Ministry of Cooperatives as was guided by the chairperson of the Committee.

We thank you for your continued support.

Yours

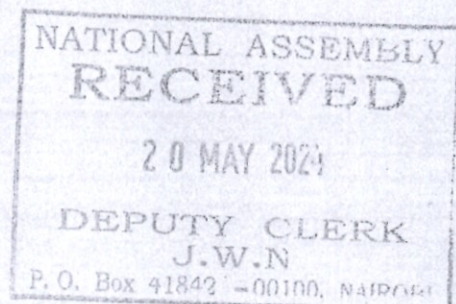
Sincerely,

[Signature]



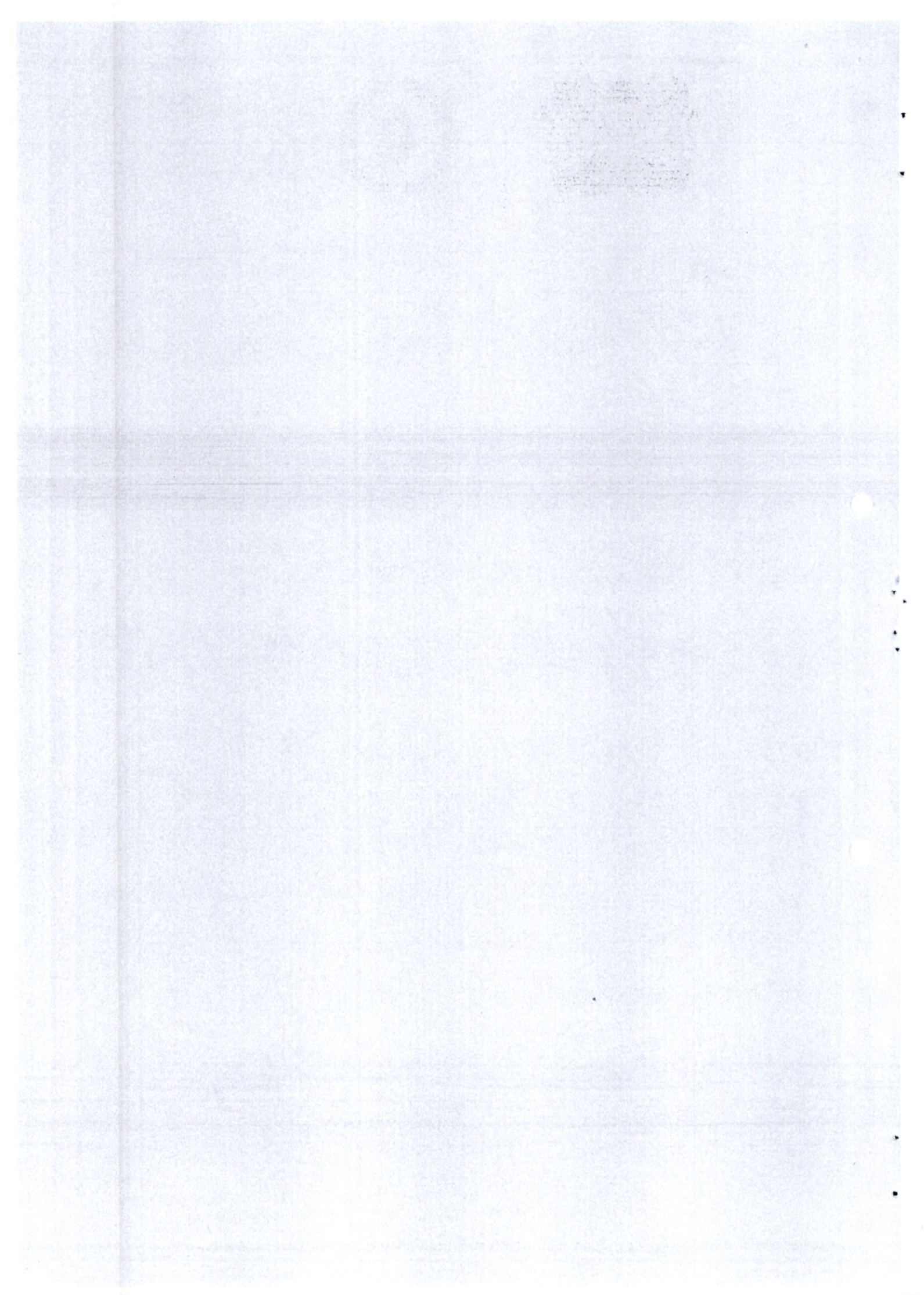
Dr. Kipkurui S. Chepkwony
CHIEF EXECUTIVE OFFICER

Copy to: The Clerk
National Assembly
Parliament building
NAIROBI



Parklands Plaza, Off Muthithi Road | P.O. Box 44880-00100 | Nairobi | www.igrtc.go.ke
T: +254 (020) 2101489 | M: +(254) 799 101489 | E: info@igrtc.go.ke

An Agency of the Summit & the Council of County Governors





JOINT AGREEMENT ON CONTENTIOUS ISSUES IN THE COOPERATIVES BILL, 2024

RESOLUTIONS MADE DURING THE CONSULTATIVE MEETING BETWEEN THE COUNCIL OF GOVERNORS AND THE CABINET SECRETARY, MINISTRY OF COOPERATIVES AND MSMEs DEVELOPMENT HELD ON THURSDAY, 16TH MAY 2024.

Background

The Constitution of Kenya, entrusts County Governments with the responsibility of trade development and regulations including cooperative societies. Further, the **Gazette Supplement notice 116 of 2013** unbundled this function, providing clarity on the functions assigned to the County Governments including the promote cooperative societies, process applications for registration, inspection and investigations.

The ongoing exercise of unbundling and transfer functions has delineated the respective functions of the National and County Governments. This has provided clarity on the roles and linkages between the two levels of Government.

The Bill was tabled before the National Assembly for approval. The National Assembly select committee on delegated legislations on Cooperatives invited the Council of Governors to give views on regulations on 6th May 2024.

The Council raised some concerns in the Bill including the functions on registration of cooperatives, conducting inquiries into the affairs of the cooperatives, inspection of cooperatives and issuance of demand and agency notices.

The National Assembly Select Committee on Delegated Legislations directed that the Ministry and the COG to consult and resolve the issues raised by the Council.

The Ministry led by the Cabinet Secretary Hon. Simon Chelugui, EGH and Council of Governors represented by Hon. Ken Lusaka EGH, CBS held a meeting on 16th May 2024 at Weston Hotel.

Recognizing the importance of cooperative legislations in developing a robust legal framework to govern the operations and management of cooperatives in the Country, and **further recognizing** that the Constitution of Kenya in the Fourth Schedule assigns functions between the National Government and the County Governments, the following matrix represents the resolutions arrived at.

Two handwritten signatures in black ink. The signature on the left is a dense, scribbled signature. The signature on the right is a more fluid, cursive signature.

Clause	Provision of the Bill	Proposed amendment to Clause of the Bill	Rationale for the proposal
Functions of the Commissioner	9(2)(b) co-ordinate the implementation of an inter-governmental relations mechanism in the Cooperatives sector;	delete	It is provided for in clause 16
Establishment of the Intergovernmental Cooperatives Relations Technical Forum	<p>16(1) There is established an Inter-Governmental Cooperatives Relations Technical Forum as an unincorporated body comprising of—</p> <p>(a) the Commissioner, who shall be the chairperson;</p> <p>(b) the directors of Cooperatives from the forty seven counties;</p> <p>(c) the Chief Executive Officer of the Authority;</p> <p>(d) a representative of the Council of Governors;</p> <p>(e) the Chief Executive Officer of the Intergovernmental Relations Technical</p>	<p>16(1)(a) to be co-chaired between the Commissioner and the chairperson of the caucus of the County Executive Committee Members responsible for Cooperatives</p> <p>16(1)(b) change the membership from the directors of cooperatives to the responsible CEC</p>	<p>All intergovernmental relations bodies by tradition are co-chaired</p> <p>The executive power in the county government is vested in the CEC</p>



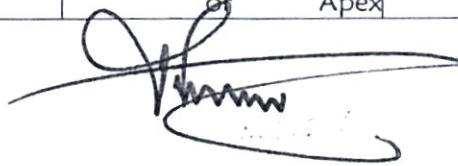
Clause	Provision of the Bill	Proposed amendment to Clause of the Bill	Rationale for the proposal
	Committee; and a representative of the Apex Cooperative who shall be an ex-officio member.		
	9(2)(c) register all Cooperatives in Kenya, and maintain a national register of all Cooperatives;	promote and register Cooperative Federations and the Apex and diaspora Cooperative in Kenya	To align with the Fourth Schedule of the Constitution
	New clause 9(d) & (e)	develop guidelines in consultation with the Council of Governors for registration and a standard certificate with a common seal and signature from the commissioner To be submitted to the CS for gazettelement establish an integrated cooperatives management information system	The Cabinet Secretary is typically mandated to develop regulatory instruments The guidelines will standardise registration processes in the country in accordance with the Constitution
2. Interpretation	"secondary Cooperative" means a Cooperative whose membership is restricted to primary Cooperatives;	"secondary Cooperative" means a cooperative whose membership is two or more primary cooperatives	To avoid ambiguity and provide clarity

the Commissioner	conduct inquiries into the affairs of Cooperatives in accordance with this Act;	the affairs of federations, apex and diaspora cooperatives in accordance with this Act conduct inquiries into the affairs of primary and secondary cooperatives on recommendation by the county governments in accordance with this Act	agreed to split the inquiries function to provide clarity on the role of the commissioner
Inquiry, inspection and surcharges	99(1) The Commissioner, may on the Commissioner's own accord, and shall on request by the County Director for Cooperatives or 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 the Commissioner in writing to hold an inquiry, into the by-laws, working and financial conditions of any Cooperative registered in Kenya.	The Commissioner, shall on request by the CECM for Cooperatives or 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 the Commissioner in writing to hold an inquiry, into the by-laws, working and financial conditions of any Cooperative registered in Kenya.	Amend this clause to remove "may on the commissioner's own accord" The technical committee agreed that there shall be no any direct request by the members on inquiry to the commissioner
Functions of the County Director for Cooperatives. amend to read CEC	14(1) The County Director for Cooperatives shall be responsible for the growth and development of cooperatives in the county. 14(2) New clause (b) 14(2) New clause (c) 14(2) New clause (d)	The County Director for Cooperatives shall be responsible to the County Executive Committee Member for the growth and development of cooperatives in the county. register primary and secondary cooperatives shall maintain a county cooperatives register recommend conduct of inquiries to the	To align with the executive authority of the county executive



		commissioner into the affairs of primary and secondary cooperatives in accordance with this Act	
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Failure to remit the sum deducted.	73(1) New clause	county governments to issue demand notices for primary and secondary cooperatives national governments to issue agency notices for all cooperatives including primary and secondary cooperatives upon recommendation by the county governments	County Government to issue the demand notices and where it fails to achieve remittance they shall escalate the issue for enforcement of agency notices to National Government. The technical committee agreed to split the two points in-order to provide clarity
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		as may be prescribed in Regulations.	
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Signed by on 18th day of May, 2024



.....
Hon. Simon Chalugui, EGH
Cabinet Secretary
Ministry of Cooperatives and MSMEs
Development



.....
H.E. Kenneth Lusaka EGH, CBS
Chairperson
Agriculture, Livestock and Cooperatives
Committee





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		as may be prescribed in Regulations.	
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Signed by on 16th day of May 2024



.....
Hon. Simon Chelugui, EGH
Cabinet Secretary
Ministry of Cooperatives and MSMEs
Development



.....
H.E. Kenneth Lusaka EGH, CBS
Chairperson
Agriculture, Livestock and Cooperatives
Committee





SUBMISSIONS FROM SAFARICOM
INVESTMENT COOPERATIVE



SAFARICOM INVESTMENT CO-OPERATIVE

The Investment Partner of Choice

OUR REF: CEO/001/2024
YOUR REF: NA/DDC/TRADE/2024/075

THE NATIONAL ASSEMBLY,
OFFICE OF THE CLERK,
MAIN PARLIAMENT BUILDING,
P.O. BOX 41842-00100,
NAIROBI



Dear Sir,

RE: STAKEHOLDER ENGAGEMENT ON THE COOPERATIVES BILL, 2024 (NATIONAL ASSEMBLY BILL NO.7 OF 2024) BY THE DEPARTMENTAL COMMITTEE ON TRADE INDUSTRY AND COOPERATIVES.

Reference is made to your letter dated 29th April, 2024 received at our offices on 3rd May, 2024 requesting submissions on behalf of Safaricom Investment Cooperative Limited.

It is notable that the letter was received late in the day and it was not possible to render our response on the same day as consultation on the same with Board members was required as well as a review of the subject draft legislation. We would have hoped to have participated in the process of developing the draft to have added more value. Nevertheless, we are grateful for the opportunity to provide crucial insights on the same.

We applaud the amendments targeted towards alignment to Constitutional provisions requiring devolution of functions to the County level and it we opine it is prudent to revise existing statutes accordingly. We note that for socio economic development, devolution has and will continue to be a powerful tool in empowering members of the Cooperatives movement. We also note that a robust legal and institutional framework is pertinent for the operational efficiencies where there is clarity on expectations by government stakeholders with appropriate safeguards for members.

We commend the inclusion of corporate governance provisions and controls that are aimed at ensuring that the law provides for development of sector guidelines on good corporate governance practices to promote good ethos and accountability in the Cooperatives sector for better returns and value to members.

We are excited that the Bill places focus on the need to have a Cooperatives industry bolstered by research, innovation and technology while making information available through research resources centers that will ensure that we attract participation of younger cadre of investors and that as an Investment Cooperative, we are adept at evolving with global trends that make global markets accessible through the use of virtual resources.

The area of Public Private partnerships is no doubt an area of immense opportunities that will foster strategic partnerships that have the potential to catapult Cooperatives in not only financial growth but in building capacity and facilitating technology and knowledge transfer. Partnerships



SAFARICOM INVESTMENT CO-OPERATIVE

The Investment Partner of Choice

indeed offer avenues for traversing local and regional markets to break down global barriers and build powerful brands in the region and beyond.

Our key point of concern is in the categorization of Cooperatives. We note that under the classification of Primary Cooperatives, the definition of **Savings and Investments Cooperatives** does not cover our core business and the definition provided for the objects may be misleading and ambiguous. The verbatim extract reads as follows,

'receiving funds from members strictly for making common investment of the fund on behalf of members or a section of members'

We are apprehensive that this may be misinterpreted to mean that we are investment managers while in fact, we allow members autonomy to elect and purchase investments available from our product portfolio which is largely real estate for purposes of making returns or owning assets. Our product range includes private equity, listed market securities and agriculture. We therefore request a revision of this definition to encompass the objectives of investment cooperatives such as our own. We propose the following wording,

'receiving funds from members who wish to purchase investments in real estate, listed market securities, private equity or such other viable investment ventures as approved in the bylaws for profitable returns and growth of individual member asset base.'

We kindly request your consideration to review this provision in the draft Cooperatives Bill, 2024 noting that the aim of the draft legislation should be to strengthen existing Cooperatives and not to subjectively restructure or weaken existing business models which members have become accustomed to and heavily invested in. We are happy to engage further and to participate in the stakeholder process to ensure that it is consultative and premised on building consensus.

We look forward to your clarification on the venue for the sessions as intimated in your letter and your feedback to our submissions.

Yours faithfully,

FOR SAFARICOM INVESTMENT COOPERATIVE LIMITED.

JUDY RUNO,
BOARD CHAIRPERSON.

- c.c. CHAIRPERSON,
Inter- Governmental Relations Technical Committee,
Parklands Plaza, Off Muthithi Road, **WESTLANDS,**
NAIROBI.
- c.c. COMMISSIONER OF COOPERATIVES,
MINISTRY OF COOPERATIVES & DEVELOPMENT, **NAIROBI,**
KENYA.



SUBMISSIONS FROM THE KENYA
NATIONAL POLICE DT SACCO



**Kenya National
Police DT SACCO**

United for Prosperity

REF: NA/DDC/TRADE/2024/074

3 MAY 2024

TO THE CLERK OF NATIONAL ASSEMBLY

ATT: MR PETER K CHEMEWENO

DEAR SIR,

**RE: STAKEHOLDERS ENGAGEMENT ON THE CO-OPERATIVE BILL 2024
(NATIONAL ASSEMBLY BILL NO.7) BY THE DEPARTMENTAL COMMITTEE ON
TRADE, INDUSTRY, AND CO-OPERATIVES.**

Kindly find the below proposed in-put for considerations,

With Co-operative Regards,



Solomon A. Atsiaya
CHIEF EXECUTIVE OFFICER

Solomon A. Atsiaya

CHIEF EXECUTIVE OFFICER

change

Clause 2- Capital	Definition of Capital- Defined as permanent members' equity	Why then transfer to UFAA as stated clause 78(c) of the Bill? Proposals; Refund upon exit.
Clause 2- Bonus	Definition of Bonus means that member's share of the surplus of the Cooperative, whichh is divided amongst its members, calculated by reference to the proportion which that member's volume.	SACCOs be allowed to buy back shares of exiting members. Interest on Deposits not expressly included.
Clause 2- Employee	Defined as any person who receives remuneration or payment for produce or service from employer	Payment for produce is misplaced and should be expunged.
Clause2- Cooperative federation	Draws membership from primary and secondary cooperatives	Membership should be strictly secondary cooperatives to avoid conflicts and ambiguity.
Clause 4(a)- Cooperative Principles	Has 7 core principles.	Omitted 8 th Principle of Diversity, Equity and Inclusion.
Clause 8(2)(b), Clause 13(2)(b) Clause125(3)(b)- Professional body for Cooperative practitioners	Professional body for Cooperative practitioners in good-standing	Professional body is not well defined and does not clearly distinguish who the professionals are and their qualifications
Clause 9(j)- Functions of the Commissioner.	Register audited financial statements of Cooperatives	Registration of regulated SACCOs is done by SASRA thus there is need for clarity.
Clause 15- Annual Report by County Director of Cooperatives.	The County Director for Cooperatives shall prepare and submit to the county executive committee director for member within three months after the end of the financial Cooperatives, year, an annual report on the performance, activities and operations of the office and of the Cooperatives within the county.	SACCOs complete audits in April. County Directors should be given two months after that.

<p>Clause 20(1) Primary cooperatives Clause 22(1) Objects of secondary Cooperatives. Clause 22(2)- Non-Compete.</p>	<p>Has 7 types of primary cooperatives</p> <p>Objects include those of primary cooperatives.</p> <p>Cooperative shall not operate in direct competition with its affiliates or provide similar services as that of its affiliates.</p>	<p>Omitted Health Cooperatives</p> <p>Membership of secondary cooperatives should be restricted to primary cooperatives.</p> <p>This is supported by clause 29</p> <p>Include a clause for penalties in case of violation of the non-compete clause.</p>
<p>Clause 23 Objects of Cooperative Federations</p>	<p>Objects include those of primary cooperatives.</p>	<p>Membership should be drawn from Secondary cooperatives only.</p> <p>This is supported by clause 29</p>
<p>Clause 24(1-3)- Apex Cooperatives.</p>	<p>Cooperatives shall subscribe to the membership of the Apex Cooperative.</p> <p>Subscription fees.</p>	<p>Membership should be drawn from the Cooperative Federation.</p> <p>CAK is not a parastatal and should not work in consultation with the Cabinet Secretary to prescribe subscription fees.</p> <p>Subscription to be done by the cooperative federation.</p> <p>This is supported by clause 29</p>
<p>Clause 28(a)- Registration of limited liability cooperative</p>	<p>Promotion of the welfare and economic interests of its members;</p>	<p>Replace <u>welfare</u> with social</p>
<p>Clause 29- Registration of cooperative federation.</p>	<p>Application by at least two secondary Cooperatives in case registration of a Cooperative Federation.</p>	<p>This supports our proposed amendments of clauses 22, 23, 24.</p>
<p>Clause 44(1)(c)- Membership</p>	<p>Qualifications for membership.</p>	<p>Include members from the diaspora.</p>
<p>Clause 47 - Limitation of membership to producer Cooperatives</p>	<p>No person shall be a member of more than One producer Cooperative having similar objects</p>	<p>The same should apply to other primary cooperatives to give the same effect.</p>
<p>Clause 75(3) Rights of withdrawing from membership</p>	<p>A member who has given notice of withdrawal from membership of a Cooperative shall continue being a member of the Cooperative, until the members' share is transferred to another member or otherwise purchased by the Cooperative as an institutional capital</p>	<p>The clause is contradictory as you cannot withdraw from membership of a co-operative and you remain a member of the same Co-operative</p> <p>Upon withdrawal of a member that contract MUST be terminated and the account closed otherwise you create a Dormant Accounts which are very risky about Cyber Crime</p>

		<p>The original Cooperative Model rewarded members based on their volume of activities. The Societies used to pay rebates (interest Refunds, reimbursements, discounts). We should leave packing of money to other corporates whose model allows mobilization of money to do their business and ultimately pay dividends and it does not matter whether your contribution to the business activities.</p> <p>There should be a framework designed to allow Co-operative Societies to redeem its members shares on exit through creating a "Share Capital Redemption Reserve Fund" at a premium and the same shares can be sold back to existing members at a premium.</p> <p>This will enable the shares to reflect growth and other market conditions and thus the exiting members would not be at a loss after having been with the society for a long period.</p> <p>With such kind of a framework, it may be very possible to list the shares at the Stock Market for trading and otherwise.</p>
<p>Clause 76- Liability of past members.</p>	<p>Limitation of actions - 2 years</p>	<p>Propose 6 years since they are actions of contracts under Section 4 of the Limitation of Actions Act. }</p>
<p>Clause 88- Maintenance of reserve fund.</p>	<p>Every Cooperative which derives surplus from reserve fund, its transactions shall maintain a reserve fund.</p>	<p>Clearly state nature of these transactions.</p>
<p>Clause 88(2)</p>	<p>A Cooperative may carry to the reserve fund such portion of the net surplus in each year as may be prescribed by Regulations made under this Act or by the by-laws of the Cooperative.</p>	<p>Prescribe a proportion. The Statutory Reserve Fund should be increased from 25% to 50% of the surplus to enable societies build adequate institutional Capital that would help in financial institutional strengthening & Capacity</p> <p>The building of the Societies Financial Capability would enable Co-operative institutions to invest in systems/structures that would enhance members' service delivery and increase the ability to compete adequately in the financial sector market.</p> <p>Without Financial Capability a cooperative society can't operate effectively</p>



SUBMISSIONS FROM COOPERATIVE
SOCIETIES



GIKONGORO FARMERS CO-OP SOCIETY LTD P.O BOX 180-60206 KANYAKINE



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Gikongoro Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.

As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the Fourth Schedule, the functions of the two levels of government are distributed as:-

- a) Part I- National Government; 35 functions
- b) Part II - County Government; 14 functions

The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I- National Government; this implies that the co-operative function is fully devolved.

Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and clearly defined.

Article 2 of the Kenya Constitution 2010 states thus:-

(1) *This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.*

(2) *No person may claim or exercise State authority except as authorized under this Constitution.*

(3) *The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.*

(4) *Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.*

The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

2. Takes services far from the people

- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
- ii. Sec 9 (2) (j) and 56 (7) (a) gives the Commissioner the mandate to register audited accounts for co-operatives.
- iii. Sec 37 gives amendment of bylaws for Co-operatives as the function of the Commissioner.
- iv. Sec 94 (1) requires the commissioner to register charges created by a cooperative society.

This contradicts the desired benefits of devolution as stated in Article 174 of the Kenyan Constitution since proximity of services will not be achieved. The principle of decentralization of services will be denied to citizens.

The Kenyan Constitution Article 174:

The objects of the devolution of government are---

f) To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;

(h) To facilitate the decentralization of State organs, their functions and services, from the capital of Kenya;

The aforementioned clauses of the bill go against this object.

Residents from far flung areas will have to travel long distances to Nairobi to access services which they could have easily accessed within their county; for instance registration of audited accounts in Nairobi will translate to high costs of audit due to travel and accommodation. Most of the upcoming Cooperatives will not be able to afford such leading to non compliance.

This will discourage many who seek the services leading to a non-vibrant movement.

3. Ambiguity

Sec 105 (1) and Sec 107 (1) Gives the Commissioner **or** the County Director for Cooperatives power to carry out inspection into the affairs of Cooperatives.

The use of "or" brings ambiguity to this function if not done in concurrence.

4. Apex Co-operative (Sec 25)

The sections deals with the establishment of the Apex co-operative and Subsection (2) states-

Every cooperative shall subscribe to the membership of the apex.

The inclusion of the word "shall" implies that it is mandatory for every Co-operative to join the Apex. This requirement goes against the Co-operative principle of voluntary and open membership.

In addition, Section 25(3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of autonomy, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted.

For and on behalf of:

Gikonyo

Chairman





KIEGUCHIA FARMERS CO-OP SOCIETY LTD

P.O BOX 2162 MERU



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In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:
Kieguchia F.C.S LTD
KIEGUCIA F.C.S LTD
MAY 2023
Chairman
P. O. Box 2162 - 60200, MERU

COMMENTS ON THE CO-OPERATIVE SOCIETY BILL 2024

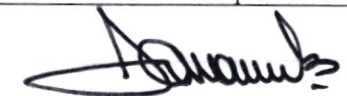
S/NO	ITEM	ISSUE	PROPOSAL
1.	Section 2 Definitions Holding Cooperatives	Does this mean that Saccos with holding companies are to convert them to holding cooperatives? Clarity on how this will be implemented is important. As holding companies for Cooperatives are incorporated under the Companies Act.	Expunge this definition and its references in the Bill
2.	Section 2 definition of vulnerable members and section 62 (5)(c)	The definition is too broad and needs to be refined and a clear understanding on the mischief to be cured as its currently not clear what it is and how it will be cured.	Expunge if clarity cannot be provided on who and why
3.	Section 21	There is need for the rationale for not registering primary cooperatives with multiple objects or purpose nor undertake multiple purposes or objects. The concern is whether this means that a cooperative society can only have one object or purpose. Cooperative Societies beyond their core mandate have welfare objects, this would violate this section.	Expunge this section.
4.	Section 29 1(b)	The threshold of just two primary cooperatives to register a secondary cooperative is too low, it may lead to very many secondary cooperatives undertaking the objects and purposes in section 22 (1). In line with the cooperative principle on co-operation amongst cooperatives the threshold should be increased so that it requires more primary cooperatives (e.g. 10-20) to make a secondary cooperative, further this will create greater synergies and greater advocacy platforms/bases.	Increase the threshold to ten-twenty so that the proposed secondary cooperative has enough good will from the industry in order to assist in its sustainability.
5.	Section 29 1 (c)	The threshold of just two secondary cooperatives to register a cooperative federation is too low, it may lead to very many cooperative federations undertaking the objects and purposes in section 23 (1). In line with the cooperative principle on co-operation amongst cooperatives the threshold should be	Increase the threshold to five-ten so that the proposed secondary cooperative has enough good will from the industry in order to assist in its sustainability.

		increased so that it requires more secondary cooperatives (e.g. 5-10) to make a cooperative federation, further this will create greater synergies and greater advocacy platforms/bases.	
6.	Section 30	Restriction of registration of Cooperatives within the same common bond is not feasible and in line with current business practices. Members should be allowed the right to join any cooperative that meets their business and individual requirements. Further most Sacco have opened their common bonds.	Expunge this section.
7.	Section 44 (1) (a)	This refers to natural persons and needs to be qualified to indicate persons of sound mind.	Include sound mind in the definition.
8.	Section 44 (1)(b)	Financial inclusion needs to also address access to financial services including facilities by our membership's incorporated legal entities thus this definition needs to include body corporates.	Include body corporates in the definition.
9.	Section 44 (1) (c)	The membership of saccos in this current paradigm where the world is a global village lives in more than just its physical jurisdiction. We have membership in diaspora i.e. outside Kenya and to legislate this section will disenfranchise their access to fund and affect their remittances to Kenya which they country also relies upon.	Reword the subsection to include diaspora membership.
10.	Section 44 (2)	This required individual ratifications for unincorporated and incorporated bodies due to the use of the word "an" before the words unincorporated or corporate body. This stifles the agility of a business as it would have to present all names for approval at the ADM/AGM. Further this is an operational/strategic matter that should be left to the Management/Board respectively with the ADM/AGM giving the overarching outline on the kind of membership. This section is not in line with practice there are by laws that provide for unincorporated and corporate bodies to join membership and hence the law needs to catch up with the practice	Expunge this and section 20 (3) and adopt the proposal for section 44 (1)(b) above.
11.	Section 48 (2)	This intends to criminalize the classification or categorization of members into clusters or groups. This will affect the current categorization of the Sacco's membership into class A and B which is in our By Law.	Expunge this section.

		<p>Categorization is important based on a member's contribution/legitimate interests in the Sacco for example we have members who have withdrawal all their FOSA and BOSA deposits and are in the process selling their share capital, their interest in the Sacco are not at par with a member who has FOSA and BOSA savings and thus it would be misplaced to have them acquiring voting and leadership rights.</p> <p>Some of the indicated information has personal data and private data. This proposal should therefore be subject to the provision of the Data Protection Act.</p> <p>The inclusion of all communication that a member is entitled to is not requisite as the external auditor's role in the ADM/AGM is restricted to the audited accounts</p> <p>The proposal to have meetings for the categories indicated therein is important to ensure members are consulted. However, noting that some Cooperatives have tens of thousands of members this many not be feasible from a costs and venue perspective.</p> <p>The Act needs to specify that a Cooperative can in its by laws have a limit on the number of terms of service.</p> <p>The proposal may lead to increased operational costs due to additional governance costs (transport and accommodation) to cater members from far off areas to attend to board matters. It is on this basis that the Sacco draws its board of directors from Nairobi region.</p> <p>The inclusion of chapter Six of the constitution is welcome, however, its interpretation/applicability in the context of the cooperative movement needs to be clear.</p> <p>The functions indicated here are board functions i.e. development and ensuring, the Supervisory Board should be reviewing implementation not ensuring inculcation of policy documents.</p> <p>The section only refers to produce to be used for set off of debts, what happens not non-produce cooperatives</p> <p>The purchase of shares by other members or a cooperative may take a while, and this may create</p>	
12.	Section 50 (d) and 53		The subsection to be rephrased to include " subject to the provisions of the Data Protection Act".
13.	Section 55 (9)(b)		Expunge reference to all other communication.
14.	Section 61(2)		The Cooperatives should be allowed to have virtual or hybrid meeting subject to meeting certain minimum thresholds that will ensure good member participation in the meeting. This will also allow for diaspora members to attend the meetings.
15.	Section 62(2)		Include leeway on limitation of terms of service within the By-Laws.
16.	Section 62 (5) (b)		This sub section should be expunged
17.	Section 63 (1)(o)		Include that the definition of what constitutes chapter six in the context of the cooperative movement will be as defined in the Regulations. This is to ensure it is implementation.
18.	Section 65 2 (f) and (h)		Re-phrase to review and expunge references to development and ensuring in (f) and (h) respectively.
19.	Section 70 (3)		Amend the section to address to expunge the word produce and allow the Cooperatives other means of set off for fines.
20.	Section 75 (3)		Include an indicate that the shares are exempted under UFAA.

		dormancy under the Unclaimed Financial Assets Act. These shares need to be exempted from under the UFAA.	
21.	Section 84 (a)	There is need to expand the investment areas to include investment opportunities by cooperatives regulated by SASRA to support the sector i.e. secondary, apex cooperatives and investment cooperatives.	Expand the investment list to include investment opportunities by secondary, apex cooperatives and investment cooperatives that are regulated by SASRA.
22.	Section 85	Clarify on where the prescription will be found is necessary.	Rephrase to include as prescribed in the Regulations.

		<ul style="list-style-type: none"> National government to enforce remittances in consultation with the Apex Cooperative 		<ul style="list-style-type: none"> Some Saccos operates in more than one county The function of enforcement falls under the National government
4.	Inquiries and Inspections	<ul style="list-style-type: none"> Inspection to be done by both National and County governments Inquiries to be done through consultations between the two levels of government and the Apex Cooperative Counties to recommend for inquiries of primary and secondary cooperatives to the National Government The Commissioner in consultation with the Apex Cooperative to appoint inquiry officers upon recommendation by counties, liquidator, creditor or members 	99, 100, 101,102,105	<ul style="list-style-type: none"> Counties promote, train, supervises cooperative, presides over elections. undertake audit and undertake inspections Counties are also ex official members of cooperative boards As such, they are conflicted to undertake an objective inquiry as they cannot investigate themselves Commissioner uses officers from different counties to conduct inquiries The Apex is the most important stakeholder and therefore it is only fair to be consulted when an inquiry is to be instituted to safeguard members interests. Involvement of the apex will ensure that cooperative misapplied as was the case of KCC. KPCU, KFA, KNFC and many Coffees District Cooperative Unions
5.	Surcharge	<ul style="list-style-type: none"> This should be amended to allow the Commissioner to escalate matters that are of criminal nature to DCI and DPP To provide for asset recovery mechanism in collaboration with relevant government bodies To provide stiff penalties for persons found to have misappropriated cooperative money. This to be treated as against humanity 	100	<ul style="list-style-type: none"> Stealing of funds is criminal and the Cooperative Tribunal is limited in dealing with such matters
6.	Procurement and disposal of assets	<ul style="list-style-type: none"> The Bill has just provided that the Cabinet Secretary shall through regulations prescribe procurement procedures The Bill fails to give a framework and therefore we propose at least a section be 	147	<ul style="list-style-type: none"> Procurement is one of the grey area in operations of cooperatives that is used to misappropriate financial resources. Currently, there is no legal framework to guide procurement and disposal of assets of cooperatives

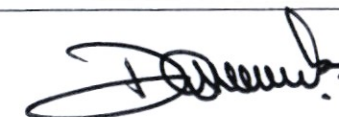


COOPERATIVE ALLIANCE OF KENYA (CAK)

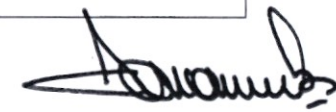
(The Apex Body for all Cooperatives in Kenya)

WRITTEN SUBMISSION TO NATIONAL ASSEMBLY ON COOPERATIVES BILL 2024

S/NO.	AREA	PROPOSAL	PART/CLAUSE	JUSTIFICATION
1.	Registration	<ul style="list-style-type: none"> Registration is a concurrent function as provided in the Bill. Issuance of certificates do be done centrally as captured in the bill We support the registration as it is provided in the Bill 	9, 14, entire part IV	<ul style="list-style-type: none"> To facilitate maintenance of a national cooperative register since it is not practical to have 48 independent cooperative registers Cooperatives are registered as small entities but with time they grow and spread out throughout the country. This is to avoid duplication of names. To allow a central place for search of cooperatives information by the government, members of the public and development partners The central registration will ensure that pyramid like cooperatives like DECI are not registered
2.	Apex Cooperative	<ul style="list-style-type: none"> Well, captured in the Bill but much more needed to be provided in the regulations especially on the role of the Apex in cooperative self-regulation and provision of shared services 	24 & 25	<ul style="list-style-type: none"> The Apex is a cooperative body under which all cooperatives are affiliated Its role is to safeguard members interests as well as lobbying and advocacy The Apex is well placed to enforce code of ethics, good governance and market conduct on cooperatives The Apex can provide such services such as central booking. Shared ICT platforms, common procurement of farm inputs and market linkages etc
3.	Cooperative Remittances	<ul style="list-style-type: none"> Counties to coordinate returns from cooperatives on remittances of Saccos dues by employers Counties to issue demand notices Counties to recommend to national government to issue Agency Notices 	73	<ul style="list-style-type: none"> Counties are also employers and most of them are defaulters in remittances to their employees Saccos and therefore they cant issue agencies notices to themselves Some employers are found outside a county area of jurisdiction

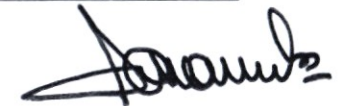


		<p>provided on the minimum conditions on procurement</p> <ul style="list-style-type: none"> The Bill should also provide on how assets of dormant cooperatives can be safeguarded by the government in collaboration with the Apex 		<p>since the Procurement and Public Disposal Act was thrown out by High Court as cooperative officials are not public officers</p> <ul style="list-style-type: none"> In the past, assets of dormant cooperatives have been stolen. An example of this is the assets of the KNFC, KCC, KPCU, KFA and doormat District Cooperative Unions etc This will preserve the hard-earned assets of our forefathers for prosperity
7.	Liquidation	<ul style="list-style-type: none"> The Bill should be amended to provide that liquidation of primary and secondary cooperatives to be undertaken through recommendation by the Counties to National government The National government to consult the Apex when making decision on liquidation 	106,107	<ul style="list-style-type: none"> Th county government to initiate the process through recommending to the National Government. This helps in preventing one person to make such heavy decisions alone The Apex to be consulted in order to ensure the cooperative interests are safeguarded
8.	Regulations	<ul style="list-style-type: none"> Regulations to be done by the Cabinet Secretary or County Executive Committee Member in consultation with the Apex Cooperative 	155	<ul style="list-style-type: none"> This is to ensure members cooperatives interests are taken into account
9.	Cooperative Tribunal	<p>The Cooperative Tribunal to expanded to 13 members distributed as follows:</p> <ul style="list-style-type: none"> Judicial service commission to appoint the Chair and the Vice Chair The Cabinet Secretary nominate four persons to be appointed by JSC The Apex Cooperative to nominate 3 The COG to nominate two persons he LSK to nominate two persons to be appointed by JSC ADR to be strengthened to support the Cooperative Tribunal 	124 &125	<ul style="list-style-type: none"> The expanded members will be able to reconstitute more benches to handle the backlog. Persons appointed by LSK may act as chairs of the two additional benches The Apex nominee will represent the sector COG to be brought on board since the function is devolved The Bill has not comprehensively provided for the ADR apart from providing for Cabinet Secretary to formulate regulations



10.	Borrowing power	<ul style="list-style-type: none"> The Bill to amended to provide that borrowing powers of all cooperatives be approved by National government 	83	<ul style="list-style-type: none"> This is because the county officers sit in the board of cooperatives and therefore, they cannot be objective enough when appraising the indebtedness of a cooperative This is to avoid conflict of interest by having an independent person
11.	Appointment of Directors	<ul style="list-style-type: none"> CAK support the appoint of County Directors for Cooperatives as provided in the Bill where the Director is expressly appointed by the County Public Service Board 	11	<ul style="list-style-type: none"> This appointment is very key in growth and development of cooperatives at the county He appointment of the County Director for Cooperatives by CECM as proposed by the COG is detrimental to the growth and development of cooperatives as it can be used as a tool to cherry pick sycophants in the leadership of cooperatives Example of abuse of such office include in Nyamira where we have a case in court
12.	Elections of cooperative leaders	<ul style="list-style-type: none"> CAK objects the presiding of elections by county officers as provided in the bill 	14	<ul style="list-style-type: none"> The county offices can be easily used as a political tool to destabilize cooperatives, more so cooperatives in coffee, tea, dairy and transport sub sectors

P



**KALITHIRIA FARMERS CO-OPERATIVE SOCIETY
P.O BOX 90
MERU**

6th may 2024

The Clerk of the National Assembly,
P.O BOX 41842-00100
NAIROBI

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The use of "or" brings ambiguity to this function if not done in concurrence.

4. **Apex Co-operative (Sec.25)**

The sections deals with the establishment of the Apex co-operative and Subsection (2) states:-

Every co-operative shall subscribe to the membership of the apex.

The inclusion of the word "shall" implies that it is mandatory for every co-operative to join the apex. This requirement goes against the co-operative principle of voluntary and open membership.

In addition, Section 25 (3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

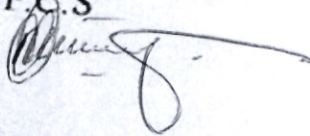
This creates an environment of government control compromising the principle of autonomy, indendence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into the Bill is enacted into law.

For and on behalf of:

Kalithiria F.G.S

Chairman.





COUNTY GOVERNMENT OF ISILOLO
Cooperatives, Sme and enterprise development
Tullu Roba Road
P. O Box 104 –60300 Isiolo



Memorandum by the County Government of Isiolo on the Cooperatives Bill.

1. How will the remuneration arising from the registration of Cooperatives be divided or rather shouldn't all the monies be part of the county own source revenue.? We propose that all remuneration arising from registration should go to counties.
2. One of the main objectives of devolution is to ease access to service delivery to the citizens across the country, in as much as you are saying the Cooperative function is devolved, all registration is dependant on the state department of Cooperatives which usually takes up to six months at times to be done with processing applications for registration. We propose this function be fully devolved to counties and the process automated. The roles of the commissioner should be devolved too.
3. The role of the county chief officer who controls the departmental resource envelope should be clearly defined.
4. The are Cooperatives registered as producer Cooperatives, involved in activites beyond the scope defined in the bill. Narrowing the scope of activities a Cooperative can engage in limits their capacity to make money. ^{clause} Sec.21. We propose that this section be adjusted to encompass all activities geared towards improving the welfare of members as long as they are legal.
5. We propose, action taken against non compliance to statutory requirements like annual audits be more than just a complete revamp of the leadership of a Cooperative, the management committee should be held jointly liable for any malfeasance that arises from non compliance.
6. We propose capacity building should be done for county cooperative officers as the process of giving control to the county continues.
7. We propose you Incorporate within the bill a Cooperative revolving fund.

) Director



Cooperative Bank of Kenya

Submission on the Cooperatives Bill, 2024

5th May 2024

The Co-operative Bank Limited lauds the comprehensive review of the Co-operative Societies Act which has been in existence since 1997.

Cooperatives play a crucial role in growing the rural economy in Kenya since independence. They cut-across all sectors of our economy from aggregation of farm produce, transport, financial services, housing

Our constitution, Article 186, Part 2 of the Fourth Schedule provided the devolvement of cooperatives to the counties. We note that we have cooperatives which operate across several counties and others which are national. It is the aspiration of every cooperative to be a national cooperative drawing membership across the country.

It is our prayer that cooperatives will not be entirely be devolved to counties in terms of regulation and supervision. The national government should have a role in the growth, regulation and Supervision of these cooperatives especially cooperatives operating in several counties or nationally.

We note that the Cooperative Bill 2024 is proposing sharing of functions between the Commissioner (National level) and County Director for Cooperatives (Clause 9 and 14).

We propose the following functions remain functions of the Commissioner

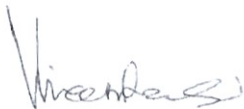
1. Registration of Cooperatives and maintenance of the national Co-operatives register
2. Supervision of cooperatives operating in several counties or nationally
3. Issuance of borrowing powers to cooperatives
4. Conducting of inquiries into the affairs of cooperatives

We appreciate the opportunity to contribute to the legislative process and look forward to seeing a robust and progressive Co-operatives Act that supports the development of a vibrant cooperative sector in our country.

Thank you for considering our input.

With kindest regards.

Yours Faithfully,

A handwritten signature in black ink, appearing to read "Vincent Marangu". The signature is written in a cursive style with a large initial "V".

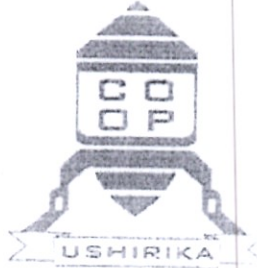
Vincent Marangu

Director, Co-operatives Banking Division



KIGARI FARMERS CO-OPERATIVE SOCIETY LTD

P.O BOX 85-60402 IGOJI



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Kigari Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.

As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the Fourth Schedule, the functions of the two levels of government are distributed as:-

- a) Part I- National Government; 35 functions
- b) Part II - County Government; 14 functions

The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I- National Government; this implies that the co-operative function is fully devolved.

Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and clearly defined.

Article 2 of the Kenya Constitution 2010 states thus:-

(1) *This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.*

(2) *No person may claim or exercise State authority except as authorized under this Constitution.*

(3) *The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.*

(4) ***Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.***

The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

2. Takes services far from the people

- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
- ii. Sec 9 (2) (j) and 56 (7) (a) gives the Commissioner the mandate to register audited accounts for co-operatives.
- iii. Sec 37 gives amendment of bylaws for Co-operatives as the function of the Commissioner.
- iv. Sec 94 (1) requires the commissioner to register charges created by a cooperative society.

This contradicts the desired benefits of devolution as stated in Article 174 of the Kenyan Constitution since proximity of services will not be achieved. The principle of decentralization of services will be denied to citizens.

The Kenyan Constitution Article 174:

The objects of the devolution of government are—

f) To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;

*(h) To facilitate the decentralization of State organs, their functions and services, **from the capital of Kenya;***

The aforementioned clauses of the bill go against this object.

Residents from far flung areas will have to travel long distances to Nairobi to access services which they could have easily accessed within their county; for instance registration of audited accounts in Nairobi will translate to high costs of audit due to travel and accommodation. Most of the upcoming Cooperatives will not be able to afford such leading to non compliance.

This will discourage many who seek the services leading to a non-vibrant movement.

3. Ambiguity

Sec 105 (1) and Sec 107 (1) Gives the Commissioner **or** the County Director for Cooperatives power to carry out inspection into the affairs of Cooperatives.

The use of “or” brings ambiguity to this function if not done in concurrence.

4. Apex Co-operative (Sec 25)

The sections deals with the establishment of the Apex co-operative and Subsection (2) states:-

Every cooperative shall subscribe to the membership of the apex.

The inclusion of the word “shall” implies that it is mandatory for every Co-operative to join the Apex. This requirement goes against the Co-operative principle of voluntary and open membership.

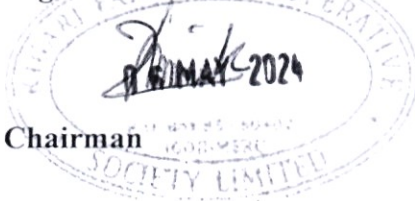
In addition, Section 25(3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of autonomy, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Kigari FCS



Chairman



KARIA F.C.S LTD

P.O BOX 509 - 60401
CHOGORIA



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Karia Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

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In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Karia FCS
KARIA FCS LTD
P. O. Box 509 - 60401,
CHOGORIA
.....sign:.....
Chairman

KARIA FCS LTD
P. O. Box 509 - 60401,
CHOGORIA

Date:.....sign:.....*Atinyial*



GIKURWA FARMERS CO-OP SOCIETY LTD

P.O BOX 285 IGOJI



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Gikurwa Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

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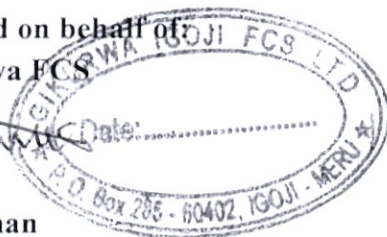
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This creates an environment of government control compromising the principle of autonomy, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of
Gikurwa FCS

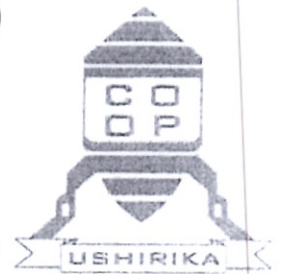
Chairman



KATHANGENE FCS LTD

P.O BOX 61 - 60202

NKUBU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Kathangene Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

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In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

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- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
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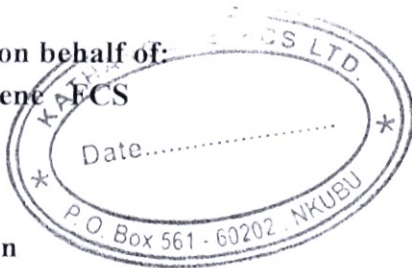
In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Kathangeni FCS



Chairman





KITHANGARI FARMERS CO-OP SOCIETY LTD

P.O BOX 6 MERU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Kithangari Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

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This will discourage many who seek the services leading to a non-vibrant movement.

3. *Inspection*

Section 107 (1) and Sec 107 (1) Gives the Commissioner **or** the County Director for the first time power to carry out inspection into the affairs of Cooperatives.

The use of "or" brings ambiguity to this function if not done in concurrence.

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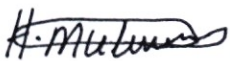
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In conclusion, I request that the areas highlighted above be re-looked into before the Bill is enacted.

For and on behalf of:

Kithari



Chair:





MT. KENYA EAST F.C.S LTD

P.O BOX 64 KIONYO



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.

Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

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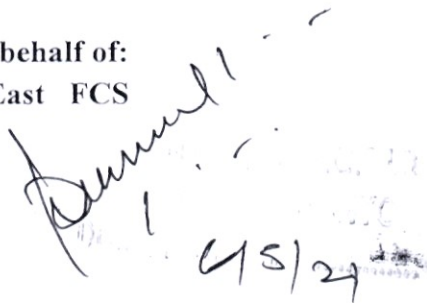
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In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

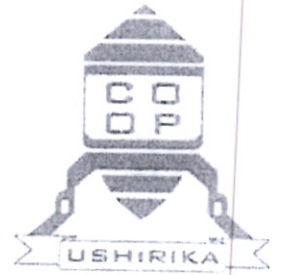
Mt.Kenya East FCS

Chairman



A handwritten signature in black ink, appearing to read 'Dennis', is written over a faint circular stamp. Below the signature, the date '4/5/24' is handwritten in black ink.

**NYAKI FARMERS
CO-OPERATIVE SOCIETY
LTD
P.O BOX 1060 MERU**



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Nyaki Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.

As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the Fourth Schedule, the functions of the two levels of government are distributed as:-

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The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I- National Government; this implies that the co-operative function is fully devolved.

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In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

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3. Ambiguity

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In addition, Section 25(3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

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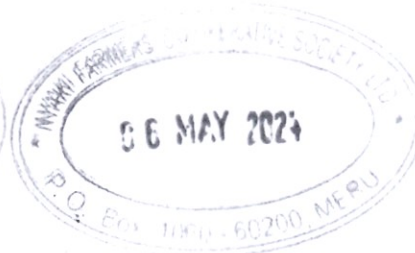
In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Nyaki FCS



Chairman





THINKWI F.C.S LTD

P.O BOX 250 - 60402

IGOJI



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.

Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

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In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Nthinkwi FCS



Chairman



MUKIRIA FARMERS CO-OP SOCIETY LTD

P.O BOX 1 MERU



6th May, 2024.

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P.O. Box 41842-00100
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Dear Sir,

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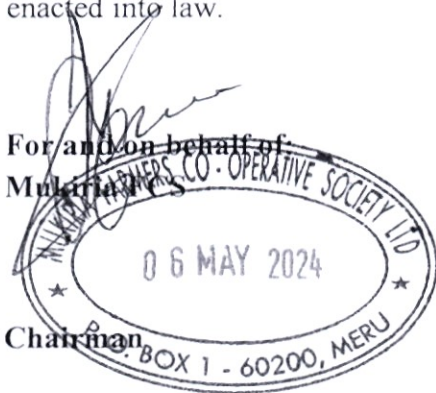
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For and on behalf of
MURUKHARERS CO-OPERATIVE SOCIETY LTD

Chairman





URUKU FARMERS CO-OP SOCIETY LTD

P.O BOX 567 NKUBU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

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In conclusion we request that the areas highlighted above be re-looked into before the Bill is enacted.

For an **Chairman** shall of:

Uruku



Chairman



KATHERI FARMERS CO-OPERATIVE SOCIETY LTD



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

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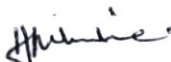
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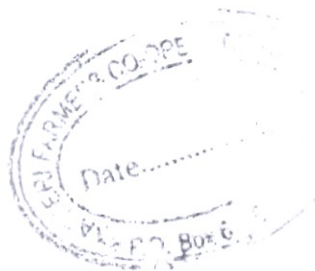
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For and on behalf of:

Katheri FCS


Chairman





MUGUNA FARMERS CO-OP SOCIETY LTD

P.O BOX 2026 MERU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.

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This contradicts the desired benefits of devolution as stated in Article 174 of the Kenyan Constitution since proximity of services will not be achieved. The principle of decentralization of services will be denied to citizens.

The Kenyan Constitution Article 174:

The objects of the devolution of government are—

f) To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;

*(h) To facilitate the decentralization of State organs, their functions and services, **from the capital of Kenya**;*

The aforementioned clauses of the bill go against this object.

Residents from far flung areas will have to travel long distances to Nairobi to access services which they could have easily accessed within their county; for instance registration of audited accounts in Nairobi will translate to high costs of audit due to travel and accommodation. Most of the upcoming Cooperatives will not be able to afford such leading to non compliance.

This will discourage many who seek the services leading to a non-vibrant movement.

3. Ambiguity

Sec 105 (1) and Sec 107 (1) Gives the Commissioner **or** the County Director for Cooperatives power to carry out inspection into the affairs of Cooperatives.

The use of “or” brings ambiguity to this function if not done in concurrence.

4. Apex Co-operative (Sec 25)

The sections deals with the establishment of the Apex co-operative and Subsection (2) states:-

Every cooperative shall subscribe to the membership of the apex.

The inclusion of the word “shall” implies that it is mandatory for every Co-operative to join the Apex. This requirement goes against the Co-operative principle of voluntary and open membership.

In addition, Section 25(3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of autonomy, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Muguna FCS

MUGUNA F.C.S LTD

P. O. BOX 2026, MERU

Date: Chairman.....



MIITINE FARMERS CO-OP SOCIETY LTD

P.O BOX 51 IGOJI



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.

Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Miitine Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.

As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the Fourth Schedule, the functions of the two levels of government are distributed as:-

- a) Part I- National Government; 35 functions
- b) Part II - County Government; 14 functions

The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I- National Government; this implies that the co-operative function is fully devolved.

Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and clearly defined.

Article 2 of the Kenya Constitution 2010 states thus:-

(1) *This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.*

(2) *No person may claim or exercise State authority except as authorized under this Constitution.*

(3) *The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.*

(4) Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.

The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

2. Takes services far from the people

- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
- ii. Sec 9 (2) (j) and 56 (7) (a) gives the Commissioner the mandate to register audited accounts for co-operatives.
- iii. Sec 37 gives amendment of bylaws for Co-operatives as the function of the Commissioner.
- iv. Sec 94 (1) requires the commissioner to register charges created by a cooperative society.

This contradicts the desired benefits of devolution as stated in Article 174 of the Kenyan Constitution since proximity of services will not be achieved. The principle of decentralization of services will be denied to citizens.

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The objects of the devolution of government are—

*f) To promote social and economic development and the provision of **proximate, easily accessible services throughout Kenya;***

*(h) To facilitate the decentralization of State organs, their functions and services, **from the capital of Kenya;***

The aforementioned clauses of the bill go against this object.

Members from far flung areas will have to travel long distances to Nairobi to access services which they could have easily accessed within their county; for instance the transportation of audited accounts in Nairobi will translate to high costs of audit due to transport and accommodation. Most of the upcoming Cooperatives will not be able to afford this leading to non compliance.

This will discourage many who seek the services leading to a non-vibrant movement.

3. *Inspection*

Section 103 (1) and Sec 107 (1) Gives the Commissioner **or** the County Director for Cooperatives power to carry out inspection into the affairs of Cooperatives.

The use of "or" brings ambiguity to this function if not done in concurrence.

4. *Apex Co-operative (Sec 25)*

Section 25 deals with the establishment of the Apex co-operative and Subsection (2)

Every co-operative shall subscribe to the membership of the apex.

The inclusion of the word "shall" implies that it is mandatory for every Co-operative to join the Apex. This requirement goes against the Co-operative principle of voluntary and membership.

Section 25(3) gives the cabinet secretary the powers to prescribe the manner of subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of self-reliance, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted.

For the Chairperson of:
Miiitiin
P.O. BOX 51, IGOLI
MERU
Chairperson

AMUKUI FARMERS CO-OPERATIVE SOCIETY
P.O BOX 2375
MERU

6th may 2024

The Clerk of the National Assembly,
P.O BOX 41842-00100
NAIROBI

Dear Sir,

RE: THE CO-OPERATIVE BILL(National Assembly Bill No. 7 of 2024)

Amukui Farmers co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the co-operative principles and the general well-being of the Co-operative movement. We therefore wish to bring the aforesaid clauses to the attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in sec 9 (1) gives the commissioner sole responsibility for the growth, development and regulation of Co-operative in Kenya.

As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the fourth Schedule, the functions of the two levels of government are distributed as :-

- a) Part I-National Government ; 35 functions
- b) Part ii- County Government ; 14 functions

The co-operative function is under Part 11-County Governments item 7 (e) but does not appear under part 1- National Government; this implies that co-operative function is fully devolved.

Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and livestock are clearly stated as such and clearly defined.

Article 2 of the Kenya Constitution 2010 states thus:-

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The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

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*(h) To facilitate the decentralization of State organs, their functions and services, **from the capital of Kenya;***

The aforementioned clauses of the bill go against this object.

Residents from far flung areas will have to travel long distances to Nairobi to access services which they could have easily accessed within their county: for instance registration of audited accounts in Nairobi will translate to high costs of audit due to travel and accommodation. Most of the upcoming Co-operative will not be able to afford such leading to non compliance.

This will discourage many who seek the service leading to a non vibrant movement.

3. Ambiguity

Sec 105 (1) and Sec 107 (1) gives the commissioner or the County Director for Cooperatives power to carry out inspection into the affairs of cooperatives; The use of "or" brings ambiguity to this function if not done in concurrence.

4. Apex Co-operative (Sec.25)

The sections deals with the establishment of the Apex co-operative and Subsection (2) states:-


Every co-operative shall subscribe to the membership of the apex.

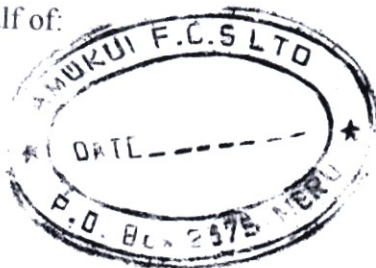
The inclusion of the word "shall" implies that it is mandatory for every co-operative to join the apex. This requirement goes against the co-operative principle of voluntary and open membership.

In addition, Section 25 (3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of autonomy, indendence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into the Bill is enacted into law.

For and on behalf of:
Amukui F.C.S

Chairman.



IGENTO FARMERS CO-OPERATIVE SOCIETY
P.O BOX 90
MERU

6th may 2024

The Clerk of the National Assembly,
P.O BOX 41842-00100
NAIROBI

Dear Sir,

RE: THE CO-OPERATIVE BILL(National Assembly Bill No. 7 of 2024)

Igento Farmers co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the co-operative principles and the general well-being of the Co-operative movement. We therefore wish to bring the aforesaid clauses to the attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in sec 9 (1) gives the commissioner sole responsibility for the growth, development and regulation of Co-operative in Kenya.

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Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and livestock are clearly stated as such and clearly defined.

Article 2 of the Kenya Constitution 2010 states thus:-

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- (4) *Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.*

The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

2. Takes services far from the people

- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
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- iv. Sec 94 (1) requires the commissioner to register charges created by a cooperative society.

This contradicts the desired benefits of devolution as stated in Article 174 of the Kenyan Constitution since proximity of services will not be achieved. The principle of decentralization of services will be denied to citizens.

The Kenyan Constitution Article 174:

The objects of the devolution of government are—
f) To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;

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The aforementioned clauses of the bill go against this object.

Residents from far flung areas will have to travel long distances to Nairobi to access services which they could have easily accessed within their county: for instance registration of audited accounts in Nairobi will translate to high costs of audit due to travel and accommodation. Most of the upcoming Co-operative will not be able to afford such leading to non compliance.
This will discourage many who seek the service leading to a non vibrant movement.

3. Ambiguity

Sec 105 (1) and Sec 107 (1) gives the commissioner or the County Director for Cooperatives power to carry out inspection into the affairs of cooperatives; The use of "or" brings ambiguity to this function if not done in concurrence.

4. Apex Co-operative (Sec.25)

The sections deals with the establishment of the Apex co-operative and Subsection (2) states:-

Every co-operative shall subscribe to the membership of the apex.

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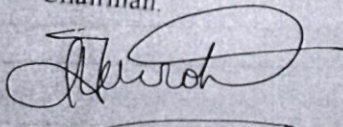
In addition, Section 25 (3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of autonomy, indendence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into the Bill is enacted into law.

For and on behalf of:
Igento F.C.S

Chairman.





NTHIMBIRI FARMERS CO-OP SOCIETY LTD

P.O BOX 1498 MERU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Nthimbiri Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.

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The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

2. Takes services far from the people

- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
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The aforementioned clauses of the bill go against this object.

Residents from far flung areas will have to travel long distances to Nairobi to access services which they could have easily accessed within their county; for instance registration of audited accounts in Nairobi will translate to high costs of audit due to travel and accommodation. Most of the upcoming Cooperatives will not be able to afford such leading to non compliance.

This will discourage many who seek the services leading to a non-vibrant movement.

3. Ambiguity

Sec 105 (1) and Sec 107 (1) Gives the Commissioner **or** the County Director for Cooperatives power to carry out inspection into the affairs of Cooperatives.

The use of “or” brings ambiguity to this function if not done in concurrence.

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*Every cooperative **shall** subscribe to the membership of the apex.*

The inclusion of the word “shall” implies that it is mandatory for every Co-operative to join the Apex. This requirement goes against the Co-operative principle of voluntary and open membership.

In addition, Section 25(3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

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In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Nthimbiri FCS



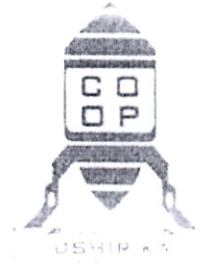
Chairman



**KIANJURI FARMERS'
CO-OPERATIVE SOCIETY LIMITED.**

P.O BOX 2899-60200 MERU. TEL: 0726333920

Email: kianjurifarmers@gmail.com



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Kianjuri Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

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In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

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The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I- National Government; this implies that the co-operative function is fully devolved.

Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and clearly defined.

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In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

2. Takes services far from the people

- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
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The Kenyan Constitution Article 174:

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This will discourage many who seek the services leading to a non-vibrant movement.

3. Ambiguity

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The use of “or” brings ambiguity to this function if not done in concurrence.

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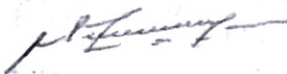
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In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Kianjuri FCS

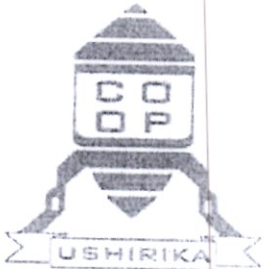


Chairman



NTIMA FARMERS CO-OPERATIVE SOCIETY LIMITED

P.O BOX 2977 - 60200 MERU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Ntima Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

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This creates an environment of government control compromising the principle of autonomy, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:





KITHINO FARMERS CO-OP SOCIETY LTD

P.O BOX 259 - 60202 NKUBU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Kithino Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.

As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the Fourth Schedule, the functions of the two levels of government are distributed as:-

- a) Part I- National Government; 35 functions
- b) Part II - County Government; 14 functions

The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I- National Government; this implies that the co-operative function is fully devolved.

Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and clearly defined.

Article 2 of the Kenya Constitution 2010 states thus:-

(1) This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.

(2) No person may claim or exercise State authority except as authorized under this Constitution.

(3) The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.

(4) Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.

The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

2. Takes services far from the people

- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
- ii. Sec 9 (2) (j) and 56 (7) (a) gives the Commissioner the mandate to register audited accounts for co-operatives.
- iii. Sec 37 gives amendment of bylaws for Co-operatives as the function of the Commissioner.
- iv. Sec 94 (1) requires the commissioner to register charges created by a cooperative society.

This contradicts the desired benefits of devolution as stated in Article 174 of the Kenyan Constitution since proximity of services will not be achieved. The principle of decentralization of services will be denied to citizens.

The Kenyan Constitution Article 174:

The objects of the devolution of government are—

f) To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;

*(h) To facilitate the decentralization of State organs, their functions and services, **from the capital of Kenya;***

The aforementioned clauses of the bill go against this object.

ents from far flung areas will have to travel long distances to Nairobi to access services which they could have easily accessed within their county; for instance the centralization of audited accounts in Nairobi will translate to high costs of audit due to transport and accommodation. Most of the upcoming Cooperatives will not be able to afford this leading to non compliance.

This will discourage many who seek the services leading to a non-vibrant movement.

3. *Inspection*

Section 107 (1) and Sec 107 (1) Gives the Commissioner or the County Director for Agriculture the power to carry out inspection into the affairs of Cooperatives.

The use of "or" brings ambiguity to this function if not done in concurrence.

4. *Apex Co-operative (Sec 25)*

Section 25 deals with the establishment of the Apex co-operative and Subsection (2)

Every co-operative shall subscribe to the membership of the apex.

The inclusion of the word "shall" implies that it is mandatory for every Co-operative to join the Apex. This requirement goes against the Co-operative principle of voluntary and democratic membership.

Section 25(3) gives the cabinet secretary the powers to prescribe the manner of the subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of self-reliance, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted.

For and on behalf of:
Kithino


Chairman: 





KITHIMA FARMERS CO- OP SOCIETY LTD

P.O BOX 798 NKUBU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Kithima Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

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This will discourage many who seek the services leading to a non-vibrant movement.

3. Ambiguity

Sec 105 (1) and Sec 107 (1) Gives the Commissioner **or** the County Director for Cooperatives power to carry out inspection into the affairs of Cooperatives.

The use of "or" brings ambiguity to this function if not done in concurrence.

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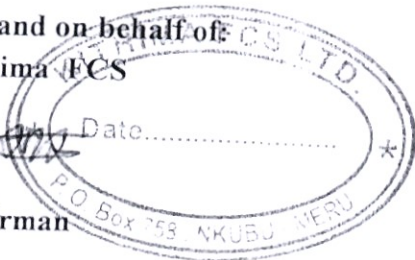
In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Kithima ECS

M. M. M. Date.....

Chairman





KIANGUA FARMERS CO-OP SOCIETY LTD

P.O BOX 143 CHOGORIA - MERU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Kiangua Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

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In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

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This will discourage many who seek the services leading to a non-vibrant movement.

3. Ambiguity

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The use of “or” brings ambiguity to this function if not done in concurrence.

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Every cooperative shall subscribe to the membership of the apex.

The inclusion of the word “shall” implies that it is mandatory for every Co-operative to join the Apex. This requirement goes against the Co-operative principle of voluntary and open membership.

In addition, Section 25(3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of autonomy, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Kiangua FCS

Chairman





KATHERA FARMERS CO-OP SOCIETY LTD

P.O BOX 764 - 60202 NKUBU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Kathera Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

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This creates an environment of government control compromising the principle of autonomy, independence and democratic control.


In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Kathera FCS


Chairman





MIRIGA MIERU FARMERS CO-OP SOCIETY LTD

P.O BOX 1403 MERU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Miriga Mieru Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

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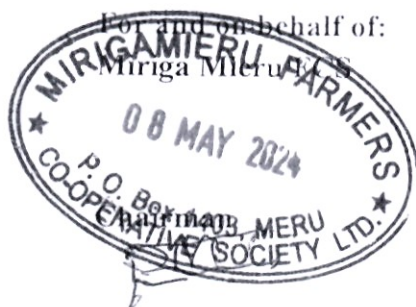
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This creates an environment of government control compromising the principle of autonomy, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Miriga Meru





LOWER ABOGETA F.C.S LTD



P.O BOX 181 KANYAKINE

6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

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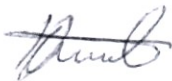
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For an... of:
Lower... CS

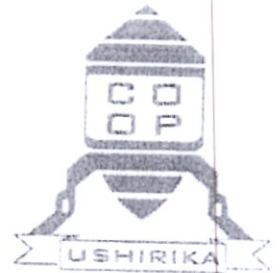


Chair

LOWER ABOGETA F. C. S LTD.
P. O. BOX 181 KANYAKINE
DATE: _____

NJOE FARMERS CO-OP SOCIETY LTD

P.O BOX



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Njoe Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

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In addition, Section 25(3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of autonomy, independence and democratic control.


In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Njoe FCS

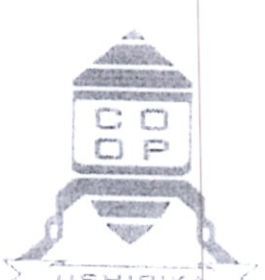


Chairman



MIKUMBUNE FARMERS CO-OP SOCIETY LTD

P.O BOX 527 NKUBU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Mikumbune Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.

As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the Fourth Schedule, the functions of the two levels of government are distributed as:-

- a) Part I- National Government; 35 functions
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The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I- National Government; this implies that the co-operative function is fully devolved.

Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and clearly defined.

Article 2 of the Kenya Constitution 2010 states thus:-

(1) This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.

(2) No person may claim or exercise State authority except as authorized under this Constitution.

(3) The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.

(4) Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.

The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

2. Takes services far from the people

- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
- ii. Sec 9 (2) (j) and 56 (7) (a) gives the Commissioner the mandate to register audited accounts for co-operatives.
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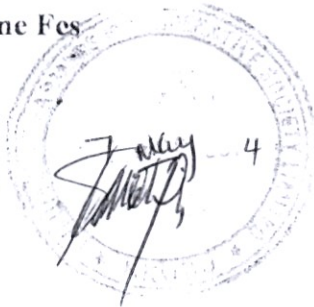
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In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Mikumbune Fes

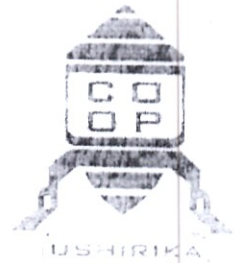
Chairman





GIKURWA FARMERS CO-OP SOCIETY LTD

P.O BOX 285 IGOJI



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100 .

NAIROBI.

Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Gikurwa Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.

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The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I- National Government; this implies that the co-operative function is fully devolved.

Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and clearly defined.

Article 2 of the Kenya Constitution 2010 states thus:-

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(2) *No person may claim or exercise State authority except as authorized under this Constitution.*

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(4) Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.

The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

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- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
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This will discourage many who seek the services leading to a non-vibrant movement.

3. Ambiguity

Sec 105 (1) and Sec 107 (1) Gives the Commissioner **or** the County Director for Cooperatives power to carry out inspection into the affairs of Cooperatives. The use of "or" brings ambiguity to this function if not done in concurrence.

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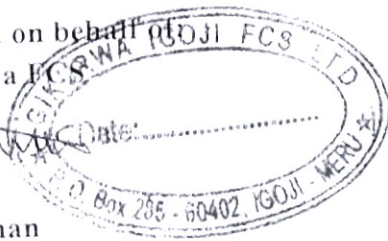
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This creates an environment of government control compromising the principle of autonomy, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of
Gikurwa FCS

Chairman





MARIARA FARMERS CO-OP SOCIETY LTD

P.O. BOX 107 GITHONGO



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Mariara Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

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In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Mariara FCS

Chairman





MERU CENTRAL COFFEE CO-OPERATIVE UNION

P.O. BOX 6-60200, Meru, Kenya, Tel: +254 795751628
E-Mail: merucoffeeunion@gmail.com,

6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Meru Central Coffee Co-operative union is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

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For and on behalf of:
Meru Central Coffee Co-Op Union



MERU CENTRAL COFFEE CO-OPERATIVE UNION LTD.

P.O. BOX 6 - 60200.

Chairman MERU!

[Faint, illegible text]

6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
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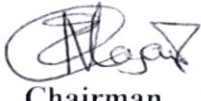
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For and on behalf of:

NACCU



Chairman

MERU CENTRAL COFFEE CO-OPERATIVE UNION LTD.

P. O. BOX 6 - 60200,

MERU.

**THANGATHA FARMERS CO-OPERATIVE SOCIETY
P.O BOX 90
MERU**

6th may 2024

The Clerk of the National Assembly,
P.O BOX 41842-00100
NAIROBI

Dear Sir,

RE: THE CO-OPERATIVE BILL(National Assembly Bill No. 7 of 2024)

Thangatha Farmers co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the co-operative principles and the general well-being of the Co-operative movement. We therefore wish to bring the aforesaid clauses to the attention.

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In conclusion, we request that the areas highlighted above be re-looked into the Bill is enacted into law.

For and on behalf of:
Thangatha F.C.S

THANGATHA F.C.S
P. O. Box 90 - 60200, MERU.

Date:.....

Chairman.



COTESA

Mombasa County

Felister M. Mutiga

MATTERS FOR CONSIDERATION IN THE CO-OPERATIVE BILL 2024

CLAUSE 16.1(d) ON INTERGOVERNMENTAL COOPERATIVE RELATIONS TECHNICAL FORUM

What is the role of the officer appointed by the Council governors in the forum if the county directors of co-ops are already in the forum? Involvement of the council of governors may bring unhealthy political interest from the county governors. What criteria shall the council of governors use to appoint this officer?

CLAUSE 16.3 ON COMMISSIONER PROVIDING ADEQUATE BUDGET FOR THE INTER-GOVERNMENTAL FORUM

What controls are there to ensure the commissioner is under check not to overbudget? Who will ensure the budget is fit for purpose and that there are no excesses?

CLAUSE 21 ON MULTIPLE OBJECTS.

clause should be expounded to provide for Co-operatives that want to grow their business through subsidiaries. For example a Sacco may want to start a housing, insurance, hospital subsidiary etc.

CLAUSE 22 ON OBJECTS OF SECONDARY COOPERATIVES

To consider adding the following object; "Provision of centralized services related to technology, finance, banking etc to its members affiliates"

CLAUSE 24.(3) ON APEX SUBSCRIPTION

There is a danger in the clause as the responsibility to determine the subscription is left to the apex body and the minister without consultation with the co-operatives themselves. This subscription should be done in consultation or with the approval of the co-operative movement to avoid some the things we are seeing now where some co-operatives do not fully comply due to non-involvement. The clause can even provide for basis or criteria for the determination of the subscription to avoid ambiguous criteria to be used by greedy apex body officials.

CLAUSE 25 ON APEX BODY FUNCTIONS

To include the following function;

"Subject to compliance with the computer society of Kenya, shall provide a shared pool of information systems audit services"

This is because we are now in the digital information age

To also include promotion of good governance practices in co-operatives

Clause 27 ON REGULATIONS FOR THE APEX BODY

Co-operatives to be involved in its formulation (participation)

CLAUSE 29(1) (b) and (c) **Check grammatical error in the statements**

CLAUSE 29 (e) ON REGISTRATION OF CO-OPERATIVES

The sub-clause provides for commitment letter for cheque off for employer-based coops but what if the employer refuses to provide the commitment letter? The clauses needs to be amend to allow such formation with or without the letter.

~~Class~~
~~Mary Kautans~~
~~MP~~
~~Abelrice~~



STATE DEPARTMENT FOR
Micro, Small and Medium-sized Enterprises
(MSMEs)



REPUBLIC OF KENYA

**MINISTRY OF CO-OPERATIVES & MICRO, SMALL AND
MEDIUM ENTERPRISES (MSMEs) DEVELOPMENT**

STATE DEPARTMENT FOR MSMEs DEVELOPMENT

**SUBMISSION OF COMMENTS/INPUTS ON THE COOPERATIVES
BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 7 OF 2024)**

PRESENTED BY

**SUSAN MANG'ENI
PRINCIPAL SECRETARY**

6TH MAY, 2024

SUBMISSION OF COMMENTS/INPUTS ON THE COOPERATIVES BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 7 OF 2024) BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES.

1. PREAMBLE

Hon. Chairman, let me take this opportunity to thank you together with the Members of the National Assembly Departmental Committee on Trade, Industry and Co-operatives for extending your invitation to the State Department for Micro, Small and Medium Enterprises (MSMEs) Development to discuss submission of comments/input on the Cooperatives Bill, 2024.

The State Department for MSMEs Development welcomes the move by the National Assembly Departmental Committee on Trade, Industry and Cooperatives to introduce Cooperatives Bill 2024 (National Assembly Bill No. 7 of 2024) for study, review and reporting to the House.

The Bill seeks to establish the following;

- a) Office of the Commissioner for Cooperative Development at the national level of Government and the Office of the County Director for Cooperatives in each County Government;
- b) To provide for the promotion, registration, and regulation of Cooperatives;
- c) To provide for inter-governmental Cooperative relations; and
- d) For connected purposes.

Hon. Chairman, in line with your letter Ref: NA/DDC/TRADE/2024/071 dated 29th April, 2024, allow me to proceed and make submissions in respect of the State Department for MSMEs Development under the Ministry of Cooperatives and MSMEs Development.

2. KEY OBSERVATIONS

2.1 The Bill has organized the cooperatives well with clear structures. This will make it easy for other agencies to provide support to the

S/No.	Bill No.	Provision of the Bill *	Rationale for amendments recommendation	Proposed Amendments **
				of members' produce.
3.	To include Part III 22 (1) (i)	Include (i)	Cooperatives with multiple objects abound and create diverse employment opportunities (i) Bulk procurement and distribution of quality inputs to members
4.	Part III 22 (1) (a)	Aggregation and warehousing of produce of produce	Seems a satiric misspelling	Aggregation and warehousing of produce of members

***Provides text on exact wording of the provision in the Bill's section or sub section**

**** Provides the exact wording of how the proposed amendment to the Bill's section or sub section is proposed to read.**

Finally, I wish to thank the Members of the Departmental Committee on Trade, Industry and Cooperatives for their continued support in the overall development and promotion of the MSME Sector.

Thank you.

STATE DEPARTMENT FOR MSMEs DEVELOPMENT

ANNEX I: ADDITIONAL OBSERVATIONS ON THE COOPERATIVES BILL, 2024

The management of cooperatives in the Country is a devolved function of County Governments as enshrined in the Fourth Schedule of the Constitution which contains information on the devolved services.

The Co-Operative Societies (Amendment) Bill, 2024 proposes an ACT of Parliament to amend the Co-operative Societies Act. Government at each level (national and county) shall co-operate in the performance of functions and exercise of powers. For that purpose, they may set up joint committees and joint authorities as provided under Article 189(2) of Constitution.

Micro, small, and medium-sized enterprises (MSMEs) comprise 98% of all business formal (registered) and informal unregistered enterprises in Kenya with majority forming the unregistered category.

This collectively is the billion-opportunity comprising the socio-economic revolution of Kenya both with skilled and unskilled labour especially of the youth, women, marginalized population and Persons living with disabilities. Thus the reformist approach of the The Co-operative Societies (Amendment) Bill, 2024 should target the enhancement of Agribusiness in the context of primary production of raw materials as well as in value addition thereto including the chain of distribution which is the trade aspect and services.

Further, it should be tailored towards employment opportunities for both skilled and unskilled labour force of the vulnerable category of persons in our society such as youth, women, marginalized population and Persons living with disabilities. It is in this context that the responsiveness of the law to these needs ought to be captured to produce an organic law serving the intended purpose.

This Law is a thread that straddles several sectors not only in agriculture but also in finance, trade, housing and general multisectoral facet of the MSMEs thus to contextualize financial cooperatives, commodities marketing cooperatives, transport cooperatives, housing cooperatives, women cooperatives and youth cooperatives. The law should tailor to enhance the strength of the existing ones, revive dormant ones subject to assessment of their potential and create an enabling environment for formation and registration of new ones for employment, economic and development of rural and peri urban or poor urban areas, wealth creation and poverty reduction.

Key Areas

- a. Efficiency over business registration
- b. Regulatory aspects
- c. Finance and funding
- d. Democratic management

Efficiency over business registration

The laws that straddle the regulation and direct impact of the Cooperative societies include the Companies Act, Partnership Act, Limited Liability Partnership Act, Societies Act, Registration of Business Names Act, Hire Purchase Act, Bankruptcy Act, Chattels Transfer Act. Business must be transacted through vehicles potentially with corporate identity to enhance corporate governance and commerce as well as tax regulation and aspects of liability thereof and making them commercially and environmentally responsive to established and emerging business trading norms.

The Proposed office of the Registrar general ought to be a one stop shop as has been seen with other registrars such as the Political parties to include powers such as registration of all entities and administer all relevant legislation on business regulation and the go to office on all matters related thereto. The offices ought to be spread across the devolved environment as a matter of law since the agricultural sector which is the dominant sector of the multilateral sector is largely rural and access by user community of the public in Nairobi or established cities alone may be a deterrent to access and the eventual intended purpose.

Regulatory aspects

The creation of the board to act as the governing arm of the Business Registration Service is a very noble regulatory aspect. However, the inception of the Cooperative Societies stems from the Cooperative movement which is coming together of farmers in respective sectors. The sense of belonging is key to making the law responsive and create a perception among the user community directly and immediately affected to respond to the intentions of law. A board umbrella at national level and Boards at County levels would enhance the intended organic nature of the Law as well as expansion of the National Board and the County Boards so as to accommodate the multi sectoral elements as would straddle the regulatory and operative environment.



STATE DEPARTMENT FOR
DEVOLUTION

REPUBLIC OF KENYA



OFFICE OF THE DEPUTY PRESIDENT STATE DEPARTMENT FOR DEVOLUTION

COMMENTS ON THE COOPERATIVES BILL 2024 NATIONAL ASSEMBLY BILL NO. 7 OF 2024 BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

INTRODUCTION

THE MANDATE OF THE STATE DEPARTMENT FOR DEVOLUTION

1. The State Department for Devolution is mandated to provide policy direction and leadership for effective implementation of the devolved system of government; promote harmonious intergovernmental relations; and to coordinate support to county governments for effective service delivery.
2. As per the Executive Order No. 2 of 2023, the State Department is domiciled in the Office of the Deputy President which is responsible for coordination of intergovernmental relations.
3. The State Department is headed by a Principal Secretary as the Accounting Officer responsible for devolution and intergovernmental relations. The Department oversees the operations of the Intergovernmental Relations Technical Committee (IGRTC), Council of Governors (CoG) and the Nairobi Rivers Commission (NRC).

expected to develop National Policy and legislation that will promote uniform norms and standards of service delivery in the Cooperative Sector.

Since 2013, County Governments have individually developed local mechanisms including frameworks in trying to deliver on Cooperatives. These individual efforts have had mixed results. Therefore, this Bill is both timely and urgent in order to bring uniformity of norms and synergy in the Cooperative sector.

PROPOSED AMENDMENTS TO THE COOPERATIVE BILL 2024

In view of the foregoing, the State Department for Devolution proposes the following amendments;

**SUBMISSION BY THE STATE DEPARTMENT FOR DEVOLUTION ON
(THE NATIONAL ASSEMBLY BILL NO. 7 OF 2024)**

CLAUSE	PROPOSED AMENDMENT	RATIONALE
1. General	Cooperative Societies is a devolved function under Schedule 4 of the Constitution.	The letter and spirit of the Bill should recognize that.
Preamble	The Bill should focus on development of policy, norms and standards for development and management of the cooperative sector	The purpose of the Bill should not be for the creation of the office of the Commissioner
3 (2)	Let clauses g, b, c appear first in that order	These are the broad objectives for the devolved function
3(2) Clauses d-h	Merge clauses d, e, f and h to read: To provide a Framework for the promotion, development and management of Cooperatives at both National and County levels	These clauses are all speaking on the management of Intergovernmental matters
3 (2) (a)	Delete clause (a)	Covered in all the other subsequent objects
Clause 4 (a)	The Principle of Consultation and Cooperation and interdependence of the two levels of government should be one of the principles of the	1. The country is operating under a devolved system of government; and

	Bill	2. Cooperative societies is a devolved function whose effective delivery will be through consultation and cooperation.
		Sacco Societies Act was a pre-devolution law which requires to be aligned with the constitution.
Clause 5 (2)	Delete 5(2) and replace with "Align the Sacco Societies Act 2008 to the provisions of this Act"	Requirement that laws not consistent with the constitution should be reviewed.
	Merge Division 1 and 2	
Clause 6 (2)	Restate the clause as follows: Office of the Commissioner for Cooperative Development and the Commissioner of Cooperatives at the County level shall be offices in the Public Service.	Whereas we recognize the Role of the National Government, the performance of cooperative societies is assigned to the Counties hence the need to have the mirror-approach to this office
Clause 7	The Public Service Commission or County Public Service Board shall appoint/designate technical officers to the offices	
Clause 8	The Public Service Commission or the County Public Service Board shall fill the vacancy through a competitive	
Clauses 11 -13	11- 13 be merged as the proposals above will make them redundant	The two offices are in the

<p>realm of the Public Service</p>	<p>As earlier justified.</p>	<p>Assign the roles for the proposed Commissioner for Cooperatives at County level, the roles assigned to the County Director of cooperatives in this Bill.</p> <p>The proposed Forum should be an Intergovernmental Sector Forum as contemplated in the IGR Act 2012.</p> <p>According to the Intergovernmental Sector Forum Regulations, the membership of a Sector Forum includes:</p> <ul style="list-style-type: none"> ▪ The Cabinet Secretary responsible for the sector who shall be the Chairperson of the Forum ▪ The Principal Secretary responsible for matters relating to the sector ▪ The Caucus Chair for the sector from Council of Governors ▪ The 47 CECMs responsible for the sector ▪ The Principal Secretary responsible for Intergovernmental Relations matters ▪ The Chairperson of the Intergovernmental Relations Technical Committee (IGRTC) ▪ Other members may be co-opted on need basis <p>Technical Officers hold pre-forum meetings to prepare the Agenda for a Sector Forum and or address administrative issues affecting the Sector</p>	<p>This is as stipulated in the Intergovernmental Sector Forum Regulations</p>
<p>Clause 16</p>	<p>Clause 17</p>	<p>The functions of an Intergovernmental Sector Forum from which can be derived functions of technical officers in an Intergovernmental Relations unit, are as below: -</p> <p>(a) Undertake all measures necessary to facilitate the discussions</p>	<p>To align with the Intergovernmental Structures and proposals of the Intergovernmental Relations</p>

	<p>necessary towards achieving cooperation and collaboration between the participants;</p> <p>(f) Make decisions that will constitute the agenda for the Summit with regard to the respective sectoral issue;</p> <p>(g) Create a register of all national and international state and non-state actors that have a direct or indirect interest in the respective sectoral issues;</p> <p>(d) Promote data and information sharing between the national government and amongst the county governments in the sector;</p> <p>(e) Promote sharing of experiences, best practices, implementation of competencies and emerging issues between the national government and amongst the county governments in the sector;</p> <p>(f) Mediate any conflict arising from among the participants as they undertake their various roles;</p> <p>(g) Consider matters referred to the Forum by a member of public; and</p> <p>(h) Recommend to the Cabinet Secretary and the Council any other measures necessary for the better management and deployment of a Forum.</p>	Act (2012)
Clause 20	Need to distinguish the roles and responsibilities of the National Cooperatives and the County Cooperatives	No clarity on the classification of these cooperatives

	<p>Clarify the applications of the <i>Cooperative Societies Act 2008</i>.</p> <p>The Bill should provide a criteria for registration of a Cooperative Federation</p> <p>Introduce Clause 23 (2) C to cater for an objective body or committee for determination of issues such as Registration, Deregistration, Fees, licensing, and resolution of Disputes at County level, and at intergovernmental level.</p> <p>The Commissioner of Cooperatives can be an institution with an Independent Board</p>	<p>The Bill should be reviewed to ensure consistency with existing laws</p> <p>The clause is not clear/does not provide a clear distinction</p> <p>This is to enhance efficiency and accountability</p>
<p>Clause 23 (2)</p> <p>Clause 23 (2) (c)</p>	<p>Amend the naming and definition of 'Apex Cooperative' to "National Confederation of Cooperatives responsible for the development of the Cooperative Sector and represent the national and international interests of their members</p>	<p>This will bring together all cooperatives as members and be the protector of members and the sector as a whole</p>
<p>Definitions</p>	<p>Introduce a clause on the function of the Apex Body to include: ... establish institutions to promote Cooperative Education, professional norms and standards</p>	<p>This will help the Apex Cooperative to ensure that the sector operates using uniform professional norms and standards</p>
<p>Clause 25</p>	<p>Add new Clause to provide for development of Regulations:</p> <p>"The Cabinet Secretary shall develop Regulations for effective implementation of the Act"</p> <p>In addition, County Assemblies shall formulate local legislate to give</p>	<p>New Clause: The Act requires regulations</p>
<p>Clause 26</p>		

	<p>impetus to implementation at County level</p> <p>Additional Comments</p> <p>We propose that the Cooperative Act 2024 complies with Business Registration Law, Company Law, Business names and other preexisting laws</p> <p>The proposed Cooperative Act 2024 should enable the Commissioner of Cooperative Development.</p> <p>Hence the Cooperatives Bill should ensure there is seamless communication between the two levels of government to facilitate these matters.</p>	<p>The Cooperative Act 2024 should be consistent with other laws which govern the business sector</p> <p>Intergovernmental Relations between the two levels of government are necessary and required under the current constitution.</p>
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SUBMISSIONS FROM COOPERATIVE
UNIVERSITY



THE CO-OPERATIVE UNIVERSITY OF KENYA

MEMORANDUM ON THE COOPERATIVES BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2024)

PRESENTED TO:

**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION (2024)**

SUBMITTED TO:

**THE CLERK OF THE NATIONAL ASSEMBLY,
P.O. BOX 41842-00100,
NAIROBI**

SUBMITTED BY:

**THE CO-OPERATIVE UNIVERSITY OF KENYA,
P.O. BOX 24814-00502,
KAREN, NAIROBI
EMAIL: vc@cuk.ac.ke**

April 19, 2024

1.0 INTRODUCTION

The Co-operative University of Kenya (CUK) is a chartered public university established under the Universities Act, 2012. CUK is mandated to provide education, training, research and consultancy with emphasis on co-operative development, in line with the fifth cooperative principle of education, training and information. Since its establishment in 1952 as a training centre for government co-operative officers serving in Kenya, Uganda and Tanganyika, the institution has contributed immensely to the growth of the co-operative movement across Africa mainly through supply of qualified human capital to the co-operative movement.

CUK has reviewed and interrogated the Cooperatives Bill, 2024. It submits this memorandum in line with its mandate. Further, it responds to the invitation for public participation and submission of memoranda by the National Assembly dated 16th April, 2024. The memorandum highlights CUK's select views of the proposals included in the Bill.

2.0 BACKGROUND/ CONTEXT AND POSITION OF THE MEMORANDUM

The passage of Kenya's current constitution in 2010 (CoK 2010) radically changed the management of public affairs by introducing two levels of government, the national government and 47 devolved units. The constitution shared responsibilities between the national and county governments as part of promotion of social and economic development and ease of access to services across the country (Article 174), with co-operative societies being among the devolved functions as per the Fourth Schedule. The Cooperative Policy, Sessional Paper No.4 of 2020 on "promoting co-operatives for socio-economic transformation" and the proposed legislation are meant to align the co-operative legal framework with the constitution.

In line with the above, the Bill seeks to align to the advisory by the Transition Authority through Legal Notice No. 137 of 9th August 2013 that expounds on the functions of national and county governments as stated under Part 1 and Part 2 of the Fourth Schedule respectively. The national government functions are proposed to include policy formulation, capacity building and technical assistance to counties; while counties are assigned the functions of development and regulation of co-operative societies.

Our views on the Bill as captured in this memorandum are informed not only by the extensive knowledge CUK has accumulated over the years through research on the co-operative sector, but also by public dialogues with sector players through conferences, workshops and seminars conducted by the University and other stakeholders, including the State Department for Cooperatives, over time. We are therefore of the opinion that by a large extent, the Bill is progressive and provides the necessary anchor to promote a sustainable and competitive cooperative sector for socio-economic development in a devolved system of governance.

3.0 KEY PROPOSALS FOR IMPROVEMENT OF THE BILL

3.1 PAYMENT OF DIVIDENDS FROM THE RESERVE FUND

Status of the Bill:

Clause 88 on maintenance of a reserve fund states that the fund can only be invested in liquid assets and settlement of liabilities upon dissolution of a cooperative.

Consequence:

The limited application of the reserve fund would discourage cooperatives from setting aside funds as reserves as it is tantamount to locking up resources.

Proposal and justification:

An amendment to the Bill to allow for distribution of dividends from the reserve fund with authority from the Commissioner or the County Director of Cooperatives. This will create stability in the disbursement of dividends in an increasingly volatile market economy as cooperatives can set aside funds as reserves when performance is good and distribute as dividends during a period of low earnings. This stability is important as the cost of living rises.

3.2 STANDARDIZATION OF EDUCATION, TRAINING AND CAPACITATION

Status of the Bill:

Clause 4(a)(v) the Bill recognizes “education, training and information” as one of the general principles of cooperatives. While Clause 9(2)(g) assigns the Commissioner the roles of capacity building to counties and Clause 14(2)(f) assigns the same role to County Director for Cooperatives on cooperatives within its jurisdiction, Clauses 22(1)(g) and 23(1)(d) assign the roles of education, training and capacity building to secondary cooperatives and cooperative federations respectively. Further, Clause 154 proposes establishment of Cooperative Development Fund to promote education, training, research and innovation; while Clauses 9(2)(n) and 14(2)(h) propose the establishment of a national and county Cooperative research and information centres respectively.

Consequence:

The assignment of education, training and capacitation role to many organs/ offices runs the risk of lack of standardization of the important cooperative principle.

Proposal and justification:

An amendment to the Bill to instruct the Cabinet Secretary to establish a Board to oversee the management of Cooperative Development Fund; set up cooperative education, training and capacitation standards; and oversee the running and management of Cooperative research and information centres. The Board’s resolutions to guide other organs mandated with implementation.

4.0 SUMMARY OF PROPOSED CHANGES TO THE BILL

A summary of proposed amendments and recommendations on the Cooperatives Bill, 2024 is presented in tabular form below. CUK is available to explain its proposals when called upon to.

Clause	Clause Title	Clause No.	Provision in the Bill	Specific proposed amendment/ recommendation	Justification/ rationale for amendment/ recommendation
2	Interpretation			Propose inclusion of definition of "reserve fund" as follows; "reserve fund" means assets set aside from net surplus of a Cooperative for investment in fixed assets and liquid assets, shares, support working capital, distribution of dividends and bonuses, and settlement of liabilities.	There is a proposed provision to expand the usage of reserve fund.
4	Guiding principles	4(a)	(iii) economic participation by members;	Propose rephrasing of the sub-clause as follows; (iii) member economic participation;	To enhance clarity and align with the language use by the International Cooperative Alliance
4	Guiding principles	4		Introduce a new sub-clause as follows; 4(c) Cooperative values of self-help, self-responsibility, democracy, equality, equity, and solidarity.	To enhance the objects of Cooperatives as adopted in the Statement on the Cooperative Identity by the International Cooperative Alliance
12	Staff at the Office of the County Director for Cooperatives	12	The County Service Board shall appoint such number of technical officers to the Office of County Director for Cooperatives, as may be necessary for the implementation of the provisions of this Act.	Propose additions as follows; The County Service Board shall appoint such number of technical officers with <i>necessary academic qualifications, competencies and experience in Cooperative management and practice</i> to the Office of County Director for Cooperatives, as may be necessary for the implementation of the provisions of this Act.	The Bill recognizes Cooperative management as a professional practice hence the need for technical officers to have substantial level of knowledge and practice in the field.
29	Procedure for registration	29(1)	(b) by at least two primary Cooperatives in the case of the registration of a	Propose amendments and additions as follows;	To avoid ambiguity and provide clarity on the membership of an Apex Cooperative

			secondary Cooperative; or (c) by at least two secondary Cooperatives in case registration of a Cooperative Federation.	(b) by at least two primary Cooperatives in the case of the registration of a secondary Cooperative; or (c) by at least two secondary Cooperatives in case of the registration of a Cooperative Federation; or (d) by at least four Cooperatives, including secondary Cooperatives and/ or Cooperative Federations in case of the registration of an Apex Cooperative.	
57	General meetings	57(2)		Introduce a new sub-clause as follows; (2A) Despite subsection (2), any member may convene the meeting with the written consent from the Commissioner or County Director of Cooperatives if the interim officials fail to convene a meeting within one month after receipt of the certificate of registration of the cooperative.	To enhance the ability of members to manage Cooperative affairs and prevent dormancy.
62	Membership and powers of the Board	62(2)	Members of the board of directors shall be elected for a term of three years, and shall be eligible for re-election.	Propose additions as follows; Members of the board of directors shall be elected for a term of three years, and shall be eligible for re-election <i>provided a member shall not serve for more than two terms uninterrupted.</i>	To ensure some members do not dominate Boards through prolonged tenures and enhance opportunities for new members to serve.
87	Declaration and payment of bonus	87(2)	A Cooperative shall not pay a dividend, bonus or distribute any part of its accumulated funds without a balance sheet and audited accounts and report disclosing the surplus funds out of which the dividend, bonus or distribution is to be made.	Propose deletions as follows; A Cooperative shall not pay a dividend, bonus or distribute any part of its accumulated funds without a balance sheet and audited accounts and report disclosing the surplus funds out of which the dividend, bonus or distribution is to be made.	To incorporate reserve fund as one of the sources of funds for distribution of dividends and bonuses.

87	Declaration and payment of bonus			<p>Introduce a new sub-clause as follows; <i>87(4) A Cooperative shall not pay a dividend, bonus or distribute any part of its reserve fund except with written approval from the Commissioner or County Director of Cooperatives.</i></p>	<p>To ensure there is government oversight in the management of liquidity of Cooperatives</p>
154	Cooperative Development Fund			<p>Introduce new sub-clauses as follows; <i>154(4) The Fund shall vest in a Board of nine trustees who shall include-</i></p> <ul style="list-style-type: none"> <i>(a) Six members elected by Cooperatives through the Apex Cooperative;</i> <i>(b) The Commissioner;</i> <i>(c) A representative of a professional body for Cooperative practitioners; and</i> <i>(d) A representative of an academic institution of higher learning that specializes in Cooperative development</i> <p><i>154(5) Despite the generality of subsection (3), the Board shall-</i></p> <ul style="list-style-type: none"> <i>(a) Recommend to the Commissioner on acceptable standards for Cooperative education, training and capacitation; and</i> <i>(b) Oversee the running and management of national and county Cooperative research and information centres.</i> 	<p>To provide clarity on the management of the Cooperative Development Fund; expound on its usage; assign responsibility for setting of acceptable Cooperative norms and standards; and provide for oversight of the national and county Cooperative research and information centres.</p>



**Prof. Kamau Ngamau, PhD., EBS.
 VICE CHANCELLOR**



MUTEGO FARMERS CO-OP SOCIETY LTD

P.O BOX 545 NKUBU



6th May, 2024.

The Clerk of the National Assembly,
P.O. Box 41842-00100
NAIROBI.
Dear Sir,

RE: THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

Mutego Farmers Co-operative society is of the view that the Co-operative Societies Bill 2024 contains clauses which are inconsistent with the Kenya Constitution 2010, the Co-operative Principles and the general well-being of the co-operative movement.

We therefore wish to bring the aforesaid clauses to your attention.

AREAS OF CONTENTION ON THE CO-OPERATIVE BILL, 2024

1. Legality

In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government.

The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.

As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the Fourth Schedule, the functions of the two levels of government are distributed as:-

- a) Part I- National Government; 35 functions
- b) Part II - County Government; 14 functions

The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I- National Government; this implies that the co-operative function is fully devolved.

Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and clearly defined.

Article 2 of the Kenya Constitution 2010 states thus:-

(1) This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.

(2) No person may claim or exercise State authority except as authorized under this Constitution.

(3) The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.

(4) Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.

The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the County Governments.

In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void.

2. Takes services far from the people

- i. Sec 9 (2) (i) gives power to the Commissioner to maintain a list of firms he authorizes to audit co-operatives.
- ii. Sec 9 (2) (j) and 56 (7) (a) gives the Commissioner the mandate to register audited accounts for co-operatives.
- iii. Sec 37 gives amendment of bylaws for Co-operatives as the function of the Commissioner.
- iv. Sec 94 (1) requires the commissioner to register charges created by a cooperative society.

This contradicts the desired benefits of devolution as stated in Article 174 of the Kenyan Constitution since proximity of services will not be achieved. The principle of decentralization of services will be denied to citizens.

The Kenyan Constitution Article 174:

The objects of the devolution of government are -

*f) To promote social and economic development and the provision of **proximate, easily accessible services throughout Kenya;***

*(h) To facilitate the decentralization of State organs, their functions and services, **from the capital of Kenya;***

The aforementioned clauses of the bill go against this object.

Residents from far flung areas will have to travel long distances to Nairobi to access services which they could have easily accessed within their county; for instance registration of audited accounts in Nairobi will translate to high costs of audit due to travel and accommodation. Most of the upcoming Cooperatives will not be able to afford such leading to non compliance.

This will discourage many who seek the services leading to a non-vibrant movement.

3. Ambiguity

Sec 105 (1) and Sec 107 (1) Gives the Commissioner **or** the County Director for Cooperatives power to carry out inspection into the affairs of Cooperatives.

The use of “or” brings ambiguity to this function if not done in concurrence.

4. Apex Co-operative (Sec 25)

The sections deals with the establishment of the Apex co-operative and Subsection (2) states:-

Every cooperative shall subscribe to the membership of the apex.

The inclusion of the word “shall” implies that it is mandatory for every Co-operative to join the Apex. This requirement goes against the Co-operative principle of voluntary and open membership.

In addition, Section 25(3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable.

This creates an environment of government control compromising the principle of autonomy, independence and democratic control.

In conclusion, we request that the areas highlighted above be re-looked into before the Bill is enacted into law.

For and on behalf of:

Mutego **FC** FARMERS COOPERATIVE
SOCIETY
P. O. Box 545, NKUBU
Date:

Chairman



SUBMISSIONS FROM CIC INSURANCE GROUP



Co-operative
enterprises build
a better world



Office of the Clerk of the National
Assembly, Parliament Building,
P.O Box 41842-00100,
NAIROBI.

Dear Sir/Madam,

REF: SUBMISSION ON THE COOPERATIVES BILL ,2024

Reference is made to your letter dated 29th April 2024; REF: NA/DDC/TRADE/2024/073

I'm writing this letter to formally submit our remarks and suggestions regarding the Co-operatives Bill 2024, currently under consideration by the National Assembly of Kenya.

CIC Group PLC lauds the comprehensive review of the Co-operative Societies Act which has been in existence since 1997. As a key supporter of cooperative development, we believe that this legislation plays a vital role in shaping the cooperative sector's future in Kenya.

Cooperatives play a crucial role in growing the rural economy in Kenya since independence. They cut-across all sectors of our economy from aggregation of farm produce, transport, financial services, housing among others.

Our constitution, Article 186, Part 2 of the Fourth Schedule provided the devolvement of cooperatives to the counties. We note that we have cooperatives which operate across several counties and others which operate at national level. It is the goal of every cooperative to be a national cooperative drawing membership across the country.

It is our prayer that cooperatives will not be entirely be devolved to counties in terms of regulation and supervision. The National Government should have a role in the growth, regulation and Supervision of these cooperatives especially cooperatives operating in several counties or nationally.

CIC INSURANCE GROUP PLC.

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Directors: Dr. N. Kuria (Chairman), J. Njiru (Vice Chairman), P. Nyaga (Group C.E.O),
P. Nyigoi, G. Owuor, M. Wambia, R. Githaiga, J. Mwatu, R. Kinoti, S. Kisire.

We note that the Cooperatives Bill 2024 is proposing sharing of functions between the Commissioner (National level) and County Director for Cooperatives (Clause 9 and 14)

We propose that the following functions remain functions of the Commissioner

1. Registration of Cooperatives and maintenance of the National Co-operatives register
2. Supervision of Cooperatives operating in several counties or nationally
3. Issuance of borrowing powers to cooperatives
4. Conducting of inquiries into the affairs of cooperatives

We appreciate the opportunity to contribute to the legislative process and look forward to seeing a robust and progressive Co-operatives Act that supports the development of a vibrant cooperative sector in our country.

Thank you for considering our input.

Yours Faithfully,



Richard Nyakenogo
General Manager, Co-operatives Division

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UNIVERSITY OF NAIROBI AFRICAN
WOMEN STUDIES RESEARCH CENTRE



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INTRODUCTION

The African Women Studies, UON WEE Hub takes a keen interest in Kenya's Fiscal Policy situation with the view of supporting the increased participation of women in the Kenyan Economy. The engagements of the African Women Studies, UON WEE Hub on Kenya's Fiscal Policy environment is a deliberate approach to support the policymakers (National Treasury, County Assemblies and Parliament) by providing alternative choices on matters that directly affect the plight of women in the country and their involvement in economic activities. The focus is on women's economic empowerment by pin-pointing the inclusion, omission, reduction and increment of the funds that have an impact on the economic empowerment and participation of women in the economy. The analysis and proposals given is in line with the critical areas that the AWSC UON WEE Hub attaches importance in uplifting the lives of women which are Health, Primary Education, Water and Sanitation, Clean and Affordable Energy and Unpaid Domestic and Care Work. Directing efforts on policies aimed at improving food security, Women's Economic Empowerment, childcare, financial inclusion, social protection among other issues would directly impact on the abilities of women to engage more in the economy and that would yield accelerated growth.

MEMORANDA ON THE AMENDMENTS TO THE COOPERATIVES BILL, 2024

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
4	Guiding principles	<p>Include the following sub-clause (c) Affirmative action for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalised communities.</p> <p>Recognize the critical role of women as individuals and collectives to the economy particularly through the informal sector</p>	To affirm that bridging the inequality gap is a foundational objective of the Act.
9	Functions of the Commissioner	<p>Include the following sub-clause</p> <p>Coordinate the development of an affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalised communities in cooperatives.</p>	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.
14	Functions of the County Director for	Include the following sub-clause	To ensure the affirmative action is monitored and carefully implemented

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
	Cooperatives	Coordinate the implementation of the affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalised communities in cooperatives at the County level.	vertically; from the county to the national level.
15	Annual Report by the County Director for cooperatives	<p>Include the following sub-clause</p> <p>(2) Without prejudice to the generality of subsection (1) the report shall detail:</p> <p>(i) The progress of the implementation of the affirmative action framework for the benefit of special interest groups at County level.</p>	Reporting serves as a Monitoring Evaluation, Reporting and Learning tool for the affirmative action framework.
17	Functions of Inter-Governmental Cooperatives Relations Technical Forum	<p>Include the following sub-clause:</p> <p>(f) Formulate the development of an affirmative action framework for the benefit of special interest groups of</p>	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
		women, youth, persons with disability, and minority and marginalised communities in cooperatives.	
20	Primary Cooperatives	<p>Include the following sub-clause under clause (1):</p> <p>(h) women empowerment cooperatives</p> <p>Include the following sub-clause under clause (2):</p> <p>(h) A women empowerment cooperative shall be a cooperative registered under this Act with the object of advancing the economic empowerment of women.</p>	This would serve as a novel cooperative dedicated to women economic empowerment.
43	Mandatory usage of names in certain cooperatives	<p>Include the following sub-clause under clause (1):</p> <p>(d) Where a cooperative is registered as a women empowerment cooperative, the cooperative shall:</p> <p>(i) Incorporate the word "women empowerment" immediately before the</p>	Necessary for ease of identification of the cooperative by potential members.

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
		<p>word "cooperative", as part of its name; and</p> <p>(ii) At all times use the said name or the abbreviation WOM-EMP-COOP or any of its derivatives or any other words indicating the transaction of women empowerment business or the equivalent, in the name, description or title under which it transacts business.</p>	
125	Appointment of members of the Cooperative Tribunal	<p>Amend clause 125 (1) as follows:</p> <p>The Chairperson and Deputy Chairperson of the Cooperative Tribunal shall be appointed by the Judicial Service Commission from persons of the opposite gender.</p>	To cement gender equality in the leadership of the Cooperative Tribunal.
148	Enforcement of Ethics and Integrity in Cooperatives	<p>Include the following sub-clause:</p> <p>(4) Cooperatives shall develop a code of conduct for the benefit</p>	To ensure each cooperative is conscious of the need to safeguard and promote the place of special interest groups.

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMENDMENT	JUSTIFICATION
		of special interest groups of women, youth, persons with disability, and minority and marginalised communities in the cooperative.	
155	Regulations	Introduce the following sub-clause under clause (2) (mm)prescribe affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalised communities in cooperatives.	The Cabinet Secretary sits at the apex position in regulation of cooperatives. Through regulation the Cabinet Secretary is able to offer affirmative action guidelines for special interest groups. The guidelines will inform the subsequent affirmative action guidelines to be coordinated by the Commissioner.

Other Comments

Regulations concerning the composition of directors within cooperatives should be clearly outlined in the bill, including a prescribed gender ratio. This is critical for fostering inclusivity and equitable participation in decision-making processes, addressing historical imbalances, and promoting gender diversity within leadership structures. Robust conflict resolution mechanisms must also be established to handle disputes arising from profit-sharing and gender dynamics, ensuring a fair and conducive environment for cooperative operations.

Empowering women within cooperatives is paramount for sustainable development, particularly through government support in regions with significant female participation. Advocacy efforts should prioritize addressing challenges such as leadership conflicts, sexual harassment, and the marginalisation of women within cooperatives. Additionally, provisions promoting the establishment and growth

of women's cooperatives should be integrated, acknowledging their unique contributions and fostering a more inclusive and supportive cooperative environment