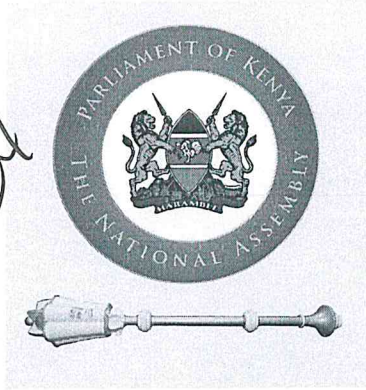


Approved
DS/NA
6/6/2024




THIRTEENTH PARLIAMENT – THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

REPORT ON:

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

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	06 JUN 2024
	DAY: THURSDAY
TABLED BY:	CHAIRPERSON, COMMITTEE ON AGRICULTURE AND LIVESTOCK
CLERK-AT THE TABLE:	Anne Shibuske

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

JUNE 2024

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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Agriculture and Livestock on its consideration of the Senate Amendments to the Food and Feed Safety Control Co-ordination Bill (*National Assembly Bill No. 21 of 2023*) which was passed by the National Assembly on 23rd August 2023 and submitted to the Senate pursuant to the provisions of Standing Order 142 of the National Assembly Standing Orders. The Senate considered and passed the Bill with amendments on Thursday, 21st March 2024.

The Senate amendments to the Bill were referred to the Departmental Committee on Agriculture and Livestock for consideration and reporting back to the House on 16th April 2024.

The Committee held a meeting on Friday, 17th May 2024 to consider the Senate Amendments to the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2023). The Committee agreed with the amendments proposed by the Senate to clauses 22 and 25 but rejected the amendments proposed to the First Schedule to the Bill because competent authorities at the county level are not recognized internationally and the competent authorities proposed by the Senate report to the competent authorities listed in the Bill.

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

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

On behalf of the Departmental Committee on 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 Senate Amendments to 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 Senate Amendments to the Food and Feed Safety Control Co-ordination Bill (*National Assembly Bill No. 21 of 2023*) and has the honour to report back to the National Assembly with the recommendation that the House adopts the Committee's recommendations on the Senate Amendments.

Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP
Chairperson, Departmental Committee on Agriculture and Livestock

CHAPTER ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

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

- i. 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. 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. study and review all the legislation referred to it;**
- v. study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. 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. vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);*
- viii. examine treaties, agreements and conventions;*
- ix. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. 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 27th October 2022 and comprises the following Members:

Chairperson

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

UDA Party

Vice-Chairperson

Hon. Brighton Leonard Yegon, MP
Konoin Constituency

UDA Party

Hon. Sabina Wanjiru Chege, CBS, MP
Nominated Member

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

DAP-K 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. Lauren Omusa Wesonga
Clerk Assistant I/Head of Secretariat

Mr. Victor Kanda Kilimo
Clerk Assistant III

Mr. David Ng'eno
Principal Research Officer II

Ms. Brigitta Mati
Legal Counsel I

CPA. Robert Ng'etich
Fiscal Analyst II

Mr. Gerald Kadede
Legal Counsel II

Mr. Muhumed Shillow
Research Officer III

Ms. Zainabu Sora
Serjeant-at-Arms I

Mr. Erastus Lotuk
Public Relations Officer III

Ms. Edith Chepngeno
Media Relations Officer III

Ms. Diana Chepkemoi
Audio Assistant

CHAPTER TWO

2 SENATE AMENDMENTS TO THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2023)

2.1 INTRODUCTION

6. The food and Feed Safety Control Co-ordination Bill (*National Assembly Bill No. 21 of 2023*) is sponsored by Hon. Kimani Ichung'wah, EGH, MP, Leader of the Majority Party.
7. The Bill was published vide Kenya Gazette Supplement No. 75 of 24th May 2023 and was considered and passed with amendments by the National Assembly on 23rd August 2023. The Bill, being a Bill concerning counties was forwarded to the Senate for consideration pursuant to Standing Order 142 of the National Assembly Standing Orders.
8. The Senate considered and passed the Bill with amendments on 21st March 2024 and transmitted the amendments to the National Assembly seeking concurrence.

2.2 AMENDMENTS PROPOSED BY THE SENATE

The Senate proposed amendments to clauses 22 and 25 and the First Schedule to the Bill. They proposed that:

Senate Amendment to Clause 22

9. Clause 22 of the Bill be amended in sub-clause (2) by deleting the words "*conduct risk management*" appearing immediately after the words "*the controller may*" and substituting therefor the words "*advise on the appropriate risk management measures*".

Clause 22 as Passed by the National Assembly

- 22(1) The Controller shall conduct risk assessment in relation to food hazards and feed hazards.
- (2) Where an overlap of functions is discovered upon conducting a risk assessment under subsection (1), the Controller may conduct risk management on an identified hazard.
 - (3) Upon conducting risk management under subsection (2), the Controller, shall communicate the risk of the hazard to the relevant competent authority.
 - (4) The Controller shall verify that a competent authority shall develop and maintain food safety and feed safety risk profiles for every region of the country.

Analysis of the Senate Amendment to Clause 22

The amendment proposed to clause 22(2) seeks to amend the function of the Controller from "*conduct risk management*" to "*advise on the appropriate risk management measures*". This is with regards to where the Controller conducts a risk assessment in relation to food and feed hazards and discovers an overlap in functions.

Senate Amendment to Clause 25

10. Clause 25 of the Bill be amended in sub-clause (3) by inserting the following new sub-clause, “3A. On receipt of the report under subsection 3(b), the governor shall submit the report to the respective county assembly”.

Clause 25 as Passed by the National Assembly

- 25 (1) Every Competent Authority shall, at least thirty days before the end of a financial year, prepare and submit a report on the measures taken to ensure food safety or feed safety to:
- a) the relevant competent authorities; and
 - b) the Office of the Controller
- (2) On receipt of the reports under subsection (1), the Controller shall:
- a) analyse the reports and provide feedback to the competent authorities; and
 - b) within three months after the end of a financial year, prepare an annual report on the state of food safety and feed safety in the country.
- (3) The Controller shall submit the report prepared under subsection (2)(b) to:
- a) the Cabinet Secretary;
 - b) all the County Governors; and
 - c) the competent authorities.
- (4) On receipt of the reports under subsection (3) (a), the Cabinet Secretary shall submit the reports to Parliament.

Analysis of the Senate Amendment to Clause 25

The Senate amendment intends to allow governors of county governments to submit the annual report on the state of food safety and feed safety in the country to the respective county assembly.

Senate Amendments to the First Schedule to the Bill

11. The First Schedule be amended by inserting the following new items immediately after item no. 3: “3A. Each county government department dealing with matters relating to agriculture; and 3B. Each county government department dealing with matters relating to health”.

First Schedule as Passed by the National Assembly

Competent Authorities

1. The Ministry responsible for matters relating to public health and medical services
2. The Ministry responsible for matters relating to veterinary services, crop development and livestock development
3. The Ministry responsible for matters relating to fisheries
4. The Agriculture and Food Authority
5. The Kenya Dairy Board
6. The Kenya Plant Health Inspectorate Service
7. The Pest Control Products Board
8. The Fertilizer and Animal Foodstuff Board

9. The National Biosafety Authority
10. The Kenya Bureau of Standards
11. The Veterinary Medicines Directorate

Analysis of the Senate Amendment to the First Schedule

The Senate's amendment proposes to include each county department dealing in matters relating to health and agriculture in the list of competent authorities.

CHAPTER THREE

3 COMMITTEE OBSERVATIONS

The Committee having considered the Senate amendments to the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2023) observed that:

Clause 22

1. Clause 22 of the Bill be amended in sub-clause (2) by deleting the words "*conduct risk management*" appearing immediately after the words "*the controller may*" and substitute therefor the words "*advise on the appropriate risk management measures*".

Committee Observation

The Controller may not have the competence to conduct the necessary risk management. The proposal by the Senate for the Controller to advise on the appropriate risk management measures therefore makes sense as the advice can be used by the relevant competent authority to mitigate the risk.

2. Clause 25 of the Bill be amended in sub-clause (3) by inserting the following new sub-clause, "3A. *On receipt of the report under subsection 3(b), the governor shall submit the report to the respective county assembly*".

Committee Observation

Submitting the annual report on the state of food safety in the country to county assemblies increases oversight on the sector which is a good thing given that food safety is very critical. Additionally, the reports are submitted to Parliament and therefore makes sense for them to be submitted to county assemblies because the data is collected from counties.

3. The First Schedule be amended by inserting the following new items immediately after item no. 3: "*3A. Each county government department dealing with matters relating to agriculture; and 3B. Each county government department dealing with matters relating to health*".

Committee Observation

Competent authorities at the county level are not recognized internationally. The competent authorities proposed by the Senate report to the competent authorities listed in the First Schedule to the Bill and therefore makes no sense to include them in the list.

CHAPTER FOUR

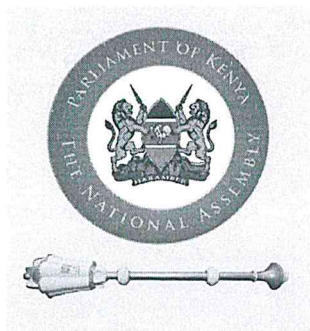
4 COMMITTEE RECOMMENDATIONS

From the above observations, the Committee recommends as follows on the Senate Amendments to the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2023), That:

1. The House **agrees** with the Senate amendments to:
 - a) Clause 22; and
 - b) Clause 25
2. The House **rejects** the Senate's amendment to the First Schedule to the Bill.

SIGNED  DATE 6/6/2024
HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK





THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

ADOPTION SCHEDULE

We, the undersigned Honorable Members of the Departmental Committee on Agriculture and Livestock Development today, Tuesday, 4th June 2024 do hereby affix our signatures to this **Report on the Consideration of the Senate Amendments to the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2023)** to affirm our approval and confirm its accuracy, validity and authenticity:

S/NO.	NAME	SIGNATURE
1.	HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, 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 ODOYO OKELO, 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	



THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 27TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD IN COMMITTEE ROOM 26 ON 5TH FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS ON TUESDAY, 4TH JUNE 2024 AT 10.00 A.M.

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Ferdinand Kevin Wanyonyi, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Justice Kipsang Kemei, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Pamela Njoki Njeru, MP | | |
| 8. Hon. Patrick Kibagendi Osero, MP | | |
| 9. Hon. Peter Kalerwa Salasya, MP | | |

ABSENT WITH APOLOGY

1. Hon. Sabina Wanjiru Chege, CBS, MP
2. Hon. Jared Odoyo Okelo, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Gabriel Gathuka Kagombe, MP
5. Hon. Monicah Muthoni Marubu, MP
6. Hon. Yussuf Mohamed Farah, MP

IN ATTENDANCE

A. COMMITTEE SECRETARIAT

- | | | |
|--------------------------|---|-----------------------------|
| 1. Ms. Lauren O. Wesonga | - | Clerk Assistant I |
| 2. Ms. Brigitta Mati | - | Legal Counsel I |
| 3. Mr. Peter Wafula | - | Legal Counsel II |
| 4. Mr. Muhumed Shillow | - | Research Officer III |
| 5. Ms. Zainabu Sora | - | Serjeant-at-Arms II |
| 6. Ms. Edith Chepengeno | - | Media Relations Officer III |

7. Ms. Diana Chepkemoi - Audio Assistant

B. CAPITAL MARKETS AUTHORITY (CMA)

1. FCPA Wyckliffe Shamia - Chief Executive Officer
2. Mr. Jairus Muaka - Senior Manager, Policy and Legal
3. Mr. Mathew Mukisu - Senior Manager, Commodities
4. Ms. Josephine Kang'ong'a - Manager, Legal Framework

C. KENYA ASSOCIATION OF MANUFACTURERS

1. Ms. Ruth Lemlem - Manager, Legal Regulatory Affairs
2. Mr. Malcolm Mwangi - Legal Officer

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes
4. Matters Arising
5. **Stakeholder Engagement on the Coffee Bill (Senate Bill No. 10 of 2023)**
6. Any other Business
7. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2024/123: PRELIMINARIES/ADOPTION OF THE AGENDA

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

Members deliberated and resolved to include adoption of the Report on the Consideration of Senate Amendments to the Food and Feed Safety Control Coordination Bill (National Assembly Bill No. 21 of 2023) and adoption of the Report on the Consideration of Senate Amendments to the Sugar Bill (National Assembly Bill No. 34 of 2022) as Agendas in the meeting.

The Agenda of the meeting was adopted with amendments having been proposed by Hon. Peter Salasya, MP and seconded by Hon. Patrick Osero, MP.

MIN. NO. NA/A&L/2024/124: CONFIRMATION OF MINUTES

Minutes of the following Sittings were confirmed as a true reflection of the proceedings:

1. 21st Sitting having been proposed by Hon. Geoffrey Odanga, MP and seconded by Hon. Justice Kemei, MP;
2. 22nd Sitting having been proposed by Hon. Pamela Njoki, MP and seconded by Hon. David Kiplagat, MP;
3. 23rd Sitting having been proposed by Hon. David Kiplagat, MP and seconded by Hon. Peter Salasya, MP;
4. 24th Sitting having been proposed by Hon. Justice Kemei and seconded by Hon. Patrick Kibagendi, MP;

5. 25th Sitting having been proposed by Hon. Geoffrey Odanga, MP and seconded by Hon. Patrick Osero, MP; and
6. 26th Sitting having been proposed by Hon. Pamela Njeru, MP and seconded by Hon. David Kiplagat, MP.

MIN. NO. NA/A&L/2024/125:

**STAKEHOLDER ENGAGEMENT ON THE
COFFEE BILL (SENATE BILL NO. 10 OF 2023)**

The Chairperson requested everyone present in the meeting to introduce themselves before inviting the stakeholders to make their submissions on the Coffee Bill (Senate Bill No. 10 of 2023). The stakeholders submitted as follows:

Capital Markets Authority

FCCA Wyckliffe Shamiah, the Chief Executive Officer for CMA proposed a number of changes to the Bill including: the addition of the PS to the National Treasury in the membership of the Board; amendments to clauses where there is an overlap between the mandate of the Board and that of CMA; among others.

Kenya Association of Manufacturers

Ms. Ruth Lemlem, Manager, Legal Regulatory Affairs informed the Committee that the Association was proposing tax holidays and reduced corporate tax rates for new coffee processing and manufacturing businesses for the first five years. They also proposed incentives for private investment in warehousing infrastructure like tax deductions on construction costs.

They also proposed facilitation of development of essential infrastructure such as roads and utilities in coffee-growing areas through public private partnerships. They further proposed establishment of fund to support research and development in coffee production and processing technologies, offering grants to businesses and research institutions.

Specific amendments proposed by the stakeholders will be discussed in detail in the Report.

DELIBERATIONS

To encourage manufacturing in the coffee sector, there should be a centralised tax regime in all counties, the tax regime in the country needs to be predictable.

The money collected through the Coffee Fund needs to be ring-fenced to ensure that it is used for the purpose set out in the Act.

KAM carries out monthly surveys and they have established that there has been a decline in manufacturing in the country, from 7.8% last year to 7.6% this year.

MIN. NO. NA/A&L/2024/126:

**ADOPTION OF THE REPORT ON THE
SENATE AMENDMENTS TO THE FOOD
AND FEED SAFETY CONTROL
COORDINATION BILL (NATIONAL
ASSEMBLY BILL NO. 21 OF 2023)**

The Committee considered and adopted the Report on the Senate Amendments to the Food and Feed Safety Control Coordination Bill (National Assembly Bill No. 21 of 2023) having been proposed by Hon. Patrick Osero, MP and seconded by Hon. Pamela Njeru, MP.

MIN. NO. NA/A&L/2024/127:

**ADOPTION OF THE REPORT ON THE
SENATE AMENDMENTS TO THE SUGAR
BILL (NATIONAL ASSEMBLY BILL NO. 34
OF 2024)**

The Committee considered and adopted the Report on the Senate Amendments to the Sugar Bill (National Assembly Bill No. 34 of 2022) having been proposed by Hon. Ferdinand Wanyonyi, MP and seconded by Hon. Pamela Njeru, MP.

MIN. NO. NA/A&L/2024/128:

**ADJOURNMENT/DATE OF THE NEXT
MEETING**

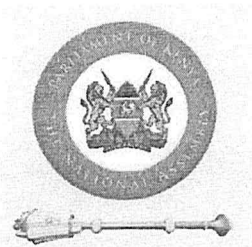
There being no other business, the meeting was adjourned at twelve minutes past noon. The next meeting will be held on Thursday, 6th June 2024 at ten O'clock.

SIGNED:

DATE:

6/6/2024

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



THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 20TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD IN THE COMMITTEE ROOM ON 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON FRIDAY, 17TH MAY 2024 AT 10.30 A.M.

PRESENT

1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, MP - **Chairperson**
2. Hon. Geoffrey Makokha Odanga, MP
3. Hon. Jared Odoyo Okelo, MP
4. Hon. Lawrence Mpuru Aburi, MP
5. Hon. David Kiplagat, MP
6. Hon. Gabriel Gathuka Kagombe, MP
7. Hon. Pamela Njoki Njeru, MP
8. Hon. Peter Kalerwa Salasya, MP
9. Hon. Yussuf Mohamed Farah, MP

ABSENT WITH APOLOGY

1. Hon. Brighton Leonard Yegon, MP - **Vice-Chairperson**
2. Hon. Sabina Wanjiru Chege, CBS, MP
3. Hon. Ferdinand Kevin Wanyonyi, MP
4. Hon. Justice Kipsang Kemei, MP
5. Hon. Monica Muthoni Marubu, MP
6. Hon. Patrick Kibagendi Osero, MP

IN ATTENDANCE

A. COMMITTEE SECRETARIAT

1. Ms. Lauren O. Wesonga - Clerk Assistant I
2. Mr. Victor Kilimo - Clerk Assistant III
3. CPA. Robert Ng'etich - Fiscal Analyst II
4. Mr. Gerald Kadede - Legal Counsel II
5. Mr. Meldrick Sakani - Audio Assistant

B. STATE DEPARTMENT FOR AGRICULTURE

1. Dr. Kipronoh Ronoh - Principal Secretary
2. Mr. Tobias Osano - Chief Finance Officer

- | | | |
|------------------------|---|--|
| 3. Mr. Samuel Ndong'u | - | Ag. Managing Director, NCPB |
| 4. Dr. Wilson Tonui | - | Chief Executive Officer, ADC |
| 5. CPA. Samwel Njire | - | Director, Finance and Accounts, NTZIC |
| 6. Mr. David Kithale | - | Parliamentary Liaison Officer |
| 7. Mr. Elias Kiragu | - | Deputy Director Finance, AFA |
| 8. Mr. Richard Bii | - | Senior Deputy Director, SCMS |
| 9. Mr. Samuel Guto | - | NPC, NAVCDP |
| 10. Mr. Rastus Shikuku | - | Assistant Director Budget, National Treasury |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes
4. Matters Arising
5. Briefing by the Parliamentary Budget Office on the Estimates of Revenue and Expenditure for FY 2024/25 for the State Department for Agriculture
6. Meeting with the State Department for Agriculture to discuss the Supplementary Estimates No. 2 for FY 2023/24 and Estimates of Revenue and Expenditure for FY 2024/25
7. Any other Business
8. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2024/088: PRELIMINARIES/ADOPTION OF THE AGENDA

The meeting was called to order at nineteen minutes to eleven O'clock with a word of prayer by the Chairperson. The Committee deliberated and proposed the following amendments to the Agenda:

Delete Agenda No. 5 and include the following new Agendas:

1. Consideration of Senate Amendments to the Food and Feed Safety Control Co-ordination Bill (National Assembly Bill No. 21 of 2023); and
2. Consideration of Senate Amendments to the Sugar Bill (National Assembly Bill No. 34 of 2022).

The Agenda of the meeting was the adopted having been proposed by Hon. Geoffrey Odanga, MP and seconded by Hon. Gabriel Kagombe, MP.

MIN. NO. NA/A&L/2024/089: CONFIRMATION OF MINUTES

This Agenda was deferred.

MIN. NO. NA/A&L/2024/090: MEETING WITH THE STATE DEPARTMENT FOR AGRICULTURE TO DISCUSS THE SUPPLEMENTARY ESTIMATES NO. 2 FOR FY 2023/24 AND ESTIMATES OF REVENUE AND EXPENDITURE FOR FY 2024/25

The Chairperson directed the Serjeant-at-Arms to usher officials from the State Department for Agriculture into the meeting. He then requested everyone in the meeting to introduce themselves.

The Chairperson notified the meeting that the Cabinet Secretary, Ministry of Agriculture and Livestock Development, through a letter, Ref: MOALD/CS/ADM/13 Vol. 6 (9) dated 13th May 2024, had informed the Committee that he had been tasked to lead the Kenyan delegation to the launch of the China-Kenya Tea Trade Centre in China and would therefore not be able to attend the budget meetings.

Members deliberated extensively on the absence of the CS in the meeting observing that unlike the State Department of Livestock Development whose Budget Documents were straightforward, the Committee needed to engage with the CS on the Budget Documents for the State Department for Agriculture particularly on the Fertilizer Subsidy Programme. Members resolved to reschedule the meeting to Tuesday, 21st May 2024 at 2.30 pm when the CS will be back in the country.

**MIN. NO. NA/A&L/2024/091: CONSIDERATION OF SENATE
AMENDMENTS TO THE FOOD AND
FEED SAFETY CONTROL CO-
ORDINATION BILL (NATIONAL
ASSEMBLY BILL NO. 21 OF 2023)**

The Legal Counsel informed the meeting that the Senate had proposed amendments to clauses 22 and 25 and the First Schedule to the Bill.

Members deliberated and resolved as follows on the proposed amendments:

1. **Clause 22** : Agreed to
2. **Clause 25** : Agreed to
3. **First Schedule** : Rejected because competent authorities at the county level are not recognized internationally. Additionally, the departments proposed by the Senate report to the competent authorities listed in the First Schedule to the Bill.

**MIN. NO. NA/A&L/2024/092: CONSIDERATION OF SENATE
AMENDMENTS TO THE SUGAR BILL
(NATIONAL ASSEMBLY BILL NO. 34 OF
2022)**

The Legal Counsel informed the meeting that the Senate had proposed amendments to clauses 2, 6, 17, 19, 29, 38, 43, 59 and 60. They had also proposed introduction of new clauses 19A, 19B and a new schedule to the Bill.

Members deliberated and resolved as follows on the proposed amendments:

1. **Clause 6**: Rejected because their proposal will increase the membership of the Board beyond the number proposed in the Mwingozo Code of Governance for State Corporations.
2. **Clause 17**: Agreed to
3. **Clauses 2 and 19, new clause 19A and the new schedule**: The clauses deal with zoning. The Committee needs to discuss the clauses with Senate and decide on whether or not to adopt zoning in the sugar industry.

4. **Clause 19B**

19B (a) – Agreed to

19B (b) – Agreed to

19B (c) – Rejected because it will be tying down the milling companies to only engage with millers within their zones.

5. **Clause 29**

(a) (i): Agreed to

(ii): Rejected because the Commission for University Education is a regulatory body for universities and is therefore not best suited to appoint a person to the Board of Directors of the Institute.

(b) Agreed to

6. **Clause 38**

1) (a) Agreed to

(b) Rejected because the Kenya Rural Roads Authority is better placed to oversee infrastructural development and maintenance of the roads.

2) Rejected because four per centum of CIF value on imported sugar and the provisions of sub-section (1) shall apply therefore apply to imported industrial sugar.

7. **Clause 43:** Agreed to

8. **Clause 59:** Rejected

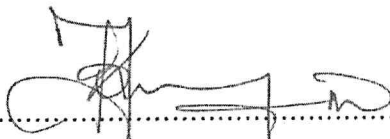
9. **Clause 60:** Agreed to

MIN. NO. NA/A&L/2024/093:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at seven minutes to one O'clock. The next meeting will be held on Tuesday, 21st May 2024 at ten O'clock.

SIGNED:



DATE:

21 / 05 / 2024

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



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT - (THIRD SESSION)

THE SENATE

MESSAGES

MESSAGE TO THE NATIONAL ASSEMBLY

No. 15 of 2024

SUBJECT: PASSAGE OF THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILLS NO. 21 OF 2023)

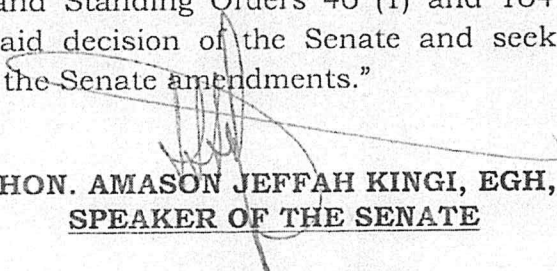
PURSUANT to Article 110 (4) of the Constitution and the provisions of Standing Orders 46 (1) and 164 (c) of the Senate, I hereby convey the following Message from the Senate –

“WHEREAS, the Food and Feed Safety Control Co-Ordination Bill (National Assembly Bills No. 21 of 2023) was published *vide* Kenya Gazette Supplement No. 75 of 24th May, 2023 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.

AND WHEREAS, the National Assembly considered the said Bill and passed it on Wednesday, 23rd August, 2023 **with amendments** and forwarded the Bill to the Senate for consideration;

AND WHEREAS, the Senate on Thursday, 21st March, 2024 considered and **passed** the said Bill, **with amendments** as in the schedule of amendments attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 112 (1) (b) of the Constitution and Standing Orders 46 (1) and 164 (c) of the Senate, I hereby convey the said decision of the Senate and seek concurrence of the National Assembly to the Senate amendments.”


RT. HON. AMASON JEFFAH KINGI, EGH, MP
SPEAKER OF THE SENATE

25th March, 2024

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REPUBLIC OF KENYA

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Clerk's Chambers

The Senate

Parliament Buildings

P. O. Box 41842 -00100

Nairobi, Kenya

PARLIAMENT

OFFICE OF THE CLERK OF THE SENATE

SENATE AMENDMENTS TO THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILLS NO. 21 OF 2023)

The following amendments to the **Food and Feed Safety Control Co-ordination Bill (National Assembly Bills No. 21 of 2023)** were passed by the Senate on Thursday, 21st March, 2024 -

CLAUSE 22

THAT clause 22 of the Bill be amended in sub-clause (2) by deleting the words "conduct risk management" appearing immediately after the words "the Controller may" and substituting therefor the words "advise on the appropriate risk management measures".

CLAUSE 25

THAT clause 25 of the Bill be amended in sub-clause (3) by inserting the following new sub-clause—

3A. On receipt of the report under subsection (3)(b), the governor shall submit the report to the respective County Assembly.

FIRST SCHEDULE

THAT the First Schedule be amended by inserting the following new items immediately after item no 3 —

3A. Each county government department dealing with matters relating to agriculture;

3B. Each county government department dealing with matters relating to health;

Signature

A handwritten signature in black ink, appearing to be 'EJ', written over a horizontal line.

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REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS
(Bill No. 21 of 2023)

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

(A Bill published in the Kenya Gazette Supplement No. 75 of 24th May, 2023 and passed by the National Assembly, with amendments, on 23rd August, 2023)

N.A. /B/No. 21/2023

**THE FOOD AND FEED SAFETY CONTROL
CO-ORDINATION BILL, 2023
ARRANGEMENT OF CLAUSES**

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Object of this Act.
- 4—Application of this Act.
- 5—Guiding principles.

**PART II— OFFICE OF THE FOOD AND FEED
SAFETY CONTROLLER**

- 6—Establishment of the Office of the Food and Feed Safety Controller.
- 7—Appointment of the Controller.
- 8—Qualifications of the Controller.
- 9—Functions of the Controller.
- 10—Vacancy in the Office of the Controller.
- 11—Removal from Office.
- 12—Staff of the Office of the Controller.
- 13—Remuneration of the Controller.
- 14—Delegation by the Controller.
- 15—Protection from personal liability.

**PART III— FOOD SAFETY AND FEED SAFETY BY
COUNTY GOVERNMENTS**

- 16—Functions of a county government.

**PART IV— FOOD SAFETY AND FEED SAFETY
CONTROL AND COORDINATION**

- 17—Multi-annual control plan.
- 18—Verification of mechanisms to enforce food and feed safety requirements.

- 19—Overlaps in functions of competent authorities.
- 20—Audit of food safety or feed safety mechanisms.
- 21—Verification audit.
- 22—Risk analysis.
- 23—Traceability.
- 24—Reference laboratory.
- 25—Report on food safety and feed safety.
- 26—Appointment of compliance officers.
- 27—Powers of compliance officer.

PART V —FINANCIAL PROVISIONS

- 28—Funds of the Office of the Controller.
- 29—Investment of funds.
- 30—Annual estimates.
- 31—Accounts and audit.

PART VI —MISCELLANEOUS PROVISIONS

- 32—Act to supersede other Acts.
- 33—Regulations.
- 34—Consequential amendments.

**FIRST SCHEDULE—COMPETENT
AUTHORITIES**

**SECOND SCHEDULE—CONSEQUENTIAL
AMENDMENTS**

**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 and Feed Safety Controller; to provide for the role of County Governments in food and feed safety; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART 1—PRELIMINARY

1. This Act may be cited as the Food and Feed Safety Control Co-ordination Act, 2023. Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for food safety;

“competent authority” means the public institutions responsible for official control set out in the First Schedule, or such other public entity as the Cabinet Secretary may, by Order in the *Gazette*, determine;

“compliance officer” means a person appointed as such under section 26;

“consumer” means –

- (a) a person to whom particular goods or services are marketed in the ordinary course of the supplier’s business;
- (b) a person who has entered into a transaction with a supplier in the ordinary course of the supplier’s business, unless the transaction is exempt from the application of this Act;
- (c) a user of a particular good or a recipient or beneficiary of particular services, irrespective of whether that user, recipient or beneficiary was a party to a transaction concerning the supply of those particular goods and services; and

(d) a franchise in terms of a franchise agreement, to the extent applicable in terms of this Act.

“Controller” means a Food and Feed Safety Controller appointed under section 7;

“feed” means processed, semi-processed or raw material which is to be consumed directly by an animal which is consumed as food or an animal whose produce is capable of being consumed as food;

“feed business” means the production, manufacture, storage or distribution of feed, feed ingredient, feed additive or feed supplement;

“feed ingredient” means a component or any combination of components used in the production of feed and includes a feed additive;

“feed safety” means all measures that ensure that feed will not cause harm to an animal which is consumed as food or to an animal whose produce is capable of being consumed as food, when the feed is consumed in accordance to the recommended use of the manufacturer of the feed;

“food” means a processed, semi-processed or raw substance which is consumed by a human being and includes drinking water and a substance which has been used in the production, manufacture, preparation or treatment of food but does not include a cosmetic, tobacco or a substance used as drugs;

“food business” means the production, processing, storage or distribution of food for commercial purposes but does not include the domestic preparation, handling or storage of food for consumption within a residence;

“food safety” means measures taken to ensure that food shall not cause harm to a consumer when consumed according to its intended use;

“hazard” means any biological, chemical or physical agent or condition of food or feed which is capable of causing an adverse health effect;

“multi-annual control plan” means a plan which—

(a) specifies information on the structure, roles and

responsibilities of the Competent Authorities; and

- (b) provides an overview of how the competent authorities safeguard the health of the members of the public, animal and plant health and protects consumers;

“official control” means a regulatory activity by a Competent Authority that—

- (a) provides protection to a consumer during the production, handling, storage, processing and distribution of food or feed; and
- (b) ensures food or feed is safe, wholesome and fit for human consumption, and conforms to the quality and safety requirements for the conduct of food business or feed business;

“Office of the Controller” means the Office of the Food and Feed Safety Controller established under section 6;

“risk analysis” means a process which consists of risk assessment, risk management and risk communication;

“risk assessment” means a scientifically based process which consists of the—

- (a) identification of a hazard;
- (b) characterisation of a hazard;
- (c) assessment of the exposure to the hazard; and
- (d) characterisation of the risk;

“risk communication” means the interactive exchange of information and opinions throughout a risk analysis on the risk-related factors, risk perceptions of risk assessors, risk managers, consumers, industry, the academic community and other interested parties, and the explanation of risk assessment findings as the basis of risk management; and

“risk management” means the process of evaluating policy alternatives, in consultation with interested parties considering risk assessment and other factors relevant for the protection of health of consumers and for the promotion of fair-trade practices, and, if needed, selecting appropriate

prevention and control options.

3. The object of this Act is to —

Object of this Act.

(a) effectively coordinate the performance of the functions of competent authorities; and

(b) enhance accountability in the implementation of official control.

4. This Act shall apply to every competent authority.

Application of this Act.

5. The guiding principles for the implementation of this Act shall be—

Guiding principles.

(a) the protection of human health;

(b) the protection of consumer interests in the conduct of food business and feed business;

(c) the promotion of the use of scientific based risk analysis;

(d) the promotion of food safety and feed safety;

(e) the promotion of fair-trade practices in the conduct of food business and feed business;

(f) efficiency in the performance of official control;

(g) the promotion of sustainable production, processing and handling of food and feed; and

(h) the protection of animal health.

PART II—OFFICE OF THE FOOD AND FEED SAFETY CONTROLLER

6. (1) There is established the office of the Food and Feed Safety Controller which shall be a body corporate with perpetual succession and a common seal, and in its corporate name shall be capable of—

Establishment of the Office of the Food and Feed Safety Controller.

(a) suing and being sued;

(b) acquiring or disposing of movable and immovable property; and

(c) performing such acts as may be performed by a body corporate.

(2) The Office of the Controller shall be designated as a State Office in accordance with paragraph (q) in the definition of State Office under Article 260 of the

Constitution.

7. (1) There shall be a Food and Feed Safety Controller who shall be appointed by the President, with the approval of Parliament.

Appointment of
the Controller.

(2) Whenever a vacancy arises in the office of the Controller, the Public Service Commission shall initiate the recruitment process.

(3) Within seven days of the vacancy referred to in sub section (2) occurring, the Public Service Commission shall invite applications from persons who qualify for nomination and appointment for the position of the Controller.

(4) The Public Service Commission shall within twenty-one days of receipt of applications under subsection (3)—

- (a) consider the applications received to determine their compliance with this Act;
- (b) shortlist qualified applicants;
- (c) publish and publicise the names of the applicants and the shortlisted applicants;
- (d) conduct interviews of the shortlisted persons through an open and transparent process;
- (e) nominate three qualified applicants in the order of merit for the position of Controller; and
- (f) submit the names of the persons nominated under paragraph (e) to the President.

8. (1) A person shall qualify to be appointed as the Controller if that person—

Qualifications of
the Controller.

- (a) holds a Masters degree in a discipline related to food safety or feed safety;
 - (b) has at least fifteen years' experience working in a field related to food safety or feed safety;
 - (c) has at least five years' experience working in a senior management position; and
 - (d) meets the requirements of Chapter Six of the Constitution.
- (2) The Controller may be appointed for a term of

three years and shall be eligible for reappointment for a final term of three years.

9. The functions of the Controller shall be to—

Functions of the Controller.

- (a) coordinate the competent authorities through the implementation of the multi-annual control plan;
- (b) coordinate the development and review of a multi-annual national control plan;
- (c) monitor and evaluate the implementation of a multi-annual control plan at the national level;
- (d) liaise with competent authorities to identify and advise on policy gaps and inadequate regulation on food safety and feed safety official control;
- (e) assess the adequacy of food safety and feed safety preparedness and make recommendations to the relevant competent authority;
- (f) establish an information management system for food safety and feed safety in the country;
- (g) verify that competent authorities have put in place systems for effective official control;
- (h) prepare an annual report on the state of food and feed safety in Kenya; and
- (i) perform such other duties as may be necessary to ensure coordination of official control of food safety and feed safety.

10. The Office of the Controller shall become vacant, if the Controller—

Vacancy in the Office of the Controller.

- (a) dies;
- (b) resigns from office by notice in writing addressed to the President; or
- (c) is removed from office in accordance with section 11.

11. (1) The Controller may be removed from office on the following grounds—

Removal from Office.

- (a) violation of Chapter Six of the Constitution;
- (b) gross misconduct in the performance of the functions of the Controller;
- (c) incapacity to perform the functions of the

Controller due to physical or mental illness;

- (d) being adjudged bankrupt; or
- (e) being convicted of an offence and sentenced to a term of imprisonment exceeding six months.

(2) A person who desires the removal of the Controller on any ground specified under subsection (1) shall present a complaint to the Public Service Commission setting out the alleged facts constituting that ground.

(3) Subject to Article 47 of the Constitution, the Public Service Commission shall consider the complaint and, if satisfied that the complaint discloses a ground under subsection (1), the Public Service Commission shall—

- (a) investigate the matter expeditiously;
- (b) report on the facts; and
- (c) make a recommendation to the President.

(4) Prior to any action under sub-section (3), the Public Service Commission shall—

- (a) inform the Controller, in writing, of the reasons for the intended removal; and
- (b) offer the Controller an opportunity to put in a defence against the alleged grounds.

12. The Controller, in consultation with the Public Service Commission, shall employ such members of staff as are necessary for the discharge of the functions of the Controller on such terms of service as the Controller in consultation with the Salaries and Remuneration Commission may determine.

Staff of the Office of the Controller.

13. The Controller shall be paid such remuneration or allowances as the Salaries and Remuneration Commission may determine.

Remuneration of the Controller.

14. The Controller may delegate the performance of any of the functions of the Controller to any member of staff of the Office of the Controller as the Controller deems necessary.

Delegation by the Controller.

15. (1) The Controller or a member of staff of the Office of the Controller, or a person acting on the directions of the Controller, shall not be personally liable for any action, claim or demand whatsoever or any matter

Protection from personal liability.

or thing done in the performance of the functions of the Office of the Controller in good faith.

(2) Subsection (1) shall not relieve the Office of the Controller of the liability to pay compensation or damages, for loss or injury to a person or property, in the performance of the functions on the Office of the Controller.

PART III—FOOD SAFETY AND FEED SAFETY BY COUNTY GOVERNMENTS

16. (1) The functions of a county government in relation to food safety and feed safety in the respective County shall be to—

Functions of a county government.

- (a) implement and enforce food safety and feed safety measures;
- (b) license and exercise official control of persons who conduct food business and feed business;
- (c) conduct capacity building on food safety and feed safety;
- (d) conduct public awareness on matters food safety and feed safety;
- (e) prepare county food safety and feed safety reports.
- (f) provide a platform for the consultation and cooperation of the County Governments and stakeholders in the implementation of a multi-annual control plan;
- (g) conduct audits to ascertain compliance and enforcement of food safety and feed safety measures;
- (h) coordinate food safety and feed safety activities;
- (i) regulate and enforce official control; and
- (j) monitor and evaluate implementation of the multi-annual control plan.

(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 feed safety in the respective County and submit the report to the Controller.

PART IV—FOOD SAFETY AND FEED SAFETY CONTROL AND COORDINATION

17. The Office of the Controller, in consultation with

Multi-annual

the competent authorities and county governments shall develop and review a multi-annual control plan as a basis and mechanism for official control.

control plan.

18. (1) 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.

Verification of mechanisms to enforce food and feed safety requirements.

(2) The scope of verification conducted by the Controller shall include—

- (a) conduct of inspections;
- (b) taking of samples and conducting analyses;
- (c) staff health and hygiene;
- (d) examination of the records; and
- (e) issuance of certificates, permits and licenses.

(3) Upon conducting a verification under sub-section (1), the Controller shall prepare a report and submit the report to the Cabinet Secretary responsible for the competent authority.

19. The Controller in consultation with the competent authorities shall advise where an overlap occurs in the performance of their functions under their respective legislation.

Overlap in functions of competent authorities.

20. (1) The Controller shall conduct an audit of the food safety or feed safety mechanisms of a competent authority to ascertain compliance and enforcement.

Audit of food safety or feed safety mechanisms.

(2) The Controller in liaison with the competent authorities, shall develop the criteria for conducting the audit under subsection (1).

(3) Upon conducting an audit under subsection (1), the Controller shall prepare an audit report and submit the report to the Cabinet Secretary responsible for the competent authority and each County Government.

21. (1) The Controller shall conduct a verification audit to ascertain whether the systems established by a competent authority provide accurate certification, inspection and validation of—

Verification audit.

- (a) the effective monitoring of compliance with set standards;
- (b) the implementation of corrective measures

including penalties, suspension and withdrawal of licenses;

- (c) the sustainability of the system;
- (d) the investigative powers of the competent authority;
- (e) the registration conducted by the competent authority, where applicable;
- (f) the confidentiality of the information held by the competent authority;
- (g) the self-assessment persons conducting food business, where applicable;
- (h) the self-assessment persons conducting feed business, where applicable;
- (i) the effectiveness of the early warning system for food safety risks, where applicable;
- (j) the effectiveness of the early warning system for feed safety risks;
- (k) the effectiveness of the handling and resolution of complaints;
- (l) the compensation mechanism; and
- (m) such other matter as the Controller considers necessary.

(2) On conducting a verification audit, if it is determined that the competent authority is in contravention of subsection (1), the Controller shall recommend corrective measures which are to be undertaken within the specified timelines.

(3) Where a competent authority does not implement the corrective measures recommended under subsection (2), the Controller shall notify the Cabinet Secretary responsible for the competent authority of the contravention.

22. (1) The Controller shall conduct risk assessment in relation to food hazards and feed hazards.

Risk analysis.

(2) Where an overlap of functions is discovered upon conducting a risk assessment under subsection (1), the Controller may conduct risk management on an identified hazard.

(3) Upon conducting risk management under subsection (2), the Controller, shall communicate the risk of the hazard to the relevant competent authority.

(4) The Controller, in consultation with competent authorities shall develop and maintain food safety and feed safety risk profiles for every region of the country.

23. The Controller shall verify that a competent authority has an effective mechanism to enforce traceability requirements by persons conducting food business or feed business.

Traceability.

24. (1) The Controller in consultation with the relevant competent authorities shall designate a laboratory as a reference laboratory for confirmatory testing.

Reference laboratory.

(2) Upon receipt of an adverse report, the results of an audit conducted under this Act or a complaint by a consumer, the Controller shall conduct confirmatory testing at a designated laboratory for food and feed safety control.

25. (1) Every Competent Authority shall, at least thirty days before the end of a financial year, prepare and submit a report on the measures taken to ensure food safety or feed safety to—

Report on food safety and feed safety.

- (a) the relevant competent authorities; and
- (b) the Office of the Controller.

(2) On receipt of the reports under subsection (1), the Controller shall—

- (a) analyse the reports and provide feedback to the competent authorities; and
- (b) within three months after the end of a financial year, prepare an annual report on the state of food safety and feed safety in the Country.

(3) The Controller shall submit the report prepared under subsection (2)(b) to—

- (a) the Cabinet Secretary;
- (b) all the County Governors; and
- (c) the competent authorities.

(4) On receipt of the reports under subsection (3) (a), the Cabinet Secretary shall submit the reports to Parliament.

26. The Controller shall appoint such compliance officers as are necessary for the proper discharge of the

Appointment of compliance officers.

functions of the Controller from amongst the technical members of staff of the Office of the Controller.

27. (1) A compliance officer may at all reasonable times—

Powers of compliance officer.

- (a) access and inspect land, premises, vessels or vehicles and make such enquiries as are necessary;
- (b) inspect, examine and make copies of licences, registers, records and other documents relating to food and feed safety; and
- (c) take samples for analysis.

(2) A compliance officer shall identify himself or herself when exercising the powers under subsection (1).

PART V—FINANCIAL PROVISIONS

28. The funds of the Office of the Controller shall consist of—

Funds of the Office of the Controller.

- (a) moneys appropriated by Parliament;
- (b) any grants, gifts, donations or other endowments given to the Office of the Controller; and
- (c) such funds as may vest in or accrue to the Office of the Controller in the performance of its functions under this Act or any other written law.

29. The Controller may invest the funds of the Office of the Controller—

Investment of funds.

- (a) in trust funds or in any other securities; or
- (b) by depositing moneys not immediately required for the performance of the functions of the Controller,

with the approval of the National Treasury.

30. (1) At least three months before the commencement of each financial year, the Controller shall prepare the estimates of the revenue and expenditure of the Office of the Controller for that financial year.

Annual estimates.

(2) The annual estimates shall provide for all estimated expenditure of the Office of the Controller for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances, pensions, gratuities, retirement benefits and other expenses

of the members of staff or agents of the Office of the Controller;

- (b) the payment of allowances and other expenses to the members of the staff of the Office of the Controller;
- (c) the acquisition, maintenance and repair of the property of the Office of the Controller; and
- (d) the creation of reserve funds for future or contingent liabilities for retirement benefits, insurance, maintenance or replacement of property, or such other matters as the Controller deems necessary.

(3) The annual estimates shall be submitted to the Cabinet Secretary for tabling in Parliament for approval.

31. The annual accounts of the Office of the Controller shall be prepared, audited and reported in accordance with the provisions of Article 226 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015.

Accounts and
audit.
No. 18 of 2012.
No. 34 of 2015.

PART VI—MISCELLANEOUS PROVISIONS

32. Where there is conflict between the provisions of this Act and the provisions of any written law with regard to the powers or functions of the Controller under this Act, the provisions of this Act shall prevail.

Act to supersede
other Acts.

33. (1) The Cabinet Secretary in consultation with the Controller, may make regulations for the better carrying into effect of this Act.

Regulations.

(2) Without prejudice to subsection (1), the regulations made under this section may provide for—

- (a) the conduct of risk analysis;
- (b) the traceability of food and feed;
- (c) third party authorization;
- (d) the designation of laboratories for official control; and
- (e) any other matter necessary for better realisation of the object of this Act.

34. The written law specified in the Second Schedule

Consequential
amendments.

The Food and Feed Safety Control Co-ordination Bill, 2023

are amended in the manner specified in the Schedule.

FIRST SCHEDULE

(s. 2)

COMPETENT AUTHORITIES

1. The Ministry responsible for matters relating to public health and medical services.
2. The Ministry responsible for matters relating to veterinary services, crop development and livestock development.
3. The Ministry responsible for matters relating to fisheries.
4. The Agriculture and Food Authority.
5. The Kenya Dairy Board.
6. The Kenya Plant Health Inspectorate Service.
7. The Pest Control Products Board.
8. The Fertilizer and Animal Foodstuff Board.
9. The National Biosafety Authority.
10. The Kenya Bureau of Standards.
11. The Veterinary Medicines Directorate.

SECOND SCHEDULE

(s. 34)

CONSEQUENTIAL AMENDMENTS

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
Public Health Act (Cap. 242)	s. 2	Delete the definition of the term “food”.
	s. 2	inserting the following new definitions in proper alphabetical sequence— “Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; “food” means a processed, semi-processed or raw substance which is consumed by a human being and includes drinking water and a substance which has been used in the production, manufacture, preparation or treatment of food but does not include a cosmetic, tobacco or a substance used as drugs; and “multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.
	s. 10	Insert the following new subsection immediately after subsection (2)— (2A) The function of the Medical Department shall include the— (a) conduct of audits on the traceability mechanisms established by persons who sell food or expose food for sale; and (b) implementation of the multi-annual control plan in the performance of its functions.
	New.	Insert the following new section

immediately after section 10—

Role of the
Controller.

10A. (1) Where the Director-General for Health determines that there is an overlap between 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.

(2) Where a 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 for Health may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Director-General for Health to verify that the Director-General for Health has established a system for the effective official control for food safety.

The Food,
Drugs and
Chemical
Substances
Act
(Cap. 254)

s. 2

Delete the definition of the term “food”.

Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act;

“food” means a processed, semi-processed

or raw substance which is consumed by a human being and includes drinking water and a substance which has been used in the production, manufacture, preparation or treatment of food but does not include a cosmetic, tobacco or a substance used as drugs; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

New. Insert the following new sections immediately after section 27—

Functions of
the Board. **27A.** The functions of the Board shall be to—

- (a) conduct audits of the traceability mechanisms established by a person who labels, packages, sells or advertises any food; and
- (b) implement the multi-annual control plan in the performance of its functions.

Role of the
Controller. **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.

(2) Where a 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.

(3) The Controller shall

conduct an audit on the mechanisms for food safety established by the Board to verify that the Board has established a system for the effective official control for food safety.

The Dairy s. 3
Industry Act
(Cap. 336)

Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 17

Insert the following new paragraphs immediately after paragraph (e)—

(ea) to conduct audits of the traceability mechanisms established by a person who engages in the production, marketing, distribution and supply of dairy produce;

(eb) to implement the multi-annual control plan in the performance of its functions.

New.

Insert the following new section immediately after section 17—

Role of the
Controller.

17A. (1) Where the Board determines that there is an overlap in its functions and the functions of any other public institution in relation to food safety, the Board may request the Controller to advise.

(2) Where a 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.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Board to verify that the Board has established a system for the effective official control for food safety.

The
Fertilizers
and Animal
Foodstuffs
Act
(Cap. 345)

s. 2 Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 2B Insert the following new paragraphs immediately after paragraph (f)—

(fa) conduct audits of the traceability mechanisms established by a person who engages in the production, manufacture, packaging, importation and marketing of animal foodstuffs;

(fb) implement the multi-annual control plan in the performance of its functions.

New. Insert the following new section immediately after section 2B—

Role of the
Controller.

2BA. (1) Where the Board determines that there is an overlap in its functions and the functions of any other public institution in relation to food safety or feed safety, the Board may request the Controller to advise.

(2) Where a conflict arises between the Board and any other public institution in the execution of its functions in relation to food safety or feed safety, the Board may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Board to verify that the Board has established a system for the effective official control for food safety or feed safety.

The Pest Control
Products Act
(Cap. 346)

s. 2

Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 6

Insert the following new paragraphs immediately after paragraph (b)—

(ba) to conduct audits of the traceability mechanisms established by a person

who deals in pest control products;

(bb) to implement the multi-annual control plan in the performance of its functions.

New. Insert the following new section immediately after section 6—

Role of the
Controller.

6A. (1) Where the Board determines that there is an overlap in its functions and the functions of any public institution in relation to food safety or feed safety, the Board may request the Controller to advise.

(2) Where a conflict arises between the Board and any other public institution in the execution of its functions in relation to food safety or feed safety, the Board may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Board to verify that the Board has established a system for the effective official control for food safety or feed safety.

The Meat Control Act
(Cap. 356)

s. 2 Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act;

“multi-annual control plan” has the meaning assigned to it in section 2 of the Food and Feed Safety Control Coordination

Act.

s. 3 (1) Insert the following new paragraphs immediately after paragraph (h)—

(ha) conduct of audits of the traceability mechanisms established by a person who operates a slaughterhouses or who engages in the production, manufacture, packaging, importation, exportation or marketing of meat products; and

(hb) implementation of the multi-annual control plan in the performance of its functions.

The
Standards
Act
(Cap. 496)

s. 2 Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 4 (1) Insert the following new paragraphs immediately after paragraph (d)—

(da) conduct audits of the traceability mechanisms established by persons who use of standardization marks and distinctive marks for foods or feeds; and

(db) implement the multi-annual control plan in the performance of its functions.

New. Insert the following new section immediately after section 4—

Role of the
Controller.

4A. (1) Where the Bureau determines that there is an overlap in its functions and the functions of any other public institution in relation to food safety or feed safety, the Bureau may request the Controller to advise.

(2) Where a conflict arises between the Bureau and any public institution in the execution of its functions in relation to food safety or feed safety, the Bureau may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Bureau to verify that the Bureau has established a system for the effective official control for food safety or feed safety.

The
Biosafety
Act, 2009
*(No. 2 of
2009)*

s. 2

Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 7 (2)

Insert the following new paragraphs immediately after paragraph (b)—

(ba) conduct audits of the traceability

mechanisms established by a person who engages in the transfer, handling and use of genetically modified organisms;

(bb) implement the multi-annual control plan in the performance of its functions.

New. Insert the following new section immediately after section 7—

Role of the Controller. **7A.** (1) Where the Authority determines that there is an overlap in its functions and the function of any other institution in relation food safety or feed safety, the Authority may request the Controller to advise.

(2) Where a conflict arises between the Authority and any other public institution in the execution of its functions in relation to food safety or feed safety, the Authority may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Authority to verify that the Authority has established a system for the effective official control for food safety or feed safety.

The Kenya
Plant Health
Inspectorate
Service Act,
2012

(No. 54 of
2012.)

s. 2 Inserting the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food

and Feed Safety Control Coordination Act;
and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 5 Insert the following new paragraphs immediately after paragraph (m)—

(ma) conduct audits of the traceability mechanisms established by seed merchants, seed growers, agents and any other person who may be required to be registered under the provisions of this Act or any of the laws specified in the First Schedule;

(mb) implement the multi-annual control plan in the performance of its functions.

New. Insert the following new section immediately after section 5—

Role of the Controller. **5A.** (1) Where the Service determines that there is an overlap in its functions and the function of any other public institution in relation to food safety, the Service may request the Controller to advise.

(2) Where a conflict arises between the Service and any other public institution in the execution of its functions in relation to food safety or feed safety, the Service may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Service to verify that the Service has

established a system for the effective official control for food safety or feed safety.

The
Agriculture
and Food
Authority
Act, 2013
(No. 13 of
2013)

s. 2

Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 4

Insert the following new paragraphs immediately after paragraph (e)—

(ea) conduct audits of the traceability mechanisms established by persons who engage in the production, processing, marketing, grading, storage, collection, transportation or warehousing of agricultural products excluding livestock products as may be provided for under the Crops Act; and

(eb) implement the multi-annual control plan in the performance of its functions.

New.

Insert the following new section immediately after section 4—

Role of the
Controller.

4A. (1) Where the Authority determines that there is an overlap in its functions and the function of any other institution in relation food safety, the

Authority may request the Controller to advise.

(2) Where a conflict arises between the Authority and any other institution in the execution of its functions in relation to food safety, the Authority may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Authority to verify that the Authority has established a system for the effective official control for food safety.

The Fisheries s. 2
Management
and
Development
Act, 2016
(No. 35 of
2016)

Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 58

Insert the following new paragraphs immediately after paragraph (h)—

(ha) conduct audits of the traceability mechanisms established by a person who engages in the handling, landing, transportation, processing or marketing of fish or

fish products;

(hb) implement the multi-annual control plan in the performance of its functions.

New. Insert the following new section immediately after section 58—

Role of the Controller. **58A.** (1) Where the Committee established under section 58 determines that there is an overlap in its functions and the function of any other public institution in relation food safety, the Committee may request the Controller to advise.

(2) Where a conflict arises between the Committee established under section 58 and any other public institution in the execution of functions of the Committee in relation to food safety, it may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Committee established under section 58 to verify that the Committee has established a system for the effective official control for food safety.

The Water Act, 2016
(No. 43 of 2016)

s. 2 Insert the following new definitions in proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 12 Insert the following new paragraphs immediately after paragraph (f)—

(fa) conduct audits of the traceability mechanisms established by water services providers;

(fb) implement the multi-annual control plan in the performance of its functions.

New. Insert the following new section immediately after section 72—

Role of the
Controller.

72A. (1) Where the Regulatory Board determines that there is an overlap in its functions and the function of any other public institution in relation to food safety, the Regulatory Board may request the Controller to advise.

(2) Where a conflict arises between the Regulatory Board and any other public institution in the execution of the functions of the Regulatory Board in relation to food safety, it may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Regulatory Board to verify that the Regulatory Board has established a system for the effective official control for food safety.

The Health s. 2

Insert the following new definitions in

Act, 2017
(No. 21 of
2017)

proper alphabetical sequence—

“Controller” means the Food and Feed Safety Controller appointed under the Food and Feed Safety Control Coordination Act; and

“multi-annual control plan” has the meaning assigned to it under section 2 of the Food and Feed Safety Control Coordination Act.

s. 17 Insert the following new paragraphs immediately after paragraph (k)—

(ka) conduct audits of the traceability mechanisms established in exercising stewardship in setting policy guidelines and standards for human food consumption, dietetic services and healthy lifestyle;

(kb) implement the multi-annual control plan in the performance of his or her functions.

New. Insert the following new section immediately after section 17—

Role of the
Controller.

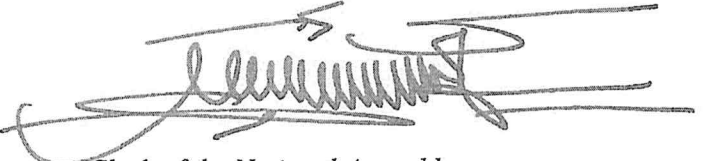
17A. (1) Where the Director-General determines that there is an overlap in his or her functions and the function of any other public institution in relation to food safety, the Director-General may request the Controller to advise.

(2) Where a conflict arises between the Director-General and any other public institution in the execution of his or her functions in relation to food safety, he or she may request the Controller to advise.

(3) The Controller shall conduct an audit on the mechanisms for food safety established by the Director-General to verify that the Director-General has established a system for the effective official control for food safety.

The Food and Feed Safety Control Co-ordination Bill, 2023

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 23rd August, 2023.



Clerk of the National Assembly

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly Standing Orders.



Speaker of the National Assembly

