

PAPERS LAID	
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TABLED BY	Andrew Kariuki
COMMITTEE	Agriculture
CLERK AT THE TABLE	SBC (EG)

REPUBLIC OF KENYA



TWELFTH PARLIAMENT

FOURTH SESSION

THE SENATE

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THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND  
FISHERIES

REPORT ON THE CONSIDERATION OF THE FISHERIES MANAGEMENT  
AND DEVELOPMENT (AMENDMENT) BILL, (SENATE BILLS No. 22 of 2019)

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Clerk's Chambers

Parliament Buildings,

NAIROBI

APRIL, 2020

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## ABBREVIATIONS

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Ag.	-	Acting
CEO	-	Chief Executive Officer
KFMA	-	Kenya Fish Marketing Authority

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## **PREFACE**

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**Mr. Speaker Sir,**

### **Establishment of the Committee**

The Senate Standing Committee on Agriculture, Livestock and Fisheries was constituted on Thursday, 14<sup>th</sup> December, 2017 during the First Session of the Twelfth (12<sup>th</sup>) Parliament pursuant to the provisions of standing order 218 (1) of the Senate Standing Orders which states:

*There shall be Select Committees to be designated Standing Committees which shall be nominated by the Senate Business Committee in consultation with parliamentary parties at the commencement of every Parliament.*

### **Mandate of the Committee**

The Standing Committee on Agriculture, Livestock and Fisheries is mandated under the Second Schedule of the Standing Orders to *consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.*

Standing order 218 (4) provides that Standing Committees may, in dealing with the matters assigned to them under the Second Schedule, scrutinize the resolutions of the Senate (including adopted Committee Reports), petitions and formal undertakings given by the National Executive and examine-

- a) *whether or not such resolutions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within a reasonable time;*
- b) *whether or not legislation or subsidiary legislation passed by the Senate has been operationalized and, where operationalized, the extent to which such operationalization has taken place;*

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## Oversight

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In executing its mandate, the Committee oversees the following Government Departments and Agencies-

- i. The State Department of Agriculture;
- ii. The State Department of Livestock;
- iii. The State Department for Fisheries; and
- iv. The State Department of Irrigation.

### Membership of the Committee

The Committee is comprised of the following members-

1. Sen. Peter Njeru Ndwiga, EGH, MP - **Chairperson**
2. Sen. (Dr.) Lelegwe Ltumbesi, MP - **Vice - Chairperson**
3. Sen. (Dr.) Ochilo Ayacko, EGH, MP
4. Sen. (Canon) Naomi Jillo Waqo, MP
5. Sen. (Dr.) Michael Malinga Mbiti, MP
6. Sen. Wario Golich Juma, MP
7. Sen. Justice (Rtd.) Madzayo Stewart Mwachiru, MP
8. Sen. Naomi Shiyonga, MP
9. Sen. Moses Otieno Kajwang' MP

### Secretariat of the Committee

The Committee secretariat is comprised of –

1. Ms. Carol Kirorei - Clerk Assistant
2. Ms. Sombe Toona - Legal Counsel

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3. Ms. Caroline Njue - Research Officer
  4. Ms. Njeri Manga - Media Relations Officer
  5. Mr. John Pere - Serjeant-At-Arms

**Acknowledgement**

The Committee wishes to thank the Office of the Speaker of the Senate and the Office of the Clerk of the Senate for the support extended to it in the consideration of the Fisheries Management and Development (Amendment) Bill (Senate Bills No. 22 of 2019).

**Mr. Speaker Sir,**

It is my pleasant duty, pursuant to standing order 213 (6), to present the Report of the Standing Committee on Agriculture, Livestock and Fisheries on the consideration of the Fisheries Management and Development (Amendment) Bill (Senate Bills No. 22 of 2019) for consideration by the House.

Signed.....



... Date.....22-04-2020.....

**SEN. PETER NJERU NDWIGA, EGH, M.P.**

**CHAIRPERSON**

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## EXECUTIVE SUMMARY

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The Fisheries Management and Development (Amendment) Bill (Senate Bills No. 22 of 2019) sponsored by Sen. Moses Kajwang', M.P., was read a First Time in the Senate on 19<sup>th</sup> November, 2019. Thereafter, the Bill stood committed to the Standing Committee on Agriculture, Livestock and Fisheries pursuant to standing order 140 of the Senate Standing Orders.

Pursuant to Article 118 (1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Committee invited views on the Bill from the public by placing advertisements in The Star and The People newspapers on 17<sup>th</sup> February, 2020.

The Committee held the Public Hearings on Wednesday, 26<sup>th</sup> March, 2020 in the Ground Floor Boardroom, Red Cross Building, Nairobi. The Committee also received written submissions delivered through the Office of the Clerk of the Senate.

At its 74<sup>th</sup> Sitting held on 22<sup>nd</sup> April, 2020, the Committee considered submissions on the Bill as contained in Chapter Two of this report. The Committee thereafter made its observations summarized in Chapter Three of this Report and its recommendations on the Bill as contained in Chapter Four of the Report.

## INTRODUCTION

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### **Background on the Fisheries Management and Development (Amendment) Bill (Senate Bills No. 22 of 2019)**

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The object of the Bill is to amend the Fisheries Management and Development Act to embrace best practice in appointment of the Chairperson and the Chief Executive Officer of the Fish Marketing Authority.

The Act currently requires that the Chairperson and the Chief Executive Officer of the Fish Marketing Authority be approved by the National Assembly before being appointed. It further requires that the Cabinet Secretary in charge of matters relating to agriculture, participates in the recruitment and appointment of the Chief Executive Officer of the statutory corporation. These provisions are against the best practice outlined in the *Mwongozo* guidelines on state corporations.

*Mwongozo* is a Code of Conduct for state corporations which was created in January 2015. The Code addresses matters of effectiveness of Boards, transparency and disclosure, accountability, risk management, internal controls, ethical leadership and good corporate citizenship. It further provides a platform for addressing shareholder rights and obligations and ensuring more effective engagement with stakeholders. More importantly, *Mwongozo* will ensure that sustainability, performance and excellence become the hallmark of Kenyan Government Owned Entities (GOEs).

*Mwongozo* guidelines require that the Chairperson of the Board be appointed by the President to provide overall leadership of the Board. In a bid to ensure independence of the statutory corporations, the guidelines further require the Board to appoint its own chief executive officer. This is a means of ensuring that the Chief Executive Officer is not conflicted in a case where conflicting instructions emanate from both the Cabinet Secretary and the Board.



## **Overview of the Bill**

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The Bill proposes the following-

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**Clause 2** seeks to amend section 201 of the Act to do away with the requirement to have the National Assembly approve the appointment of the Chairperson and the Chief Executive Officer of the Fish Marketing Authority by the National Assembly.

**Clause 3** seeks to amend section 206 of the Act to align the appointment of the Chief Executive Officer of the Authority with best practice as outlined in the *Mwongozo* guidelines on state corporations. The guidelines propose that the Chief Executive Officer should be competitively recruited and appointed by the Board.

It further seeks to increase the term of office for the Chief Executive Officer from three years renewable once to four years renewable once.

### **Committal of the Bill to the Standing Committee on Agriculture Livestock and Fisheries**

The Fisheries Management & Development (Amendment) Bill, (Senate Bills No. 22 of 2019) was published on 11<sup>th</sup> October, 2019 and read a First Time in the Senate on 19<sup>th</sup> November, 2019. The Bill was thereafter committed to the Standing Committee on Agriculture, Livestock and Fisheries for consideration.

Pursuant to Article 118 (1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Committee invited views on the Bill from the public by placing advertisements in The Star and The People newspapers on 17<sup>th</sup> February, 2020.

### **Public participation**

The Committee received oral submissions from Ag. CEO, Kenya Fisheries Marketing Authority, Ms. Jane Kibwage, who appeared before the Committee during the Public Hearings held on Wednesday, 26<sup>th</sup> February, 2020 in the Ground

Floor Boardroom, Red Cross Building, Nairobi. The Committee also received written submissions from the State Department for Fisheries, Aquaculture and the Blue Economy, delivered through the Office of the Clerk of the Senate. The Committee considered the submissions received from the public at its 74<sup>th</sup> Sitting held on 22<sup>nd</sup> April, 2020.

## **SUBMISSIONS**

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### **Submissions from Ms. Jane Kibwage, Ag. CEO of the Kenya Fish Marketing Authority**

The Ag. CEO, Kenya Fish Marketing Authority (KFMA), Ms. Jane Kibwage appeared before the Committee for the Public Hearing and stated as follows-

1. That there were only two officers seconded to the Authority from the Parent Ministry following the enactment of the Fisheries Management and Development Act in 2016 and the subsequent establishment of the Authority;
2. That the Ministry had written to the Office of the Attorney General on its position on the matter and a copy of the letter had been sent to the Office of the Clerk of the Senate; and
3. That she was unable to make any comprehensive submissions on Bill on behalf of the Ministry or the State Department for Fisheries, Aquaculture and the Blue Economy.

### **Submissions the State Department for Fisheries, Aquaculture and the Blue Economy**

The State Department for Fisheries, Aquaculture and the Blue Economy, vide a letter dated 19<sup>th</sup> February, 2020 addressed to the Clerk of the Senate and copied to the Office of the Attorney General, submitted its views on the Bill. Below is a summary of the submissions on the Bill-

1. That the Senate did not consult or involve the Department in the development of the Bill, and only learnt of the Bill through the newspaper advertisement, despite being the implementing Ministry;

2. That the national scope of the Act renders it beyond the constitutional parameters of the law making function of the Senate. Article 96 (2) of the Constitution confines the Senate's law making function to Bills concerning counties;

3. That "fishery" is defined in section 2 of the Act as follows-

*"fishery" means-*

- a) One or more stocks of fish, on parts thereof existing in a delineated area, which can be treated as a unit for the purposes of conservation, development and management, taking into account geographical, scientific, technical, customary, recreational, economic and other relevant characteristics; or*
- b) Any fishing for such stocks*

Under paragraph 1 (e) of the Fourth Schedule of the Constitution, fisheries is a function of the county governments, however, the Bill proposes to amend provisions that relate to fish marketing which is beyond the scope of fishery as defined in the Act. Section 200 of the Act, fish marketing which is the mandate of the Authority, is a nationally coordinated function whose discharge is critically anchored on regular research and policy developments and updates in keeping with global and regional obligations and requirements for marketing and sale of Kenya's fish commodities locally and abroad. As a result, this renders fish marketing a national government function under paragraph 29 of Part 1 of the Fourth Schedule of the Constitution; and

4. That the Senate should withdraw the amendment to the Bill.

## COMMITTEE OBSERVATIONS

The Committee made the following observations:

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1. The Bill is a private member's Bill that conforms to the constitutional mandate of the Sponsor and the Senate. Consultation with the Ministry at the point of development of a private member's Bill is not mandatory but discretionary. Further, on accordance with standing order 126 of the Senate Standing Orders, consultation with the Ministry at the point of pre-publication scrutiny is also discretionary;
2. Article 118 of the Constitution as read together with standing order 140 (5) of the Senate Standing Orders requires the Committee to facilitate public participation on a Bill after the First Reading. In compliance with both the Constitution and the Senate Standing Orders, the Committee invited stakeholders through an advertisement in daily newspapers of national circulation, to a public hearing. The Public Hearing was held on Wednesday, 26<sup>th</sup> February, 2020.
3. Agriculture, which includes fisheries, is a devolved function under paragraph 1, Part 2 of the Fourth Schedule of the Constitution. In addition, under paragraph 7 Part 2 of the Fourth Schedule of the Constitution, counties are mandated to develop and regulate markets and fair trading practices.
4. The Fish Marketing Authority established under Part XVIII of the Fisheries Management and Development Act is mandated to ensure that fish and fishery products from Kenya enjoy market access at the local level; promote sustainable use of fish by preventing, deterring and possibly eliminating trade in illegal, unreported and unregulated fishing; identify fish market needs and trends and advise fisheries stakeholders accordingly.

The functions of the Authority spelt out above affect the functions and powers of the counties to develop and regulate market and fair trade practices in relation to fisheries. The Bill therefore is a Bill that concerns county governments as per the provisions of Article 110 of the Constitution.

5. The Authority is established as a body corporate under the Act and although it structurally falls under and is regulated by the Ministry, it is autonomous both administratively and functionally from the Ministry.
6. The changes proposed by the Bill simply seek to ensure best practice in the administration of the statutory corporation as provided for under the *Mwongozo* guidelines on State Corporations.

## **COMMITTEE RECOMMENDATIONS**

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In view of the observations, the Committee recommends that the Bill should proceed to the next stage of the legislative process.

## APPENDICES

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APPENDIX I	Minutes of the Committee Deliberations
APPENDIX II	The Fisheries Management and Development (Amendment) Bill, Senate Bills No. 22 of 2019
APPENDIX III	Copies of the Newspaper advertisements of 17 <sup>th</sup> February, 2020

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# APPENDIX I

Committee Minutes

**MINUTES OF THE SEVENTY SECOND SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES HELD WEDNESDAY, 26<sup>TH</sup> FEBRUARY, 2020 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDING AT 11.00 A.M.**

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**PRESENT**

1. Sen. Peter Njeru Ndwiga, EGH, MP - Chairperson
2. Sen. (Dr.) Lelegwe Ltumbesi, MP - Vice Chairperson
3. Sen. Moses Kajwang', MP
4. Sen. (Canon) Naomi Jillo Waqo, MP
5. Sen. Naomi Shiyonga, MP

**ABSENT WITH APOLOGY**

1. Sen. (Dr.) Ochilo Ayacko, EGH, MP
2. Sen. (Dr.) Michael Malinga Mbiti, MP
3. Sen. Justice (Rtd.) Stewart Madzayo, MP
4. Sen. Golich Juma Wario, MP

**IN ATTENDANCE**

1. Ms. Jane M Kibwage - Ag. CEO, Kenya Fish Marketing Authority

**IN ATTENDANCE**

1. Mr. Yusuf Shimoy - Clerk Assistant
2. Mr. Malcom Ngugi - Legal Counsel

**SENATE**

**MIN. NO. 12/2020 PRELIMINARIES**

The Chairperson called the meeting to order at 11.10 a.m. followed by a word of prayer. He then led in a self-introductory session of Members present.

**MIN. NO. 13/2020 ADOPTION OF THE AGENDA**

Members adopted the agenda of the meeting as presented after being proposed by Sen. Dr.) Lelegwe Ltumbesi, MP and seconded by Sen. Moses Kajwang, MP.

The Chairperson informed the meeting that, pursuant to the provisions of Article 118(1)(b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Committee had scheduled Public Hearings in order to obtain submissions on the Fisheries Management and Development (Amendment) Bill, (Senate Bills No. 22 of 2019) which was read a First Time in the Senate on 19<sup>th</sup> November, 2019 and was before the Senate.

He stated that the Bill seeks to simplify the procedure of appointment of the Chairperson and CEO of the Fish Marketing Authority. Currently under the Fisheries Management and Development Act, 2016, the Chairperson and the CEO of the Authority are required to be vetted by the National Assembly before appointment. The Bill therefore proposes that the Chairperson of the Authority be appointed by the President whereas the CEO be appointed competitively by the Board for a four year term which shall be renewable once.

He added that following the receipt of submissions on the Bill, the Committee would prepare its report and may propose amendments to the Senate during the Committee of the Whole House.

He then welcomed submissions on the Bill.

Only Ag. CEO, Kenya Fish Marketing Authority, Ms. Jane Kibwage appeared before the Committee for the public hearing and informed the meeting as follows-

5. That there were only two officers seconded to the Authority from the Parent Ministry following the enactment of the Fisheries Management and Development Act in 2016 and the subsequent establishment of the Authority;

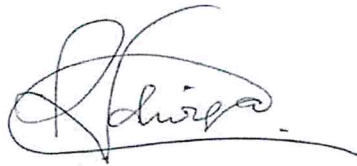
6. That the Ministry had written to the Office of the Attorney General on the position of the Ministry on the matter and a copy of the Communication was sent to the Office of the Clerk of the Senate. However, the Committee had not receive the said communication at the time of the meeting;
7. That she could not make comprehensive submissions on Bill on behalf of the Ministry or the State Department of Fisheries;
8. That according to her personal view, the recruitment of the CEO should be in line with other practices and he/she be recruited by the Board of the authority with the involvement of the relevant Cabinet Secretar

**MIN. NO. 15/2020      DATE OF NEXT MEETING**

The next meeting would be held on Wednesday, 4<sup>th</sup> March, 2020 at 11.00 a.m.

**MIN. NO. 16/2020      ADJOURNMENT**

There being no other business the Sitting was adjourned at 11.42 a.m.



**SIGNED:**.....

**(CHAIRPERSON)**

**DATE:**.....22-04-2020.....

**MINUTES OF THE SEVENTY FOURTH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES HELD WEDNESDAY, 22<sup>ND</sup> APRIL, 2020 ON THE ZOOM ONLINE MEETING PLATFORM.**

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**PRESENT**

1. Sen. Peter Njeru Ndwiga, EGH, MP - Chairperson
2. Sen. (Dr.) Lelegwe Ltumbesi, MP - Vice Chairperson
3. Sen. (Dr.) Ochilo Ayacko, EGH, MP
4. Sen. (Canon) Naomi Jillo Waqo, MP
5. Sen. Naomi Shiyonga, MP
6. Sen. Moses Kajwang', MP

**ABSENT WITH APOLOGY**

1. Sen. (Dr.) Michael Malinga Mbitto, MP
2. Sen. Golich Juma Wario, MP
3. Sen. Justice (Rtd.) Stewart Madzayo, MP

**IN ATTENDANCE**

1. Ms. Carol Kirorei
2. Ms. Sombe Toona
3. Ms. Caroline Njue
4. Ms. Mary Nyawira
5. Ms. Njeri Manga

**SENATE**

- Clerk Assistant
- Legal Counsel
- Research Officer
- Audio Services
- Media Relations Officer

**MIN. NO. 22/2020      PRELIMINARIES**

The Chairperson called the meeting to order at 12.00 p.m. followed by a word of prayer.

**MIN. NO. 23/2020      ADOPTION OF THE AGENDA**

Members adopted the agenda of the meeting as presented after being proposed by Sen. (Canon) Naomi Waqo, MP and seconded by Sen. (Dr.) Ochilo Ayacko, EGH, MP.

**MIN. NO. 24/2020      CONSIDERATION AND ADOPTION OF THE REPORT ON THE STATEMENT ON THE**

**LOCUST INVASION IN PARTS OF THE  
COUNTRY**

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Members considered the draft Report on the Statement on the locust invasion in parts of the country. The Committee made the following additional recommendations-

1. That the county governments should set up and set aside funds for an emergency team on locust control;
2. That all insecure counties be mentioned in the recommendation to the Ministry for control of locusts including Marsabit and Tana River Counties;
3. That the Ministry should initiate elaborate plans to mitigate the locust invasion in all counties;
4. That a multi- with neighbouring counties be arranged to deal with the second generation locust invasion.
5. Observation 2 c

The Committee deferred adoption of the Report to its next Sitting, after the additional recommendations were included in the Report.

**MIN. NO. 25/2020      CONSIDERATION OF THE SECOND  
GENERATION LOCUST INVASION**

The Committee deliberated on the imminent second generation locust invasion projected to be twenty (20) times worse than the January, 2020 invasion. Noting the serious threat to food security in the country, moreso in light of the COVID – 19 situation, the Committee resolved to invite Cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries and Cooperatives to appear before it in a week's time to address among others the preparedness measures in place to control the imminent second generation locust invasion and the status of the impact assessment of the locust invasion and plans for restitution initiatives for farmers who suffered loss as a result of destruction caused by the locusts.

**MIN. NO. 26/2020**

**CONSIDERATION AND ADOPTION OF THE  
REPORT ON THE FISHERIES MANAGEMENT  
AND DEVELOPMENT (AMENDMENT) BILL,  
2019**

The Committee considered the Report on the Fisheries Management and Development (Amendment) Bill, 2019. The Committee thereafter adopted the Report as presented after being proposed by Sen. Naomi Shiyonga, MP and seconded by Sen. (Dr.) lelegwe Ltumbesi, MP.

**MIN. NO. 27/2020**

**ANY OTHER BUSINESS**

**1. Emerging issues affecting the agriculture sector**

The Committee deliberated on emerging issues including the following-

- a) The status of coffee and tea sub sector reforms;
- b) The draft Crops (Tea Industry) Regulations, 2020 currently undergoing public participation by the Ministry;
- c) The implementation of the Kshs. 1.5 Billion coffee revitalization program supported by the World Bank;
- d) The exclusion of live animals in Rule 4(1) of the Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) Rules, 2020 on the restriction of movement of persons;
- e) The impact of curfew directives and restrictions of movement on distribution of perishable harvest across the country;
- f) The implementation of the Agricultural Sector Transformation and Growth Strategy (ASTGS) 2019-2029, and incorporation of the county governments in the strategy;

The Committee resolved to invite the Cabinet Secretary to appear before the Committee to address the above listed issues.

The Committee further noted that in light of the fact that the Sessional Committee on Delegated Legislation is yet to be formed, the draft Crops (Tea Industry) Regulations, 2020 should be considered by the Committee as they fall within its mandate. It was resolved that the Chairperson makes the request to the Honourable Speaker.

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**2. Conduct of Committee business during the COVID-19 period**

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The Committee resolved to hold at least two online meetings every week on Wednesdays and Thursdays at 10.00 a.m.

**MIN. NO. 28/2020      DATE OF NEXT MEETING**

The next meeting would be held on Wednesday, 29<sup>th</sup> April, 2020 at 10.00 a.m.

**MIN. NO. 29/2020      ADJOURNMENT**

There being no other business the Sitting was adjourned at 1.10 p.m.



**SIGNED:**.....

**(CHAIRPERSON)**

**DATE:**.....22-04-2020.....



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# APPENDIX II

The Fisheries Management and Development (Amendment) Bill, Senate Bills

No. 22 of 2019

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 172 (Senate Bills No. 22)*



REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2019**

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**NAIROBI, 11th October, 2019**

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**CONTENT**

Bill for Introduction into the Senate—

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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI



**THE FISHERIES MANAGEMENT AND  
DEVELOPMENT (AMENDMENT) BILL, 2019**

**A Bill for**

**AN ACT of Parliament to amend the Fisheries Management and Development Act; and for connected purposes.**

**ENACTED** by the Parliament of Kenya, as follows—

- |   |  |
|---|--|
| <p><b>1.</b> This Act may be cited as the Fisheries Management and Development (Amendment) Act, 2019.</p>   | <p>Short title.</p>                                |
| <p><b>2.</b> Section 201 of the Fisheries Management and Development Act, hereinafter referred to as the “principal Act”, is amended by deleting subsection (2).</p>  | <p>Amendment of section 201 of No. 35 of 2016.</p> |
| <p><b>3.</b> Section 206 of the principal Act is amended—</p> <p>(a) by deleting subsection (1) and substituting therefor the following new subsection-</p> <p style="padding-left: 40px;">(1) The Chief Executive Officer of the Authority shall be competitively recruited and appointed by the Board of Directors.</p> <p>(b) in subsection (3) by deleting the word “three” appearing immediately after the words “ a term of” and substituting therefor the word “four”.</p> | <p>Amendment of section 206 of No. 35 of 2016.</p> |

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

The principal object of this Bill is to amend the Fisheries Management and Development Act, 2016 on the appointment of the Chairperson and Chief Executive Officer of the Fish Marketing Authority to align their appointment with best practice on appointment of Chairpersons and Chief Executives of corporations as enunciated in the *Mwongozo Code* for State corporations.

The provisions of the principal Act that are sought to be amended have assigned the responsibility of appointment of the Chairperson and the CEO on the President and the Cabinet Secretary, respectively, with the approval of the National Assembly. This is not aligned with the recommended practice on governance in State corporations which recommends that Chairpersons be appointed by the President and the CEO be competitively recruited by the Board. The amendment therefore provides that the Chairperson shall be appointed by the President while the CEO shall be recruited and appointed competitively by the Board. It is also proposed that the CEO serves for a term of four years that would be renewable once.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill does not delegate legislative powers nor does it limit the fundamental rights and freedoms.

### **Statement on how the Bill concerns county governments**

“Fisheries” is a devolved function under paragraph 1(e) of the Fourth Schedule to the Constitution. Provisions relating to the appointment of the members of the Fish Marketing Authority have an impact on how effectively the Authority would carry out its functions and thereby affect the powers and functions of county governments in respect of the fisheries function.

The Bill is therefore is a Bill concerning county governments in terms of Article 110 (1) (a) of the Constitution.

### **Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 2nd September, 2019.

MOSES OTIENO KAJWANG’,  
*Senator.*

*Section 201 of No. 35 of 2016 which it is proposed to amend—*

**201. Board of Directors**

(1) There shall be a Board of Directors of the Fish Marketing Authority which shall consist of—

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary of the Ministry for the time being responsible for matters relating to fisheries or his representative;
- (c) the Principal Secretary of the ministry for the time being responsible for matters relating to finance or his representative;
- (d) The Principal Secretary for the time being responsible for matters related to Trade and Industry;
- (e) The Principal Secretary in the ministry for the time being responsible for planning and economic development, or his representative;
- (f) one person, who has knowledge and experience in matters relating to fisheries, nominated by the Council of Governors;
- (g) the Chief Executive Officer of the Fund;
- (h) the Chief Executive Officer of the Fish Marketing Authority, who shall be the secretary; and
- (i) four other members nominated or selected through a competitive process taking into consideration regional balance and gender parity and appointed by the Cabinet Secretary, of whom—
  - (i) two shall be nominated by the registered national fisheries associations; and
  - (ii) two shall be persons with knowledge or experience in matters relating to international fisheries, finance, business administration, law, marketing or a related discipline.

(2) The names of persons proposed for appointment under subsection (1)(a) and (h) shall, before they are appointed, be laid before the National Assembly for approval.

(3) The members of the Board of Directors shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(4) The Board of Directors shall ensure the proper and effective performance of the functions of the Fish Marketing Authority.

(5) The Board of Directors may enter into partnership with other body or organization within or outside Kenya as it may consider appropriate, in furtherance of the objects of the Fish Marketing Authority.

(6) The members of the Board of Directors shall be paid remuneration and allowances determined by the Minister, in consultation with the Minister responsible for matters relating to finance.

*Section 206 of No. 35 of 2016 which it is proposed to amend—*

**206. Appointment of chief executive and other staff**

(1) The Cabinet Secretary shall, in consultation with the Board of Directors and subject to subsection (2), through a competitive process, appoint a person to be the Chief Executive Officer of the Fish Marketing Board.

(2) A person shall not be qualified for appointment as the Chief Executive Officer under subsection (1) unless that person has an advanced degree in marketing, business administration or related discipline and has at least ten years' experience at a senior management level in matters relating to Fisheries, marketing or other related sector.

(3) The chief executive officer shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

(4) The Board of Directors may appoint such officers and other staff as may be necessary for the proper and effective performance of the functions of the Fish Marketing Authority.

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# APPENDIX III

The People and The Star Newspaper Advertisements dated 17<sup>th</sup> February, 2020



NEWS GENERAL

SUMMARY

# Waiguru, Kibicho clash over Sh15bn project by Kemri

Governor accuses PS of engaging in politics instead of concentrating on his duties

**ECONOMICS**  
 The Kenya Governor, Gert Waiguru, has accused President Uhuru Kenyatta's office of engaging in politics instead of concentrating on his duties. Waiguru said the President's office is using the Sh15 billion project to engage in politics and to undermine the authority of the Governor. He said the project is a ploy to undermine the authority of the Governor and to engage in politics.

Waiguru said the President's office is using the Sh15 billion project to engage in politics and to undermine the authority of the Governor. He said the project is a ploy to undermine the authority of the Governor and to engage in politics. He said the project is a ploy to undermine the authority of the Governor and to engage in politics.



Gert Waiguru, Governor of Nairobi



William Ruto, Deputy Prime Minister

Waiguru said the President's office is using the Sh15 billion project to engage in politics and to undermine the authority of the Governor. He said the project is a ploy to undermine the authority of the Governor and to engage in politics. He said the project is a ploy to undermine the authority of the Governor and to engage in politics.

Waiguru said the President's office is using the Sh15 billion project to engage in politics and to undermine the authority of the Governor. He said the project is a ploy to undermine the authority of the Governor and to engage in politics. He said the project is a ploy to undermine the authority of the Governor and to engage in politics.

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If PS Kibicho wants to engage in village politics and involve, he should resign

**REPUBLIC OF KENYA**  
  
**TWELFTH PARLIAMENT**  
 THE SENATE

**PUBLIC HEARINGS/RECEIPT OF MEMORANDA**

The Fisheries Management and Development (Amendment) Bill (Senate Bill No. 22 of 2019) was read a First Time in the Senate on 16th November, 2019 and was thereafter committed to the Senate Standing Committee on Agriculture, Livestock and Fisheries for consideration.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and standing order 140(1) of the Senate Standing Orders, the Senate Standing Committee on Agriculture, Livestock and Fisheries has invited interested members of the public to submit their views on the Bill. The views may be submitted in the following manner:

- Public Hearings shall be held on Wednesday, 26th February, 2020 from 1:00 p.m. to 3:00 p.m. at the Ground Floor Boardroom, Red Cross Building, Nairobi.
- Written Memoranda may be forwarded to the Clerk of the Senate/Secretary, Parliamentary Service Commission, P.O. Box 41042-00100, Nairobi, hand delivered to the Office of the Clerk/Secretary, Parliamentary Service Commission, First Floor, Main Parliament Building, Nairobi or emailed to senate@parliament.go.ke, to be received on or before Wednesday, 26th February, 2020 at 5:00 p.m.

The Bill may be found on the Parliament website at <http://www.parliament.go.ke> or the senate@ps-ke website.

**CLERK OF THE SENATE/SECRETARY,  
 PARLIAMENTARY SERVICE COMMISSION**

**REPUBLIC OF KENYA**  
  
**TWELFTH PARLIAMENT**  
 THE SENATE

**PUBLIC HEARINGS/RECEIPT OF MEMORANDA**

**THE SECTIONAL PROPERTIES BILL**  
 NATIONAL ASSEMBLY BILLS NO. 23 OF 2019

The Sectional Properties Bill (National Assembly Bill No. 23 of 2019) was read a First Time in the Senate on 16th November, 2019 and was thereafter committed to the Senate Standing Committee on Land, Environment and Natural Resources for consideration.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and standing order 140(1) of the Senate Standing Orders, the Senate Standing Committee on Land, Environment and Natural Resources has invited interested members of the public to submit their views on the Bill. The views may be submitted through a submission of written memoranda in the following manner:

- Public Hearings shall be held on Wednesday, 26th February, 2020 from 1:00 p.m. to 3:00 p.m. at the Hill Districts, County Hall, Parliament Buildings, Nairobi.
- Written Memoranda may be forwarded to the Clerk of the Senate/Secretary, Parliamentary Service Commission, P.O. Box 41042-00100, Nairobi, hand delivered to the Office of the Clerk of the Senate/Secretary, Parliamentary Service Commission, First Floor, Main Parliament Building, Nairobi or emailed to senate@parliament.go.ke, to be received on or before Wednesday, 26th February, 2020 at 5:00 p.m.

The Bill may be found on the Parliament website at <http://www.parliament.go.ke> or the senate@ps-ke website.

**CLERK OF THE SENATE/SECRETARY,  
 PARLIAMENTARY SERVICE COMMISSION**

# CoG, Controller of Budget to meet over fund delays

Untimely disbursement of revenue threatens to disrupt operations in devolved governments

by Eric Juma  
@PeopleDailyKe

Governors are today set to meet the Controller of Budget over delayed disbursement of revenue which is threatening to disrupt operations in the counties.

Already in some counties, workers who are yet to receive their last month's pay, are on a go-slow.

Last week, the Council of Governors (CoG), through its chairman Wycliffe Oparanya, wrote to the Controller of Budget Margaret Nyakang'o protesting the delayed disbursement of funds to the counties.

He accused the Controller of failing to facilitate "in a timely manner the approvals to enable county governments access funds" after it demanded the counties must first provide lists of their respective employees outside Integrated Payroll and

Personnel Database (IPPD) to facilitate approval of withdrawal of funds.

Counties are also required to provide a list of their casual employees with an explanation as to whether they have worked for more than three months as well as different Internet Banking reports for multiple payments to individuals or suppliers.

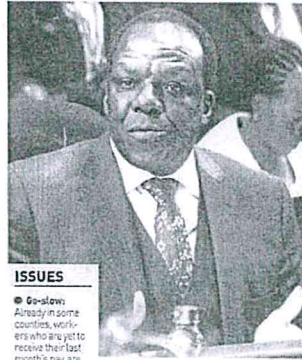
Yesterday, Vilagos Governor Wilbour Otchillo, whose administration has been drastically affected by the delay, revealed that all county chiefs will have a sitting with CoB as part of their spirited efforts to try and broker a truce.

### Affecting operations

"Since this is a national wide challenge, all governors are meeting the Controller of Budget tomorrow (today) over the matter," Otchillo said in a press statement sent to newswrooms.

But Oparanya said the CoB amounts to auditing, yet the office of the Auditor General and the Senate are the bodies mandated to play oversight role of the county government expenditures while CoG is responsible for facilitating counties get resources on time.

"You need to facilitate counties as re-



### ISSUES

**Go-slow:** Already in some counties, workers who are yet to receive their last month's pay, are on a go-slow.

**Protest:** Last week, the Council of Governors, through its chairman Kalamanga Governor Wycliffe Oparanya wrote to Controller of Budget Margaret Nyakang'o protesting the delayed disbursement of funds to the counties.

Council of Governors chairman Wycliffe Oparanya at a past function. PHOTO

quired by the Constitution failure to which we will seek legal intervention," Oparanya who is also the Kalamanga Governor said while telling counties not to honour the requests.

"I am advising the County Executive Committee Members in charge of Finance not to respond to these queries until this issues is resolved by your office in consultation with the Council of Governors which is mandated to handle matters on common interests to all counties," he added.

# Kericho man in viral defilement video arrested

by Philip Yego  
@PeopleDailyKe

Detectives in Kericho have arrested a man alleged to have recorded himself defiling his relative.

The man was said to have posted the video, which has since gone viral, defiling a girl said to be his niece, attracting anger from the public who called for his arrest.

Detectives led by Kericho DCI boss Stephen Chacha who had earlier assured the public they are investigating the matter, traced the man to his home in Nyagacho, Kericho county, where he was found with his wife and three children.

He was arrested and taken to Kericho DCI office for interrogation. Police sources said the man admitted to have recorded the video with the consent of the young girl who is also his niece.

Patrick Ayoyi told detectives that he took the video in 2017 while in Nairobi, for fun. At the time, he claimed the girl in the video was 20 years old, and has since been married in Iluhia.

The man is said to have told the officers that the video may have been sent out on social media by someone who stolen his phone back in 2017.

**REPUBLIC OF KENYA**



**TWELFTH PARLIAMENT  
THE SENATE**

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**PUBLIC HEARINGS/ RECEIPT OF MEMORANDA**

The Fisheries Management and Development (Amendment) Bill (Senate Bills No. 22 of 2019) was read a First Time in the Senate on 15th November, 2019 and was thereafter committed to the Senate Standing Committee on Agriculture, Livestock and Fisheries for consideration.


Pursuant to the provisions of Article 118(1)(b) of the Constitution and standing order 140(5) of the Senate Standing Orders, the Senate Standing Committee on Agriculture, Livestock and Fisheries now invites interested members of the public to submit their views on the Bill. The views may be submitted in the following manner-

1. Public Hearings shall be held on Wednesday, 26th February, 2020 from 11:00 a.m. to 1:00 p.m. at the Ground Floor Boardroom, Red Cross Building, Nairobi; or
2. Written Memoranda may be forwarded to the Clerk of the Senate/ Secretary, Parliamentary Service Commission, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk/ Secretary, Parliamentary Service Commission, First Floor, Main Parliament Buildings, Nairobi or emailed to [cseenate@parliament.go.ke](mailto:cseenate@parliament.go.ke), to be received on or before Wednesday, 26th February, 2020 at 5.00 p.m.

The Bill may be found on the Parliament website at <http://www.parliament.go.ke/the-senate/senate-bills>

**CLERK OF THE SENATE/ SECRETARY,  
PARLIAMENTARY SERVICE COMMISSION.**

**REPUBLIC OF KENYA**



**TWELFTH PARLIAMENT  
THE SENATE**

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**PUBLIC HEARINGS/ RECEIPT OF MEMORANDA**

**THE SECTIONAL PROPERTIES BILL (NATIONAL ASSEMBLY BILLS NO. 23 OF 2019)**

The Sectional Properties Bill (National Assembly Bills No. 23 of 2019) was read a First Time in the Senate on 7th November, 2019 and was thereafter committed to the Senate Standing Committee on Land, Environment and Natural Resources for consideration.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and standing order 140 of the Senate Standing Orders, the Senate Standing Committee on Land, Environment and Natural Resources now invites interested members of the public and stakeholders to submit their views on the Bill. The views may be submitted through submission of written memoranda in the following manner-

1. Public Hearing for the Bill shall be held on Wednesday, 26th February, 2020 from 10:00 a.m. to 12:00 noon at the Mini Chamber, County Hall, Parliament Buildings, Nairobi; or
2. Written Memoranda may be forwarded to the Clerk of the Senate/ Secretary, Parliamentary Service Commission, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate/ Secretary, Parliamentary Service Commission, First Floor, Main Parliament Buildings, Nairobi or emailed to [cseenate@parliament.go.ke](mailto:cseenate@parliament.go.ke), to be received on or before Wednesday, 26th February, 2020 at 5.00 p.m.

The Bill may be found on the Parliament website at <http://www.parliament.go.ke/senate>.

**CLERK OF THE SENATE/ SECRETARY,  
PARLIAMENTARY SERVICE COMMISSION.**