



REPUBLIC OF KENYA

Approved  
SNA  
4/8/23


THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES  
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

.....

**REPORT ON:**

**THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL  
(NATIONAL ASSEMBLY BILL NO. 21 OF 2023)**

 THE NATIONAL ASSEMBLY	
DATE: 03 AUG 2023	
DAY: Tuesday	
TABLED BY:	Hon. John Mutunga MP Chairperson
CLERK-AT THE TABLE:	Anne Shubuko

CLERK'S CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI

AUGUST 2023



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## LIST OF ABBREVIATIONS AND ACRONYMS

UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement
NOPEU	-	National Ordinary People Empowerment Union
AFA	-	Agriculture and Food Authority
USD	-	United States Dollar
CAADP	-	Comprehensive Africa Agricultural Development Programme
EU	-	European Union
FAO	-	Food and Agriculture Organization
KEBS	-	Kenya Bureau of Standards
APHRC	-	African Population and Health Research Centre
TV	-	Television
NTV	-	Nation Television
FSSAI	-	Food Safety and Standards Authority of India
CFIA	-	Canadian Food Inspection Agency
WHO	-	World Health Organization
WTO	-	World Trade Organization
IPPC	-	International Plant Protection Convention
SPS	-	Sanitary and Phytosanitary protocol
CoG	-	Council of Governors
KEBS	-	Kenya Bureau of Standards
PCPB	-	Pest Control Products Board
NBA	-	National Biosafety Authority
NEMA	-	National Environment Management Authority
KEPHIS	-	Kenya Plant Health Inspectorate Service
KAM	-	Kenya Association of Manufacturers
NEMA	-	National Environment Management Authority

## LIST OF ANNEXURES

1. Report adoption Schedule
2. Minutes
3. Copy of the newspaper advertisement on public participation
4. Letter inviting stakeholders for meetings with the Committee
5. Stakeholder submissions

## CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committees on Agriculture and Livestock on its consideration of the Food and Feed Safety Control Co-ordination Bill (*National Assembly Bill No. 21 of 2023*) which was published on 24<sup>th</sup> May 2023. The Bill went through the First Reading on 6<sup>th</sup> June 2023 and was thereafter committed to the Departmental Committee on Agriculture and Livestock for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Bill has thirty-four (34) clauses and seeks to provide for coordination of public institutions involved in the control of food and feed safety; to establish the Office of the Food Safety Controller and to provide for the role of county governments in food safety and feed safety. This is aimed at ensuring the supply of safe food and feed safety. Food safety is a critical function of both the national and county governments in the fulfilment of consumer protection as provided in the Constitution. The Bill will ensure that food is safely produced, distributed, processed, marketed and prepared for human consumption.

Following placement of advertisements in the print media on Monday, 12<sup>th</sup> June 2023 seeking public and stakeholder views on the Bill pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee received two (2) memoranda from Nature Kenya and Kenya Association of Manufacturers.

The Committee also invited stakeholders vide letter REF: NA/DDC/A&L/2023/041 dated 5<sup>th</sup> July 2023 for a stakeholders' engagement meeting on the Bill which was held in the Mini Chamber, County Hall, Parliament Buildings on 26<sup>th</sup> July 2023 with six (6) stakeholders making oral presentations before the Committee.

Majority of the stakeholders were of the view that there are currently no laws in place to deal with food and feed safety and the existing measures are ineffective to carry out the role. They observed that some amendments need to be made to the Bill so as to align it to other statutes and the Constitution and to make the law effective.

They averred that the role of the Controller needs to be clearly outlined in the Bill so that it doesn't interfere with the mandate of competent authorities. The role of the Controller should be co-ordination of competent authorities and not oversight of food businesses.

In considering the Bill, Members observed that the legislation was timely because the Food Safety Controller will provide oversight to competent authorities and this will encourage the authorities to properly execute their mandate hence adherence to standards.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the sponsor of the Bill, Hon. Kimani Ichung'wah, MP, Leader of the Majority Party, Members of the Departmental Committee on Health for the contribution that they made on the Bill and all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee and Secretariat who made useful contributions towards consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Agriculture and Livestock and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Food and Feed Safety Control Co-ordination Bill (*National Assembly Bill No. 21 of 2023*).

It is my pleasure to report that the Committee has considered the Food and Feed Safety Control Co-ordination Bill (*N.A. Bill No. 21 of 2023*) and has the honor to report back to the National Assembly with the recommendation that the Bill be **approved with amendments as reported by the Committee.**

**Hon. (Dr.) John Kanyuithia Mutunga, M.P.**  
**Chairperson, Departmental Committee on Agriculture and Livestock**

## PART ONE

### 1 PREFACE

#### 1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Agriculture and Livestock is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
- iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. ***To study and review all the legislation referred to it;***
- v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

#### 1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, agriculture, livestock, food production and marketing.
3. In executing its mandate, the Committee oversees the Ministry of Agriculture and Livestock Development.

### 1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Agriculture and Livestock was constituted by the House on 27<sup>th</sup> October 2022 and comprises of the following Members:

#### **Chairperson**

Hon. (Dr.) John Kanyuithia Mutunga, MP  
Tigania West Constituency

#### **UDA Party**

#### **Vice-Chairperson**

Hon. Brighton Leonard Yegon, MP  
Konoin Constituency

#### **UDA Party**

Hon. Sabina Wanjiru Chege, CBS, MP  
Kitutu Chache North Constituency

#### **Jubilee Party**

Hon. Ferdinand Kevin Wanyonyi, MP  
Kwanza Constituency

#### **Ford Kenya Party**

Hon. Geoffrey Makokha Odanga, MP  
Matayos Constituency

#### **ODM Party**

Hon. Justice Kipsang Kemei, MP  
Sigowet/Soin Constituency

#### **UDA Party**

Hon. Jared Okello Odoyo, MP  
Nyando Constituency

#### **ODM Party**

Hon. Lawrence Mpuru Aburi, MP  
Tigania East Constituency

#### **NOPEU Party**

Hon. David Kiplagat, MP  
Soi Constituency

#### **UDA Party**

Hon. Gabriel Gathuka Kagombe, MP  
Gatundu South Constituency

#### **UDA Party**

Hon. Monicah Muthoni Marubu, MP  
Lamu County

#### **Independent Member**

Hon. Pamela Njoki Njeru, MP  
Embu County

#### **UDA Party**

Hon. Patrick Kibagendi Osero, MP  
Borabu Constituency

#### **ODM Party**

Hon. Peter Kalerwa Salasya, MP  
Mumias East Constituency

#### **ODM Party**

Hon. Yussuf Mohamed Farah, MP  
Wajir West Constituency

#### **ODM Party**

#### 1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

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

Mr. Victor Kanda Kilimo  
**Clerk Assistant III**

Ms. Brigitta Mati  
**Legal Counsel I**

Mr. David Ng'eno  
**Research Officer II**

Ms. Noelle Chelagat  
**Media Relations Officer II**

Ms. Lilian Aluga  
**Public Relations Officer III**

Mr. Richard Sang  
**Serjeant-at-Arms**

Mr. Ahmednoor Hassan Sheikh  
**Clerk Assistant III**

CPA. Robert Ng'etich  
**Fiscal Analyst II**

Ms. Sheila Chebotibin  
**Senior Serjeant-At-Arms**

Mr. Gerald Kadede  
**Legal Counsel II**

Mr. Muhumed Shillow  
**Research Officer III**

Mr. Kelvin Sekani  
**Audio Officer III**



## PART TWO

### 2 BACKGROUND OF FOOD AND FEED SAFETY REGULATIONS IN KENYA

#### 2.1 INTRODUCTION

6. Food safety is a crucial component of food security that assures food supply that is free from anything that may cause harm and illness. The World Bank estimates that developing countries lose about USD 95 Billion in productivity and an additional USD 15 Billion in medical treatment annually due to foodborne illnesses.
7. In Kenya, foods for export or for the formal market are the only ones subjected to inspections and testing, yet more than 80% of food is traded in the informal markets. It is for this reason that the CAADP review report 2021, by the African Union ranked the country poorly on the indicators that measure the impact of food safety on public health and trade.
8. Kenya has a history of epidemic outbreaks such as Rift Valley Fever, cholera and aflatoxin that led to loss of lives and economic downturn that was majorly attributed to inadequate measures to enhance food safety.

#### 2.2 SITUATIONAL ANALYSIS

9. Kenya misses a huge market of meat and meat products in the European market because it does not have a competent authority that is responsible throughout the food chain to implement effective inspection and guarantee credible public health and animal health attestations in the health certificate to accompany meat and meat products that are destined for the EU.
10. Kenya does not have a functional food safety surveillance system, with only a handful of food safety professionals and accredited laboratories. The multi-agency approach in food safety has become a hindrance in managing issues owing to some overlapping mandates, lack of coordination and under-resourcing. This has led to agencies that don't implement their mandates, leaving food safety issues unaddressed.
11. This state of affairs continues to expose Kenyans to the consumption of food contaminated with wastewater/soil toxins, aflatoxin, pesticide residues, heavy metals or artificial ripening agents. Furthermore, cooked foods and raw foods sold on the roadside get contaminated with automotive exhaust fumes.
12. Poverty is an underlying factor, as the majority of consumers consider price rather than hygiene, enabling the unhygienic practices in food handling to thrive.
13. Despite the Food Safety Policy (2013) aiming for the creation of an integrated food control system, a National Food Safety Authority and the harmonization of agency mandates; no progress has been made on these policy objectives. The Agricultural Policy, 2021 also seeks to harmonize food safety standards and regulations.
14. Aflatoxin, a known carcinogen of the liver, is triggered by fungi due to inappropriate pre-harvest or post-harvest handling of produce such as exposure to moisture. Its endemic high levels in cereals, nuts and tubers (maize, millet, sorghum, groundnuts, cassava, animal products, animal feeds) has been linked to bad agricultural practices, lack of sensitization and inadequate detection & surveillance. A study by FAO consultant found that the farmers neither have the knowledge of the dangers of aflatoxin nor the techniques to prevent its growth.



15. The Uganda border is another inlet for aflatoxin-contaminated maize and the recent TV exposé offered some insight into how untested agricultural imports are smuggled into the country.
16. Further, water pollutants such as heavy metals, industrial effluent, agricultural inputs and raw sewage discharge in water bodies is a concern. A study on the toxicity of pesticides to human cells found that *“8 formulations out of 9 were up to one thousand times more toxic than their active ingredients”*; fungicides and roundup being the most toxic. Farm produce in Kenyan markets has been found to have high pesticide residues.
17. Unscrupulous practices by traders of perishable foods have been reported in Nairobi. The NTV documentary titled the *“Red Alert”* detailed how chemicals are used to preserve agricultural produce: sodium metabisulfite in meat, fruits and vegetables; transglutaminase to bind meat; and calcium carbide for ripening fruits.
18. According to a survey in Kajiado, Kirinyaga and Nairobi, eight (8) out of ten (10) breadwinners were concerned about food safety, citing pesticides and poor sanitation. APHRC paints a worse picture of the food safety situation in Nairobi slums.

### 2.3 COMPARATIVE ANALYSIS

19. In **South Africa**, the food control section in the Department of Health oversees food safety. The functions of the Department include: administering food legislation; creating awareness in the food industry to consumers; audit and support port health and municipal health services in relation to law enforcement; monitoring, awareness and other activities; co-ordinate routine and specific food monitoring programmes; and attend to food safety alerts.
20. In **India**, the Food Safety and Standards Authority of India (FSSAI) established under the Food Safety and Standards Act, 2006 is mandated to handle food-related issues in various Ministries and Departments. FSSAI was created to formulate science-based standards for food and to regulate their manufacture, storage, distribution, sale and import for the realization of safe and wholesome food.
21. The Safe Food for Canadians Act, 2012 coordinates food control in **Canada**. Health Canada, a federal department responsible for helping Canadians maintain and improve their health, works with food industry stakeholders to establish policies, regulations and standards related to the safety and nutritional quality of foods sold in Canada. It also assesses the Canadian Food Inspection Agency's (CFIA) activities which itself is responsible for enforcing the food safety policies and standards that Health Canada sets.

## PART THREE

### 3 OVERVIEW OF THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2023)

#### 3.1 INTRODUCTION

22. Articles 43(1)(c) and 46(1)(c) of the Constitution require the government to protect public health and provide food of acceptable quality.
23. Through the Food and Nutrition Security Policy, 2011 and the National Food Safety Policy, 2013, the government formed a National Food Safety Coordination Committee to coordinate the harmonization of all the relevant acts and create awareness about the impact of food safety. The policies aimed to review the legal, institutional and regulatory framework, infrastructure and capacity. They further aimed to create a food safety coordination law and a National Food Safety Authority that is hoped to be the basis for an integrated food control system.
24. The responsibility of keeping food safe in Kenya is shared by 3 ministries, 7 agencies and 21 acts. Key laws that deal with food safety include the Public Health Act; Food, Drugs and Chemical Substances Act; and the Standards Act.
25. The Acts related to food and feed safety are: the Public Health Act; the Licensing Laws (Repeals and Amendment) Act; the Agriculture Act; the Agriculture Produce Act; the Seed and Plant Varieties Act; the Suppression of Noxious Weeds Act; the Biosafety Act; the Food Drugs and Chemical Substances Act; the Breast Milk Substitutes Act; the Standards Act; the Meat Control Act; the Animal Diseases Act; the Fertilizers and Animal Foodstuffs Act; the Agriculture and Food Authority Act; the Crops Act; the KEPHIS Act; the Plant Protection Act; the Pest Control Products Act, the Veterinary Surgeons and Paraprofessionals Act; and the Dairy Industry Act.
26. The Food and Feed Safety Control Co-ordination Bill, 2023 is a government sponsored Bill that seeks to provide for coordination of public institutions for the control of food and feed safety; establish the Office of the Food Safety Controller; and provide for the role of county governments in food and feed safety.
27. The Bill further seeks to ensure that there is supply of safe food and feed to consumers. It provides that food safety is a critical function of both the national and county governments in fulfilment of consumer protection as provided in Article 46 of the Constitution.
28. The Bill seeks to ensure that food is safely produced, distributed, processed, marketed and prepared for human and animal consumption.

### **3.2 REVIEW OF THE BILL**

The Bill has thirty-four (34) clauses and has the following provisions:

#### **Part I: Preliminary**

29. Clauses 1 to 5 of the Bill provide for preliminary provisions, that is the short title, interpretation of terms as used in the Bill, objects, application of the Bill and the guiding principles.
30. The clauses provide that the Bill shall apply to every competent authority and every person conducting food business or feed business.

#### **Part II: Office of the Food Safety Controller**

31. Clauses 6 to 9 of the Bill provide for establishment of the Office of the Food Safety Controller as a body corporate with perpetual succession, common seal and capable of suing and being sued, acquiring and disposing property and perform such acts as may be performed by body corporates. It also provides for the appointment of the Controller by the President with the approval of Parliament and the qualifications and functions of the Controller.
32. Clauses 10 to 15 of the Bill further provide for vacancy in the Office of the Controller, removal from office, staff of the Office of the Controller, remuneration of the Controller, delegation by the Controller and protection from personal liability.

#### **Part III: Food Safety and Feed Safety by County Governments**

33. Clause 16 of the Bill provides functions of county government in relation to food and feed safety by providing for each county government to prepare an annual food and feed safety report at least thirty days before the end of a financial year and submit the report to the Controller.

#### **Part IV: Food Safety and Feed Safety Control and Coordination**

34. Clauses 17 to 21 of the Bill provide for the Office of the Controller in consultation with competent authorities and county governments to develop and review a multi-annual control plan as a basis and mechanism for official control. Verification of mechanism to enforce food and feed safety requirements, overlaps in functions of competent authorities, audit of food and feed safety mechanism, verification of audit to ascertain whether the system established provides accurate certification, inspection and validation.
35. Clauses 22 to 27 provide for risk analysis, traceability, designation of a laboratory as a reference laboratory for confirmatory testing, preparation and submission of report on food and feed safety by every competent authority at least thirty days before the end of a financial year and the appointment and powers of compliance officers.

#### **Part V: Financial Provisions**

36. Clauses 28 to 31 of the Bill provide for funds of the Office of the Controller which consist of moneys appropriated by Parliament, any grants, gifts, donations or other endowments and such other funds as may accrue to the Office in the performance of its actions. Investment of the funds, annual estimates and accounts and audit of the funds.



## **Part VI: Miscellaneous Provisions**

- 37. Clause 32 of the Bill provides that the Act supersedes other Acts such that where there is a conflict between the provisions of this Act and any other written law with regards to the powers and functions of the Controller then the Act prevails.
- 38. Clause 33 of the Bill provides for powers of the Cabinet Secretary in consultation with the Controller to make regulations to give effect to the Act.
- 39. Clause 34 provides for consequential amendments as specified in the Second Schedule.

## **Schedules to the Bill**

- 40. **First Schedule: Provides the list of Competent Authorities**
- 41. **Second Schedule: Provides for** consequential amendments to the following acts: the Public Health Act (*Cap 242*); the Food, Drug and Chemical Substance Act (*Cap 254*); the Dairy Industry Act (*Cap 336*); the Fertilizer and Animal Foodstuffs Act (*Cap 345*); the Pest Control Products Act (*Cap 346*); the Meat Control Act (*Cap 356*); the Standards Act (*Cap 496*); the Biosafety Act (*No. 2 of 2009*); the Kenya Plant Health Inspectorate Service Act (*No. 54 of 2012*); the Agriculture and Food Authority Act (*No. 13 of 2013*); the Fisheries Management and Development Act (*No. 35 of 2016*); the Water Act (*No. 43 of 2016*); and the Health Act (*No. 21 of 2017*). Amendments to the acts provide for the role of the Controller and implementation of multi-annual control plan by agencies under the Act.
- 42. The Bill confers on the Cabinet Secretary powers to make regulations and does not limit any fundamental rights and freedoms.
- 43. The Bill affects functions of county governments as set out in the Fourth Schedule to the Constitution and is therefore a Bill concerning county governments.
- 44. The Bill is a Money Bill within the meaning of Article 114 of the Constitution.

## PART FOUR

### 4 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

45. Following the call for memoranda from the public through placement of adverts in the print media on Monday, 12<sup>th</sup> June 2023 and vide a letter REF: NA/DDC/A&L/2023/041 dated 5<sup>th</sup> July 2023 inviting stakeholders for a meeting, the Committee received memoranda from the following stakeholders:

- i. Council of Governors
- ii. Kenya Bureau of Standards
- iii. State Department for Public Health and Professional Standards
- iv. State Department for Crop Development
- v. Pest Control Products Board
- vi. National Biosafety Authority
- vii. State Department for Livestock Development
- viii. Kenya Plant Health Inspectorate Service
- ix. Nature Kenya
- x. Kenya Association of Manufacturers

46. The stakeholders submitted as follows:

#### 4.1 COUNCIL OF GOVERNORS

In a meeting with the Committee held on Wednesday, 26<sup>th</sup> July 2023, Ms. Mary Mwiti, Chief Executive Officer, CoG proposed the following amendments to the Bill:

##### Clause 16

47. Amend sub-clause 16(2) to read as follows, "*Each county government shall at least thirty days before the end of a financial year, prepare an annual report on the state of food safety and feed safety in the respective county and submit the report to the respective county governor and a copy to the Controller*". To provide clarity in the handling of the food and feed safety report.

##### Committee's Observation/Recommendation

The Committee rejected their proposal because the governor shall be in-charge of the preparation of the report and therefore it makes no sense for the report to be submitted to them.

48. Insert the following new sub-clause 16(3), "*The respective county governor shall submit the report to the county assembly*".

##### Committee's Observation/Recommendation

The proposal was not adopted by the Committee because it is expected that the executive shall work with the county assemblies during preparation of the report.

##### Clause 20

49. Amend sub-clause 20(3) to read as follows, "*Upon conducting an audit under sub-section (1), the Controller shall prepare an audit report and submit the audit report to the Cabinet Secretary responsible for the competent authority and all the county governors*". For effective implementation of the report at the county level.

### **Committee's Observation/Recommendation**

This proposal was adopted by the Committee.

### **Clause 33**

50. Amend sub-clause 33(1) to read as follows, "*The Cabinet Secretary in consultation with the Controller and county governments, may make regulations for better carrying into effect this Act*". To provide for intergovernmental consultation in the making of regulations.

### **Committee's Observation/Recommendation**

Their proposal was not adopted by the Committee because regulations are prepared by the regulating authority. County governments can give their views on the regulations during public participation.

### **First Schedule**

51. Amend by inserting the following new paragraph 11, "*Respective departments of the county governments*". To include county governments as competent authorities.

### **Committee's Observation/Recommendation**

This proposal was rejected because there are so many departments in counties that deal with food and feed safety in counties. Adding them to the list will make the work of the Food Safety Controller cumbersome as they will have so many institutions to oversight. Additionally, county departments are not recognized internationally.

## **4.2 KENYA BUREAU OF STANDARDS**

In a meeting with the committee held on Wednesday, 19<sup>th</sup> July 2023, Ms. Esther Ngari, Ag. Managing Director, KEBS proposed the following amendments to the Bill:

### **Clause 18**

52. Amend sub-clause 18 (1) to read as follows "*the controller shall verify that a competent authority has mechanisms to enforce food and feed safety in accordance with Kenya Standards.*" This is to comply with the Standards Act.

### **Committee's Observation/Recommendation**

This proposal was rejected because Kenyan Standards comply with international standards. The amendment will reduce competitiveness of Kenyan produce in the international market.

53. Amend the clause by deleting sub-clause 18 (2) in its entirety. This will prevent duplication of roles and serve the object of the Bill which is to provide for coordination of competent authorities.

### **Committee's Observation/Recommendation**

This proposal was rejected because the Food and Safety Controller needs to verify compliance of the listed items by competent authorities in order to effectively discharge their mandate.

### **Clause 24**

54. Amend sub-clause 24 (1) to read as follows "*the controller in consultation with relevant competent authorities shall designate laboratories as reference laboratories for confirmatory testing*". The purpose is to have more than one laboratory as reference laboratories.



#### **Committee's Observation/Recommendation**

The Committee rejected this proposal because the provision as provided in the Bill serves the intended purpose.

#### **Clause 27**

55. Amend the Bill by deleting the clause in its entirety. This is to eliminate duplication of roles because the responsibilities are already vested in the competent authority.

#### **Committee's Observation/Recommendation**

The Committee did not adopt this proposal because compliance officers should be able to carry out inspections when there is need.

### **4.3 STATE DEPARTMENT OF PUBLIC HEALTH AND PROFESSIONAL STANDARDS**

In a meeting with the Committee held on Wednesday, 26<sup>th</sup> July 2023, the Principal Secretary, Ms. Mary Muriuki, HSC proposed the following amendments to the Bill:

#### **Clause 4**

56. Amend by deleting the words "*and every person conducting food business or feed business*" and substituting therefor with "*This act shall apply to every competent authority*". This is in line with the objects of clause 3 to coordinate the function of competent authorities and not the conduct of both food and feed business.

#### **Committee's Observation/Recommendation**

This proposal was adopted by the Committee since the Food Safety Controller is mandated to coordinate competent authorities.

#### **Clause 5**

57. Amend paragraph (a) by deleting the words "*life and*" and replacing it therefor with "*The protection of human health*." This is because human life is implied in the protection of human health.

#### **Committee's Observation/Recommendation**

The Committee adopted this proposal.

#### **Clause 9**

58. Amend sub-clause (d) to read as follows, "*liaise with competent authorities to identify and advise on policy gaps and inadequate regulation of food safety and feed safety official control*." The Controller is mandated to coordinate competent authorities responsible for official control of food and feed safety.

#### **Committee's Observation/Recommendation**

This proposal was adopted by the Committee.

59. Amend sub-clause (e) to read as follows "*assess the adequacy of food safety and feed safety emergency preparedness and make recommendations to the relevant competent authority*." Preparedness is in relation to food and feed safety.

#### **Committee's Observation/Recommendation**

This proposal was rejected because food preparedness should not be limited to emergencies. This proposal will be limiting.

60. Amend sub-clause (i) to read as follows, "*perform such other duties as may be necessary to ensure coordination of food safety and feed safety official control*". Ensuring food and feed safety is the responsibility of food business operators, competent authorities regulate and verify systems for compliance to requirements.

**Committee's Observation/Recommendation**

This proposal was adopted by the Committee.

**Clause 18**

61. Amend sub-clause (1) to read as follows, "*The Controller shall verify that a competent authority has mechanisms to enforce the requirements of food and feed safety*". Verification by the Controller is an assessment of the competent authorities' ability to enforce the food and feed requirements which could be in a regulation or standard. The Controller should not impose use of standards.

**Committee's Observation/Recommendation**

This proposal was rejected because Kenyan Standards comply with international standards. The amendment will reduce competitiveness of Kenyan produce in the international market.

62. Amend sub-clause (2) by deleting paragraphs (a), (c), (d) and (e) and substituting with the following paragraphs: "*(a) Inspection procedures; (c) Food handlers' health and personal hygiene certification; and (e) Requirements and procedures for issuance of license, certificates and permits*". Verification is an act of assessing.

**Committee's Observation/Recommendation**

This proposal was rejected because the Food and Safety Controller needs to verify compliance of the listed items by competent authorities in order to effectively discharge their mandate.

**Clause 22**

63. Delete the clause in its entirety. This is for the reason that it is outside the object and scope of the Bill.

**Committee's Observation/Recommendation**

The Committee did not adopt this proposal because it is providing for risk analysis and therefore will play an important role in the Act.

**First Schedule**

64. Amend the Schedule to include county government as one of the competent authorities. This is to align the Bill to the Fourth Schedule of the Constitution.

**Committee's Observation/Recommendation**

This proposal was rejected because there are so many departments in counties that deal with food and feed safety in counties. Adding them to the list will make the work of the Food Safety Controller cumbersome as they will have so many institutions to oversight. Additionally, county departments are not recognized internationally.



## Second Schedule

### Public Health Act Cap 242

65. Amend Section 10A (1) to read as follows, *"where the Director General for Health determines that there is an overlap in its functions and the function of any other public institution in relation to food safety, the Director General for Health may request the controller to advise taking cognizance of mandates of competent authorities."*

#### Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is a repetition. When seeking advice, cognizance of the competent authority will definitely be taken.

66. Amend Section 10A (2) by adding the following words immediately after the word *"advise"* *"taking cognizance of mandates of competent authorities."*

#### Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is a repetition. When seeking advice, cognizance of the competent authority will definitely be taken.

### Food Drugs and Chemical Substances Act Cap 254

67. Amend Section 27B (1) by adding the following words immediately after the word *"advise,"* *"taking cognizance of mandates of competent authorities."*

#### Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is a repetition. When seeking advice, cognizance of the competent authority will definitely be taken.

68. Amend Section 27B (2) by adding the following words immediately after the word *"advise,"* *"taking cognizance of mandates of competent authorities."*

#### Committee's Observation/Recommendation

This proposal was not adopted by the Committee because it is a repetition. When seeking advice, cognizance of the competent authority will definitely be taken.

### Health Act, 2017

69. Amend the Bill to expunge provisions of amendments to the Act. The reason for this is that the Act does not have direct provisions on food safety.

#### Committee's Observation/Recommendation

This proposal was rejected by the Committee because there are provisions on food safety in the Health Act.

#### 4.4 STATE DEPARTMENT FOR CROP DEVELOPMENT

In a meeting with the Committee held on Wednesday, 26<sup>th</sup> July 2023, Mr. Peter Owoko, Head of Policy submitted as follows on behalf of the State Department, THAT:

70. Food safety in Kenya is a collective responsibility of various agencies under different ministries and is regulated by various laws. The key ministries are the Ministry of Agriculture and Livestock Development, the Ministry of Health, the Ministry of Mining, Blue Economy and Maritime Affairs and the Ministry of Investments, Trade and Industry.
71. The Food Safety Policy of 2013 provided for the review of existing food safety legislative framework and creating of a body to direct and coordinate all Government activities in food safety in close collaboration with all relevant Governmental and non-governmental sectors.
72. Currently, coordination of food and feed safety is done by the National Food Safety Coordinating Committee comprising of the Ministry of Health and the Ministry of Agriculture and Livestock Development. However, the committee lacks the legal mandate to handle committee matters and is therefore very ineffective.
73. The Food and Feed Safety Control Co-ordination Bill, 2023 will provide coordination and oversight mechanism among institutions that deal with food safety control. Review of existing statutes will establish a coordination requirement with the regulatory agencies and align them with the requirement that food business operators take responsibility of the food they handle, existence of gaps and the devolved system of government.
74. Coordination of regulatory agencies, enforcement of existing legislation and accountability by all along the value chain, which the Bill seeks to provide, will enhance food safety in Kenya food.

#### 4.5 PEST CONTROL PRODUCTS BOARD

In a meeting with the committee held on Wednesday, 26<sup>th</sup> July 2023, Dr. Esther Kimani, Chief Executive Officer, Pest Control Products Board proposed the following amendments to the Bill:

##### **Clause 2**

75. Amend definition of "*Cabinet Secretary*" to mean, "*the Cabinet Secretary responsible for food safety*". This is for clarity.

##### **Committee's Observation/Recommendation**

This proposal was rejected by the Committee because the definition provided in the Bill is sufficient. An Executive Order will provide the Ministry in which the Office of the Food Safety Controller will be domiciled.

##### **Clause 33**

76. Amend sub-clause (1) by providing that the competent authorities shall be consulted during making of regulations.

##### **Committee's Observation/Recommendation**

This proposal was not adopted because regulation making is a mandate of the regulating authority. Competent authorities can give their views on the regulations during public participation.

77. Amend the Schedule by including Veterinary Medicine Directorate in the list of competent authorities because it is responsible for matters animal health products including pesticides and drugs for use in animals.

**Committee's Observation/Recommendation**

This proposal was adopted by the Committee.

#### **4.6 NATIONAL BIOSAFETY AUTHORITY**

In a meeting with the Committee held on Wednesday, 26<sup>th</sup> July 2023, Mr. Moses Sande, Director Legal, proposed the following amendments to the Bill:

**Clause 2**

78. Amend definition of the word "*feed*" to include feed for animals which are not consumed as food.

**Committee's Observation/Recommendation**

This proposal was not adopted by the Committee because the definition provided in the Bill is sufficient.

**Clause 33**

79. Amend sub-clause (1) to include a requirement that the Cabinet Secretary shall consult the relevant competent authority before making any Regulations.

**Committee's Observation/Recommendation**

This proposal was not adopted because regulation making is a mandate of the regulating authority. Competent authorities can give their views on the regulations during public participation.

#### **4.7 STATE DEPARTMENT FOR LIVESTOCK DEVELOPMENT**

In a meeting with the Committee held on Wednesday, 26<sup>th</sup> July 2023, Dr. Christopher Wanga, Director, Livestock Policy Research and Regulations made the following presentation on behalf of the State Department, THAT:

80. The existing food safety policy and laws have failed to harmonise operations of the different actors and agencies mandated to ensure food safety in Kenya. This has hampered effective coordination of food safety in the country leading to persistent lapses in food control.
81. The Bill provides for the separate regulation of food safety away from regulation of medicines as guided by the SPS Agreement of WTO and other international standard setting bodies.
82. The Bill will address the challenges in food safety regulation devoid of any business interests and is backed by a sound Food Safety Policy.



#### 4.8 KENYA PLANT HEALTH INSPECTORATE SERVICE

In their memorandum, KEPHIS proposed the following amendments to the Bill:

##### **Clause 5**

83. Amend paragraph (e) to specify the trade practice that is being promoted.

##### **Committee's Observation/Recommendation**

This amendment was not adopted by the Committee because it is not necessary.

##### **Clause 16**

84. Amend the clause to provide clarity with regards to the function of county governments to enhance food and feed safety that meet the standards of cross border trade (International trade). This is to ensure inspection of the food and feed in compliance with the international market requirements.

##### **Committee's Observation/Recommendation**

This proposal was rejected because it is a mandate of the competent authorities.

##### **Clause 19**

85. Amend the clause to provide for solutions for overlap of mandates between competent authorities and county governments. This serves the purpose of providing recourse for overlap of functions.

##### **Committee's Observation/Recommendation**

This proposal was rejected by the Committee as there is no possibility for overlap of functions because this is provided in the Constitution and other statutes.

##### **Clause 22**

86. Amend the clause by providing clarity since sub-clause (1) is talking about food and feed therefore having no link with sub-clauses (2) and (3). The clauses conflict with the role of the Controller.

##### **Committee's Observation/Recommendation**

This proposal was not adopted by the Committee because it is not necessary.

87. Amend sub-clause (4) to include the county governments.

##### **Committee's Observation/Recommendation**

This proposal was not adopted by the Committee because it is a function of the Food Safety Controller and the competent authorities.

##### **Second Schedule**

88. Amend by inserting new paragraph (mb) after paragraph C of KEPHIS act of 2012 as (ca) to read as follows, *"implement multi annual control plan safety program conducted on the produce or products of plant origin."*

##### **Committee's Observation/Recommendation**

This proposal was not adopted by the Committee because it expands the scope of the Bill.

#### 4.9 NATURE KENYA

In their memorandum dated 26<sup>th</sup> June 2023, Nature Kenya proposed the following amendments to the Bill:

##### **Clause 5**

89. Amend sub-clause (g) to read as follows, "*promotion of sustainable production, processing and handling of food and feeds.*"

##### **Committee's Observation/Recommendation**

This proposal was adopted by the Committee.

90. Amend sub-clause (h) to read as follows, "*protection of human life and health: animal life and health: and property.*" This is to encompass biodiversity conservation and ecosystems safeguards that ensure ecosystem health is maintained as well as human health.

##### **Committee's Observation/Recommendation**

This proposal was adopted by the Committee.

##### **Clause 16**

91. Amend sub-clause (1) (a) to read as follows, "*(i) Promote integrated natural resource management considering Ecosystem Based Approaches; and (ii) Promote organic farming, minimize the use of chemical fertilizers and regulate the use of pesticides.*" The Bill should outline the key standard practices that are to be promoted by the County Governments to enhance compliance.

##### **Committee's Observation/Recommendation**

This proposal was not adopted by the Committee because it will expand the scope of the Bill.

##### **First Schedule**

92. Amend the Schedule by including National Environment Management Authority (NEMA) in the list of competent authorities because NEMA deals with enforcement on compliance on environmental and biodiversity safeguards among other functions.

##### **Committee's Observation/Recommendation**

This proposal was rejected because NEMA does not qualify to be one of the competent authorities.

#### 4.10 KENYA ASSOCIATION OF MANUFACTURERS

In their memorandum, KAM proposed the following amendments to the Bill:

##### **Clause 2**

93. Amend definition of "*Controller*" so as to clearly define who the controller is and under which ministry or agency of the Government they are domiciled and to clarify whether the office of the controller will report directly to the President as the appointing authority or the Cabinet Secretary responsible for food safety.

##### **Committee's Observation/Recommendation**

This proposal was rejected by the Committee because the definition provided in the Bill is sufficient.

94. Delete definition for Cabinet Secretary because the role of the Food and Feed Safety Controller is overarching and offers a guiding role in the performance of official controls by competent authorities. It is therefore important that the office is domiciled above ministries so that the role is not left to one ministry.

**Committee's Observation/Recommendation**

This proposal was rejected by the Committee because the definition provided in the Bill is sufficient. An Executive Order will provide the Ministry in which the Office of the Food Safety Controller will be domiciled.

**Clause 4**

95. Amend by deleting the clause because it can cause duplication of roles between the Office of the Controller and competent authorities.

**Committee's Observation/Recommendation**

This proposal was rejected because the Act shall apply to persons conducting food or feed business through the competent authorities.

**Clause 16**

96. Amend paragraph 16(1)(b) to providing that the food and feed safety license be issued by a single national entity or clarify the type of licence to be issued under paragraph (b).

**Committee's Observation/Recommendation**

The Committee rejected this proposal because the Fourth Schedule to the Constitution assigns the role of licensing businesses that sell food to county governments.

**Clause 19**

97. Amend the clause to provide clarity on how the duplication and conflicting regulation will be resolved.

**Committee's Observation/Recommendation**

The Committee did not adopt this proposal because the details can be provided in regulations.

98. Amend by reducing the number of competent authorities to a manageable number like five by merging the mandates.

**Committee's Observation/Recommendation**

This proposal was not adopted by the Committee because each competent authority has its mandate supported by an act of Parliament and it is therefore not possible to merge the mandates.

**Clause 21**

99. Amend sub-clause 21(1) to provide clarification on the compensation mechanism.

**Committee's Observation/Recommendation**

The Committee rejected this proposal because it can be covered in regulations and standard operating procedures.

**Clause 24**

100. Amend sub-clause 24(1) so as to include a mechanism to compel the government to build more public testing laboratories. The designated official testing laboratories criteria for designation should be made clear and qualified by KENAS-17025.

**Committee's Observation/Recommendation**

These proposals were rejected by the Committee because it will expand the scope of the Bill. All the laboratories used by competent authorities have gone through the necessary approvals.

**Clause 27**

101. Amend the Bill by deleting the clause.

**Committee's Observation/Recommendation**

The Committee did not adopt this proposal because compliance officers should be able to carry out inspections when there is need.

102. Amend by deleting sub-clause 33(2) or harmonising the proposed regulations with already existing national regulations.

**Committee's Observation/Recommendation**

This proposal was rejected because it is necessary to put in place regulations to operationalise this Act.

103. Amend the Schedule by harmonising the competent authorities.

**Committee's Observation/Recommendation**

This proposal was not adopted by the Committee because each competent authority has its mandate supported by an act of Parliament and it is therefore not possible to merge the mandates.



## PART FIVE

### 5 COMMITTEE OBSERVATIONS

Having considered the Bill, the Committee observed that enacting the Food and Feed Safety Control Co-ordination Bill (*National Assembly Bill No. 21 of 2023*) into law will bring several potential benefits to the country, including:

1. Having a legal and policy framework that will provide for the coordination of agencies that deal with food and feed safety.
2. Food and feed safety in the country has been under several government agencies and this has reduced efficiency in this area. The Office of the Food Safety Controller will coordinate food and feed safety control in Kenya.



## PART SIX

### 6 COMMITTEE RECOMMENDATION

The Committee having reviewed the Food and Feed Safety Control Co-ordination Bill (*National Assembly Bill No. 21 of 2023*) recommends that the House approves the Bill with amendments as proposed in the Schedule in Part Seven of this report.

## PART SEVEN

### 7 SCHEDULE OF PROPOSED AMENDMENTS

The Committee proposed the following amendments to be considered by the House in the Committee Stage:

#### CLAUSE 4

1. THAT clause 4 of the Bill be amended by deleting the words "*and every person conducting food business or feed business*".

#### Justification

To limit the scope of the Bill to regulation of competent authorities by the Controller.

#### CLAUSE 5

2. THAT clause 5 of the Bill be amended—
  - (a) in sub-clause (a) by deleting the words "*life and*".

#### Justification

Regulation of human health encompasses protection of human life.

- (b) By inserting the following new sub-clauses immediately after sub-clause (f)

*"(g) promotion of sustainable production, processing and handling of food and feeds; and  
(h) protection of animal health"*

#### Justification

To provide for biodiversity conservation and ecosystem safeguards.

- (c) By deleting the word "*and*" immediately after words "*feed business*" in sub-clause (e).

#### Justification

For proper punctuation of the clause.

#### CLAUSE 9

3. THAT clause 9 of the Bill be amended—

- (a) in sub-clause (d), by deleting the words "*in*" and substituting therefor the word "*of*" and inserting the words "*official control*" immediately after the words "*feed safety*".

#### Justification

To limit the scope to exercise of official control by the Controller.

- (a) in sub-clause (i), by inserting the words "*coordination of official control of*" immediately before the words "*food safety*".

**Justification**

To limit the scope to exercise of official control by the Controller.

**CLAUSE 20**

4. THAT clause 20 of the Bill be amended in sub-clause (3) by inserting the words "*and each County Governor*" immediately after the phrase "*competent authority*".

**Justification**

For inclusion of county governments in the transmittal of the audit report prepared by the Controller.

**CLAUSE 27**

5. THAT clause 27 of the Bill be amended in paragraph (b) by inserting the word "*of*" immediately after the words "*makes copies*".

**Justification**

To correct a typographical error.

**FIRST SCHEDULE**

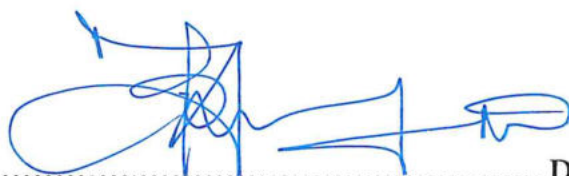
6. THAT the First Schedule of the Bill be amended by inserting the following new paragraph—

*"11. Veterinary Medicines Directorate".*

**Justification**

For inclusion of the Veterinary Medicines Directorate as a competent authority as it is responsible for animal health products such as pesticides and drugs. The Veterinary Medicines Directorate is established under section 39 of the Veterinary Surgeons and Veterinary Para-professionals Act, No. 29 of 2011.

SIGNED.....



DATE.....

3 / 8 / 2023

HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP

CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK



## REFERENCES

1. <http://cdn-odi-production.s3-website-eu-west-1.amazonaws.com/media/documents/Overview of trade between Kenya and the European Union EU.pdf>
2. [https://reference.jrank.org/diets/Food\\_Safety.html](https://reference.jrank.org/diets/Food_Safety.html)
3. <https://www.worldbank.org/en/news/press-release/2018/10/23/food-borne-illnesses-cost-us-110-billion-per-year-in-low-and-middle-income-countries#:~:text=The%20total%20productivity%20loss%20associated,estimated%20at%20US%24%2015%20billion> <https://www.fao.org/3/cc2289en/cc2289en.pdf>
4. [https://au.int/sites/default/files/documents/41573-docENGLISH\\_3rd CAADP Biennial Review Report final.pdf](https://au.int/sites/default/files/documents/41573-docENGLISH_3rd CAADP Biennial Review Report final.pdf)
6. [https://food.ec.europa.eu/system/files/2018-06/ia\\_trade\\_import-cond-meat\\_en.pdf](https://food.ec.europa.eu/system/files/2018-06/ia_trade_import-cond-meat_en.pdf)
7. <https://ag.purdue.edu/food-safety-innovation-lab/wp-content/uploads/2021/11/A-Review-of-the-Food-Safety-Architecture-in-the-East-African-Community.pdf>
8. <https://ag.purdue.edu/food-safety-innovation-lab/wp-content/uploads/2021/11/A-Review-of-the-Food-Safety-Architecture-in-the-East-African-Community.pdf>
9. <https://www.ifpri.org/publication/food-safety-kenya-focus-fruits-and-vegetables>
10. <https://www.hindawi.com/journals/jfq/2021/8899839/>
11. [http://erepository.uonbi.ac.ke/bitstream/handle/11295/86436/Kang'ethe\\_Situation%20analysis%20improving%20food%20safety%20in%20the%20maize%20value%20chain%20in%20Kenya.pdf?sequence=1](http://erepository.uonbi.ac.ke/bitstream/handle/11295/86436/Kang'ethe_Situation%20analysis%20improving%20food%20safety%20in%20the%20maize%20value%20chain%20in%20Kenya.pdf?sequence=1)
12. <https://www.ajol.info/index.php/ajfand/article/view/208915/196966>
13. <https://www.youtube.com/watch?v=nbgeTxfMK3Y>
14. [https://ajc.africa/notable-work/whats-killing-lake-victoria/#:~:text=They%20found%20high%20concentrations%20of,banned%20pesticide%20DDT%20\(Dichlorodiphenyltrichloroethane\)](https://ajc.africa/notable-work/whats-killing-lake-victoria/#:~:text=They%20found%20high%20concentrations%20of,banned%20pesticide%20DDT%20(Dichlorodiphenyltrichloroethane))
15. <https://link.springer.com/article/10.1007/s11356-019-06525-9>
16. <https://www.hindawi.com/journals/bmri/2014/179691/>
17. [http://erepository.uonbi.ac.ke/bitstream/handle/11295/154973/Kanja\\_Organophosphate%20and%20carbamate%20pesticide%20residues%20and%20accompanying%20risks%20in%20commonly%20consumed%20vegetables%20in%20Kenya.pdf?sequence=1&isAllowed=y](http://erepository.uonbi.ac.ke/bitstream/handle/11295/154973/Kanja_Organophosphate%20and%20carbamate%20pesticide%20residues%20and%20accompanying%20risks%20in%20commonly%20consumed%20vegetables%20in%20Kenya.pdf?sequence=1&isAllowed=y)
18. <https://www.foodsafetyafrica.net/high-pesticide-residue-levels-compromise-kenyas-right-to-safe-food-lobby-groups-voice/>
19. <https://www.the-star.co.ke/news/2019-12-26-food-safety-concerns-what-next-for-the-kenyan-consumer/>
20. <https://routetofood.org/wp-content/uploads/2021/06/Food-safety-in-Kenya-Digital.pdf>
21. [https://aphrc.org/blogarticle/food-safety-in-informal-urban-settlements-in-kenya/?gclid=CjwKCAiAioifBhAXEiwApzCzts5CCGC9gUS6lY7lnCnt6za\\_GyPCIUmULSc52yFXKHHTBVwKbdmSdxoCYKIQA vD\\_BwE](https://aphrc.org/blogarticle/food-safety-in-informal-urban-settlements-in-kenya/?gclid=CjwKCAiAioifBhAXEiwApzCzts5CCGC9gUS6lY7lnCnt6za_GyPCIUmULSc52yFXKHHTBVwKbdmSdxoCYKIQA vD_BwE)
22. <https://www.usda.gov/media/blog/2023/06/07/codex-alimentarius-keeping-us-safe-and-expanding-market-access>
23. <https://www.fao.org/fao-who-codexalimentarius/about-codex/members/detail/en/c/15672/>
24. <https://foodfacts.org.za/regulation-of-food-safety-and-quality-in-south-africa/>

25. <https://www.health.gov.za/food-control/#:~:text=The%20food%20control%20section%20within,food%20choices%20without%20being%20misled>
26. <https://www.fssai.gov.in/cms/about-fssai.php#:~:text=FSSAI%20has%20been%20created%20for,wholesome%20food%20for%20human%20consumption>.
27. <https://www.canada.ca/en/health-canada/services/food-nutrition/food-safety.html>



ANNEX ONE:  
REPORT  
ADOPTION  
SCHEDULE







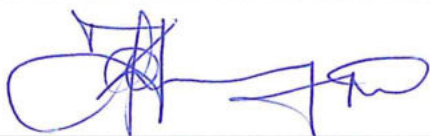


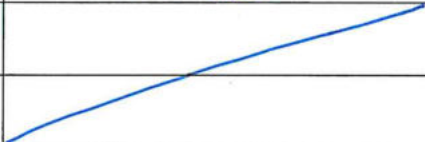


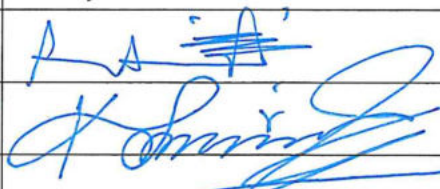

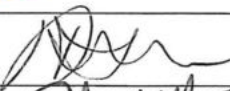





THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

ADOPTION SCHEDULE FOR THE REPORT ON THE FOOD AND FEED SAFETY  
CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2023)

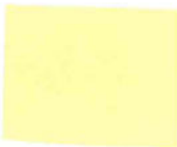
DATE: 2<sup>ND</sup> AUGUST 2023

VENUE: FOURTH FLOOR, CONTINENTAL HOUSE

S/NO.	NAME	SIGNATURE
1.	HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP - CHAIRPERSON	
2.	HON. BRIGHTON LEONARD YEGON, MP - VICE- CHAIRPERSON	
3.	HON. SABINA WANJIRU CHEGE, CBS, MP	
4.	HON. FERDINAND KEVIN WANYONYI, MP	
5.	HON. GEOFFREY MAKOKHA ODANGA, MP	
6.	HON. JUSTICE KIPSANG KEMEI, MP	
7.	HON. JARED OKELLO ODOYO, MP	
8.	HON. LAWRENCE MPURU ABURI, MP	
9.	HON. DAVID KIPLAGAT, MP	
10.	HON. GABRIEL GATHUKA KAGOMBE, MP	
11.	HON. MONICAH MUTHONI MARUBU, MP	
12.	HON. PAMELA NJOKI NJERU, MP	
13.	HON. PATRICK KIBAGENDI OSERO, MP	
14.	HON. PETER KALERWA SALASYA, MP	
15.	HON. YUSSUF MOHAMED FARAH, MP	



ANNEX TWO:  
MINUTES OF THE  
COMMITTEE  
SITTINGS







**THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023**

**DIRECTORATE OF DEPARTMENTAL COMMITTEES**

**MINUTES OF THE 40<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD IN THE COMMITTEE ROOM ON FOURTH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON WEDNESDAY, 2<sup>ND</sup> AUGUST 2023 AT 10.00 A.M.**

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**PRESENT**

- |                                       |   |                         |
|---------------------------------------|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga | - | <b>Chairperson</b>      |
| 2. Hon. Brighton Leonard Yegon, MP    | - | <b>Vice-Chairperson</b> |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP |   |                         |
| 4. Hon. Jared Okello Odooyo, MP       |   |                         |
| 5. Hon. Justice Kipsang Kemei, MP     |   |                         |
| 6. Hon. Lawrence Mpuru Aburi, MP      |   |                         |
| 7. Hon. David Kiplagat, MP            |   |                         |
| 8. Hon. Monicah Muthoni Marubu, MP    |   |                         |
| 9. Hon. Patrick Kibagendi Osero, MP   |   |                         |
| 10. Hon. Peter Kalerwa Salasya, MP    |   |                         |

**ABSENT WITH APOLOGY**

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Geoffrey Makokha Odanga
3. Hon. Gabriel Gathuka Kagombe
4. Hon. Pamela Njoki Njeru, MP
5. Hon. Yussuf Mohamed Farah, MP

**IN ATTENDANCE**

**MEMBERS OF THE DEPARTMENTAL COMMITTEE ON HEALTH**

- |                                       |   |                    |
|---------------------------------------|---|--------------------|
| 1. Hon. (Dr.) Robert Pukose, MP       | - | <b>Chairperson</b> |
| 2. Hon. (Dr.) James Nyikal, MP        |   |                    |
| 3. Hon. Joshua Oron, MP               |   |                    |
| 4. Hon. Pauline Lenguris, MP          |   |                    |
| 5. Hon. Mary Maingi, MP               |   |                    |
| 6. Hon. (Prof.) Guyo Waqo Jaldesa, MP |   |                    |
| 7. Hon. Antony Kibagendi, MP          |   |                    |



## SECRETARIAT

1. Ms. Laureen O. Wesonga	-	Clerk Assistant I
2. Mr. Hassan Arale	-	Clerk Assistant I
3. Mr. Victor Kanda Kilimo	-	Clerk Assistant III
4. Mr. Ahmednoor Hassan	-	Clerk Assistant III
5. Ms. Gladys Kiprotich	-	Clerk Assistant III
6. Mr. David Ng'eno	-	Research Officer II
7. Mr. Gerald Kadede	-	Legal Counsel II
8. Ms. Faith Chepkemoi	-	Legal Counsel II
9. Ms. Noelle Chelagat	-	Media Relations Officer II
10. Mr. Muhumed Shillow	-	Research Officer III
11. Ms. Lilian Aluga	-	Protocol Officer III
12. Mr. Richard Sang	-	Serjeant-at-Arms
13. Mr. Kelvin Sekani	-	Audio Recording Officer

## AGENDA

1. Prayers
2. Preliminaries/Introductions
  - i. Adoption of the Agenda
  - ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Clause by clause consideration of the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2023)**
5. **Adoption of the Report on the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2023)**
6. **Adoption of the Report on the 171<sup>st</sup> Session of the Food and Agriculture Organisation Council**
7. Any other Business
8. Adjournment/Date of the Next Sitting

**MIN. NO. NA/A&L/2023/159:**

## PRELIMINARIES

The meeting was called to order at sixteen minutes past ten o'clock with a word of prayer by the Chairperson.

The Agenda of the meeting was adopted having been proposed by Hon. Justice Kemei, MP and seconded by Hon. Patrick Osero, MP.

**MIN. NO. NA/A&L/2023/160:**

## CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Minutes of the 39<sup>th</sup> Sitting held on 26<sup>th</sup> July 2023 were confirmed as a true reflection of the proceedings having been proposed by Hon. Monica Marubu, MP and seconded by Hon. Justice Kemei, MP.

The meeting deliberated and agreed as follows on the Bill:

1. **Clause 2:** Agreed to
2. **Clause 3:** Agreed to

3. **Clause 4**

Amend the clause by deleting the words "*and every person*".

**Justification**

To limit the scope of the Bill to regulation of competent authorities by the Controller.

4. **Clause 5**

- a) Amend paragraph 5(a) by deleting the words "*life and*".

**Justification**

Protection of human health includes protection of human life.

- b) Amend by inserting the following new paragraphs immediately after paragraph (f)  
"*(g) Promotion of sustainable production, processing and handling of food and feeds*".  
"*(h) Protection of human life and health, animal life and health*".

**Justification**

To provide for biodiversity conservation and ecosystem safeguards.

5. **Clause 6:** Agreed to
6. **Clause 7:** Agreed to
7. **Clause 8:** Agreed to

8. **Clause 9**

- a) Amend sub-clause 9(d) to read as follows, "*liaise with competent authorities to identify and advice on policy gaps and inadequate regulations of food feed safety official control*".

**Justification**

The Food Safety Controller is mandated to coordinate the competent authorities.

- b) Amend sub-clause 9(i) to read as follows, "*perform such other duties as may be necessary to ensure coordination of official control of food safety and feed safety*".

**Justification**

The Food Safety Controller is mandated to coordinate the competent authorities.

9. **Clause 10:** Agreed to
10. **Clause 11:** Agreed to
11. **Clause 12:** Agreed to
12. **Clause 13:** Agreed to

- 13. **Clause 14:** Agreed to
- 14. **Clause 15:** Agreed to
- 15. **Clause 16:** Agreed to
- 16. **Clause 17:** Agreed to
- 17. **Clause 18:** Agreed to
- 18. **Clause 19:** Agreed to

**19. Clause 20**

Amend sub-clause 20(3) by inserting the word "*all the county governors*" immediately after the words "*competent authority and*".

**Justification**

To provide for the sharing of the audit report with respective county governors for effective implementation at the county level.

- 20. **Clause 21:** Agreed to
- 21. **Clause 22:** Agreed to
- 22. **Clause 23:** Agreed to
- 23. **Clause 24:** Agreed to
- 24. **Clause 25:** Agreed to
- 25. **Clause 26:** Agreed to

**26. Clause 27**

Amend paragraph 27(b) by inserting the word "of" immediately after the words "make copies".

**Justification**

To correct a typographical error.

- 27. **Clause 28:** Agreed to
- 28. **Clause 29:** Agreed to
- 29. **Clause 30:** Agreed to
- 30. **Clause 31:** Agreed to
- 31. **Clause 32:** Agreed to
- 32. **Clause 33:** Agreed to

**33. First Schedule**

Amend by including the Veterinary Medicine Directorate in the list of competent authorities.

**Justification**

The Directorate is responsible for animal health products e.g. pesticides and drugs hence qualifies to be one of the competent authorities.

**34. Second Schedule:** Agreed to

MIN. NO. NA/A&L/2023/162:

**ADOPTION OF THE REPORT ON THE  
FOOD AND FEED SAFETY CONTROL CO-  
ORDINATION BILL (NATIONAL ASSEMBLY  
BILL NO. 21 OF 2023)**

The Report on the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2023) was adopted having been proposed by Hon. Jared Okello, MP and seconded by Hon. Patrick Osero, MP

MIN. NO. NA/A&L/2023/163:

**ADOPTION OF THE REPORT ON THE 171<sup>ST</sup>  
SESSION OF THE FOOD AND  
AGRICULTURE ORGANISATION COUNCIL**

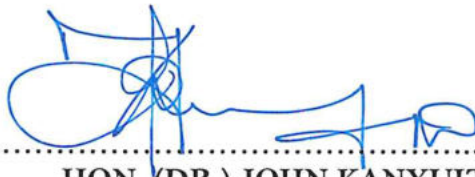
The Report on the 171<sup>st</sup> Session of the Food and Agriculture Organisation Council was adopted having been proposed by Hon. Brighton Yegon, MP and seconded by Hon. Peter Salasya, MP.

MIN. NO. NA/A&L/2023/164:

**ADJOURNMENT/DATE OF THE NEXT  
MEETING**

There being no other business, the meeting was adjourned at fourteen minutes to noon. The next meeting will be held on notice.

SIGNED: .....



DATE: .....

3 | 8 | 2023

**HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP  
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &  
LIVESTOCK**







**THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023**

**DIRECTORATE OF DEPARTMENTAL COMMITTEES**

**MINUTES OF THE 39<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
AGRICULTURE & LIVESTOCK HELD IN THE MINI CHAMBER, COUNTY HALL,  
PARLIAMENT BUILDINGS ON WEDNESDAY, 26<sup>TH</sup> JULY 2023 AT 10.00 A.M.**

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**PRESENT**

- |                                       |   |                  |
|---------------------------------------|---|------------------|
| 1. Hon. Brighton Leonard Yegon, MP    | - | Vice-Chairperson |
| 2. Hon. Sabina Wanjiru Chege, CBS, MP |   |                  |
| 3. Hon. Ferdinand Kevin Wanyonyi, MP  |   |                  |
| 4. Hon. Geoffrey Makokha Odanga       |   |                  |
| 5. Hon. Justice Kipsang Kemei, MP     |   |                  |
| 6. Hon. David Kiplagat, MP            |   |                  |
| 7. Hon. Monicah Muthoni Marubu, MP    |   |                  |
| 8. Hon. Pamela Njoki Njeru, MP        |   |                  |
| 9. Hon. Peter Kalerwa Salasya, MP     |   |                  |
| 10. Hon. Yussuf Mohamed Farah, MP     |   |                  |

**ABSENT WITH APOLOGY**

- |                                       |   |             |
|---------------------------------------|---|-------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga | - | Chairperson |
| 2. Hon. Jared Okello Oduyo, MP        |   |             |
| 3. Hon. Lawrence Mpuru Aburi, MP      |   |             |
| 4. Hon. Gabriel Gathuka Kagombe       |   |             |
| 5. Hon. Patrick Kibagendi Osero, MP   |   |             |

**IN ATTENDANCE**

**MEMBERS OF THE DEPARTMENTAL COMMITTEE ON HEALTH**

- |                                      |   |             |
|--------------------------------------|---|-------------|
| 1. Hon. (Dr.) Robert Pukose, MP      | - | Chairperson |
| 2. Hon. (Dr.) James Nyikal, MP       |   |             |
| 3. Hon. Julius Sunkuli, EGH, EBS, MP |   |             |
| 4. Hon. Martin Peters Owino, MP      |   |             |
| 5. Hon. Joshua Oron, MP              |   |             |
| 6. Hon. Pauline Lenguris, MP         |   |             |
| 7. Hon. Mary Maingi, MP              |   |             |
| 8. Hon. Duncan Mathenge, MP          |   |             |

## SECRETARIAT

1. Ms. Laureen O. Wesonga	-	Clerk Assistant I
2. Mr. Hassan Arale	-	Clerk Assistant I
3. Mr. Victor Kanda Kilimo	-	Clerk Assistant III
4. Mr. Ahmednoor Hassan	-	Clerk Assistant III
5. Ms. Gladys Kiprotich	-	Clerk Assistant III
6. Ms. Sally Ngugi	-	Research Officer I, Leader of Majority Party's Office
7. CPA. Robert Ngetich	-	Fiscal Analyst II
8. Mr. David Ng'eno	-	Research Officer II
9. Mr. Gerald Kadede	-	Legal Counsel II
10. Ms. Faith Chepkemai	-	Legal Counsel II
11. Ms. Noelle Chelagat	-	Media Relations Officer II
12. Mr. Muhumed Shillow	-	Research Officer III
13. Ms. Lilian Aluga	-	Protocol Officer III
14. Mr. Richard Sang	-	Serjeant-at-Arms
15. Mr. Kelvin Sekani	-	Audio Recording Officer

## STAKEHOLDERS

### COUNCIL OF GOVERNORS (CoG)

1. Ms. Mary Mwiti	-	Chief Executive Officer
2. Ms. Meboh Abuor	-	Technical Officer

### KENYA BUREAU OF STANDARDS (KEBS)

1. Ms. Esther Ngari	-	Ag. Managing Director
2. Mr. Peter Mutua	-	Manager, Food Standards
3. Mr. Hassan Abdikheir	-	Ag. Assistant Manager, Food Standards
4. Mr. Bernard Nguyo	-	Ag. Director, Quality Assurance
5. Mr. Zacharia Lukorito	-	Ag. Director, Standards Development

### STATE DEPARTMENT FOR PUBLIC HEALTH AND PROFESSIONAL STANDARDS

1. Ms. Mary Muriuki	-	Principal Secretary
2. Ms. Sahara Sheikh Ali	-	Principal Public Health Officer
3. Mr. Leonard Kimutai	-	Senior Assistant Public Health Officer
4. Ms. Gladys Chepkirui	-	Parliamentary Liaison officer
5. Mr. Fredrick Owuor	-	Parliamentary Liaison officer
6. Ms. Elizabeth Ochanda	-	Public Communications Officer
7. Ms. Jacinta Kinuthia	-	Public Communications Office
8. Ms. Collins William	-	Public Communications Officer

### STATE DEPARTMENT FOR CROP DEVELOPMENT

1. Mr. Peter O. Owoko	-	Head of Policy
2. Dr. Esther Kimani	-	Chief Executive Officer, Pest Control & Products Board
3. Mr. Paul N. Ngaruiya	-	Ag. General Manager
4. Ms. Patricia Njeru	-	Director, Sugar Directorate, AFA
5. Mr. Moses Sande	-	Director Legal Services, NBA
6. Ms. Josephine Simiyu	-	Deputy Director, AFA
7. Mr. James Nzomo	-	Senior Quality Assurance Officer, AFA
8. Ms. Anne Muia	-	Senior Biosafety Officer, NBA
9. Mr. James Kimuttai	-	Legal Officer, AFA

10. Ms. Gladys Chepkirui - Parliamentary Liaison officer

#### **STATE DEPARTMENT FOR LIVESTOCK DEVELOPMENT**

1. Dr. Christopher Wanga - Director, Livestock Policy Research & Regulations  
2. Ms. Sarah Chepkoech - Manager, Quality Assurance, KMC  
3. Dr. Akwimbi A. William - Senior Deputy Director, Livestock Policy Research & Regulations  
4. Mr. Peter K. Mbugua - Parliamentary Liaison Officer  
5. Mr. Anthony Ademba - Legal Officer

#### **AGENDA**

1. Prayers
2. Preliminaries/Introductions
  - ii. Adoption of the Agenda
  - iii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Stakeholder engagement on the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2023)**
5. Any other Business
6. Adjournment/Date of the Next Sitting

#### **MIN. NO. NA/A&L/2023/155: PRELIMINARIES**

The meeting was called to order at ten minutes past ten o'clock with a word of prayer by the Chairperson.

The Agenda of the meeting was adopted having been proposed by Hon. David Kiplagat, MP and seconded by Hon. Pamela Njeru, MP.

#### **MIN. NO. NA/A&L/2023/156: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

Minutes of the 38<sup>th</sup> Sitting held on 20<sup>th</sup> July 2023 were confirmed as a true reflection of the proceedings having been proposed by Hon. Pamela Njeru, MP and seconded by Hon. Sabina Chege, MP.

#### **MIN. NO. NA/A&L/2023/157: STAKEHOLDER ENGAGEMENT ON THE FOOD AND FEED SAFETY CONTROL COORDINATION BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2023)**

The Chairperson welcomed the stakeholders into the meeting. He then requested everyone in the meeting to introduce themselves before inviting stakeholders to make submissions on the Food and Feed Safety Control Co-ordination Bill, 2023. The stakeholders submitted that:

##### **1. Council of Governors (COG)**

The Council of Governors, through its representative, Ms. Mary Mwiti (CEO) proposed amendments to clauses 16(2), 20(3), 33(1) and the First Schedule of the Bill so as to enhance the role of county governments in the Bill and to recognise county governments as competent authorities.



**2. Kenya Bureau of Standard (KEBS)**

Ms. Esther Ngari, acting Managing Director, KEBS proposed amendments to clauses 18(1), 18(2), 24(1) and 27(1) and (2). She stated that the proposed amendments will enhance effectiveness in ensuring food and feed safety in Kenya and align the Bill to the Standards Act which will ensure a harmonious and streamlined approach to food and feed safety regulation in Kenya.

**3. State Department Public Health & Professional Standards**

Ms. Mary Muriuki, Principal Secretary, State Department for Public Health and Professional Standards proposed amendments to clauses 4, 5(a), 9(d), 9(e), 9(i), 18(1), 18(2), 22, First Schedule and Second Schedule aimed at aligning the Bill to other statutes and the Constitution.

**4. State Department for Crop Development**

Mr. Peter Owoko, Head of Policy, submitted that the State Department for Crop Development was in support of the Bill and the deliberations that had taken place in the meeting which will greatly improve the legislation. He invited officers from agencies in the State Department to make submissions on the Bill:

**a. Pest Control and Products Board:** Dr. Esther Kimani, CEO, PCPB proposed amendments to definition of the word "*Cabinet Secretary*", clause 33 and the First Schedule.

**b. National Biosafety Authority:** Mr. Moses Sande, Director, Legal Services, proposed that definition of the word "*feed*" should be amended to include feed for animals that are not consumed as food. He also proposed that clause 33(1) should be amended to provide for consultation of relevant competent authorities by the CS when making regulations.

**5. State Department for Livestock Development**

Dr. Christopher Wanga, Director, Livestock Policy Research and Regulations, submitted that the State Department was in support of the Bill in its entirety.

*(Details of the stakeholders' proposed amendments to the Bill are contained in Part Four of the Report on the Consideration of the Food and Feed Safety Control Coordination Bill, 2023).*

Members observed that the amendments proposed by stakeholders will enhance effectiveness of the legislation. They undertook to critically look at every proposal made by stakeholders when considering the Bill clause by clause.

MIN. NO. NA/A&L/2023/158:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at ten minutes to one o'clock. The next meeting will be held on notice.

SIGNED: ..... DATE: 2/3/2023

HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP  
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &  
LIVESTOCK

ANNEX THREE:  
COPY OF THE  
NEWSPAPER  
ADVERTISEMENT





# Why teachers do not want to head schools

► In spite of vacancies of school heads being advertised no one wants to apply.

► Teachers say the risks that come with top posts are not worth it.

MIKE KIHAKI, NAIROBI

**D**elocalisation tops the list of reasons why teachers fear applying for managerial positions in schools.

Further, some teachers do not have prerequisite qualifications required by the em-

ployers. Teachers also say current underfunding in schools has scared a majority of them from taking up managerial positions to avoid the pressure and challenges that come with the positions.

The Teachers Service Commission (TSC), for the third time, advertised 1,001 positions to be filled at senior school managerial level. Citing various reasons, teachers have been reluctant to express interest in the positions.

A high school principal, who sought anonymity for fear of facing reprisals, said the positions are a poisoned chalice. That they are used to punish managers and that is why majority of teachers are not keen to show interest in the advertised positions.

"When you are picked for the position, you will be taken to a hardship area as a disciplinary measure. You are expected to be there for five years before you apply for any transfer," said the principal while shedding light on why more than 1,000 positions are not eliciting interest. According to Kenya Primary School Heads Association (Keshpa) Chairman Johnson Nzioka, teachers fear being moved from their preferred stations.

"Teachers fear moving out of their stations, and since Special Needs Education schools (SNE) are spread out in the country, teachers should be given the option to choose schools where vacancies fall," Nzioka said.

He said some teachers are employed in primary school and when they upgrade studies they are moved to special needs schools.



Teachers Service Commission CEO Nancy Macharia. (Boniface Okendo, Standard)

"New SNE teachers may not possess the right grades and skills to apply for the same to replace those exiting," he said.

Kenya Secondary School Heads Association (Kessha) Chairman Kahl Indimuli said the dire situation in schools in terms of capitulation challenges has discouraged eligible teachers from expressing interest in the positions that come with increased responsibilities and perks.

"At the moment schools are being stressed. I'm aware of schools that have not been able to pay workers' salaries since last term around February. Nobody will wish to wade into such mucky waters," said Indimuli.

## Principal's duties

According to Indimuli, the buck normal stops with the principal.

"The students erupt and to an observer it becomes poor management on the side of the principals. Nobody looks at whether the head was well facilitated to perform his duties," he explained.

Teachers representative who have been on the forefront advocating for tutors' promotion blame the TSC for the predicament it has found itself in.

Kenya Union of Post Prima-

ry Education Teachers, (KUPPET) Secretary General Akelo Misori accused TSC of failing to promote teachers progressively.

According to Misori teachers have been stagnating in the same job group for several years without moving to the next level, a situation that has completely demoralised them.

"Teachers Service Commission (TSC) has failed to give progressive promotion according to the 2016-2021 CBA. If you are in Job Group B3 and you are a principal of a school you cannot apply for B4 if you have not taken more than three years in the current position," stated Misori.

Kenya Union of Teacher (Knut) Secretary General Collins Oyuu said teachers are restrained by the requisite qualification based on what is in the Collective Bargaining Agreement (CBA).

Oyuu noted that some teachers have been acting for several years and cannot assume the higher positions with lower qualifications.

"TSC just picked them to act as deputy heads without looking at their lower qualifications. Some cannot apply without having the lowest grades. You only have to apply when you are sure you qualify," he explained.



REPUBLIC OF KENYA

## THE NATIONAL ASSEMBLY THIRTEENTH PARLIAMENT - SECOND SESSION

IN THE MATTER OF ARTICLE 118 (1)(b) OF THE CONSTITUTION

AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:

1. THE REGIONAL DEVELOPMENT AUTHORITIES BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2023);
2. THE CONFLICT OF INTEREST BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2023);
3. THE FOOD AND FEED SAFETY CONTROL COORDINATION BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2023); AND
4. THE PRIVATISATION BILL (NATIONAL ASSEMBLY BILL NO. 22 OF 2023)

### INVITATION FOR PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Regional Development Authorities Bill (National Assembly Bill No. 7 of 2023); the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023); the Food and Feed Safety Control Coordination Bill (National Assembly Bill No. 21 of 2023); and the Privatisation Bill (National Assembly Bill No. 22 of 2023) were read a First Time on Tuesday, 6<sup>th</sup> June 2023 and thereafter referred to the relevant Departmental Committees for consideration and reporting to the House;

### IT IS NOTIFIED that:

1. The Regional Development Authorities Bill (National Assembly Bill No. 7 of 2023) is a Bill sponsored by the Member for Sigor Constituency (The Hon. Peter Lochakapong, MP) with the principal object being to consolidate the laws relating to regional development and to provide for the establishment, powers and functions of the six (6) existing regional development bodies. The Bill seeks to standardise the functions of regional development authorities subject to the unique areas of operation of each regional development authority and also standardise the membership of the Boards of each regional development authority to eleven (11) members in line with best practices in corporate governance.

2. The Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) is a Bill sponsored by the Leader of the Majority Party (The Hon. Kimani Ichung'wah, MGH, MP) with the principal object being to provide for the management of conflict of interest in the discharge of official duties.

3. The Food and Feed Safety Control Coordination Bill (National Assembly Bill No. 21 of 2023) is a Bill sponsored by the Leader of the Majority Party (The Hon. Kimani Ichung'wah, MGH, MP) seeking to provide for coordination of public institutions involved in the control of food and feed safety; to establish the Office of the Food Safety Controller and to provide for the role of county governments in food and feed safety. This is aimed at ensuring the supply of safe food and feed to consumers. The Bill also seeks to ensure that food is safely produced, distributed, processed, marketed and prepared for human consumption from the farm to consumption.

4. The Privatisation Bill (National Assembly Bill No. 22 of 2023) is a Bill sponsored by the Leader of the Majority Party (The Hon. Kimani Ichung'wah, MGH, MP) with the principal object being to provide a revised regulatory framework for the privatisation of public entities with a view of improving the efficiency and competitiveness of Kenya's productive resources.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3) the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Departmental Committees listed below:

S/NO.	BILL	COMMITTEE
1.	The Regional Development Authorities Bill (National Assembly Bill No. 7 of 2023)	Regional Development
2.	The Conflict of Interest Bill (National Assembly Bill No. 12 of 2023)	Justice and Legal Affairs
3.	The Food and Feed Safety Control Coordination Bill (National Assembly Bill No. 21 of 2023)	Agriculture and Livestock
4.	The Privatisation Bill (National Assembly Bill No. 22 of 2023)	Finance and National Planning

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings or on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to [ena@parliament.go.ke](mailto:ena@parliament.go.ke) to be received on or before Monday, 26<sup>th</sup> June 2023 at 5.00 p.m.

S. NJOROGE  
CLERK OF THE NATIONAL ASSEMBLY

12<sup>th</sup> June 2023

For the Welfare of Society and the just Government of the People



ANNEX FOUR:  
LETTERS  
INVITING  
STAKEHOLDERS  
FOR A MEETING







THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK

P. O. Box 41842-00100  
Nairobi, Kenya  
Main Parliament Buildings

Telephone: +254202848000 ext. 3300  
Email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)  
[www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)

When replying, please quote

Ref: NA/DDC/A&L/2023/042

20<sup>th</sup> July 2023

**Mr. Phillip Kello Harsama**  
Principal Secretary  
State Department for Crop Development  
Ministry of Agriculture &  
Livestock Development  
Kilimo House, Cathedral Road  
**NAIROBI**

**Mr. Harry Kimtai, CBS**  
Principal Secretary  
State Department of Medical Services  
Ministry of Health  
Afya House Cathedral Road  
**NAIROBI**  
[ps.medical@health.go.ke](mailto:ps.medical@health.go.ke)

**Mr. Jonathan Mueke**  
Principal Secretary  
State Department for Livestock  
Development  
Ministry of Agriculture &  
Livestock Development  
Kilimo House, Cathedral Road  
**NAIROBI**

**Ms. Mary Muthoni Muriuki, HSC**  
Principal Secretary  
State Department for Public  
Health & Professional Standards  
Ministry of Health  
Afya House, Cathedral Road  
**NAIROBI**  
[ps.medical@health.go.ke](mailto:ps.medical@health.go.ke)

**Ms. Betsy Muthoni Njagi**  
Principal Secretary  
State Department for  
Blue Economy and Fisheries  
Ministry of Mining, Blue Economy  
& Maritime Affairs  
**NAIROBI**  
[njagibetsy@gmail.com](mailto:njagibetsy@gmail.com)

**Mr. Willis Audi**  
Chief Executive Officer  
Agriculture and Food Authority  
Tea House, Naivasha Road  
Off Ngong Road  
**NAIROBI**  
[info@afa.go.ke](mailto:info@afa.go.ke)

**Ms. Mary Kibogy**  
Managing Director  
Kenya Dairy Board  
10<sup>th</sup> Floor, Eastern Wing, Block A,  
Social Security House  
**NAIROBI**  
[info@kdb.go.ke](mailto:info@kdb.go.ke)

**Prof. Theophilus M. Mutui, PhD**  
Managing Director  
Kenya Plant Health Inspectorate  
Service (KEPHIS)  
Ngong Road  
**NAIROBI**  
[kephisinfo@kephis.org](mailto:kephisinfo@kephis.org)

**Dr. Esther Kimani**  
Chief Executive Officer/Secretary  
Pest Control and Products Board

**Dr. Roy B. Mugiira**  
Chief Executive Officer  
National Biosafety Authority

Mrs. Esther Ngari  
Ag. Managing Director/Council Secretary  
Kenya Bureau of Standards  
Popo Road, Off Mombasa Road  
**NAIROBI**  
[info@kebs.org](mailto:info@kebs.org)

Ms. Mary Mwiti  
Chief Executive Officer  
Council of Governors  
2<sup>nd</sup> Floor, Delta House  
Waiyaki Way, Westlands  
**NAIROBI**

Brigadier James N. Githaiga  
Managing Commissioner  
Kenya Meat Commission  
Athi River, Off Mombasa Road  
**NAIROBI**  
[info@kenyameat.co.ke](mailto:info@kenyameat.co.ke)

Dear *Mr. Hassan,*

REF: STAKEHOLDER ENGAGEMENT ON THE FOOD AND FEED SAFETY  
CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO.  
21 OF 2023) BY THE DEPARTMENTAL COMMITTEE ON  
AGRICULTURE AND LIVESTOCK

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Our letter, Ref: NA/DDC/A&L/2023/041 dated 5<sup>th</sup> July 2023 on the above subject refers  
(*copy attached*).

The Committee was unable to hold the meeting as planned due to unforeseen circumstances  
beyond the control of the Committee.

The purpose of this letter is therefore to inform you that the meeting has been re-scheduled  
to Wednesday, 26<sup>th</sup> July 2023 in the Committee Room on 4<sup>th</sup> Floor, Continental House,  
Parliament Buildings at 10.00 a.m.

The liaison officers for this activity are Ms. Laureen Omusa Wesonga who may be  
contacted on Tel. No. 0710820442 or email: [laureen.wesonga@parliament.go.ke](mailto:laureen.wesonga@parliament.go.ke), Mr.  
Ahmednoor Hassan, on Tel. No. 0748993663 or email:  
[ahmednoor.hassan@parliament.go.ke](mailto:ahmednoor.hassan@parliament.go.ke) or Mr. Victor Kilimo on Tel. No. 0724587091 or  
email: [kilimo.simon@parliament.go.ke](mailto:kilimo.simon@parliament.go.ke).

Yours *Sincerely,*



PETER K. CHEMWENO  
For: CLERK OF THE NATIONAL ASSEMBLY



THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK

P. O. Box 41842-00100  
Nairobi, Kenya  
Main Parliament Buildings

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When replying, please quote

Ref: NA/DDC/A&L/2023/041

6<sup>th</sup> July 2023

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Dear Mr. Kimani

**REF: STAKEHOLDER ENGAGEMENT ON THE FOOD AND FEED SAFETY  
CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO. 21  
OF 2023) BY THE DEPARTMENTAL COMMITTEE ON AGRICULTURE  
AND LIVESTOCK**

The Departmental Committee on Agriculture and Livestock is established pursuant to Standing Order 216 and is mandated *inter alia* 'to study and review all legislation referred to it'.

Pursuant to the cited mandate, the Committee is in the process of considering the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2022) (*copy attached*).

The Bill seeks to provide for coordination of public institutions involved in the control of food safety; to establish the Office of the Food Safety Controller and to provide for the role of county governments in food and feed safety. This is aimed at ensuring the supply of safe food and feed to consumers. Food safety is a critical function of both the national and county governments in fulfilment of consumer protection as provided in the Constitution.

The Bill will ensure that food is safely produced, distributed, processed, marketed and prepared for human consumption from the farm to consumption.

In compliance with the provisions of Article 118(1)(b) of the Constitution, the Committee invites you for a meeting to discuss the said Bill. The meeting will be held on **Wednesday, 19<sup>th</sup> July 2023** in the **Mini Chamber, First Floor, County Hall, Parliament Buildings** at **9.30 a.m.**

You are requested to submit electronic copies of your submissions to the Committee by **Friday, 14<sup>th</sup> July 2023** and appear before the Committee with twenty (20) hard copies.

The liaison officers for this activity are **Ms. Laureen Omusa Wesonga** who may be contacted on Tel. No. 0710820442 or email: [laureen.wesonga@parliament.go.ke](mailto:laureen.wesonga@parliament.go.ke), **Mr. Ahmednoor Hassan**, on Tel. No. 0748993663 or email: [ahmednoor.hassan@parliament.go.ke](mailto:ahmednoor.hassan@parliament.go.ke) or **Mr. Victor Kilimo** on Tel. No. 0724587091 or email: [kilimo.simon@parliament.go.ke](mailto:kilimo.simon@parliament.go.ke).

Yours



**JEREMIAH W. NDOMBI MBS**



ANNEX FIVE:  
STAKEHOLDER  
SUBMISSIONS







## COUNCIL OF GOVERNORS

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Our Ref: COG/6/48 Vol. 57 (27)

25<sup>th</sup> July 2023

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

Dear Mr. Njoroge

**COUNCIL OF GOVERNORS MEMORANDUM ON THE FOOD AND FEED SAFETY CONTROL  
COORDINATION BILL (NATIONAL ASSEMBLY BILL NO.21 OF 2023)**

Greetings.

We acknowledge receipt of your letter Ref: NA/DDC/A&L/ 2023/041 dated 6<sup>th</sup> July 2023 whose content is duly noted.

In view of the above, we wish to forward for your consideration the legislative memoranda attached herewith on the Food and Feed Safety Control Coordination Bill (National Assembly Bill no.21 of 2023).

Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

**Mary Mwiti**  
**Chief Executive Officer**



**COUNCIL OF GOVERNORS**

**LEGISLATIVE MEMORANDUM ON THE FOOD AND FEED SAFETY CONTROL  
CO-ORDINATION BILL, 2023**

**TO**

**THE NATIONAL ASSEMBLY**

**FROM**

**THE COUNCIL OF GOVERNORS  
AGRICULTURE, LIVESTOCK AND COOPERATIVES COMMITTEE**

## 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 the legislation is cognizant of the fact that agriculture is a fully devolved function under the Part 2 of the Fourth Schedule to the Constitution; and

Aware of the need for coordinated action and approach between the two levels of government in food and feed safety control for the benefit of all Kenyans.

### General Comments

Having reviewed the **Food and Feed Safety Control Co-ordination Bill, 2023** in its entirety, the Council of Governors notes as follows:

1. That the Council of Governors supports the Food and Feed Safety Control Coordination Bill as it is a timely piece of legislation to coordinate food safety and food control practices as well coordinate the various competent authorities in the sector.
2. The Office of the office of the Controller of food and feed safety will play acritical role in ensuring that consumers are protected from harmful products through food traceability.
3. The role of County Governments is well outlined in Section. 28 of the Bill and this will ensure each level of government plays its critical role in ensuring food and feed safety in the country.
4. The Current draft of the Bill incorporates most of the COG memorandum submitted initially and therefore an indication of good will in the legislative process.
4. The Council further recommends the following amendments for better implementation of the proposed Act by the County Governments.

SECTION	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
6. Functions of the county government	16(2) Each County Government shall at least thirty days before the end of a financial year, prepare an annual report on the state of-	Amend to read as follows:  16(2) Each County Government shall at least thirty days before the end of a financial year, prepare an annual report on the state of-food safety and	To provide the clarity in the handling of the state of food and feed safety report at the County level.

	food safety and feed safety in the respective County and submit the report to the Controller.	feed safety in the respective County and submit the report to the <u>respective County Governor</u> and a copy to the Controller. (3). <u>The respective County Governor shall submit the report to the County Assembly.</u>	
20. Audit of food safety or feed safety mechanisms	20(3) Upon conducting an audit under sub-section (1), the Controller shall prepare an audit report and submit the audit report to the Cabinet Secretary responsible for the competent authority.	Amend to read as follows:  20(3) Upon conducting an audit under sub-section (1), the Controller shall prepare an audit report and submit the audit report to the Cabinet Secretary responsible for the competent authority and <u>all the County Governors.</u>	To provide for the sharing of the audit report to the respective County Governors for effective implementation at the county level.
33. Regulations	33(1). The Cabinet Secretary In consultation with the controller, may make regulations for better carrying into effect this Act.	Amend to read as follows:  33(1). The Cabinet Secretary In consultation with the controller <u>and County Governments,</u> may make regulations for better carrying into effect this Act.	To provide for an intergovernmental consultation with the County Governments in the making of the regulations
FIRST SCHEDULE  Competent Authorities		Amend to include the word " <u>11. Respective Departments of the County Governments</u> " immediately after the words " <u>10. The Kenya National Bureau of Standards</u> "	To provide for inclusion of the County Governments as Competent Authorities on matters of feed and food safety within their jurisdiction.

### CONCLUSION

Agriculture, including— crop and animal husbandry as well as County health services, including, in particular, promotion of primary health care; licensing and control of undertakings that sell food to the public; veterinary services (excluding regulation of the profession); among others re functions of the County Government under the Fourth Schedule to the Constitution. It is there imperative that the proposed legislation recognizes the County Governments as competent authorities for purposes of coordination of efforts between the National and County Governments in the promotion, control and regulation of food and feed safety in the country. The Council supports the Bill with the proposed further amendments.



**Our Ref:** KEBS/DIR/CONF/1/2/VOL.4

**Date:** 14<sup>th</sup> July 2023

**Mr. Samuel Njoroge,**  
Clerk of the National Assembly,  
Parliamentary Service Commission,  
P.O. Box 41842 — 00100,  
**NAIROBI.**

Dear Sir

**RE: SUBMISSIONS OF COMMENTS TO NATIONAL ASSEMBLY ON BILL**  
**No. 21 of 2022 (FOOD AND FEED SAFETY CONTROL CO-**  
**ORDINATION BILL.**

Reference is made to the letter from the National Assembly on the above stated subject matter.

Enclosed are the responses from KEBS to the departmental committee on agriculture and livestock.

Yours faithfully



Peter Kaigwara

**For: MANAGING DIRECTOR**

Having reviewed the published bill, the following comments be considered.

	Section	Proposed amendment	Rationale
1.	Section 18 (1): Reference to International Standards for food and feed safety	Consider recognising the role of national standards in food and feed safety to read,  <i>'The controller shall verify that a competent authority has mechanism to enforce food and feed safety in accordance with Kenya Standards.'</i>	The Standards Act under Part II provides for establishment and publication of Kenya Standards. These standards are developed by KEBS in consultation with stakeholders, and they are based on international standards where applicable. Therefore, it is important to recognize the role of Kenya Standards in food and feed safety, and to ensure that competent authorities have mechanisms in place to enforce these standards
2.	Section 18 (2)b, c and e:  b – Taking of samples c – Staff health and hygiene  e – issuance of certificates, permits and licences	Delete entire text under 18 (2)	The object of the bill provides for coordination of competent authorities. The actions specified in 18 (2) should be left to the competent authorities. As it will result to duplication of roles and may lead to confusion. These responsibilities should be left to the Competent authorities.

3.	Section 24 (1) on designation of laboratory	The controller in consultation with relevant competent authorities shall designate <b>laboratories</b> as reference <b>laboratories</b> for confirmatory testing.	<p>Designation of reference laboratories should be based on legal mandate, demonstrated competence based on accepted local and international benchmarks/standards (ISO17025:2017) as well as scope or established capacity of the existing laboratories.</p> <p>Instead of designating one laboratory as a reference lab, allow for more than one reference laboratories.</p> <p>By stating a laboratory – this means there shall only be one lab. There is need to provide more than one laboratory provided they are accredited to ISO 17025.</p>
4.	Section 27 (1), (2)	Delete the provision	The responsibilities are already vested in the competent authority. This will eliminate duplication of roles.

## CONCLUSION AND WAYFORWARD.

The proposed amendments to the Food and Feed Safety Control Coordination Bill would greatly enhance its effectiveness in ensuring food and feed safety in Kenya. It is crucial to acknowledge and emphasize the significant role that Kenya Standards play in this process.

Kenya Standards are carefully developed in consultation with various stakeholders, considering local conditions and considerations. These standards are specifically tailored to address the unique challenges and requirements of the Kenyan food and feed industry. By aligning the Food and Feed Safety Control Coordination Bill with the Standards Act, we can ensure a harmonious and streamlined approach to food and feed safety regulation in our country.

guidelines. Rather, it is a means to complement and enhance global best practices by incorporating them within a local context. By doing so, we can create a robust regulatory framework that embraces both international expertise and the specific needs of our nation.

Moreover, by avoiding duplication of roles among competent authorities, we can foster efficient coordination and collaboration within the food and feed safety control system. This synergy will lead to better resource utilization, effective enforcement, and improved protection of consumer health and well-being.

Finally, the proposed amendments will strengthen the Food and Feed Safety Control Coordination Bill by ensuring its alignment with the Standards Act. By recognizing the significance of Kenya Standards in our food and feed safety efforts, we can harness local expertise and knowledge while remaining connected to global best practices. These amendments will greatly enhance the bill's ability to safeguard the health of our citizens and ensure the safety of our food and feed supply chain.



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STATE DEPARTMENT FOR PUBLIC HEALTH AND PROFESSIONAL STANDARDS  
OFFICE OF THE PRINCIPAL SECRETARY**

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Ref. MOH/ENH/1/4

24<sup>th</sup> July 2023

**The Clerk of the National Assembly**

National Assembly  
Clerk's Chambers  
Parliament Building  
P.O Box 41842 - 00100  
**NAIROBI**

**STAKEHOLDER ENGAGEMENT ON THE PROPOSED FOOD AND FEED SAFETY  
CONTROL COORDINATION BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2023) BY  
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK**

Reference is made to a letter dated 6<sup>th</sup> July 2023, Ref: NA/DDC/A&L/2023/041 on the above stated subject matter. Below is the submission from the Ministry of Health for your consideration.

Section	Proposed amendment	Rationale
4 – Application of the Act "This Act shall apply to every person conducting food business or feed business"	Delete " <i>and every person conducting food business or feed business</i> " To read " <b><i>This act shall apply to every competent authority.</i></b> "	The object of the Act sec 3 (a) and (b) seeks to coordinate the function of competent authorities and not the conduct of both food and feed business



5(a) – guiding principle "The guiding principle for the implementation of this Act shall be (a) the protection of human <b>life</b> and health"	Delete "life and" To read <b>"The protection of human health"</b>	Protection of human life is implied in the protection of human health. In addition, the main goal of food safety is to ensure food will not cause harm i.e., ill health (food borne diseases)
9 (d)" Liaise with competent authorities to identify and advice on policy gaps and inadequate regulation in food safety and feed safety"	Replace "in" with <b>"of"</b> after regulation and insert <b>"official control"</b> after feed safety  To read: <b><u>"liaise with competent authorities to identify and advice on policy gaps and inadequate regulation of food safety and feed safety official control"</u></b>	The function of the food safety controller is to coordinate competent authorities responsible for the official control of food and feed safety.
9 (e) "assess the adequacy of food safety and feed safety preparedness and make recommendations to the relevant competent authority"	Insert <b>"emergency"</b> before preparedness  To read: <b>"assess the adequacy of food safety and feed safety emergency preparedness and make recommendations to the relevant competent authority"</b>	Preparedness in this context is in relation to emergency in food and feed safety
9 (i)– functions of the controller "Perform such other duties as may be necessary to ensure food safety and feed safety"	Replace "food safety and feed safety" with <b>"coordination of food safety and feed safety official control"</b>  To read: <b>"Perform such other duties as may be necessary to ensure coordination of official control of food safety and feed safety"</b>	Ensuring food and feed safety is the responsibility of food business operators, competent authorities regulate and verify systems for compliance to requirements
18(1)- Verification of mechanism to enforce food safety	Replace "in accordance with international standards for food safety and feed safety"	The verification by the controller is an assessment of the

<p>and feed safety requirements</p> <p>"The controller shall verify that a competent authority has mechanisms to enforce the requirements of food safety or feed safety in accordance with international standards of food and feed safety"</p>	<p>To read: <b><i>"The controller shall verify that a competent authority has mechanisms to enforce the requirements of food and feed safety"</i></b></p>	<p>competent authorities' ability to enforce the food and feed requirements which could be in a regulation or a standard</p> <p>Standards can be national, regional or international, the controller should not impose the use of standards</p>
<p>18(2) – scope of verification</p> <p>"The scope of verification conducted by the controller shall include –(a) conduct of inspections;(b) taking of samples and conducting analysis;(c)Staff health and hygiene ;(d) Examination of the records; and (e) issuance of certificates, permits and licenses</p>	<p>Replace a, c, d and e with</p> <p>The scope of verification by the controller shall include-</p> <p><b><i>a) Inspection procedures</i></b>  <b><i>(c)Food handlers' health and personal hygiene certification</i></b>  <b><i>(e) requirements and procedures for issuance of license, certificates and permits</i></b></p>	<ul style="list-style-type: none"> <li>● Verification is an act of assessing;</li> <li>● the controller should assess the Mechanisms (procedures /systems, set of rules) put in place by the competent authorities and not their activities as proposed e.g., conduct of inspections</li> <li>● Compliance to requirements is checked by Competent Authorities</li> <li>● Examination of records is an activity in all hence proposed deletion</li> </ul>

<p>22 – <b>(1)</b>" The Controller shall conduct risk assessment in relation to food hazards and feed hazards" <b>(2)</b>, "Where an overlap of functions is discovered upon conducting a risk assessment under sub section (1), the controller may conduct risk management on an identified hazard</p> <p><b>(3)-</b> "Upon conducting risk management under subsection (2), the Controller shall communicate the risk of the hazard to the relevant competent Authority"</p>	Delete;	<p>Outside the object and scope of the act: to effectively coordinate the performance of the functions of competent authorities and enhance accountability in the implementation of official control</p> <p>Risk analysis is a function of competent authorities and they are already doing it and therefore, the Controller should therefore not duplicate.</p>
First Schedule – Competent Authority (See List)	Include County Government	To Align to the constitution of Kenya (schedule – Four (4) Part Two (2) section 2(d)

**On consequential amendment second schedule, the following to be considered;**

a. Public Health Act Cap 242

### **Section 10A (1)**

"Where the Director General for Health determines that there is an overlap in his or her functions and the function of any other public institution in relation to food safety, the Director General for Health may request the controller to advise".

To read: " **Where the Director General for Health determines that there is an overlap in its functions and the function of any other public institution in relation to food safety, the Director General for Health may request the controller to advise taking cognizance of mandates of competent authorities**"

### **Section 10A (2)**

"Where conflict arises between the Director General for Health and any other public institution in the execution of his or her functions in relation to food safety, the Director General may request the controller to advise"

To read: "**Where conflict arises between the Director General for Health and any other public institution in the execution of its functions in relation to food safety, the Director General may request the controller to advise taking cognizance of mandates of competent authorities**"

b. Food Drugs and Chemical Substances Act Cap 254

New insertion as **Section 27B**

Role of the Controller"

**Sec 27B. (1)** Where the board determines that there is an overlap in its functions and the function of any other public institution in relation to food safety, the Board may request the controller to advise".

To read: "**Where the board determines that there is an overlap in its functions and the function of any other public institution in relation to food safety, the Board may request the controller to advise taking cognizance of mandates of competent authorities**"



**Sec 27B. (2)** "Where conflict arises between the Board and any other public institution in the execution of its functions in relation to food safety, the Board may request the controller to advise"

To read: **"Where conflict arises between the Board and any other public institution in the execution of its functions in relation to food safety, the Board may request the controller to advise taking cognizance of mandates of competent authorities"**

c. Health Act, 2017

**The draft provisions for amendments of this Act to be expunged, considering that the Act does not have direct provisions on food safety.**

### **Recommendation**

- We recommend the alignment of **those** various statutes with the constitution as consequential amendments

### **Conclusion**

We have no objection of the Bill progressing to the next stages while taking in to consideration the specific comments for amendments as stated above.

Mary Muthoni Muriuki, HSC

**PRINCIPAL SECRETARY**





**MINISTRY OF HEALTH  
DIVISION OF FOOD SAFETY  
INTERNAL MEMO**

**To** : Principal Secretary  
**State Department for Public Health and Professional Standards**

**Thro'** : Ag. Director General for Health

**Thro'** : Ag. Deputy Director General for Health

**Thro'** : Ag. Director, Directorate of Public Health & Sanitation

**From** : Division of Food Safety

**Date** : 13<sup>th</sup> July, 2023

**STAKEHOLDER ENGAGEMENT ON THE PROPOSED FOOD AND FEED SAFETY  
CONTROL COORDINATION BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2023) BY  
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK**

Reference is made to a letter written to the MOH dated 6<sup>th</sup> July 2023, Ref:NA/DDC/A&L/2023/041 on the above stated subject matter.

The Food and Feed Safety Control Coordination Bill, 2023 was drafted on the directive of National Parliament as an alternative to the defunct Kenya Food and Drugs Authority (KFDA) which has been enacted as Kenya Drug Authority Bill, 2022. The expulsion of the food aspects during the 3<sup>rd</sup> reading of KFDA bill was subject and commitment by the government to provide for effective coordination of all the competent authorities and county government agencies/departments having a role to play in food and feed safety. It is also intended to designate a specific office as a point of reference for food and feed safety in Kenya. The office, referred to as '**office of the food safety controller**' is designated as a '**state office**' (Section 6(2)) to give prominence to food and feed safety issues in Kenya. The spirit of the function of the office is primarily coordination of competent authority and not to directly deal with

food business operators except in rare circumstances where there is a vacuum among the competent authorities.

Under the leadership of joint secretariat of Ministry of Health and Ministry of Agriculture and Livestock Development, and with the involvement of all affected regulators with support from the AGs office and Kenya Law Reform Commission, a technical team was established to fast track the revision of National food safety policy,2022 and draft a food safety legislation to be submitted to the parliament as a government sponsored bill.

The technical team convened and developed a revised food safety policy,2022 in which the food and feed safety control coordination bill,2023 is anchored. The Food safety policy was finalized and submitted to the Cabinet for approval and publication while the bill was submitted to Parliament.

Attached is the MOH submission to the National Assembly, Office of the Clerk parliament for your concurrence and signature

Leonard Kintai

**FOR HEAD, DIVISION OF FOOD SAFETY**



**MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT**  
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13<sup>th</sup> July, 2023

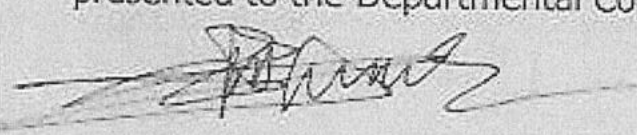
Samuel Njoroge  
Clerk of the National Assembly

Dear

**STAKEHOLDER ENGAGEMENT ON THE FOOD AND FEED SAFETY  
CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO.  
21 OF 2023) BY THE DEPARTMENTAL COMMITTEE ON  
AGRICULTURE AND LIVESTOCK**

Reference is made to your letter Ref NA/DDC/A&L/2023/041 dated 6<sup>th</sup> July, 2023 concerning the above subject matter.

Attached are the submissions of the State Department for Crop Development on the Food and Feed Safety Control Co-Ordination Bill to be presented to the Departmental Committee on Agriculture and Livestock.

  
Kello Harsama  
**PRINCIPAL SECRETARY**

Encl.







**STATE DEPARTMENT OF CROP DEVELOPMENT SUBMISSION ON  
THE FOOD & FEED SAFETY CONTROL COORDINATION BILL  
(NATIONAL ASSEMBLY BILL NO. 21 OF 2023) BY THE  
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK**

**Introduction**

Food safety is central to public health, poverty reduction and sustainable development. Access to safe food is a fundamental right as prescribed in Article 43 as read with Article 46 of the Constitution of Kenya. Over the years concerted efforts and initiatives have been directed at addressing improvement of food safety.

Protecting consumers from contaminated or unsafe foods and feeds cost a significant amount of expenditure in any food and feed industry business. These preventative measures are both time and resource-intensive, but constitute an essential part of doing business in the food and feed industry. Ensuring that Food is safe is a collective responsibility and various agencies under different ministries and using different laws manage the Food Safety System in Kenya. However, the key Ministries are Ministry of Agriculture and Livestock Development, Ministry of Health, Ministry of Blue Economy and Mining (Fisheries) and the Ministry of Investment and Industrialization.

**Rationale of the Food and Feed Safety Bill**

Ensuring food and feed safety and product quality is a demanding, ongoing undertaking that affects every level of the food and feed supply chain. In order to prevent recalls and improve productivity, food and feed processors and manufacturers need an effective food and feed safety management system.

The EU Legislation 178, which strengthened food safety requirements, necessitated Kenya having a coordination mechanism for food safety system. As early as 2013 the need to review existing food safety legislative framework and creation of a body to direct and coordinate all Government



activities in the field of food safety in close collaboration with all relevant governmental and non-governmental sectors had been provided for in the Food Safety Policy of 2013.

Currently, the coordination on food and feed safety is by a joint committee of the Ministry of Health and Ministry of Agriculture known as **National Food Safety Coordinating Committee**. This committee lacks the legal mandate to handle food safety matters and is therefore very ineffective.

The Food Safety Policy 2013 has since been reviewed to establish and maintain a rational, integrated farm-to-fork food safety system that harmonizes inter-agency efforts, minimizes inter-agency conflict and overlap, establish a coordination mechanism. This will ensure the protection of public safety and food trade consistent with World Trade Organization (WTO) agreement on the Sanitary and Phytosanitary (SPS) Protocol measures and other international requirements.

This Bill comprehensively address food safety challenges based on policy with a targeted scope and provisions with a focus on effective implementation based on the following considerations:

- a) Food is safe when produced and handled using appropriate measures; any risks to food safety are identified continuously and addressed expeditiously along the value chain from farm to fork;
- b) Need for other foods and nonfood products relevant to food safety being produced and used in adherence to safety standards;
- c) Need to utilize the respective competencies required for food safety regulation along the value chain.
- d) Need to comply with International Standards based on the FAO/WHO-Codex Alimentarius Commission (CAC) for food safety, the World Health Organization (WHO) for human health, the International Plant Protection Convention (IPPC) for plant health and the World Animal

Health Organization (OIE) for animal health and welfare. This is enforceable globally through the Sanitary and Phytosanitary (SPS) Protocol of the World Trade Organization (WTO) agreement to which Kenya is signatory.

The coordination and oversight mechanism among the institutions that deal with food safety control is currently inadequate. This has created lapses and overlaps of mandates with ensuing inefficiencies in food safety system. Food safety needs to be organized in a more coordinated and integrated way to deliver a high level of public health and consumer protection in accordance with both local and international requirements.

The review of existing statutes will establish a coordination requirement with the regulatory agencies. It will also require review of existing statutes to align with the requirements that food business operators take responsibility of the safety of the food they handle, existence of gaps and devolved system of government. Regulatory agencies should take a risk-based approach to the regulation of food within their mandate.

### **Recommendation**

Food systems should ensure that food and feed is produced and distributed through a safe process that results in wholesome products fit for human consumption.

Increased demand for food coupled with reduction of arable land and water has led to adoption of technologies of agricultural production and enhanced trade, which requires adequate monitoring of biological, chemical, and physical food hazards.

Coordination of regulatory agencies, enforcement of existing legislation and accountability, which the Bill seeks to provide, by all along the food value chain will enhance Kenya food safety.



# PEST CONTROL PRODUCTS BOARD

(A Statutory Organization of Government)

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Mobile: 0720 480 904/0735 778 743



P.O. Box 13794-00800  
Loresho, off Waiyaki Way,  
NAIROBI, KENYA  
Email: info@pcpb.go.ke  
md@pcpb.go.ke  
Website: www.pcpb.go.ke

Your Ref:.....

Our Ref:..... **PCPB/REG/Vol.I/23/097**

**18<sup>th</sup> July 2023**

Date:.....

Principal Secretary  
The Clerk of the National assembly  
P. O. Box 41842-00100  
NAIROBI

**RE: STAKEHOLDER ENGAGEMENT ON THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO.21 OF 2023) BY THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK**

We refer to the letter Ref NA/DDC/A&L/2023/041 dated 6<sup>th</sup> July 2023 inviting various public institutions to submit comments on the proposed Food and Feed Safety Control Coordination Bill 2023.

The Pest Control Products Board appreciates the importance of the Food and feed Safety Control Coordination Bill 2023 to address some weaknesses in food safety coordination in the country. Our observations are as follows:-

**1. Definition terms**

"Cabinet Secretary" means the Cabinet Secretary responsible for food safety- This should be made clear to avoid confusion, since food safety can be domiciled in Agriculture or in Health.

**2. On making regulations**

Clause 33(1). Considering the diversity in food safety – it may relate to pesticides and pesticide residues, microbial contaminants, Mycotoxins, heavy metals, etc., consider adding "in consultation with competent authorities to utilize their expertise when developing regulations.

**3. First schedule**

Please consider including other Competent Authorities such as Veterinary Medicine Directorate (VMD) responsible for matters animal health products including pesticides and drugs for use in animals.

**Dr. Esther Kimani, OGW**  
**CHIEF EXECUTIVE/SECRETARY**







**NATIONAL BIOSAFETY AUTHORITY**

NACOSTI BUILDING (2<sup>ND</sup> FLOOR)  
UPPER KABETE, OFF WAIYAKI WAY

P.O. Box 28251 - 00100, Nairobi. | Tel: +254 20 267 8667  
Email: info@biosafetykenya.go.ke | Website: www.biosafetykenya.go.ke

**When replying please quote:**  
**Our Ref: NBA/SKH/25/1(93)**

**18<sup>th</sup> July, 2023**

The Clerk  
The National Assembly  
P O Box 41842 - 00100  
**NAIROBI**

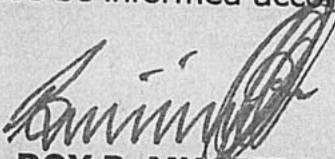
**STAKEHOLDER ENGAGEMENT ON FOOD AND THE FEED SAFETY  
CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO.21 OF  
203) BY DEPARTMENTAL COMMITTEE ON AGRICULTURE AND  
LIVESTOCK.**

The National Biosafety Authority (NBA) is in receipt of your letter Ref. NA/DDC/A&L/2023/041 dated 6<sup>th</sup> July 2023 in respect of the above Bill.

The Authority recommends the following changes:

- a. The definition of the word "**feed**" in Clause 2 of the Bill should be expanded to include feed for animals which are not consumed as food; and
- b. Clause 33(1) of the Bill should be reviewed to include a requirement that in making Regulations, the Cabinet Secretary shall also consult the relevant Competent Authority

Please be informed accordingly.

  
**DR. ROY B. MUGIIRA, Ph.D, MRSB**  
**CHIEF EXECUTIVE OFFICER**



**Copy to:** The Principal Secretary  
State Department for Crop Development  
Ministry of Agriculture and Livestock Development  
P. O. Box 30028-00100  
**NAIROBI**



**MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT  
STATE DEPARTMENT FOR LIVESTOCK DEVELOPMENT**

**MEMORANDUM ON THE FOOD AND FEED SAFETY CONTROL  
COORDINATION BILL PRESENTED TO THE DEPARTMENTAL  
COMMITTEE ON AGRICULTURE AND LIVESTOCK OF THE  
NATIONAL ASSEMBLY**

**JULY 2023**



## **1.0 ISSUE**

The Executive forwarded the Food and Feed Safety Control Coordination Bill to Parliament to process after going through extensive stakeholder engagement locally and internationally which has since been published. The Bill seeks to provide for the coordination of the public institutions in the control of food and feed safety from farm to fork; to establish the office of the Food Safety Controller; to provide for the role of the County Governments in food and feed safety and for connected purposes.

## **2.0 BACKGROUND**

2.1 Food safety means all measures put in place to ensure that food will not cause harm to the consumer when it is prepared and/or eaten according to its intended use. It is central to consumer safety, public health, food security and key to facilitation of local and international trade. Access to safe food is a fundamental right as prescribed in Article 43 as read with Article 46 of the Constitution of Kenya. Food safety needs to be assured by protecting the food supply from all types of hazards that may occur during all stages of food production, including growing, harvesting, processing, transporting, retailing, distributing, preparing, storing and consumption.

2.2 Kenya is a signatory member to the World Trade Organization (WTO). Kenya especially the Agreement on Application of Sanitary and Phytosanitary Measures (SPS Agreement) on which basis we set our own food safety policies, laws and regulations, provided they are not in conflict with the provisions of the SPS Agreement.

2.3 Ensuring that Food is safe is a collective responsibility and in Kenya the Food Safety control is managed using several laws implemented by four key Ministries: Ministry of Agriculture and Livestock Development, Ministry of Health, Ministry of Mining, Blue Economy and Maritime Affairs. Fisheries and Corporative, and the Ministry of Investments, Trade and Industry. The existing food safety policy and laws have failed to harmonize operations of

the different actors and agencies. This has hampered effective coordination of food safety in the country leading to persistent lapses in food control.

2.4 Food Safety regulation runs along the farm to fork continuum where various competencies are necessary to play their role in assuring food safety through all stages of production up to sale.

2.5 International good practice does not mix food safety regulation with medicines regulation. Human medicines are not part of food safety. Veterinary medicines are only part of food safety as far as those used on food animals since they can be consumed in milk and meat if appropriate withdrawal periods are not observed. Global food safety standards are based on the Codex Alimentarius Commission which is a joint initiative between the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). The Secretariat for Codex is hosted by FAO.

### **3.0 ROLE OF VARIOUS MINISTRIES IN FOOD SAFETY**

3.1 While the choice of which ministry takes the lead in food control and food safety is determined by local politics, the FAO has put a strong case for the ministry responsible for agriculture as it is able to address food safety issues along the entire food production chain from farm to fork. Many hazards enter the food chain during the production process, which should be controlled through the application of good agricultural practices, good manufacturing practices and good hygiene practices. Generally, the ministry responsible for agriculture has the necessary skills and knowledge to build the required safety and quality into the food product right from its primary production. And because agricultural exports are often a critical part of many countries' (especially developing countries') foreign exchange earnings, there are strong justifications for the agricultural sector making significant investments to ensure that food products meet established standards. Involvement of the ministry responsible for agriculture is also a better way to secure farmers' capital investments, in that preventive measures are applied, and unsafe products can be removed earlier along the food chain.



## **4.0 DEVELOPMENT OF THE FOOD SAFETY POLICY AND FOOD & FEED SAFETY CONTROL COORDINATION BILL**

4.1 The two Ministries: Ministry of Agriculture and Livestock Development and Ministry of Health developed a Six-month Road map from November 2019 upon which to deliver a more comprehensive Food Safety Policy and Bill. This was followed by a series of stakeholder engagements, call for public comments through newspapers and a bench marking trip to the United States of America (USA) and Denmark. The USA and Danish visits were designed to specifically understand their system for food regulation.

4.2 The process of developing the policy and bill was however suffered a setback in March 2020 following the COVID 19 pandemic. However, from early 2021 to 2022, the multistakeholder technical team developed the Draft Policy and Bill which was taken through stakeholder engagement including presentation to the Departmental Committees on Agriculture and Livestock of both levels of Parliament before subsequent validation.

## **5.0 RECOMMENDATION**

- As captured in the present Bill regulation of Food safety should always be done separately from regulation of medicines as guided by the SPS Agreement of WTO and other international standard setting bodies.
- The revised Food safety Policy developed by the Multidisciplinary Team and Food & Feed Safety Control Coordination Bill published by Parliament should be fast tracked to bequeath Kenya a modern food safety law and policy that guarantees consumer safety and facilitates trade.

- The current Food and Feed Safety Control and Coordination Bill is properly drafted to address the current challenges in food safety regulation devoid of any business interests and is backed by a sound Food Safety Policy.

Signed by:

**Name**

**Signature**

**Date**

Hon. Jonathan Mueke  
**Principal Secretary**

.....

.....





**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)**  
**HEADQUARTERS - Ololua Ridge, Karen**

P. O. Box 49592 00100 GPO Nairobi, Kenya, Tel: 0206618000 / 0709891000 E-mails:director@kephis.org  
 Website: www.kephis.org

**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)**  
**SUBMISSION ON THE FOOD AND FEED SAFETY CONTROL**  
**CO-ORDINATION BILL, 2023**

A Bill for

**AN ACT** of Parliament to provide for the coordination of the public institutions in the control of food and feed safety; to establish the Office of the Food Safety Controller; to provide for the role of County Governments in food and feed safety; and for connected purposes

<b>PART</b>	<b>CHAPTER</b>	<b>CLAUSE/SHORT TITLE</b>	<b>COMMENT</b>
1	Preliminary	1-Short title.	Ok
		2 — Interpretation.	ok
		3—Object of this Act.	ok
		4—Application of this Act	ok
		5 —Guiding principles.	5 (e What are we promoting as trade practice in part(5 e)
2	<b>OFFICE OF THE FOOD SAFETY CONTROLLER</b>		
		6—Establishment of the Office of the Food Safety Controller.	ok
		7 —Appointment of the Controller	ok
		8—Qualifications of the Controller	ok
		9—Functions of the Controller.	ok
		10—Vacancy in the Office of the Controller. 11 —Removal from Office.	ok



		12— Staff of the Office of the Controller. 13 —Remuneration of the Controller.	ok
		14—Delegation by the Controller.	ok
		15 —Protection from personal liability.	ok
3	FOOD SAFETY AND FEED SAFETY BY COUNTY GOVERNMENT		
		16—Functions of a county government.	There is need for clarity when it comes to cross border trade (International trade) because the functions in g and h are also carried out by competent authority. E.g pack house and farms may be in various counties and ought to be inspected by competent authorities for compliance to international market requirements
4	FOOD SAFETY AND FEED SAFETY CONTROL AND COORDINATION		
		17 —Multi-annual control plan.	ok
		18 —Verification of mechanisms to enforce food and feed safety requirements.	ok
		19 —Overlaps in functions of competent authorities.	There is need to cater for where there could be overlap of CAs and county government also in the clause.
		20—Audit of food safety or feed safety mechanisms.	ok
		21 —Verification audit.	ok
		22 —Risk analysis.	There is need for clarify on (2) because subsection (1) is talking about food and feed hazards therefore having no link with (2) and (3). It all conflict with the role of the controller.

			For clarity subsection (4) to include the counties Generally, 22 is not clear.
		23 —Traceability.	ok
			We propose to include criteria for verifying designated laboratory.
		24 Reference laboratory.	Ok
		25 —Report on food safety and feed safety.	Ok
		26— Appointment of compliance officers.	Ok
5	FINANCIAL PROVISIONS		
		28 —Funds of the Office of the Controller.	ok
		29 —Investments of Funds	Ok
		30 —Annual Estimates	Ok
		31 —Accounts and Audit	ok
6	MISCELLANEOUS PROVISIONS		
		32-Acts to supersede other acts	Ok
		33-Regulations	Ok
		34-Consequential Amendments	Ok
		First Schedule-Competent Authorities	Ok
		Second schedule- Consequential Amendments  s.5 insert the following new paragraph immediately after paragraph (m)-	Implementation of multiannual for purpose of the flow of KEPHIS ACT. Insert new paragraph: we propose(mb) to be inserted immediately after paragraph C of KEPHIS act of 2012 as(ca) Implement Multi annual control plan safety program conducted on the produce or products of plant origin





# NatureKenya

THE EAST AFRICA NATURAL HISTORY SOCIETY

National Museums of Kenya, Museum Hill  
P.O. Box 44486, 00100 GPO Nairobi  
Tel: +254 (0)20 3537568  
Cell: +254 (0)771 343138, (0)780 149200  
Email: office@naturekenya.org  
www.naturekenya.org

The Clerk of the National Assembly  
P.O. Box 41842 – 00100  
Nairobi

Dear Sir/ Madam,

**RE: Memoranda on The Food and Feed Safety control and Coordination Bill, 2023**

Nature Kenya – the East Africa Natural History Society – appreciates this consultation.

The enforcement of quality standards should emphasize on compliance to environmental and biodiversity safeguards as set out in the Environmental Management and Coordination Act 2015 to ensure that both produce quality and **environmental integrity** are equally maintained.

The environment, and especially natural ecosystems, provide ecosystem services that are key in the production of quality food and feed, and moderation of climate change. The natural environment includes the sun and the stars, the air, soil and water, animals and plants, people and other living things. The way in which the components affect each other occurs everywhere. The bill needs to enhance **conservation of biodiversity in production and processing systems**.

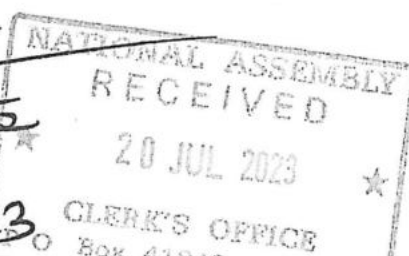
Find below some inputs to include the biodiversity conservation component in the bill.

Incorporate biodiversity safeguards and climate adaptation provisions to make food and feed safety a shared responsibility across the value chain. Recognize the link between safe food and feeds, and biodiversity. Additionally, promote sustainable production, processing and handling of foods and feeds including wastes.

1. Provide for conservation of biodiversity and genetic resources in production system connected ecosystems. Encourage production that respects other sensitive ecological components to enhance their conservation. For example, promote the use of hedgerows, windbreaks and mixed plantings to encourage bees and other pollinators.
2. Use of water, planting media, pesticides or fertilizers that contain harmful microbial or chemical contaminants for production of food and feed has serious ramifications on human health. Example, food produced with water from Nairobi River is not safe. Excessive use of pesticides is equally harmful.
3. Aim to promote peace and end conflicts that result from scarcity of animal feed among pastoralist communities to safeguard lives, property and environment. The invasion of conservancies by armed militia has increased human-human conflict and escalates climate change. These continue to increase threats to biodiversity and human wellbeing in the country.

*Laureen Wesonga*

*pls facilitate*  
*21/7/23*



4. Foods and feeds identified as a threat to human and animal health should be disposed of. It is unfortunate that produce that exceeds maximum chemical concentrations for export are availed to local markets. Many crops, in particular green vegetables, reach the local market with a lot of chemical residues, which are toxic to people.

**Specific comments:**

**Guiding principles: Clause 5** – The bill is weak on biodiversity conservation and ecosystems safeguards that ensure ecosystem health is maintained as well as human health. The ecological footprints of food and feed should be monitored to enhance a net gain in biodiversity. Amend to add the below objective in order to enhance prioritization of biodiversity, landscape restoration, and climate change adaptation in food and feed systems to read, **Clause 5:**

- (g) Promotion of sustainable production, processing and handling of food and feeds.*
- (h) Protection of human life and health; animal life and health; and property.*

**Functions of a County government: Clause 16 (1) (a)** – The bill obligates county governments to implement and enforce food safety and feed safety measures. This is an important function. However, the bill should outline some of the key standard practices the counties should promote to enhance compliance. Amend to add the following practices to read, **16 (1) (a);**

- i. Promote Integrated Natural Resource Management considering Ecosystem Based Approaches.*
- ii. Promote organic farming, minimize the use of chemical fertilizers and regulate the use of pesticides.*

**Competent Authorities: First Schedule (s.2)** - Enforcement on compliance on environmental and biodiversity safeguards is set out in the Environmental Management and Coordination Act to ensure that environmental integrity is maintained. The Act establishes the *National Environment Management Authority (NEMA)*, which is the authority in enhancing environmental compliance. Therefore, amend to recognize NEMA among the competent authorities.

Yours Sincerely,



Dr. Paul Matiku.

Executive Director, Nature Kenya



A short history of Nature Kenya is attached for your information.

### **Background information about Nature Kenya**

Nature Kenya - the East Africa Natural History Society (EANHS) - is Africa's oldest environmental Society, established in 1909 to promote the study and conservation of nature in eastern Africa. We remain a non-political and not for profit membership Society. Our mission is connecting nature and people. Our work is firmly based on partnership, science and action. We use the best available science to inspire positive action for biodiversity by and for partners - Government, local communities and private sector.

Nature Kenya takes practical action. We work with and for people - to improve their quality of life alongside, and as a result of, nature conservation. We collaborate with others wherever possible, at local, national, regional or global levels, linking with community groups, governments, businesses, universities and civil society groups to increase the impacts of our efforts.

Some of our achievements include:

- Founded the National Museums of Kenya, now a world-renowned institution for research and education.
- Published, since 1910, the *Journal of East African Natural History*, a respected scientific journal now jointly produced with the National Museums.
- Established and maintained, with the National Museums of Kenya, a comprehensive natural history library.
- Engaged its members in the study, enjoyment and conservation of nature in Eastern Africa, through field trips, lectures, publications, and opportunities to take part in research activities since 1909.
- Identified and designated Important Bird Areas (IBAs) for Kenya, in collaboration with the National Museums; and documented the plants, animals and other biodiversity of Eastern Africa as a contribution to expanding the taxonomic scope of priority setting from IBAs to Key Biodiversity Areas (KBAs). Since IBAs are KBAs based on birds, they are today referred to as Important Bird and Biodiversity Areas.
- Encouraged and supported community-based organizations to become Site Support Groups (SSGs) promoting conservation and alternative livelihoods at Important Bird Areas, especially those without official protection status.
- Developed partnerships among Government and non-government organizations for sustainable conservation action at IBAs through the Important Bird Areas National Liaison Committee (IBA-NLC). We work with others in the development of policies, legislation and institutional frameworks that safeguard the ecological sustainability of IBAs in Kenya
- Mobilized resources to connect nature and people to take action for biodiversity conservation through development and implementation of donor funded projects at priority IBAs in Kenya.
- Work globally through the Birdlife International Partnership and its network of like-minded organizations in Eastern Africa and beyond in 117 countries and territories.

For more information visit our website at [www.naturekenya.org](http://www.naturekenya.org)





**MEMORANDUM ON THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL, 2023**

Submitted to

**THE CLERK  
NATIONAL ASSEMBLY  
PARLIAMENT BUILDINGS  
P O BOX 41842-00100,  
NAIROBI**

Presented By

**ANTHONY MWANGI, CHIEF EXECUTIVE,  
KENYA ASSOCIATION OF MANUFACTURERS**

**AUGUST 2023 – NAIROBI, KENYA**

## 1.0 INTRODUCTION

Kenya Association of Manufacturers (KAM) is the leading business membership organization in East Africa that plays a key advocacy role on behalf of manufacturers in Kenya and in the region through her strong linkages with all sectors of the economy. KAM has over 950 members and represents over 40% of Kenya's manufacturing value add industries.

KAM represented Kenya's manufacturing sector interests in the East Africa Trade integration process through the design, ratification and implementation of the Customs Union, and the Common Market Protocol. The integration process in East Africa has been successful with Kenya Playing a critical role. The EAC region integration is expected to spur the manufacturing sector enhancing intra-EAC trade in value added products and thus grow the economies of the region.

KAM has a membership of manufacturers across thirteen manufacturing sectors and Service ranging from **Food and Beverage, Pharmaceutical; Automotive; Chemical and Allied; Metal and Allied; Paper and Paperboard; Leather and Apparel; Textile and Apparel; Plastics and Rubber; Timber, Wood and Furniture; Electric and Electronic; Building, Mining and Construction; Agro-Processing.**

## 2.0 PROPOSED AMENDMENTS TO THE FOOD AND FEED SAFETY CONTROL COORDINATION BILL, 2023

In response to the call for public participation on the afore-referenced Bill, we propose the following amendments to be considered before the Bill is enacted. A summary of the key issues is as follows:

### 2.1 General Comments

#### a) Facilitation of Trade

The Bill is silent on the food and feed safety as it regards to import and export. The Bill should work within the established trade regimes to adequately extend food and feed safety concerns to Kenya's imports and exports.

Aside from assuring safe food for consumers, the new law needs to align with international standards such as FAO-WHO CODEX, EAC considering the global nature of supply chains and commerce, with Kenya being import/export oriented.

#### b) Private Sector Involvement

As the Bill stands, it is intent on policing the private sector rather than working with them. The Bill should be facilitating the private sector. This can be achieved by the Bill being more proactive, flexible, and putting focus on education, prevention, and surveillance. The Bill should also address new business models as well as leverage emerging technologies in terms of testing, transmission of data, traceability among others.

This can only be achieved with cooperation from the private sector. More incentives should be put in place by the Government to enable the private sector to be full participants in the journey towards high levels of food safety in the country.

### **c) Training and Capacity Building**

The Bill does not provide how the government intends to build capacity of the private sector to enable them take full responsibility and to be in compliance with the Bill. In our view the Bill should make provisions and commit resources for adequate and continuous capacity building of Food Business Operators to make room for private sector self-regulation.

It is also necessary that guidance is provided to coordinate improvements in infrastructure; training and capacity building; communication and managing responsibilities across agencies.



CLAUSE	PROPOSAL	JUSTIFICATION
<p>1. <b>Clause 2 Interpretation</b></p> <p>“<b>Controller</b>” means a Food Safety Controller appointed under section 7.</p>	<p>We propose to amend this clause to include a proper definition of “controller”.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> <li>• There is need to clearly define who the controller is, and under which ministry or agency of the Government they are domiciled.</li> <li>• The Bill needs to also clarify whether the office of the controller will report directly to the President as the appointing authority or to the Cabinet Secretary responsible for food safety.</li> </ul>
<p>2. <b>Clause 2 Interpretation</b></p> <p>“<b>Cabinet Secretary</b>” means the cabinet secretary responsible for food safety;</p>	<p>We propose that this provision is deleted.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> <li>• The role of the Food and Feed Safety Controller is overarching and offers a guiding role in the performance of official controls by competent authorities. It is, therefore, important that the office is domiciled above ministries so that the role is not left to one ministry.</li> <li>• The objectives in this proposed Bill cut across various ministries namely, Agriculture, Trade and Industrialization, Health, and water.</li> <li>• Food safety is an essential part of food security. This implies that, health, food safety and food security are relevant to a wide range of SDGs whose monitoring and implementation is domiciled within the Office of the President.</li> </ul>

3.	<p><b>Clause 4</b> <b>Application</b></p> <p>This Act shall apply to every Competent Authority and every person conducting food business or feed business.</p>	We propose the deletion of this clause.	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> <li>• This can bring about duplication of roles as the office of the controller and the Competent Authorities are both performing the same functions.</li> <li>• Too many facets of food safety are being covered by different competent authorities which defeats the purpose of the bill.</li> <li>• Further, the competent authorities as listed in the first schedule all have their parent Acts.</li> </ul>
4.	<p><b>Clause 16</b> <b>Functions of a County Government</b></p>	<p>We propose that the food and feed safety license be issued by a single national entity.</p> <p style="text-align: center;"><b>Or</b></p> <p>In the alternative, we propose to amend this clause to further clarify on the type of license to be issued in paragraph (b).</p>	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> <li>• More clarification is required on the type of license that the counties will issue.</li> <li>• Counties already issue several licenses, many of which relate to food and food safety.</li> <li>• Another license would be a duplication and an added burden on the cost of doing business.</li> <li>• However, if a single national entity were to issue the license, most of the challenges cited would be cured. It would eliminate the duplication of roles and allow counties to monitor food and feed safety, rather than license it.</li> <li>• Counties currently lack capacity to</li> </ul>

			inspect and undertake testing of food and feed stuff. This capacity needs to be built first.  <ul style="list-style-type: none"> <li>Similarly, Counties need to build capacity to prepare and publish county safety food reports and undertake surveillance before being allowed to release reports.</li> </ul>	
5.	<b>Clause 19 Overlaps in functions of competent authorities.</b>	<ul style="list-style-type: none"> <li>We propose to amend this clause to provide more clarity on how the duplication and conflicting regulations will be resolved.</li> </ul> <p>We propose for the reduction of the numbers of Competent Authorities to a manageable number (frontline) 5 by merging the mandates.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> <li>All the competent authorities as listed in the First Schedule already have their set policies, procedures, and regulations.</li> <li>It will be an uphill task for the Controller to provide direction to these other independent bodies.</li> <li>We therefore propose for the procedure or guidelines on resolving overlaps or conflicts in mandate to be anchored in the Bill.</li> </ul>	
6.	<b>Clause 21 (1) Parameters for verification of compliance by the controller</b> (1) the compensation mechanism	We propose to amend this clause to provide clarification on the compensation mechanism.	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> <li>As currently drafted, the paragraph (1) is a bit ambiguous on the notion of the compensation mechanism.</li> <li>More clarification is needed on the type and amount of compensation, the payer and the recipient of the compensation as well.</li> </ul>	
7.	<b>Clause 23 Traceability</b>	We propose to amend this clause to include the specific traceability requirements that food and	We make this proposal based on the following justifications:	

		feed business operators will need to adhere to.	<ul style="list-style-type: none"> <li>Food and Feed business operators will be in a better position to comply with the traceability requirements if they are aware of them beforehand.</li> <li>Inclusion of the requirements in the Bill will help to anchor them in the law and protect food and feed business operators from requirements that may be imposed upon them without their input.</li> </ul>
8.	<b>Clause 24</b> <b>Reference Laboratory</b> 12. (1) The Controller in consultation with competent authorities shall designate a laboratory as a reference laboratory for confirmatory testing.	<ul style="list-style-type: none"> <li>We propose to amend this clause to include a mechanism to compel the government to build more public testing laboratories.</li> <li>Further, the designated official testing laboratories criteria for designation should be made clear and qualified by KENAS - I7025</li> </ul>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> <li>There is currently a lack of sufficient laboratories with adequate infrastructure and resources to support scientific risk analysis and the upgrading of food safety regulatory system.</li> <li>The government should also build and equip testing laboratories in addition to regulating and designating already existing ones.</li> <li>This will help to increase the levels of food safety across the entire value chain.</li> </ul>
9.	<b>Clause 27</b> <b>Powers of compliance officer</b>	We propose for the deletion of this clause.	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> <li>The role of the Office of the Controller is overarching. It provides for the effective coordination of competent authorities in the control of food and feed safety and therefore should not be exciting operational roles such as inspection, and enforcement.</li> </ul>

			<ul style="list-style-type: none"> <li>• Compliance enforcement should be given to one entity.</li> <li>• There are already other competent government agencies whose officers perform these tasks.</li> <li>• Furthermore, the Office of the Food Safety Controller as envisioned should be high level, dealing with Competent Authorities and not directly with food business operators.</li> <li>• This may also lead to harassment of food business operators and rent seeking, especially at county level.</li> <li>• Addition of the staff of the Food and Feed Safety Controller will also be a duplication of roles.</li> <li>• It may also lead to confusion among the food business operators when they receive conflicting information from different agencies.</li> <li>• We therefore propose that only one government agency have the powers outlined in this clause.</li> </ul>
10.	<p><b>Clause 33 (2) Regulations</b></p> <p>“Without prejudice to subsection (1), the regulations made under this section may provide for –</p> <p>a) The conduct of Risk Analysis.</p>	<p>We propose the deletion of this clause.</p> <p>Or in the alternative</p> <p>We propose for the harmonization of the proposed regulations with already existing national regulations.</p>	<p>This proposal is based on the following justifications:</p> <ul style="list-style-type: none"> <li>• All the competent authorities already have their own regulations, some of which touch on the proposed areas under clause 33.</li> <li>• For example, KEBS has already started on HACCP implementation. Risk analysis and</li> </ul>



	<p>b) The traceability of food.</p> <p>c) The designation of laboratories for official control (d)...</p>		<p>food traceability is already included in HACCP.</p> <ul style="list-style-type: none"> <li>• Including this here again amounts to duplication of regulation and creates confusion.</li> <li>• We therefore propose for harmonization of the proposed regulations to avoid duplication of roles and confusion in the implementation of the Act.</li> </ul>
11.	<p><b>First Schedule</b></p> <p><b>Competent Authorities</b></p>	<p>We propose for a harmonization of the competent authorities.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> <li>• Several of the listed competent authorities have overlapping mandates.</li> <li>• This may cause confusion during the implementation of the provisions of the Act.</li> </ul>





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# Kenya Meat Commission

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KMC/MC/015(A)/2023/24

18 July 2023

**The National Assembly**

Office of the Clerk  
P O Box 41842-00100  
Nairobi

Dear Sir,

**RE: STAKEHOLDER ENGAGEMENT ON THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO.21 OF 2023) BY THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK**

Ref: NA/DDC/A&L/2023/041 dated 06 July 2023.

1. Receipt of the above referenced letter is hereby acknowledged and contents therein noted.
2. We have perused the said Bill and are in concurrence with contents therein. Accordingly, the Commission have no further submissions to make on the bill.
3. Kindly acknowledge receipt.

  
**J N GITHAGA**  
Brigadier  
Managing Commissioner

