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THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

REPORT ON:

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

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THE TABLE:	INZOPU MWALU

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CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER 2024

CONTENTS

ANNEXURES.....	iv
CHAIRPERSON'S FOREWORD	v
CHAPTER ONE	1
1.0 PREFACE.....	1
1.1 Establishment and mandate of the Committee.....	1
1.2 Subjects under the Committee.....	1
1.3 Committee Membership.....	3
1.4 Committee Secretariats.....	4
CHAPTER TWO	5
2.0 OVERVIEW OF THE BILL	5
2.1 Background on Cooperatives	5
2.2 Summary of Clauses.....	7
CHAPTER THREE	11
3.0 OVERVIEW OF THE LEGAL FRAMEWORK ON COOPERATIVES IN KENYA	11
3.1 Constitutional provisions.....	11
3.2 International legal framework.....	11
3.3 Acts of Parliament that regulate cooperatives	12
3.4 Policy framework	12
CHAPTER FOUR.....	13
4.0 PUBLIC PARTICIPATION IN CONSIDERATION OF THE BILL.....	13
4.1 Legal provision on public participation	13
4.2 Submissions by stakeholders	13
4.3 Consideration of stakeholders' submissions on the Cooperatives Bill, (National Assembly Bills No. 7 of 2024).....	14
CHAPTER FIVE.....	122
5.0 COMMITTEE'S ANALYSIS OF SUBMISIONS AND RESOLUTIONS ON PROPOSED AMENDMENTS	122
5.1 Observations	122
5.2 Committee Recommendations	149

ANNEXURES

Annexure 1: Signed list of Members who attended the sitting which considered and adopted the report

Annexure 2: Adoption Minutes

Annexure 3: Copy of the newspaper advertisements on public participation

CHAIRPERSON'S FOREWORD

Pursuant to the provisions of Standing Order 127 (1), the Cooperatives Bill (National Assembly Bill No. 7 of 2024) sponsored by Hon. Kimani Ichung'wah, MGH, MP, the Leader of the Majority Party was Read a First Time on Wednesday 9th April, 2024. After the First reading, the Bill was committed to the Departmental Committee on Trade, Industry and Cooperatives for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Bill seeks to provide for a legal framework that promotes a sustainable and competitive cooperative sector for socio-economic development in a devolved system of governance and to give effect to Article 186 and the Fourth Schedule to the Constitution. Further, it seeks to establish the office of the Commissioner for Cooperative Development at the national level and the office of the County Director for Cooperatives at the county level and provide for inter-governmental cooperative relations. The Office of the Commissioner for Cooperative Development will be responsible for promotion, registration, and regulation of Cooperatives and provide for inter-governmental cooperative relations.

Pursuant to the provisions of Article 118 (1) (b) of the Constitution and Standing Order 127 (3) the Committee through an advertisement in the local daily newspapers of 16th April, 2024 invited the public to make representations on the Bill. Further, another advertisement was made on Tuesday, 30th April 2024 notifying and inviting the public-to-public hearings on the Bill in eight counties across the country. In response to the advertisements, the Committee received views from the public in form of memoranda and verbal submissions across the country. Each and every public view and submission was considered by the Committee and thankfully, made this report rich.

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 all stakeholders who submitted memoranda on 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 consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Trade, Industry and Cooperatives and pursuant to the 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 Cooperatives Bill (National Assembly Bill No. 7 of 2024)



Hon. James Mwangi Gakuya, MP.

Chairperson, Departmental Committee Trade, Industry and Cooperatives

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and mandate of the Committee

1) The Departmental Committee on Trade, Industry and Cooperatives is one of the twenty (20) Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows: -

- (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 the 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 legislation referred to it;*
- (v) *study, assess and analyze 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 204 (Committee on Appointment;*
- (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 Subjects under the Committee

The Second Schedule of the Standing Orders on Departmental Committees further outlines the Subjects of the Committee, as follows

- i. trade, including securities exchange, consumer protection;
- ii. pricing policies, commerce;
- iii. industrialization including special economic zones;
- iv. enterprise promotion & development including micro, small & medium enterprises (MSMEs);
- v. small and medium enterprises (SMEs);
- vi. intellectual property;

- vii. industrial standards;
- viii. anti-counterfeit policies; and,
- ix. Co-operatives development.

In executing its mandate, the Committee oversees the following government Ministries, State departments and Agencies:

1. The State Department for the Cooperatives
2. The State Department for Medium, Small and Micro Enterprises
3. The State Department for Trade
4. The State Department for Industry
5. The State Department for Investment Promotion

1.3 Committee Membership

- 2) The House constituted the Committee on Thursday 27th October, 2022 and comprises the following Members:

Chairperson

Hon. James Mwangi Gakuya, MP
Embakasi North Constituency
United Democratic Alliance (UDA)

Vice Chairperson

Hon. Kitany Marianne Jebet, MP
Aldai Constituency
United Democratic Alliance (UDA)

Hon. Dr. Oundo Wilberforce Ojiambo, MP
Funyula Constituency
Orange Democratic Movement (ODM)

Hon. Dr. Adagala Beatrice Kahai, MP
Vihiga County
Amani National Congress (ANC)

Hon. Githinji Robert Gichimu, MP
Gichugu Constituency
United Democratic Alliance (UDA)

Hon. Kamene Joyce, MP
Machakos County
Wiper Democratic Movement–Kenya

Hon. Mwalyo Joshua Mbithi Mutua, MP
Masinga Constituency
Independent Member

Hon. Oluoch Anthony Tom, MP
Mathare Constituency
Orange Democratic Movement (ODM)

Hon. Wainaina Antony Njoroge, MP
Kieni Constituency
United Democratic Alliance (UDA)

Hon. Waithaka John Machua, MP
Kiambu Constituency
United Democratic Alliance (UDA)

Hon. Guyo Adhe Wario, MP
North Horr Constituency
KANU

Hon. Sakimba Parashina Samuel, MP
Kajiado South
Orange Democratic Movement (ODM)

Hon. Maina Mwago Amos, MP
Starehe Constituency
Jubilee Party

Hon. Korir Adams Kipsanai, MP
Keiyo North Constituency
United Democratic Alliance (UDA)

1.4 Committee Secretariats

3) The Committee is facilitated by the following staff:

Mr. Abenayo Wasike

Principal Clerk Assistant I/Head of Secretariat

Mr. Ellam Omuhinda
Clerk Assistant III

Ms. Evelyn Kerubo
Clerk Assistant III

Ms. Doreen Karani
Senior Legal Counsel

Mr. Sidney Lugaga
Senior Legal Counsel

Ms. Pauline Sifuma
Hansard Officer

Ms. Loice Olesia
Fiscal Analyst III

Mr. Mumin Arkan
Research Officer III

Ms. Priscilla Saidi
Research Officer III

Mr. Daniel Psirmoi
Media Relations Officer III

Ms. Florence Wanja
Protocol Officer

Mr. Cosmas Akhonya
Audio Officer

Ms. Peris Kaburi
Serjeant At Arms

CHAPTER TWO

2.0 OVERVIEW OF THE BILL

- 4) The Bill seeks to provide for a legal framework that promotes a sustainable and competitive cooperative sector for socio-economic development in a devolved system of governance and to give effect to Article 186 and the Fourth Schedule to the Constitution. It seeks to promote uniform norms and standards in the registration, regulation, supervision and management of Cooperatives and establish a framework for consultation and co-operation amongst counties.
- 5) The Bill seeks to establish the office of the Commissioner for Cooperative Development at the national level and the office of the County Director for Cooperatives at the county level and provide for inter-governmental Cooperative relations. The Office of the Commissioner for Cooperative Development will be responsible for promotion, registration, and regulation of Cooperatives and provide for inter-governmental cooperative relations.
- 6) The Bill has 168 clauses divided into seventeen parts and three schedules.
- 7) The Bill concerns the County Governments in terms of Article 110(1)(a) of the Constitution, in that it contains matters that affect the functions of the County Governments as prescribed in the Fourth Schedule of the Constitution.
- 8) The Bill is aligned with the National Co-operative Policy (Sessional Paper No. 4 of 2020) and is an output of the National Co-operative Policy Operationalization Task Force, which was appointed in 2020 to initiate and develop a framework for implementation of the National Co-operative Policy Interventions, review the Co-operative legislation, Co-operative Institutional Reforms and Co-operative Capacity Building.

2.1 Background on Cooperatives

- 9) In Kenya, a cooperative is a member-owned and democratically controlled enterprise that operates based on cooperative principles. These principles include voluntary and open membership, democratic member control, member economic participation, autonomy and independence, education, training, and information, cooperation among cooperatives, and concern.
- 10) Cooperatives in Kenya can operate in various sectors, including agriculture, housing, consumer goods, financial services, and more. They are established to meet the common economic, social, and cultural needs of their members. Cooperative members contribute capital, share in the risks and benefits of the cooperative's activities, and participate in decision making processes.
- 11) As it currently stands, the Cooperative Societies Act, Cap 490 of the Laws of Kenya, governs the formation, registration, and operation of cooperatives in Kenya. The Commissioner for Cooperatives oversees the registration and regulation of cooperatives, ensuring compliance with the law and promoting the development of the cooperative movement in the country. Under the Cooperative Societies Act, cooperative societies exhibit several salient features:

- i. Voluntary and Open Membership- Membership in a cooperative society is voluntary and open to all who are eligible according to the society's bylaws, without discrimination.
- ii. Democratic Member Control - Cooperative societies operate democratically, with members having equal voting rights regardless of their shareholding. Decisions are made through democratic processes, with each member having one vote.
- iii. Member Economic Participation-Members contribute capital to the cooperative society and share in the risks and benefits of its operations. Members participate actively in the economic activities of the cooperative.
- iv. Autonomy and Independence- Cooperative societies are autonomous, self-help organizations controlled by their members. They operate independently and make decisions based on the needs and aspirations of their members.
- v. Cooperation Among Cooperatives- Cooperative societies promote cooperation and collaboration among themselves, recognizing the benefits of working together to achieve common goals and objectives.
- vi. Concern for the Community- Cooperative societies contribute to the sustainable development of their communities by addressing social, economic, and environmental challenges and promoting the well-being of their members and the broader community.

12) Cooperatives in Kenya face challenges including-

- i. Governance Challenges- Some cooperatives face governance issues such as poor leadership, lack of transparency, and inadequate accountability mechanisms. This can lead to mismanagement of resources and internal conflicts.
- ii. Financial Management: Many cooperatives struggle with financial management, including inadequate financial reporting, poor record-keeping, and unsustainable financial practices. This can hinder their ability to attract investment, access credit, and grow their operations.
- iii. Market Access and Competition: Cooperatives often face challenges in accessing markets for their products and services due to competition from larger corporations and limited marketing resources. This can affect their profitability and sustainability.
- iv. Capacity Building: There is a need for capacity building and training programs to strengthen the skills and capabilities of cooperative members and leaders in areas such as business management, governance, marketing, and financial management.
- v. Legal and Regulatory Framework: Some cooperatives struggle to navigate the complex legal and regulatory environment in Kenya, including compliance with the Cooperative Societies Act and other relevant laws. Simplifying regulatory processes and providing support for compliance could help alleviate this challenge. Further, since the promulgation of the Constitution, the legal

framework governing cooperatives has yet to take the role of county governments into cognizance. This Bill seeks to address this issue.

- vi. Access to Financing: Many cooperatives face difficulties in accessing affordable financing to support their operations and growth initiatives. Improving access to credit and financial services tailored to the needs of cooperatives could enhance their sustainability.
- vii. Climate Change and Environmental Sustainability: Cooperatives in sectors such as agriculture face challenges related to climate change, including unpredictable weather patterns, droughts, and pests. Building resilience to climate change and promoting environmentally sustainable practices are critical for their long-term viability.

2.2 Summary of Clauses

13) **Part I (Clause 1-5)** of the Bill provides for preliminary matters including the short title of the Bill. It provides for the interpretation of terms used in the Bill and the objects of the Act. It also provides for the guiding principles in the implementation of the Act and the application of the Act.

14) **Part II (Clause 6-18)** of the Bill provides for the establishment of the offices and administration of the Act. It establishes offices in three divisions: Division 1 relates to the National Government Offices, wherein it establishes the office of the Commissioner for Cooperative Development and provides for the staff of the office of the Commissioner. It also makes provision for a vacancy in the office of the Commissioner, the functions of the Commissioner and provides for annual reports by the Commissioner.

Division 2 relates to County Government Offices. It establishes the office of the County Director for Cooperatives and provides for staff of the office of the County Director for Cooperatives. It makes provision for vacancy in the office of the County Director for Cooperatives, the functions of the County Director for Cooperatives and provides for an annual report by the County Director for Cooperatives.

Division 3 relates to the Inter-Governmental Cooperatives Relations Technical Forum. It establishes the Inter-Governmental Cooperatives Relations Technical Forum and provides for its functions and meetings.

15) **Part III (Clause 19-27)** of the Bill provides for the structure of cooperatives in Kenya. It establishes a four-tier structure which includes Primary Cooperatives, Secondary Cooperatives, Cooperative Federations and an Apex Cooperative. It sets out the types of primary cooperatives that may be registered and prohibits multiple objects in primary Cooperatives. It provides for the objects of secondary Cooperatives and the objects of Cooperative federations. It provides for registration and subscription to the Apex Cooperative and the role and functions of the Apex Cooperative. It also provides for the annual reports of the Apex Cooperative and registration, regulation and operations of Apex Cooperative.

- 16) **Part IV (Clause 28-43)** of the Bill provides for registration of cooperatives. It includes the procedure for registration, restriction of registration of Cooperatives within the same common bond and limitation on names of Cooperatives. It provides for the registration of a Cooperative and its by-laws and a certificate of registration as evidence of registration. It also provides for the requirement to display a Cooperative certificate of registration and change of name or loss of certificate. It further makes provision for the deeming of a cooperative as a body corporate and prohibition against dual registration as well as amendment of by-laws. It provides for the binding effect of the by-laws of a Cooperative and for appeals against refusal to register. It further provides for the presumption of the signature by the Commissioner, the protection of Cooperative identity and for the protection and restriction on the use of the name "Sacco". It also provides for the mandatory usage of names in certain Cooperatives.
- 17) **Part V (Clause 44-51)** of the Bill provides for the rights and liabilities of members. This includes qualification for membership, limitation of holding share capital, exercise of members' rights, limitation of membership to producer Cooperatives, voting rights of members, transfer of shares, rights of members and the obligations of a member.
- 18) **Part VI (Clause 52-56)** of the Bill provides for the duties of cooperatives. It requires every cooperative to have a registered address in Kenya and to keep a copy of the Act and by-laws at its registered office. It also provides for estimates of income and expenditure, accounts and audits and production of books and other documents by cooperatives.
- 19) **Part VII (Clause 57-66)** of the Bill provides for governance of cooperatives. It includes provisions on general meetings, special general meetings, presiding at general meetings, the use of physical, virtual or hybrid general meetings and the delegate system of representation. It also provides for membership and powers of the board, eligibility to the board of directors and responsibilities of the board. It also makes provision for the creation of a Supervisory Board and its duties as well as a Nomination Committee.
- 20) **Part VIII (Clause 67 -68)** of the Bill provides for the amalgamation and division of cooperatives. This part outlines the procedures for the amalgamation and division of cooperatives.
- 21) **Part IX (Clause 69-80)** of the Bill provides for the rights and obligations of cooperatives. It permits a cooperative to enter into a charge over a member's produce and to fine a member for violation of by-laws. It also provides for first charge over debts and assets of a member and first charge over members' shares. It makes provision for an employer's failure to remit the sum deducted from an employee. It also provides for prohibition against attachment of member's share, the rights of withdrawing from membership and the liability of past and deceased members. It further provides for the transfer of share or interest of deceased members. It also

provides for evidence of member's interest in Cooperative and restriction on production of Cooperative books.

- 22) **Part X (Clause 81-89)** of the Bill provides for property and funds of cooperatives. It provides for how the property and funds of a cooperative are to be applied. It also provides for restriction on giving loans and borrowing as well as investment of a Cooperative's funds, investment in non-core activities and investment in companies. It further makes provision declaration and payment of bonuses, the maintenance of a reserve fund and the distribution of net balance.
- 23) **Part XI (Clause 90-98)** of the Bill provides for charges by cooperatives. It provides for the creation of charges over Cooperative property, compliance of charges with applicable law, the registration of charges by the Commissioner and for the Register of charges. It also makes provision for the issuance of a Certificate of satisfaction of charges and for the requirement for the Receiver to give notice of appointment to the Commissioner. It also makes provision for the requirement of a Cooperative to keep a copy of instruments of charge at the registered office and for the register of particulars of charges. It further provides for the right of members and creditors to inspect the register of charges.
- 24) **Part XII (Clause 99-105)** of the Bill provides for inquiry, inspection and surcharges. It provides for inquiry by the Commissioner into the by-laws, working and financial conditions of any Cooperative registered in Kenya. It also provides for the power to surcharge officers of a Cooperative, appeal against a surcharge order and the recovery of surcharge. It further provides for the inspection of books of an indebted Cooperative, the expenses of inquiry and inspection and routine inspection.
- 25) **Part XIII (Clause 106-117)** of the Bill provides for the dissolution of Cooperatives. It includes the procedure for dissolution, the cancellation of registration, effects of cancellation and makes provision for the liquidation of a Cooperative whose registration is cancelled. It also makes provision for the appointment of a liquidator, the qualifications of a liquidator, the powers of a liquidator and the making of a liquidation account of cooperatives. It sets out the powers of the Commissioner during liquidation. It also provides for appeals against an order of the liquidator or Commissioner, enforcement of orders and outlines offences relating to liquidation of a Cooperative.
- 26) **Part XIV (Clause 118-123)** of the Bill provides for special powers of the Cooperative tribunal to set aside certain transactions. It provides for the power of the Cooperative Tribunal to set aside transactions that are under value, the power to void preference and provides the meaning of the term 'relevant time' used in clauses 118 and 119 of the Bill. It also makes further provisions for orders under clauses 118 and 119 ancillary provisions. It further provides for the power of the Cooperative Tribunal to set aside certain extortionate transactions and outlines the circumstances in which a floating charge on a Cooperative undertaking or property may be invalid.
- 27) **Part XV Clause (124 -146)** of the Bill provides for settlement of disputes. It establishes the Cooperative Tribunal and provides for the appointment of its

members. It also sets out the remuneration and term of office for members of the Cooperative Tribunal. It provides for the gazettelement of members of the Tribunal and when a vacancy in the office of the Tribunal may arise. It also provides for the jurisdiction of the Tribunal, registries, sittings and proceedings of the Tribunal. It provides for orders by the Tribunal and general offences at the Tribunal and grants the Tribunal unlimited geographical and pecuniary jurisdiction in matters of cooperative disputes. It provides for the quorum and benches of the Tribunal, conflict of interest and voting at the Tribunal. It further provides that the powers of the chairperson may be exercised by the vice chairperson and for appeals to the High Court from the Tribunal. This part also provides for the Chairperson's power to appoint a Cooperative assessor at the Tribunal and for contempt of the Tribunal. It also provides for the appointment of a Deputy Registrar of the Tribunal and the right of parties before the Tribunal. It also provides for the immunity of officers of the Tribunal and for alternative dispute mechanisms at the Tribunal.

28) **Part XVI (Clause 147-162)** of the Bill contains general provisions. It provides for procurement and disposal in Cooperatives, enforcement of ethics and integrity in Cooperatives, cooperative self-regulation, credit information sharing, inter-cooperative borrowing, cooperative capital raising instruments and remuneration to officers and members of a Cooperative. It also establishes the Cooperative Development Fund and delegates to the Cabinet Secretary the power to make regulations. It further provides for the powers of the Cabinet Secretary and the County Executive Committee Member, other powers of the Commissioner, and other powers of the County Director for Cooperatives. It outlines offences, provides for the distinction of Cooperatives from trade unions and sets out a general penalty for offences.

29) **Part XVII (Clause 163-168)** of the Bill provides for transitional provisions. It proposes the repeal of the Cooperative Societies Act (No. 12 of 1997) and the amendment of the Public Officer Ethics Regulations, 2003. (LN. No 6 of 2003). It also provides for transition to the Office of the Commissioner and County Director for Cooperatives and the enactment of County Assembly legislations. It provides for the transition of the members of and proceeding before the Cooperative Tribunal as well as the transition of notices, orders, directions and appointments.

30) **Schedules**

The First Schedule outlines the procedure of liquidation of cooperatives under clause 109. The Second Schedule outlines preferential debts in relation to the payment of debts for a Cooperative under liquidation, while the Third Schedule outlines offences relating to conduct before and during liquidation and criminal proceedings relating to those offences under clause 117.

CHAPTER THREE

3.0 OVERVIEW OF THE LEGAL FRAMEWORK ON COOPERATIVES IN KENYA

3.1 Constitutional provisions

- 31) Article 10 of the Constitution regulates National values and principles of governance and provides that the national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons whenever any of them: applies or interprets this Constitution, enacts, applies or interprets any law, or makes or implements public policy decisions. The national values and principles of governance include: patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability; and sustainable development.

3.2 International legal framework

- 32) In 1895, the **International Cooperative Alliance (ICA)** was founded to promote cooperative principles worldwide. In 1966, the **ICA Principles** were formally defined, setting a foundation for cooperative values. 1995, the **ICA Principles** were revised to align with changing social and economic landscapes. In 2002 the **ILO Recommendation No. 193 on the Promotion of Cooperatives** was adopted, establishing modern standards and principles for cooperatives. In 2012, the **International Year of Cooperatives** declared by the UN, highlighting the role of cooperatives in achieving economic and social goals. In 2015 the **UN Resolution on Cooperatives** was passed, recognizing cooperatives as partners in achieving sustainable development goals. This timeline documents the history of the cooperative movement that has been built on principles of fairness, democracy, and community support, evolving over time to address global social and economic challenges.
- 33) **ILO Recommendation no. 193 (2002)** is one of the main guidelines for cooperatives and emphasizes: **voluntary membership** stating joining a cooperative should be a choice, **democratic control** stating that the members should control cooperatives democratically, with one member, one vote, **economic participation** that emphasizes that members contribute and benefit economically in a fair way, **autonomy and independence** that states that cooperatives should be self-governed and free from outside control, **education and training** that states that providing education and training to members for cooperative development, **cooperation among cooperatives** that enounces that cooperatives should work together to strengthen the movement, and **concern for community** that restates that cooperatives should work to benefit the communities they serve.

3.3 Acts of Parliament that regulate cooperatives

- 34) The Co-operative Societies Act (CAP. 490) is an Act of Parliament relating to the constitution, registration and regulation of cooperative societies enacted on 22nd December, 1997 and came into force on 1st June, 1998. The Act contains provisions regulating registration of co-operative societies, privileges of registered societies, rights and liabilities of members, duties of co-operative societies, amalgamation and division of co-operative societies, rights and obligations of co-operative societies, property and funds of co-operative societies, charges by co-operative societies, inquiry and inspection, special powers of the court to set aside certain transactions dissolution, surcharge, and settlement of disputes.
- 35) The Sacco Societies Act (CAP 490B) was enacted on 24th December, 2008 and operationalized on 26th September, 2009 and is an act of Parliament to make provision for the licensing, regulation, supervision and promotion of Sacco societies, to establish the Sacco Societies Regulatory Authority. The Act applies to every deposit-taking business and specified non-deposit taking business specified by regulation. The Act contains provisions regulating establishment objects and functions of the Sacco societies Regulatory Authority, licensing of Sacco societies, governance of Sacco societies, regulation and supervision of Sacco societies, and establishment of the Deposit Guarantee Fund.

3.4 Policy framework

- 36) **Sessional Paper No. 10 of 1965 on African Socialism and its Application to Planning in Kenya.** The **Cooperative Society Act 1966** was enacted pursuant to Sessional paper no. 10 of 1965. **Sessional Paper No.14 on Co-operative Development Policy 1975** was formulated to continue recognition of co-operatives as vital institutions for mobilising the natural, human and financial resources for national development.
- 37) **Sessional Paper No 6 on *Co-operatives in a Liberalized Economic Environment*** was formulated to provide a policy framework for Cooperative development in a changing economic environment and the Cooperative Management approach by withdrawing of state involvement in the day-to-day management of co-operative societies and unions. The Co-operative Societies Act, Cap. 490 was enacted pursuant to Sessional Paper No. 6 of 1997, to regulate **the constitution, registration and regulation of co-operative societies.**
- 38) **Sessional Paper no. 4 of 2020** was formulated to ensure that co-operative societies participate effectively in making Kenya an industrialized country as envisaged in Kenya Vision 2030. The Cooperatives Bill has been drafted pursuant to Sessional Paper no. 4 of 2020 on National Cooperative Policy on **promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.**

CHAPTER FOUR

4.0 PUBLIC PARTICIPATION IN CONSIDERATION OF THE BILL

4.1 Legal provision on public participation

- 32) Article 118 (1) (b) of the Constitution of Kenya provides that Parliament shall facilitate public participation and involvement of public in the legislative and other business of Parliament and its Committees.
- 33) Standing Order 127(3) provides that the Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism, including; inviting submission of memoranda; holding public hearings; consulting relevant stakeholders in a sector; and consulting experts on technical subjects.
- 34) Standing Order 127(3A) further provides that the Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.
- 35) Pursuant to the provisions of Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee through an advertisement in the local daily newspapers of Tuesday, 6th April, 2024 invited the public to make representations on the Bill. Further, another advertisement was made on Tuesday, 30th April, 2024 notifying and inviting the public to public hearings on the Bill in eight counties across the country. These are attached to the report as **annexure 3**.

4.2 Submissions by stakeholders

- 36) The Committee further met and received submissions from the following institutions on Monday 6th of May 2024 within Parliament Buildings;
 - (i) The State Department for Devolution;
 - (ii) The Council of Governors;
 - (iii) Joint submission by the Ministry of Cooperatives and the Council of Governors;
 - (iv) Kenya National Police DT Sacco;
 - (v) Mwalimu National Sacco;
 - (vi) Cooperative University of Kenya; and
 - (vii) Cooperative Alliance of Kenya (CAK).
- 37) The Committee met and received submissions from the following persons and institutions as represented in the matrix below:

4.3 Consideration of stakeholders' submissions on the Cooperatives Bill, (National Assembly Bills No. 7 Of 2024)

38) The Committee considered the stakeholders submissions as detailed below:

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Long Title	State Department for Devolution	The Bill should focus on development of policy, norms and standards for development and management of the cooperative sector	The purpose of the Bill should not be for the creation of the office of the Commissioner	Rejected. The Committee noted that the Bill been drafted pursuant to Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.
Clause 1 Short title				The Committee did not receive any submission from the public on this clause.
Clause 2 Definition of "Apex cooperative"	State Department for Devolution	Amend the naming and definition of 'Apex Cooperative' to " National Confederation of Cooperatives responsible for the development of the Cooperative Sector and represent the national and international interests of their members	This will bring together all cooperatives as members and be the protector of members and the sector as a whole	Rejected. The Committee noted that the Bill was drafted pursuant to the nomenclature use in ILO Recommendation 193 of 2002.
Clause 2 Definition of "Bonus"	Kenya National Police DT Sacco	Include 'Interest on Deposits' in definition of 'Bonus'		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal would

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				contradict the principles of good governance provided Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.
Clause 2 Definition of "County director for Cooperatives"	Council of Governors	Amend the definition of the word "County Director for Cooperatives" to read as follows: "County Director" means the County Director for the time being responsible for Cooperatives development in a county;	To avoid ambiguity and provide for clarity as to the definition of County Director	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that there was no ambiguity in the definition of the word "County Director for Cooperatives"
Clause 2 Definition of "Secondary Cooperative"	Joint submission by the Ministry of Cooperatives and the Council of Governors	Amend definition to "secondary Cooperative" means a cooperative whose membership is two or more primary cooperatives	To provide clarity on the definition of the term	Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to clarify membership of a cooperative under clause 22 of the Bill.
Clause 2 Definition of 'Employee'	Kenya National Police DT	Delete 'payment for produce'	The words 'payment for produce' are misplaced	Rejected as proposed. The Committee considered the proposal

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
	Sacco			and justification submitted and noted that the proposal did not take into account that secondary definition has been used to accommodate the policy under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.
Clause 2 Definition of Holding Cooperatives	Mwalimu National Sacco	Expunge this definition and its references in the Bill	Does this mean that Saccos with holding companies are to convert them to holding cooperatives? Clarity on how this will be implemented is important. As holding companies for Cooperatives incorporated under the Companies Act.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the concerns informing the proposal would be addressed by the fact that the Cabinet Secretary will prescribe regulations under clauses 186 and 155 of the Bill.
Clause 2- definition of "reserve fund"	Cooperative University of Kenya	Amend to "reserve fund" means assets set aside from the net surplus of a Cooperative for investment in fixed assets and liquid assets, shares, support working capital, distribution of dividends	There is a proposed provision to expand the usage of reserve funds.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal departs from the principles of good

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		and bonuses, and settlement of liabilities.		governance under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co- operatives for socio- economic transformation from the State Department for Cooperatives.
Clause 2 - Cooperative federation	Kenya National Police DT Sacco	Membership should be strictly secondary cooperatives	To avoid conflict and ambiguity.	Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to be inserted under clause 23 of the Bill.
Clause 2 Definition of vulnerable members and section G2 (5)(c)	Mwalimu National Sacco	Expunge if clarity cannot be provided on who and why	The definition is too broad and needs to be refined and a clear understanding on the mischief to be cured as it is currently not clear what it is and how it will be cured.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not address that fact the clause seeks to define the word to enhance principle of democratic member control in accordance with clause clauses 4 and 62 of the of the Bill.
Clause 3(1)(d)	Duncan Joel Omond	wealth declaration -coop officers are not public officers - court cases	supports proposal on none remittance functions of county	Noted. The Committee noted that the comment

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			director of cooperatives	submitted in support of the proposal on non-remittance.
Clause 3 (2) - objects of the Act	State Department for Devolution	Delete clause (a)	Covered in all the other subsequent objects	Rejected. The proposal negates the long title of the Bill and overall purpose of the Bill.
Clause 3 (2) - objects of the Act	State Department for Devolution	Let clauses g, b, c appear first in that order	These are the broad objectives for the devolved function	Adopted with modifications. Move (c) from its current position to (a). renumber. Amended (c) should read— establishment of offices in the national government and county governments, responsibilities and functions of the national and county governments and their respective agencies;
Clause 3 (2) - objects of the Act	State Department for Devolution	Merge clauses d, e, f and h to read: "To provide a Framework for the promotion, development and management of Cooperatives at both National and County levels"	These clauses are all speaking on the management of Intergovernmental matters	Rejected. The proposal does not address a mischief in the paragraphs as drafted.
Clause 4(a) Guiding principles	CUK	Propose rephrasing of the sub-clause (iii) as follows; (iii) member economic participation;	To enhance clarity and align with the language use by the International Cooperative Alliance	Adopted.
Clause 4 Guiding principles	University of Nairobi African	Include the following sub-clause (c) Affirmative action for	To affirm that bridging the inequality gap is a	Rejected. Sub clause (2) provides that the national values and

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
	Women Studies Research Centre Women's Economic Empowerment Hub	the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities. Recognize the critical role of women as individuals and collectives to the economy particularly through the informal sector	foundational objective of the Act.	principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperative principles. Equity, inclusiveness and human rights is one the principles under Article 10.
Clause 4 Guiding principles	Ms. Emily Wanja, Christine Wanjiru and Jane Kamwaga of Kirinyaga Women Economic Empowerment network in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause (c) Affirmative action for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities. Recognize the critical role of women as individuals and collectives to the economy particularly through the informal sector	To affirm that bridging the inequality gap is a foundational objective of the Act.	Rejected. Sub clause (2) provides that the national values and principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperative principles. Equity, inclusiveness and human rights is one the principles under Article 10.
Clause 4(a) Guiding principles	Kenya National Police DT Sacco	Include 8th principle of Diversity, Equity and Inclusion		Rejected. Sub clause (2) provides that the national values and principles of

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				governance provided under Article 10 of the Constitution apply as guiding principles along with cooperative principles. Equity, inclusiveness and human rights is one the principles under Article 10.
Clause 4(a) Guiding principles	State Department for Devolution	The Principle of Consultation and Cooperation and interdependence of the two levels of government should be one of the principles of the Bill	1. The country is operating under a devolved system of government; and 2. Cooperative societies is a devolved function whose effective delivery will be through consultation and cooperation.	Rejected. Consultation and cooperation is principle of sharing and devolution of power under Article 10 of the Constitution. Sub clause (2) provides that the national values and principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperatives principles.
Clause 4(c) Guiding principles	CUK	Introduce a new sub-clause as follows; 4(c) Cooperative values of self-help, self-responsibility, democracy, equality, equity, and solidarity.	To enhance the objects of Cooperatives as adopted in the Statement on the Cooperative Identity by the International Cooperative Alliance	Adopted. draft as sub clause (2).
Clause 5 (2)	State Department for Devolution	Delete 5(2) and replace with "Align the Sacco Societies Act 2008 to the provisions of this Act"	Sacco Societies Act was a pre- devolution law which requires to be aligned with the constitution. Requirement that	Rejected in the format proposed and considered as a resolution. The Committee considered the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			laws not consistent with the constitution should be reviewed.	proposal, the justifications and after careful consideration of the submission, resolved to introduce a sub clause to provide that all Sacco societies are registered and regulated under the Cooperatives Act, and where is a conflict in laws the Cooperatives Act will apply under clause 5.
Clause 6 Establishment of the Commissioner for Cooperative Development as an office in the public office	State Department of Cooperatives	This office exists in the current Act but has been restructured in Bill to accommodate the devolved structure	Restructure the office of the Commissioner as per Sessional Paper No.4 of 2020	The Committee noted that the submission was presented in support of Establishment of the Commissioner for Cooperative Development as an office in the Public Service.
Clause 6 (2) establishment of the office of the Commissioner	State Department for Devolution	Merge Division 1 and 2 Restate the clause as follows: Office of the Commissioner for Cooperative Development and the Commissioner of Cooperatives at the County level shall be offices in the Public Service.	Whereas we recognize the Role of the National Government, the performance of cooperative societies is assigned to the Counties hence the need to have the mirror-approach to this office	Rejected. The proposal does not take into consideration that offices are established individually in accordance with the national values and principles of governance regulating sharing and devolution of power provided under Article 10 of the Constitution
Clause 7- staff	State	The Public Service	Whereas we recognize	Rejected. Clause 13

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
of the office of the Commissioner	Department for Devolution	Commission or County Public Service Board shall appoint/designate technical officers to the offices	the Role of the National Government, the performance of cooperative societies is assigned to the Counties hence the need to have the mirror-approach to this office	provides that a County Public Service Board shall recruit a County Director for Cooperatives through a competitive recruitment process.
Clause 8 - staff of the office of the Commissioner	State Department for Devolution	The Public Service Commission or the County Public Service Board shall fill the vacancy through a competitive	Whereas we recognize the Role of the National Government, the performance of cooperative societies is assigned to the Counties hence the need to have the mirror-approach to this office	Rejected. Clause 13 provides that a County Public Service Board shall recruit a County Director for Cooperatives through a competitive recruitment process.
Clause 8(2)(b), Clause 13(2)(b), Clause 125(3)(b)- Professional body for Cooperative practitioners	Kenya National Police DT Sacco	Define 'professional body'	Professional body is not well defined and does not clearly distinguish who the professionals are and their qualifications.	Rejected but considered through alternative resolution. Provide minimum qualification as a degree in cooperative management or a related field of study, with 8 years of experience in management, for a commissioner and 5 years' experience for appointment as a county Director of Cooperatives.
Part II of the Bill	Mr. Phelix Mwali of Kirinyaga.	He indicated that he was in full support of the provisions provided under this second part of the		Comment noted in support of the Bill as proposed.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		Bill.		
Clause 9(2)(b) Functions of the Commissioner	Sheila Chiraka, Vihiga County	Registration of audit should be done at County level	to reduce costs since the commissioner will prescribe the auditing norm standard and qualification of auditors	Rejected. The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.
Clause 9(2)(b) Functions of the Commissioner	Joint submission by the Ministry of Cooperatives and MSMEs Development and COG	Delete Clause 9(2)(b)	It is provided for in clause 16	Rejected. The model of the Forum is not established under the Intergovernmental Relations Act, Cap 265F.
		Clause 9(2)(c) to be amended as- 2(c) promote and register Cooperative Federations and the Apex and diaspora Cooperative in Kenya	To align with the Fourth Schedule of the Constitution	Rejected. The Committee considered the proposal and resolved that the Commissioner shall registration of cooperatives.
		Clause 9(2)(e) to be amended as- (2)(e) conduct inquiries into the affairs of federations, apex and diaspora cooperatives in accordance with this Act	The technical committee agreed to split the inquiries function to provide clarity on the role of the commissioner	Rejected. The Committee considered the proposal and resolved that the Commissioner shall conduct all inquiries of cooperatives.
		New paragraph- conduct inquiries into	The technical committee agreed to split the inquiries	Rejected. The Committee considered the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		the affairs of primary and secondary cooperatives on recommendation by the county governments in accordance with this Act	function to provide clarity on the role of the commissioner	proposal, the justifications and after consideration of the proposal, resolved that the Commissioner shall conduct all inquiries of cooperatives.
New clause 9(d) & (e)	Joint submission by the Ministry of Cooperatives and MSMEs and the COG	To develop guidelines in consultation with the Council of Governors for registration and a standard certificate with a common seal and signature from the commissioner	The Cabinet Secretary is typically mandated to develop regulatory instruments	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the proposal, resolved that regulations shall be enacted by the Cabinet Secretary under clause 155 of the Bill.
New clause 9(d) & (e)	Joint submission by the Ministry of Cooperatives and MSMEs and the COG	To be submitted to the CS for gazettelement	The guidelines will standardise registration processes in the country in accordance with the Constitution.	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the proposal, resolved that regulations shall be enacted by the Cabinet Secretary under clause 155 of the Bill.
Clause 9(1) Functions of the Commissioner	Meru County Cooperative Forum	establish an integrated cooperative management information system	In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government. The bill in Sec 9 (1)	Adopted. The Committee considered the proposal, the justifications and after careful consideration of the proposal, resolved to introduce a clause to

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			<p>gives the Commissioner sole responsibility for the growth, development and regulation of Co-operatives in Kenya.</p> <p>As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the Fourth Schedule, the functions of the two levels of government are distributed as: -</p> <p>a) Part I - National Government; 35 functions</p> <p>b) Part II - County Government; 14 functions</p> <p>The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I-National Government; this implies that the co-operative function is fully devolved.</p> <p>Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and</p>	<p>provide for establishment of an integrated cooperative management information system as paragraph (ca)</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			<p>clearly defined.</p> <p>Article 2 of the Kenya Constitution 2010 states thus: -</p> <p>(1) This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.</p> <p>(2) No person may claim or exercise State authority except as authorized under this Constitution.</p> <p>(3) The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.</p> <p>(4) Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.</p> <p>The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas</p>	

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			<p>the Constitution clearly states that the Cooperative function falls wholly under the County Governments. In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void. Guided by the provisions of Article 186 of The Kenyan Constitution 2010 read with The Fourth Schedule thereon, the County Assembly of Meru enacted the Meru County Co-operatives Act, 2014 which has been in operation since. The same has served the Co-operatives within Meru County without any legal hurdles.</p>	
Clause 9(1) Functions of the Commissioner	Mr. Ephantus Manjau Chairperson Meru County Cooperative Forum	Inconsistent with the Kenya Constitution 2010. Review.	<p>In the Kenya Constitution 2010, there is a clear distribution of functions between the two levels of government. The bill in Sec 9 (1) gives the Commissioner sole responsibility for the growth, development</p>	<p>Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register cooperatives and the County Directors of</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			<p>and regulation of Co-operatives in Kenya. As spelt out in Article 186 (1) of the Kenya Constitution 2010, read together with the Fourth Schedule, the functions of the two levels of government are distributed as:-</p> <p>a) Part I - National Government; 35 functions</p> <p>b) Part II - County Government; 14 functions</p> <p>The co-operative function is under Part II-County Governments item 7(e) but does not appear under Part I-National Government; this implies that the co-operative function is fully devolved. Functions that are conferred to more than one level of government as per Article 186 (2) including Agriculture, Transport, Health and Livestock are clearly stated as such and clearly defined. Article 2 of the Kenya Constitution 2010 states thus: -</p>	cooperatives shall regulate the operations of cooperatives.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			<p>(1) This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.</p> <p>(2) No person may claim or exercise State authority except as authorized under this Constitution.</p> <p>(3) The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.</p> <p>(4) Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.</p> <p>The proposed Cooperative Bill 2024 seeks to assign powers to the Commissioner for Cooperatives in the National Government whereas the Constitution clearly states that the Cooperative function falls wholly under the</p>	

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			County Governments. In line of the foregoing, the Co-operative Bill, 2024 is inconsistent with The Constitution 2010, hence null and void. Guided by the provisions of Article 186 of The Kenyan Constitution 2010 read with The Fourth Schedule thereon, the County Assembly of Meru enacted the Meru County Co-operatives Act, 2014 which has been in operation since. The same has served the Co-operatives within Meru County without any legal hurdles.	
Clause 9 Functions of the Commissioner	University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause Coordinate the development of an affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register recommend to the Cabinet Secretary the formulation of a national policy framework and standards for the development and

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				growth of Cooperatives. The latter shall be based on cooperative principles under clause 4. Clause 4 (2) provides that the national values and principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperative principles. Equity, inclusiveness and human rights is one the principles under Article 10.
Clause 9 Functions of the Commissioner	Ms. Emily Wanja, Ms. Christine Wanjiru and Ms. Jane Kamwaga of Kirinyaga Women Economic Empowerment network in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic	Include the following sub-clause Coordinate the development of an affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register recommend to the Cabinet Secretary the formulation of a national policy framework and standards for the development and growth of Cooperatives. The latter shall be based on cooperative principles under clause 4. Clause 4 (2) provides that the national values

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
	Empowerment Hub			and principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperative principles. Equity, inclusiveness and human rights is one the principles under Article 10.
Clause 9 Functions of the Commissioner	Ms. Jillo Mumina Konso of Isiolo County in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause Coordinate the development of an affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register recommend to the Cabinet Secretary the formulation of a national policy framework and standards for the development and growth of Cooperatives. The latter shall be based on cooperative principles under clause 4. Clause 4 (2) provides that the national values and principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperative

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				principles. Equity, inclusiveness and human rights is one the principles under Article 10.
Clause 9 Functions of the Commissioner	Ms. Mary Mueni of Machakos County in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause Coordinate the development of an affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register recommend to the Cabinet Secretary the formulation of a national policy framework and standards for the development and growth of Cooperatives. The latter shall be based on cooperative principles under clause 4. Clause 4 (2) provides that the national values and principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperative principles. Equity, inclusiveness and human rights is one the principles under Article 10.
Clause 9 (2)(c),	Meru County	Unconstitutional.	Contradicts the	Rejected in the format

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
(i),(j); 37, 56(7); 94(1)	Cooperative Forum	Review.	desired benefits of devolution as stated in Article 174 of the Kenyan Constitution	proposed and considered as a resolution. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved to introduce a clause to provide for establishment of an integrated cooperative management information system as paragraph (ca).
Clause 9 (2)(c), (i), (j); 37, 56(7); 94(1)	Mr Ephantus Manjau Chairman of the Meru County Cooperative Forum appeared before the committee in Isiolo	Unconstitutional. Review.	Contradicts the desired benefits of devolution as stated in Article 174 of the Kenyan Constitution	Rejected in the format proposed and considered as a resolution. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved to introduce a clause to provide for establishment of an integrated cooperative management information system as paragraph (ca).
Clause 9. Functions of the	Cooperative Bank of Kenya, CIC Insurance Group PLC	retain the following functions with the Commissioner-(1)registration of		Rejected. The Committee considered the proposal, the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Commissioner.		<p>cooperatives and maintenance of the national cooperatives register</p> <p>(2)supervision of cooperatives operating in several counties or nationally</p> <p>(3)issuance of borrowing powers to cooperatives</p> <p>(4)conducting of inquiries into the affairs of cooperatives</p>		<p>justifications and after careful consideration of the submission, resolved that the powers of registration, supervision and inquiries were provide under paragraphs(c), (e) and (f).</p>
Clause 9 (2)(j)- Functions of the Commissioner	Kenya National Police DT Sacco	Registration of regulated SACCOs is done by SASRA thus there is need for clarity		<p>Rejected in the format proposed and considered as a resolution.</p> <p>The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved to introduce a sub clause to provide that all Sacco societies are registered and regulated under the Cooperatives Act, and where is a conflict in laws the Cooperatives Act will apply under clause 5.</p>
9 (2)	Zaddok Nganyi	Registration of audit should be done at County level to reduce cost since		<p>Rejected.</p> <p>The Committee considered the proposal</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
	Cooperative officer in charge of	the Commissioner will prescribe auditing norm standard and qualification of auditors		and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.
Clause 9 Functions of the Commissioner	County Government of Isiolo	<p>Registration of cooperatives should be done at the county level and the proceeds thereof should be part of the revenue of the county.</p> <p>Further, the role of the County chief officer who controls the departmental financial resource is not properly provided for and defined in this Bill.</p>	<p>Fourth Schedule to the Constitution has devolved trade development and regulation including cooperatives societies to County Governments.</p> <p>All registration is dependent on the state department of cooperatives which usually takes up to six months at times to register. This is not only expensive to the citizens but the processing of applications of registration should be devolved to counties and be fully devolved including the roles of the Commissioner as provided for in this Bill.</p>	<p>Rejected.</p> <p>The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the cooperatives are private entities and it was misplaced to consider them as tools of revenue raising measures for purposes of strengthening remittances to the Consolidated Fund.</p>
Clause 9- Functions of the Commissioner	Cooperative Alliance of Kenya (CAK)	<p>Registration is a concurrent function as provided in the Bill.</p> <p>Issuance of certificates</p>	To facilitate maintenance of a national cooperative register since it is not	<p>Noted.</p> <p>The Committee noted that the comment submitted in support of</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
14, Functions of the County Director for Cooperatives; Entire part IV		to be done centrally as captured in the bill We support the registration as it is provided in the Bill	practical to have 48 independent cooperative registers Cooperatives are registered as small entities but with time they grow and spread out throughout the country. This is to avoid duplication of names. To allow a central place for search of cooperatives information by the government, members of the public and development partners The central registration will ensure that pyramid- like cooperatives such as DECI are not registered.	the proposal on Issuance of certificates.
Clause 9 Functions of the Commissioner.	Mr. Nicholas Kariuki from Meru County.	Proposed that the bill be amended in clause 9(2)(c) of the Bill by making provisions for registration of Saccos in the counties and not under the auspice of the Commissioner	Cooperatives is a devolved function; therefore, the registration function should be under the county government and not the national government.	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Clause 9 Functions of the Commissioner.	Mr. David Maru of Machakos.	Proposed that the bill be amended in clause 9(2)(c) of the Bill by making provisions for registration of Saccos in the counties and not under the auspice of the Commissioner	Cooperatives is a devolved function; therefore, the registration function should be under the county government and not the national government.	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.
Clause 9 Functions of the Commissioner.	Ms. Emily Mutua from Isiolo County.	Proposed that the functions of the Commissioner and that of the County Director of cooperatives should be carefully analyzed to ensure that there is no duplicity of roles as that is bound to bring conflicts.		Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.
Clause 9 Functions of the Commissioner.	Mr. Moses Miriti from Isiolo County.	Proposed that the bill be amended in clause 9(2)(c) of the Bill by making provisions for registration of Saccos in the counties and not under the auspice of the Commissioner	Cooperatives being a devolved function, it therefore follows that the registration function should be under the county government and not	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission,

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		Further the Bill should have been drafted in both English and Swahili to allow many people to make meaningful contributions to it.	the national government.	resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.
Clause 9 Functions of the Commissioner.	Patrick Katingina	Supports the provision in the Bill that the registration of cooperatives to be done at one point. He also supported the provision for the classification of cooperatives (Apex, Secondary and Primary).		Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.
9	Duncan Joel Omond	separate the categories that will be between the four tiers of cooperatives		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed in so far as it departed from the classification of cooperatives as

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				proposed under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.
Clauses 11-13	State Department for Devolution	Clauses 11- 13 be merged as the proposals made by the SDD under clauses 6-8 above will make them redundant	The two offices are in the realm of the Public Service	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed by merging clauses 11, 12 and 13 of the Bill.
Clause 12 Staff at the Office of the County Director for Cooperatives	CUK	The County Public Service Board shall appoint such a number of technical officers with <i>necessary academic qualifications, competencies and experience in Cooperative management and practice</i> to the Office of County Director for Cooperatives, as may be necessary for the implementation of the provisions of this Act.	The Bill recognizes Cooperative management as a professional practice hence the need for technical officers to have substantial level of knowledge and practice in the field.	Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide that the County Public Service Board shall appoint such a number of technical officers with necessary academic qualifications, competencies and experience in Cooperative

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				management and practice to the Office of County Director for Cooperatives
Clause 11 Establishment of the Office of the County Director for Cooperatives	Cooperatives Alliance of Kenya (CAK)	CAK support the appoint of County Directors for Cooperatives as provided in the Bill where the Director is expressly appointed by the County Public Service Board.	This appointment is very key in growth and development of cooperatives at the county He appointment of the County Director for Cooperatives by CECM as proposed by the COG is detrimental to the growth and development of cooperatives as it can be used as a tool to cherry pick sycophants in the leadership of cooperatives An example of abuse of such office includes in Nyamira where we have a case in court.	Noted. The Committee noted that the comment submitted supporting the proposal on appointment of County Directors for Cooperatives as provided in the Bill.
Clause 11 Establishment of the Office of the County Director for Cooperatives	Mr. Mugo Wagikombo of Kirinyaga Constituency.	He did not approve the devolution of cooperatives in the county governments as he feared that there would be undue political influence from the county government.		Noted. The Committee noted that the comment submitted in concern that Mr. Mugo did not approve the devolution of cooperatives in the county governments as he feared that there would be undue political influence from

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				the county government.
Clause 11 Establishment of the Office of the County Director for Cooperatives	State Department of Cooperatives	New Provision	To establish cooperative oversight mechanism at the counties	The Committee noted that the submission was presented in support of provides for the establishment of the Office of the County Director for Cooperatives.
Clause 11 Establishment of the Office of the County Director for Cooperatives	Mr. Evans Muriuki of Motoeri Phase 2 Society of Kirinyaga Constituency.	He proposed that the County Director of Cooperatives be appointed by the County Public Service and not by the governor.		Noted. The Committee noted that that the County Director of Cooperatives be appointed by the County Public Service and not by the Governor.
Clause 12 Staff of the office of the County Director for Cooperatives	Council of Governors	Amend clause 12 to read as follows: 12. The County Public Service Board shall in <u>consultation with the respective County Department, competitively recruit and</u> appoint such a number of technical officers to the office of County Director for Cooperatives, as may be necessary for the implementation of the provisions of this Act.	To provide for a consultative mechanism between the County Public Service Board and the County Department of Cooperative in the identification of the necessary human resource for the office.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed by inserting a requirement that the County Public Service Board shall consult with the respective County Department, competitively to recruit technical officers to the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				office of County Director for Cooperatives.
Clause 14 Functions of the County Director for Cooperatives	Joint submission by Ministry of cooperatives and the Council of Governors	Amend 14(1) as The County Director for Cooperatives shall be responsible to the County Executive Committee Member for the growth and development of cooperatives	To align with the executive authority of the county executive	Rejected. The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.
		14(2) New paragraph (b)(c) and (d) (b) register primary and secondary cooperatives		Rejected. The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.
		(c) shall maintain county cooperatives register		Rejected. The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall license the operations of cooperatives.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		(d) recommend conduct of inquiries to the commissioner into the affairs of primary and secondary cooperatives in accordance with this Act.		Adopted. The Committee considered the proposal and upon careful consideration, resolved to introduce a paragraph recommend conduct of inquiries to the commissioner into the affairs of primary and secondary cooperatives in accordance with this Act.
Clause 14 Functions of the County Director for Cooperatives	Cooperatives Alliance of Kenya (CAK)	CAK objects to the presiding of elections by county officers as provided in the bill.	The county offices can be easily used as a political tool to destabilize cooperatives, more so cooperatives in coffee, tea, dairy and transport sub sectors.	Rejected. The Committee considered the proposal and upon careful consideration, resolved that the county Directors of cooperatives have been presiding over elections with minimal complaints.
Clause 14 Functions of the County Director for Cooperatives	University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause Coordinate the implementation of the affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives at the	To ensure affirmative action is monitored and carefully implemented vertically; from the county to the national level.	Rejected as proposed but accommodated under an amendment proposed under clause 17 of the Bill. The Committee considered the proposal and upon careful consideration, resolved that the proposal would be accommodated under an amendment to be proposed to clause 17 of the Bill.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		County level.		
Clause 14 Functions of the County Director for Cooperatives	State Department for Devolution	Assign the roles for the proposed Commissioner for Cooperatives at County level, the roles assigned to the County Director of cooperatives in this Bill.	As earlier justified.	Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.
Clause 14 Functions of the County Director for Cooperatives	Ms. Jillo Mumina Konso on collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause Coordinate the implementation of the affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives at the County level.	To ensure affirmative action is monitored and carefully implemented vertically; from the county to the national level.	Rejected as proposed but accommodated under an amendment proposed under clause 17 of the Bill. The Committee considered the proposal and upon careful consideration, resolved that the proposal would be accommodated under an amendment to be proposed to clause 17 of the Bill.
Clause 14 Functions of the County Director for	Ms. Mary Mueni of Machakos County in	Include the following sub-clause Coordinate the	To ensure affirmative action is monitored and carefully implemented	Rejected as proposed but accommodated under an amendment proposed under clause

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Cooperatives	collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	implementation of the affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives at the County level.	vertically; from the county to the national level.	17 of the Bill. The Committee considered the proposal and upon careful consideration, resolved that the proposal would be accommodated under an amendment to be proposed to clause 17 of the Bill.
Clause 14 Functions of the County Director for Cooperatives	Ms.Emily Wanja, Ms. Christine Wanjiru, and Ms. Jane Kamwaga of Kirinyaga Women Economic Empowerment network in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause Coordinate the implementation of the affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives at the County level.	To ensure affirmative action is monitored and carefully implemented vertically; from the county to the national level.	Rejected as proposed but accommodated under an amendment proposed under clause 17 of the Bill. The Committee considered the proposal and upon careful consideration, resolved that the proposal would be accommodated under an amendment to be proposed to clause 17 of the Bill.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Clause 14 Functions of the County Director for Cooperatives	Ms.Emily Wanjia, Ms. Christine Wanjiru, and Ms. Jane Kamwaga of Kirinyaga Women Economic Empowerment network Ms.Jillo Mumina Konso of Isiolo County in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause Coordinate the implementation of the affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives at the County level.		Rejected as proposed but accommodated under an amendment proposed under clause 17 of the Bill. The Committee considered the proposal and upon careful consideration, resolved that the proposal would be accommodated under an amendment to be proposed to clause 17 of the Bill.
Clause 14 Functions of the County Director of Cooperatives.	County Government of Isiolo	An additional function for the County Director of Cooperatives be provide- thus “(ka) carry out capacity building for county cooperative officers”	The function of cooperatives having been devolved it is imperative that the offices at the County are well trained in matters cooperatives so that they can be able to effectively serve and support the	Rejected. The Committee considered the proposal and upon careful consideration and noted that the proposal is accommodated under clause 14(f).

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			citizens.	
Clause 15- Annual Report by County Director for Cooperatives	Kenya National Police DT Sacco	Amend to allow County Directors two months after April to submit an annual report on the performance, activities and operations of the office and of the Cooperatives within the county.	SACCOs complete audits in April. County directors should be given two months after that.	Adopted with amendment. The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to provide to allow County Directors to submit the audited reports five months after the end of the cooperative financial year.
Clause 15 Annual Report by the County Director for cooperatives	University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	<p>Include the following sub-clause</p> <p>(2) Without prejudice to the generality of subsection (1) the report shall detail:</p> <p>The progress of the implementation of the affirmative action framework for the benefit of special interest groups at County level.</p>	Reporting serves as a Monitoring Evaluation, Reporting and Learning tool for the affirmative action framework.	Adopted with an amendment. The Committee considered the proposal and upon careful consideration, resolved that the proposal would be accommodated under an amendment to be proposed to clause 15 of the Bill to provide that the report should include a statement on values and principles
15	Duncan Joel Omondi	time - 3 months to submit report land cooperatives should be included in primary cooperatives.		Adopted with amendment. The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to provide to allow County Directors to submit the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				audited reports five months after the end of the cooperative financial year.
Clause 16 establishment of Inter-Governmental Cooperatives Relations Technical Forum	State Department of Cooperatives	New Provision	To provide an administrative framework to coordinate the cooperative function nationally noting that cooperatives are related from grassroots to the apex and internationally	The Committee noted that the submission was presented in support of the clause that provides an administrative framework to coordinate the cooperative function nationally noting that cooperatives are related from grassroots to the apex and internationally
Clause 16 establishment of Inter-Governmental Cooperatives Relations Technical Forum	Joint submission by the Ministry of Cooperatives and MSMEs and the COG	<p>To be amended to-</p> <p>16(1)(a) to be co-chaired between the Commissioner and the chairperson of the caucus of the County Executive Committee Members responsible for Cooperatives</p> <p>16(1)(b) change the membership from the directors of cooperatives to the responsible CEC</p>	<p>All intergovernmental relations bodies by tradition are co-chaired</p> <p>The executive power in the county government is vested in the CEC</p>	<p>Rejected.</p> <p>The Committee considered the proposal and upon careful consideration, and resolved that the forum in the Bill is not established under the Intergovernmental Relations Act but as a forum to facilitate dialogue between technocrats on matters affecting the administration of cooperatives.</p> <p>The Committee resolved to insert an amendment stating that the forum shall act as a</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				mechanism for alternative dispute resolution among members of the technical forum.
Clause 16 establishment of Inter-Governmental Cooperatives Relations Technical Forum	Felister Mutisya	<p>1. What is the role of the officer appointed by the Governors in the forum of the county director of cooperatives are in the forum? What is the criteria used to appoint the governors</p> <p>2. What controls are there to ensure the commissioner is under check not to overbudget? Who will ensure the benefit is fit for purpose and that there are no excuses.</p>	Involvement of governors may bring unhealthy political interest from the governors	Rejected. The Committee considered the proposal and upon careful consideration, and resolved that the forum in the Bill is not established under the Intergovernmental Relations Act but as a forum to facilitate dialogue between technocrats on matters affecting the administration of cooperatives.
Clause 16 establishment of Inter-Governmental Cooperatives Relations Technical Forum	State Department for Devolution	<p>The proposed Forum should be an Intergovernmental Sector Forum as contemplated in the IGR Act 2012. According to the Intergovernmental Sector Forum Regulations, the membership of a Sector Forum includes:</p> <p><input type="checkbox"/> The Cabinet Secretary responsible for the sector who shall be the Chairperson of the Forum</p> <p><input type="checkbox"/> The Principal</p>	This is as stipulated in the Intergovernmental Sector Forum Regulations	Rejected. The Committee considered the proposal and upon careful consideration, and resolved that the forum in the Bill is not established under the Intergovernmental Relations Act but as a forum to facilitate dialogue between technocrats on matters affecting the administration of cooperatives.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		<p>Secretary responsible for matters relating to the sector</p> <p><input type="checkbox"/> The Caucus Chair for the sector from Council of Governors</p> <p><input type="checkbox"/> The 47 CECMs responsible for the sector</p> <p><input type="checkbox"/> The Principal Secretary responsible for Intergovernmental Relations matters</p> <p><input type="checkbox"/> The Chairperson of the Intergovernmental Relations Technical Committee (IGRTC)</p> <p><input type="checkbox"/> Other members may be co-opted on need basis</p> <p>Technical Officers hold pre-forum meetings to prepare the Agenda for a Sector Forum and or address administrative issues affecting the Sector</p>		<p>The Committee resolved to insert an amendment stating that the forum shall act as a mechanism for alternative dispute resolution among members of the technical forum.</p>
Clause 17	State Department for Devolution	<p>The functions of an Intergovernmental Sector Forum from which can be derived functions of technical officers in an Intergovernmental Relations unit, are as below: -</p> <p>(a) Undertake all measures necessary to facilitate the discussions</p>	To align with the Intergovernmental Structures and proposals of the Intergovernmental Relations	<p>Rejected.</p> <p>The Committee considered the proposal and upon careful consideration, and resolved that the forum in the Bill is not established under the Intergovernmental Relations Act but as a forum to facilitate dialogue between technocrats on matters affecting the</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		<p>necessary towards achieving cooperation and collaboration between the participants;</p> <p>(b) Make decisions that will constitute the agenda for the Summit with regard to the respective sectoral issue;</p> <p>(c) Create a register of all national and international state and non-state actors that have a direct or indirect interest in the respective sectoral issues;</p> <p>(d) Promote data and information sharing between the national government and amongst the county governments in the sector;</p> <p>(e) Promote</p>		<p>administration of cooperatives.</p> <p>The Committee resolved to insert an amendment stating that the forum shall act as a mechanism for alternative dispute resolution among members of the technical forum.</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		<p>sharing of experiences, best practices, implementation of competencies and emerging issues between the national government and amongst the county governments in the sector;</p> <p>(f) Mediate any conflict arising from among the participants as they undertake their various roles;</p> <p>(g) Consider matters referred to the Forum by a member of public; and</p> <p>Recommend to the Cabinet Secretary and the Council any other measures necessary for the better management and deployment of a Forum.</p>		
Clause 17 Functions of Inter-Governmental Cooperatives Relations	University of Nairobi African Women Studies Research	<p>Include the following sub-clause:</p> <p>(f) Formulate the development of an affirmative action</p>	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.	Rejected. The Committee resolved to insert an amendment stating that the forum shall act as a mechanism for

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Technical Forum	Centre Women's Economic Empowerment Hub	framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.		alternative dispute resolution among members of the technical forum.
Clause 17 Functions of Inter-Governmental Cooperatives Relations Technical Forum	Ms. Jillo Mumina Konso in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause: (f) Formulate the development of an affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.	The framework would prescribe the granular mechanics of promotion of special interest groups in cooperatives.	Rejected. The Committee resolved to insert an amendment stating that the forum shall act as a mechanism for alternative dispute resolution among members of the technical forum.
PART II— ESTABLISH MENT OF THE OFFICES AND ADMINISTR ATION OF THE ACT	Kenya Teachers' Sacco Association (KEPSA)	There should be established a pecking order and clear ventilation mechanism where the decision of the county is injurious to the well-being of the co-operative. We note that the inter-governmental Cooperatives Relations Technical Forum as envisaged in the bill is not only moribund but may never happen.	The delineation of functions gives power to both counties and National governments without providing a mechanism for conflict resolution in the event a co-operative is dissatisfied with a decision at the county level. To provide a clear	Rejected. The Committee resolved to insert an amendment stating that the forum shall act as a mechanism for alternative dispute resolution among members of the technical forum.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			path for administrative resolutions of disputes at the county level.	
Clause 19 The Cooperative four- tier Structure	State Department of Cooperatives	Existing in practice but improved and incorporated in the Cooperatives Bill	Implement the sessional paper no 4 of 2020 to control competition amongst cooperatives and engagement of cooperatives in amorphous activities	The Committee noted that the submission was presented in support of the clause that provides an administrative framework to implement the sessional paper no 4 of 2020 to control competition amongst cooperatives and engagement of cooperatives in amorphous activities.
Clause 19 The Cooperative four- tier Structure	Mr. Wilfred Thurania of Kirinyaga.	The proposed structure in the Bill was well aligned, therefore he was in support of the same.		The Committee noted that the submission supported the Bill.
Clause 19 The Cooperative four- tier Structure	Mr. Ibrahim Hasan of Isiolo County	The proposed structure in the Bill was well aligned, therefore he was in support of the same.		The Committee noted that the submission supported the Bill.
Clause 20 Primary Cooperatives	State Department for Devolution	Need to distinguish the roles and responsibilities of the National Cooperatives and the County Cooperatives	No clarity on the classification of these cooperatives	Rejected. The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				operatives for socio-economic transformation from the State Department for Cooperatives.
Clause 20 Primary Cooperatives	Safaricom Investment Cooperative	Amend the definition of "Savings and Investment Cooperatives" a savings and investment Cooperative shall be a Cooperative registered under this Act with the objects of receiving funds from members who wish to purchase investments in real estate, listed market securities, private equity or such other viable investment ventures as approves in the bylaws for profitable returns and growth of individual member asset base."	The current proposal may be misinterpreted that the savings and investment cooperatives are investment managers while in fact they allow members autonomy to elect and purchase investments available from their product portfolio for purposes of making returns or owning assets. The proposed amendment will enhance clarity on the objective of investment cooperatives.	Rejected. The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.
Clause 20 Primary Cooperatives	University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause under clause (1): (h) women empowerment cooperatives Include the following sub-clause under clause (2): (h) A women empowerment cooperative shall be a cooperative registered	This would serve as a novel cooperative dedicated to women economic empowerment.	Rejected. The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		under this Act with the object of advancing the economic empowerment of women.		economic transformation from the State Department for Cooperatives.
Clause 20 Primary Cooperatives	Ms. Jillo Mumina Konso in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	<p>Include the following sub-clause under clause (1):</p> <p>(h) women empowerment cooperatives</p> <p>Include the following sub-clause under clause (2):</p> <p>(h) A women empowerment cooperative shall be a cooperative registered under this Act with the object of advancing the economic empowerment of women.</p>	This would serve as a novel cooperative dedicated to women economic empowerment.	<p>Rejected.</p> <p>The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.</p>
Clause 20- Primary cooperatives	David Munyendo	<p>1. Be very clear Primary Co-operatives be allowed to diversify their objects or activities.</p> <p>2. delete Workers Co-operatives.... it's like a repetition of others. Workers can form Sacco, Marketing, Housing Coop.</p>		<p>Rejected.</p> <p>The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				for Cooperatives.
Clause 20(1) Primary Cooperatives	Sheila Chiraka, Vihiga	Objects of producer cooperatives to include production, assembly/aggregate/bulking, processing and marketing.		Rejected. The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.
Clause 20(1) Primary Cooperatives	Kenya National Police DT Sacco	Include Health Cooperatives	Has 7 types of primary cooperatives	Rejected. The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.
Clause 21	Felister	Expounded to provide for		Rejected. The clause is

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Prohibition against multiple objects in primary Cooperatives	Mutisya, Mombasa County	cooperatives that want to grow their business through subsidiaries. E.g., Sacco may want to start a housing, insurance, hospital subsidiaries etc		drafted in accordance with the ILO recommendation 193 of 2002 where units that operate at the local level and individual members come together to form a cooperative for mutual benefit.
Clause 21 Prohibition against multiple objects in primary Cooperatives.	Mwalimu National Sacco	Expunge this section	There is a need for the rationale for not registering primary cooperatives with multiple objects or purposes nor undertake multiple purposes or objects. The concern is whether this means that a cooperative society can only have one object or purpose. Cooperative Societies beyond their core mandate have welfare objects, this would violate this section.	Rejected as proposed. The Committee will sponsor an amendment to provide that a cooperative may not be registered under more than one purpose under clause 20(2)(a).
Clause 22(1) Objects of secondary Cooperatives	Kenya National Police DT Sacco	Membership of secondary cooperatives should be restricted to primary cooperatives.	Objects include those of primary cooperatives. This is supported by Clause 29	Rejected as proposed. The Committee will sponsor an amendment to provide for membership of a secondary cooperative in compliance with clause 29.
Clause 22(2) Non-compete	Kenya National Police DT Sacco	Include a clause for penalties in case for penalties in case of violation of the non-		Rejected as proposed. The Committee noted that clause 165 provides for a general

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		compete clause.		penalty.
Clause 22(2) Non-compete	Felister Mutisya, Mombasa County	To consider adding the following object- "provision of centralized services to technology, finance, banking etc. to its members affiliates"		Rejected as proposed. Sub clause (1) provides for provision of specialized services in general terms to permit cooperatives to determine the nature of services that cooperatives may require. The provision amounts to over legislating.
Clause 23 Objects of Cooperative Federations	State Department for Devolution	Sub clause (2) The Bill should provide a criteria for registration of a Cooperative Federation. Introduce Clause 23 (2) (c) to cater for an objective body or committee for determination of issues such as Registration, Deregistration, Fees, licensing, and resolution of Disputes at County level, and at intergovernmental level. The Commissioner of Cooperatives can be an institution with an independent Board	The clause is not clear/does not provide a clear distinction This is to enhance efficiency and accountability	The proposals were rejected as submitted. Clause 29 of the Bill contains provisions regulating registration of cooperatives. The Committee resolved, in consultation with the Council of Governors and the State Department that the Commissioner shall register all cooperatives.
Clause 23 Objects of Cooperative Federations	Kenya National Police DT Sacco	Membership should be drawn from Secondary cooperatives only.	Supported by clause 29	The Committee will sponsor an amendment to provide for membership of a secondary cooperative in compliance with

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				clause 29.
Clause 23 Objects of Cooperative Federations	KEPSA	We pick an issue with the tiering of the co-operative movement especially on the Cooperative Federations. Specifically, provision 2(a). The meaning of the subsector be clearer.	If the subsector as envisaged in the bill is ill defined, there is mischief of balkanizing the movement back to its current structure where one person runs with the federation.	The Committee noted the concerns and will propose an amendment to delete, the word "subsector" as it does not provide clarity in the manner it is used.
Clause 24 Registration and subscription to the Apex Cooperative Clause 25 Role and functions of the Apex Cooperative	Cooperative Alliance of Kenya (CAK)	Well, captured in the Bill but much more needed to be provided in the regulations especially on the role of the Apex in cooperative self-regulation and provision of shared services.	The Apex is a cooperative body under which all cooperatives are affiliated Its role is to safeguard members interests as well as lobbying and advocacy The Apex is well placed to enforce code of ethics, good governance and market conduct on cooperatives. The Apex can provide such services such as central booking. Shared ICT platforms, common procurement of farm inputs and market linkages etc.	The Committee noted that the submissions and noted that the clause is drafted empowers the apex cooperative to coordinate the activities of cooperatives, advocate for interests of cooperatives, and provide leadership in promoting cooperative values and principles in accordance with the requirements of ILO recommendation 193 of 2002
Clause 24 (1-3) Apex Cooperatives	Kenya National Police DT Sacco	Membership should be drawn from the Cooperative Federation. Subscription to be done by the cooperative federation.	CAK is not a parastatal and should not work in consultation with the Cabinet Secretary to prescribe subscription	Rejected. The Committee noted that the submissions and noted that the clause is drafted empowers the apex cooperative to

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			fees. This is supported by clause 29.	coordinate the activities of cooperatives, advocate for interests of cooperatives, and provide leadership in promoting cooperative values and principles in accordance with the requirements of ILO recommendation 193 of 2002.
Clause 24- Apex Cooperatives	David Munyendo	Give room for more than one Apex society		Rejected. The proposal fails to consider the provision is drafted in accordance with the requirements of ILO recommendation 193 of 2002.
Clause 24- Apex Cooperatives	Felister Mutisya, Mombasa County	1. There is a danger in the clause as the responsibility to determine the subscription is left to the apex body and the minister without consultation with the cooperatives themselves. 2. provide a criteria or basis for the determination of the subscription.	1. This subscription should be done in consultation or with the approval of the cooperative movement to avoid some of the things we are seeing where some cooperatives don't fully comply due to non-involvement. 2. this will avoid ambiguous criteria to be used by greedy apex bodies by body officials.	Rejected. The Committee rejected the proposal in so far as it fails to recognize that the implementation of the Bill is to be guided by the cooperative principles, and the values and principles under Article 10 of the Constitution.
Clause 25 Role and functions of the Apex Cooperative	State Department for Devolution	Introduce a clause on the function of the Apex Body to include:... establish institutions to promote	This will help the Apex Cooperative to ensure that the sector operates using	Rejected as proposed. The Committee noted that the proposal fails to recognize that clause

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		Cooperative Education, professional norms and standards	uniform professional norms and standards	25 (d) provides that the Apex cooperative shall promote Cooperative education, training, research and self-regulation within the Cooperatives in accordance with the cooperative principles and ILO recommendation 193 of 2002.
Clause 25 Role and functions of the Apex Cooperative	Meru County Cooperative Forum	Goes against the Co-operative principle of voluntary and open membership. Review.	<i>Every cooperative shall subscribe to the membership of the apex.</i> The inclusion of the word "shall" imply that it is mandatory for every Co-operative to join the Apex. Section 25(3) gives the cabinet secretary the powers to prescribe the manner of paying subscriptions and penalties where applicable. This creates an environment of government control compromising the principle of autonomy, independence and democratic control.	Rejected as proposed. The Committee noted that the proposal fails to recognize that clause 24 (2) is drafted in accordance with the requirements for subscription under the cooperative principles and ILO recommendation 193 of 2002.
Clause 25- Role and	Felister Mutisya	To include the following function-		Rejected as proposed. The Committee noted

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
functions of the Apex Cooperative		<p>"Subject to compliance with the computer society of Kenya, shall provide a shared pool of information systems audit services".</p> <p>To also include promotion of good governance practices in cooperatives.</p>		that the proposal fails to recognize that roles and functions of the Apex Cooperative under clause 25 is drafted in accordance with the requirements for subscription under the cooperative principles and ILO recommendation 193 of 2002.
Clause 26- Annual reports of the Apex cooperative	State Department for Devolution	<p>Add new Clause to provide for development of Regulations:</p> <p>"The Cabinet Secretary shall develop Regulations for effective implementation of the Act"</p> <p>In addition, County Assemblies shall formulate local legislature to give impetus to implementation at County level</p>	New Clause; The Act requires regulations	Rejected as proposed. The Committee rejected the proposal and noted that clause 155 of the Bill contains provisions empowering the Cabinet Secretary to enact regulations on preparation and submission of annual reports by an Apex Cooperative.
Clause 27	Felister Mutisya	Cooperatives to be involved in its formulation (participation)		Rejected as proposed. The Committee noted that the proposal fails to take into account the guiding principles on inclusivity as provided for under clause 4 of the Bill. The Committee shall sponsor an amendment to make the provision clear.
Clause 28(a)	Kenya	Replace 'welfare' with		Rejected as proposed.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Registration of limited liability cooperative	National Police DT Sacco	'social'		the Committee noted that the proposal did not address a mischief.
Clause 28 and 29- Registration of limited liability cooperative	Sheila Chiraka & Others, Vihiga County	The county government should register primary and secondary cooperatives while the Commissioner registers Diaspora, Federative and Apex cooperatives.		Rejected as proposed. The Committee rejected the proposed and resolved that the Commissioner shall register all cooperatives that operate in Kenya.
Clause 29- Procedure for registration	Sheila Chiraka & Others, Vihiga County	The Minimum member required to register cooperatives should vary according to the type of cooperatives such as worker cooperative 10, producer 25, SACCO 100		Rejected as proposed. The Committee proposes to amend to provide that minimum number of members should be 25 for a primary cooperative and 5 primary cooperatives to form a secondary cooperative.
Clause 29- Procedure for registration		Propose amendments and additions as follows; (b) by at least two primary Cooperatives in the case of the registration of a secondary Cooperative; or (c) by at least two secondary Cooperatives in case of the registration of a Cooperative Federation; <i>or</i> (d) by at least four Cooperatives, including secondary Cooperatives and/ <i>or</i> Cooperative Federations in case of the registration of	To avoid ambiguity and provide clarity on the membership of an Apex Cooperative	Rejected as proposed. The Committee proposes to amend to provide that minimum number of members should be 25 for a primary cooperative and 5 primary cooperatives to form a secondary cooperative.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		<i>an Apex Cooperative.</i>		
Clause 29 (1)(b) Procedure for registration	Mwalimu National Sacco	Increase the threshold to ten-twenty so that the proposed secondary cooperative has enough good will from the industry in order to assist in its sustainability.	The threshold of just two primary cooperatives to register a secondary cooperative is too low, it may lead to very many cooperatives undertaking the objects and purposes in section 22 (1). In line with the cooperative principle on cooperation amongst cooperatives the threshold should be increased so that it requires more primary cooperatives (e.g. 10-20) to make a secondary cooperative, further this will create greater synergies and greater advocacy platforms/bases.	Rejected as proposed. The Committee proposes to amend to provide that minimum number of members should be 25 for a primary cooperative and 5 primary cooperatives to form a secondary cooperative.
Clause 29 (1)(c) Procedure for registration	Procedure for registration	Increase the threshold to ten-twenty so that the proposed secondary cooperative has enough good will from the industry in order to assist in its sustainability.	The threshold of just two primary cooperatives to register a secondary cooperative is too low, it may lead to very many	Rejected as proposed. The Committee proposes to amend to provide that minimum number of members should be 25 for a primary cooperative

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			<p>cooperatives undertaking the objects and purposes in section 22 (1).</p> <p>In line with the cooperative principle on cooperation amongst cooperatives the threshold should be increased so that it requires more primary cooperatives (e.g. 10-20) to make a secondary cooperative, further this will create greater synergies and greater advocacy platforms/bases.</p>	and 5 primary cooperatives to form a secondary cooperative.
Clause 29 (1)(b) and (c) Procedure for registration.	Felister Mutisya	<p>(1)(b) and (c) - Check grammatical error in the statement</p> <p>1(e) the sub clause provides for commitment letter for cheque off for employer-based coops. Amend to allow such formation with or without the letter.</p>	The employer refuses to provide the commitment letter.	Adopted. The Committee proposes to delete sub clause (3)(e).
Clause 30 Restriction of registration of Cooperatives	Mwalimu National Sacco	Expunge this section	Restriction of registration of Cooperatives within the same common	The Committee adopted the proposal.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
within the same common bond			bond is not feasible and in line with current business practices. /members should be allowed the right to join any cooperative that meets their business and individual requirements. Further most Sacco have opened their common bonds.	
Clause 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 43	Sheila Chiraka, Vihiga County	The county government should register primary and secondary cooperatives while the Commissioner registers Diaspora, Federative and Apex cooperatives.		Rejected. The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall maintain a database and regulate the operations of cooperatives.
Clause 37 Amendment of by-laws	Meru County Cooperative Forum	Unconstitutional. Review.		Rejected. The Committee noted there was no justification accompanying the proposal.
Clause 43	University of	Include the following sub-	Necessary for ease	Rejected as proposed.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Mandatory usage of names in certain cooperatives	Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	<p>clause under clause (1): (d) Where a cooperative is registered as a women empowerment cooperative, the cooperative shall:</p> <p>Incorporate the word "women empowerment" immediately before the word "cooperative", as part of its name; and</p> <p>At all times use the said name or the abbreviation WOM-EMP-COOP or any of its derivatives or any other words indicating the transaction of women empowerment business or the equivalent, in the name, description or title under which it transacts business.</p>	of identification of the cooperative by potential members.	The Committee rejected the proposal on grounds that it discriminates against cooperatives whose membership is composed of men and women, and does not address a mischief.
Clause 43 Mandatory usage of names in certain cooperatives	Ms. Emily Wanja, Ms Christine Wanjiru and Ms. Jane Kamwaga of Kirinyaga Women Economic Empowerment network in collaboration	<p>Include the following sub-clause under clause (1): (d) Where a cooperative is registered as a women empowerment cooperative, the cooperative shall:</p> <p>Incorporate the word "women empowerment" immediately before the word "cooperative", as</p>	Necessary for ease of identification of the cooperative by potential members.	Rejected as proposed. The Committee rejected the proposal on grounds that it discriminates against cooperatives whose membership is composed of men and women, and does not address a mischief.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
	with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	part of its name; and At all times use the said name or the abbreviation WOM-EMP-COOP or any of its derivatives or any other words indicating the transaction of women empowerment business or the equivalent, in the name, description or title under which it transacts business.		
Clause 43 Mandatory usage of names in certain cooperatives	Miss Jillo Mumina Konso in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause under clause (1): (d) Where a cooperative is registered as a women empowerment cooperative, the cooperative shall: Incorporate the word "women empowerment" immediately before the word "cooperative", as part of its name; and At all times use the said name or the abbreviation WOM-EMP-COOP or any of its derivatives or any other words indicating the transaction of women empowerment business or the equivalent, in the name,	Necessary for ease of identification of the cooperative by potential members.	Rejected as proposed. The Committee rejected the proposal on grounds that it discriminates against cooperatives whose membership is composed of men and women, and does not address a mischief.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		description or title under which it transacts business.		
Clause 43 Mandatory usage of names in certain cooperatives	Ms. Mary Mueni of Machakos County Women Empowerment Network in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	<p>Include the following sub-clause under clause (1): (d) Where a cooperative is registered as a women empowerment cooperative, the cooperative shall:</p> <p>Incorporate the word "women empowerment" immediately before the word "cooperative", as part of its name; and</p> <p>At all times use the said name or the abbreviation WOM-EMP-COOP or any of its derivatives or any other words indicating the transaction of women empowerment business or the equivalent, in the name, description or title under which it transacts business.</p>	Clause 43 Mandatory usage of names in certain cooperatives	Rejected as proposed. The Committee rejected the proposal on grounds that it discriminates against cooperatives whose membership is composed of men and women, and does not address a mischief.
Clause 44(1)(a) Qualification for membership	Mwalimu National Sacco	Include sound mind in the definition.	This refers to a natural persons and needs to be qualified to indicate persons of sound mind.	Rejected as proposed. The Committee rejected the proposal on the grounds that the use of sound mind is to disqualify a person who

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				is already holding an existing office and not qualifying a person from appointment to an office.
Clause 44 (1)(b) Qualification for membership	Mwalimu National Sacco	Include body corporates in the definition.	Financial inclusion needs to also address access to financial services including facilities by our membership 's incorporated legal entities thus this definition needs to include body corporates.	Rejected as proposed. The Committee will propose an amendment to clause 36 to amend the words body corporate to read corporate body.
*Clause 44 (1)(c) Qualification for membership	Mwalimu National Sacco	Reword the subsection to include diaspora membership	The membership of Saccos in this current paradigm where the world is a global village, is more than just its physical jurisdiction. We have membership in diaspora i.e. outside Kenya and to legislate this section will disenfranchise their access to funds and affect their remittances to Kenya which the country also relies on.	Rejected as proposed. The Committee noted that the proposal negates the principals of cooperatives as provided in accordance with the ILO recommendation 193 of 2002 on matters relating to international cooperation.
Clause 44 (1)(c) Qualification for	Kenya National Police DT Sacco	Include members from the diaspora		Rejected as proposed. The Committee noted that the proposal negates the principals

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
membership				of cooperatives a provided in accordance with the ILO recommendation 193 of 2002 on matters relating to international cooperation.
Clause 44 (2) Qualification for membership	Mwalimu National Sacco	Expunge this and section 20 (3) and adopt the proposal for section 44 (1)(b) above	This resumed individual ramifications for unincorporated and incorporated bodies due to the use of the word 'en" before the words unincorporated or corporate body. This stifles the agility of a business as it would have to present all names for approval at the ADM/AGM. Further this is an operational/strategic matter that should be Left to the Management/Board respectively with the ADM/AGM giving the overarching outline on the kind of membership. This section is not in Line with practice there are by-laws that provide for unincorporated and corporate bodies to join membership and hence the law needs to	The Committee considered the proposal and resolved to propose an amendment to delete the words "or the board of directors' subject to ratification by the members at a general meeting".

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			catch up with the practice	
Clause 47 Limitation of membership to producer Cooperatives	Kenya National Police DT Sacco	The same should apply to other primary cooperatives to give the same effect.		The Committee considered the proposal and resolved to delete the Clause.
Clause 47 Limitation of membership to producer Cooperatives	Mr. Samson Mureithi of Kibirigwi Cooperative Society in Kirinyaga.	He was of the view that there should be no restriction imposed on members as far as joining multiple cooperatives.		The Committee considered the proposal and resolved to delete the Clause.
Clause 47 Limitation of membership to producer Cooperatives	Ms. Cecily Muchiri of Kirinyaga.	She was of the view that there should be no restriction imposed on members as far as joining multiple cooperatives.		The Committee considered the proposal and resolved to delete the Clause.
Clause 47 Limitation of membership to producer Cooperatives	Mr. James Muriuki of Kirinyaga.	In a bid to seek a deletion of the provision that limited the membership to product cooperatives wondered what would happen to individuals who were already registered in more than one cooperative.		The Committee considered the proposal and resolved to delete the Clause.
Clause 47 Limitation of membership to producer Cooperatives	Mr. James Kieti from Kangundo	The Bill should address movement of members from one society to another, especially to deal with members who move from one society to another to escape debts that they owe.		The Committee considered the proposal and resolved to delete the Clause.
Clause 48(2) Voting rights of members	State Department of Cooperatives	New Provision. Outlaws' classification of members of a cooperative and to	Strengthen the principle of democratic member	The Committee noted the remarks from the State Department.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		restrict their voting rights	control and protect vulnerable members	
Clause 48(2) Voting rights of members	Mwalimu National Sacco	Expunge this section	This intends to criminalize the classification or categorization of members into clusters or groups. This will affect the current categorization of the Sacco's membership into class A and 8 which is in our B\ Law Categorization is important based on a member's contribution/legitimate interests in the Sacco for example we have members who have withdrawn all their FOSA and BOSA deposits and are in the process selling their share capital, their interest in the Sacco are not at par with a member who has FOSA and BOSA savings and thus it would be misplaced to have them acquiring voting and leadership rights.	Rejected as proposed. The Committee noted that the proposal contradicts the principal of democratic member control and equal voting as provided for under ILO recommendation no.193 of 2002.
Clause 48(2) Voting rights of members	Mr. Ben Kasyoki of Machakos	Sought to have that provision amended to provide that only "Active" Members of cooperatives		Rejected as proposed. The Committee noted that the proposal contradicts the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		should be allowed to vote, as in practice the leaders mobilize non active memes to vote who end up making decisions that affect the active members.		principal of democratic member control and equal voting as provided for under ILO recommendation no.193 of 2002.
Clause 50 (d) and 53 Rights to members; Cooperatives to keep a copy of the Act and by-laws at registered office	Mwalimu National Sacco	The subsection to be rephrased to include "subject to the provisions of the Data Protection Act".	Some of the indicated information has personal data and private data. This proposal should therefore be subject to the provisions of the Data Protection Act.	The Committee noted the submission and resolved to propose an amendment to provide for compliance with the Data Protection Act.
Clause 52 Registered office.	Mr. Jane Mutio	In support of the requirements for a physical office for cooperatives so as to reduce emerging briefcase Saccos that ended up defrauding innocent kenyans.		The Committee noted the submission in support of the clause as it appears in the Bill.
Clause 52 Registered office.	Mr. Ali Athman a member of the fourth estate	In support of the requirements for a physical office for cooperatives so as to reduce emerging briefcase Saccos that ended up defrauding innocent kenyans.		The Committee noted the submission in support of the clause as it appears in the Bill.
Clause 55(9)(b) Accounts and audits	Mwalimu National Sacco	Expunge reference to all other communication	The inclusion of all communication that a member is entitled to is not a requisite as the external auditor's role in the ADM/AGM is	Rejected as proposed. The Committee noted that the proposal contradicts the principal of democratic member control as provided for under ILO

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			restricted to the audited accounts.	recommendation no.193 of 2002.
Clause 54- Estimates of income and expenditure	Joseph Arap bett, Sotik Bomet.	Insert the words "at least three months before the end of the preceding financial year after the word 'laws'	Need for a statutory timeline just like that for Annual reports given as four months after the end of the financial year.	Rejected as proposed. The Committee noted that the timeline of 15 days provided under sub clause (2) was reasonable and sufficient.
Clause 55	Sheila Chiraka & Others, Vihiga County	<p>55(5) In case of primary and secondary cooperatives the county director shall appoint the auditor where the AGM has not appointed</p> <p>55(7) the auditor should not present the accounts to the general meeting unless are approved by the County Directors in case of primary and secondary Co-operative</p> <p>55(11) returns to be filed with the County Director or Commissioner</p>		The Committee considered the submission and resolved to propose an amendment to facilitate electronic filing of any records.
57 (5e)	State Department of Cooperatives	Anchors the election the election of the supervisory board in the law. Initially it was provided for under the rules which was inadequate	To improve oversight on the conduct of the board of cooperatives	The Committee noted the remarks from the State Department.
Clause 57- General Meetings	CUK	Introduce a new sub-clause as follows; (2A) Despite subsection (2), any member may convene the meeting with	To enhance the ability of members to manage Cooperative affairs and prevent dormancy.	Adopted.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		the written consent from the Commissioner or County Director of Cooperatives if <i>the interim officials fail to convene a meeting within one month after receipt of the certificate of registration of the cooperative.</i>		
60(1)	State Department of Cooperatives	New provision. Introduces the holding of a general meeting virtually or hybrid under special circumstances except when an agenda on dissolution, amalgamation, acquiring a subsidiary company or formation of a company is involved	Ensures the continuity of operations of a cooperative even when a physical meeting is not possible	The Committee noted the remarks from the State Department.
Clause 61- Delegate system of representation	Joseph Arap Bett-Sotik Bomet.	Amend by deleting and renumbering the clauses accordingly.	Equality for all before the law	Rejected as proposed. The Committee noted that the proposal and justification submitted were not clear in respect of the mischief to be addressed.
Clause 61(2) Delegate system of representation	Mwalimu National Sacco	The Cooperatives should be allowed to have virtual or hybrid meetings subject to meeting certain minimum thresholds that will ensure good member participation in the meeting. This will also allow for diaspora members to attend meetings.	The proposal to have meetings for the categories indicated therein is important to ensure members are consulted. However, noting that some cooperatives have tens of thousands of members this may not be feasible from a costs	The Committee noted the comments were submitted in support of the clause.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			and venue perspective.	
62(5)(a)	State Department of Cooperatives	New Clause. Provides that a board shall not consist of more than 2/3 of one gender	To improve gender inclusivity in Cooperative management	The Committee noted the remarks from the State Department.
62(5)(b)	State Department of Cooperatives	New Clause. Provides for regional representation of the Board of directors	To improve inclusivity	The Committee noted the remarks from the State Department.
62(5)(c)	State Department of Cooperatives	New Clause. Provides for inclusion of vulnerable members	To improve inclusivity	The Committee noted the remarks from the State Department.
Clause 62 Membership and powers of the Board	Mr. Samson Mureithi of Kibirigwi Cooperative Society in Kirinyaga.	The clause should be amended by deleting the word "directors" wherever it appears in sub clause (1) and substituting therefore the word "committee members"		Rejected as proposed. The Committee noted that the proposal and justification submitted were not clear in respect of the mischief to be addressed.
Clause 62- Membership and powers of the Board	CUK	Propose additions as follows; Members of the board of directors shall be elected for a term of three years, and shall be eligible for re-election <i>provided a member shall not serve for more than two terms uninterrupted.</i>	To ensure some members do not dominate Boards through prolonged tenures and enhance opportunities for new members to serve.	Adopted with modifications. The Committee will propose an amendment to the Bill to limit the terms of a Director.
Clause 62- Membership and powers of the Board	Mr. John Mbugua Mugo of Bingwa SACCO, Kirinyaga.	Propose additions of the maximum number of members of the Board from 9 to 11	To ensure that more members are given an opportunity to serve in the board and to oversee the stewardship of the cooperatives, some of which were said to be very big.	Rejected as proposed. The Committee noted that the proposal and justification submitted on the grounds that there are term limits for directors and therefore would ensure that a Cooperative will benefit

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				from wider representation from its membership.
62(2)	Ugunja Sub County	appointment of officer should be staggered		Adopted. The Committee considered the proposal and justification submitted and resolved to adopt the proposal.
62(2)(b)	Ugunja Sub County	The requirement that not more than two thirds of the director should not be of the same gender may not be realistic in light of the fact that participation in cooperatives is voluntary whether through membership or taking up the roles of leadership.		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal contradicted the provisions of the Article 10 of the Constitution on inclusiveness.
Clause 62(2) Membership and powers of the Board	Mwalimu National Sacco	Include leeway on limitation of terms of service within the by-laws.	The Act needs to specify that a Cooperative can in its by-laws have a limit on the number of terms of service.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal contradicted the provisions of the Article 10 of the Constitution on inclusiveness.
Clause 62 (5) (b) Membership and powers of the Board	Mwalimu National Sacco	This sub- section should be expunged.	The proposal may lead to increased operational costs due to additional governance costs (transport and accommodation) to cater members from	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought to contradict the provisions of the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			far off areas to attend to board matters. It is on this basis that Sacco draws its board of directors from the Nairobi region.	Article 10 of the Constitution on inclusiveness.
62(2)	Catherine Amondi - a cooperative officer	increase to 2 terms of 3 years		Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to limit the terms of office bearers under the Bill.
Clause 62- Membership and powers of the Board.	Joseph Arap Bett-Sotik Bomet.	Amend by introducing the following new clause 62(6)- 'Allowances and other payments' to read as follows: Section 62(6)(a) A member of the board of directors shall not receive remuneration in the form of a salary or any fixed or periodic payments in respect of services rendered to the society but may be reimbursed for necessary expenses incurred in the course of discharging lawful duties to the benefit of the society. (b) The reimbursement for necessary expenses		Adopted with modification. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to regulate payment of allowances to directors.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		<p>incurred by the directors in the course of discharging lawful duties shall be determined at such rates as the members shall approve during the general meeting.</p> <p>(c) No officer or a member of a cooperative society shall receive any remuneration, salary, commission or any other payments from the society unless the society has, by a resolution passed at a general meeting, approved the payment of such remuneration, salary commission or other payment.</p> <p>(Lifted directly and word for word from the current Act)</p> <p>(d) The provisions of this section shall apply equally to the members of the Supervisory Committee, Nomination Committee.</p>		
Clause 63	State Department of Cooperatives	<p>Provides the Minimum Standards for one to be elected as a director in a cooperative.</p> <p>Section Improved to Include;</p> <ul style="list-style-type: none"> - Meet requirements of chapter six of the CoK - Minimum form four certificate 	Improve quality of Leaders (Governance)	The Committee noted the remarks from the State Department of Cooperatives introducing provisions to regulate and to improve quality of leadership and governance.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Clause 63 (1)(b) Eligibility to the board of directors	Mwalimu National Sacco	Include that the definition of what constitutes chapter six in the context of the cooperative movement will be as defined in the Regulations. This is to ensure its implementation.	The inclusion of chapter six of the Constitution is welcome, however, its implementation/applicability in the context of the cooperative movement needs to be clear.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought to contradict the provisions of the Article 10 of the Constitution which are expressly included as guiding principles under clause 4 of the Bill.
Clause 63 Eligibility to the board of Directors	Mr. Samson Mureithi of Kibirigwi Cooperative Society in Kirinyaga.	The clause should be amended by deleting the word "directors" wherever it appears in sub clause (1) and substituting therefore the word "committee members" Further, the clause should be amended to do away with the requirement for education qualification of directors.	Most societies have illiterate members and even the leaders and they have continued to grow, the requirement of education is bound to be discriminatory against such people.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought to contradicts the international cooperative principles as provided in accordance with ILO recommendation 193 of 2002.
Clause 63 Eligibility to the board of Directors	Mr. Ndege Muriuki chairman Mwea Rice growers Cooperative Society.	The clause should be amended to do away with the requirement for education qualification of directors.	Most societies have illiterate members and even the leaders and they have continued to grow, the requirement of education is bound to be discriminatory against such people.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought to contradicts the international cooperative principles as provided in

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				accordance with ILO recommendation 193 of 2002.
Clause 63 Eligibility to the board of Directors	Mr. James Mwai Njau of Kirinyaga.	Supported clause 63(1) (b) by stating there was a need for minimum education standards for directors or cooperatives.	Most cooperatives have since grown and therefore the directors oversee huge budgets and have to have knowledge that will better equip them to even analyze the books of accounts and other technical issues that may arise.	The Committee noted that the submission was presented in support of clause 63 of the Bill.
Clause 63 Eligibility to the board of Directors	Mr. James Mwanzia	Supported clause 63(1) (b) by stating there was a need for minimum education standards for directors or cooperatives.	Most cooperatives have since grown and therefore the directors oversee huge budgets and have to have knowledge that will better equip them to even analyze the books of accounts and other technical issues that may arise. He further stated that the capacity of the leadership should be built each year as the Sacco movement is robust and keeps on growing.	The Committee noted that the submission was presented in support of clause 63 of the Bill.
Clause 63(1)(d)	Ugunja Sub County	The requirement for leaders of cooperatives to declare the wealth contradicts a high court ruling declaring that officers of a cooperative are not public officers for		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought to contradict the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		purposes of the Public Officers Ethics Act		provisions of the Article 10 of the Constitution that binds all persons to abide by principles of good governance, integrity, transparency and accountability that are expressly included as guiding principles under clause 4 of the Bill.
Clause 63	Sheila Chiraka and Others, Vihiga County	File indemnity forms and wealth declaration forms with county director in case of primary cooperatives		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought to contradict the provisions of the Article 10 of the Constitution that binds all persons to abide by principles of good governance, integrity, transparency and accountability that are expressly included as guiding principles under clause 4 of the Bill.
Clause 64 Responsibilities of the Board	Mr. Samson Mureithi of Kibirigwi Cooperative Society in Kirinyaga.	The clause should be amended by deleting the word "directors" wherever it appears in sub clause (1) and substituting therefore the		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		word "committee members"		sought to maintain nomenclature from the existing Act without demonstrating the mischief sought to be addressed.
Clause 65	State Department of Cooperatives	Provides for election of supervisory Boards and confers responsibilities. This was not in law but in the rules	Provide oversight to the management (governance)	The Committee noted that the submission was presented in support of providing oversight to the management of election of supervisory Boards.
Clause 65(2)(f) and (h) Supervisory board and its duties	Mwalimu National Sacco	Re-phrase to review and expunge references to development and ensuring in (f) and (h) respectively.	The functions indicated here are board functions i.e. development and ensuring, the Supervisory Board should be reviewing implementation not ensuring inculcation of policy documents.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought to expunge references to development without clearly demonstrating the mischief sought to be addressed.
Clause 65 (3) Supervisory Board and its duties.	Ms. Emily Wanjia, Ms. Christine Wanjiru and Ms. Jane Kamwaga of Kirinyaga women economic empowerment network in collaboration with the	Proposes that the supervisory Board shall prepare and submit quarterly reports to be presented to the commissioner and not to the board of directors.	Most board of directors can be easily compromised so there is a need to have the reports submitted to an independent entity.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought to have quarterly reports to be presented to the commissioner and not to the board of directors and would violate the cooperative

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
	University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub			principle of democratic member control contrary to ILO recommendation 193 of 2002.
Clause 66 on Nomination Committees.	State Department of Cooperatives	New Provision. Provides for a nomination committee of between 3-5 persons which will vet persons aspiring to be elected into cooperatives. The nominating committee will constitute county director, ceo and other three imminent/professional persons	Improve leadership quality (Governance)	The Committee noted that the submission was presented in support of providing oversight to the management of election of supervisory Boards.
Clause 66 on Nomination Committees.	Mr. Evans Kinyanjui of Kirinyaga	Proposed the deletion of clause 66 in its entirety.	The suggested deletion is to avoid duplicity of functions and inordinate expenses.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought to avoid duplicity without clearly demonstrating the mischief sought to be addressed.
Clause 67- amalgamation of cooperatives	State Department of Cooperatives	Provides for procedures for amalgamation of cooperatives- Improved such that amalgamation	Governance and safeguarding of members interests during amalgamations	The Committee noted that the submission was presented in support of provides for procedures

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		will require a special resolutions-not majority vote-. physical meetings of members and not delegates and step by step procedures		for amalgamation of cooperatives.
Clause 67- amalgamation of cooperatives	State Department of Cooperatives	Provides the procedure for splits giving the same safeguards as under amalgamations. Improved	Governance and safeguarding of members interests during amalgamations	The Committee noted that the submission was presented in support of provides the procedure for splits giving the same safeguards as under amalgamations.
Clause 67- amalgamation of cooperatives	Ugunja Sub County	does not support forced amalgamation		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed.
Clause 67 and 68	Sheila Chiraka and Others	Amalgamation and division of cooperatives should be handled by the County Director in case of primary or secondary cooperatives		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed by having the County Director in case of primary or secondary cooperatives.
Clause 69- Charge over	KEPSA	This provision is narrow and does not create room	Growth in co-operatives in curtailed	Rejected as proposed. The Committee

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
member's produce.		for mergers, acquisition and regulatory resolutions within co-operatives. We propose exception to this provision in the above events. The acquiring co-operative need not dissolve.	by lack clear provision on mergers acquisitions and regulatory resolution of co-operatives in distress as evidenced in the banking sector.	considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed as clauses 67 and 68 were sufficient to address matters relating to amalgamation.
Clause 70(3) Fines for violation of by-laws	Mwalimu National Sacco	Amend the section to expunge the word produce and allow the Cooperatives other means of set off for fines.	The section only refers to produce to be used for set off of debts, what happens to non-produce cooperatives.	Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to delete the word produce.
Clause 73 Failure to remit the sum deducted	State Department of Cooperatives	Provides for penalties of an interest of 5% per month for an employer who fails to remit monies deducted from employees due and gives the recovery procedures. Improved to define an employer to include any organisation holding funds on behalf cooperative members whether salaries or payments due from agricultural deliveries	Protects loss of deducted members funds	The Committee noted that the submission was presented in support of providing for penalties of an interest of 5% per month for an employer who fails to remit monies deducted from employees due.
Clause 73	Joint	county governments to	County Government	Accommodated. The

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Failure to remit the sum deducted	submission by Ministry and CO	issue demand notices for primary and secondary cooperatives national governments to issue agency notices for all cooperatives including primary and secondary cooperatives upon recommendation by the county governments	to issue the demand notices and where it fails to achieve remittance, they shall escalate the issue for enforcement of agency notices to National Government. The technical committee agreed to split the two points in-order to provide clarity	Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to county governments to issue demand notices for primary and secondary cooperatives.
Clause 73 Failure to remit the sum deducted	Cooperative Alliance of Kenya(CAK)	Counties to coordinate returns from cooperatives on remittances of Saccos dues by employers. Counties to issue demand notices. Countries recommend to the national government to issue Agency Notices. National government to enforce remittances in consultation with the Apex Cooperative.	Counties are also employers and most of them are defaulters in remittances to their employees Saccos and therefore they can't issue agencies notices to themselves. Some employers are found outside a county area of jurisdiction Some Saccos operate in more than one county The function of enforcement falls under the National government.	Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to county governments to issue demand notices for primary and secondary cooperatives.
73	Zaddok Nganyi Cooperative officer, Sheila Chiraka, Vihiga County and others	The Commissioner or County Director may institute legal suits or appoint an agent		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal sought did not clearly

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				demonstrate the mischief sought to be addressed.
75	State Department of Cooperatives	Provides for the process of a withdrawal of membership from a cooperative and provides penalties for non-refund of deposits. Has been incorporated into laws and penalties for default introduced	Improved image of the sector (Protection of members funds) Governance	The Committee noted that the submission was presented in support of providing for procedures for a withdrawal of membership from a cooperative.
75	Duncan Joel Omond	interest rate is high- on deposit refunding members - consider that there are institutions are not remitting funds		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed.
Clause 75(3)	Ugunja Sub County	delete		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed.
75(3)	Vitalis Oketch-Cooperative Officer	amend to read that a person shall remain a shareholder		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				the mischief sought to be addressed.
Clause 75(3) Rights of withdrawing from membership	Mwalimu National Sacco	Include an indication that the shares are exempted under UFAA.	The purchase of shares by other members or a cooperative may take a while, and this may create dormancy under the Unclaimed Financial Assets Act. These shares need to be exempted from under the UFAA.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed.
Clause 75(3) Rights of withdrawing from membership	Kenya National Police DT Sacco	Upon withdrawal of a member that contract shall be terminated and the account closed	The clause is contradictory as you cannot withdraw from membership of a co-operative and you remain a member of the same co-operative. Upon withdrawal of a member that contract shall be terminated and the account closed otherwise you create dormant accounts which are very risky with regard to cybercrime. The Original Cooperative Model rewarded members based on their volume of activities. The Societies used to pay rebates (interest Refunds, reimbursements, discounts). We should leave packing	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			<p>of money to other cooperatives whose model allows mobilization of money to do their business and ultimately pay dividends and it does not matter whether you contribute to the business activities.</p> <p>There should be a framework designed to allow Cooperative Societies to redeem its members' shares on exit through creating a "Share Capital Redemption Reserve Fund" at a premium and the same shares can be sold back to existing members at a premium.</p> <p>This will enable the shares to reflect growth and other market conditions and thus the exiting members would not be at a loss after having been with the society for a long period.</p> <p>With such a framework, it may be very possible to list the shares at the Stock Market for trading and otherwise.</p>	

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
75(4)	Ugunja Sub County	amend by inserting the words "zero point five" immediately before the word "five"	the proposal shall cripple the operations of cooperatives as there is no cooperative that has five percent of deposits compounded	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed by amending to read zero point five would encourage cooperatives to refund members deposits.
Clause 76 Liability of past members	Kenya National Police DT Sacco	Limitation of actions proposed to be 6 years	Regards actions of contracts under section 4 of the Limitation of Actions Act.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed would be addressed introducing limitation of actions proposed to be 6 years to address liability of past members.
Clause 77- Liability of deceased members.	KEPSA	The provision transfers the burden of securing the loans of the deceased against death to the members which is an administrative issue of the co-operative. The provision should make it categorical that all loans must be insured	The mischief is that no co-operative should be allowed to have loans that are not secured against death or permanent disability of a member	Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to delete the clause from the Bill.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Clause 106 – Procedure for dissolution	Kenya Teachers SACCO	The procedure should include mechanisms for resolutions as provided for in the bankruptcy Act as well as the companies Act	The liquidation of co-operatives has serious gap as far as resolution mechanisms are considered as opposed to provisions in other financial institutions where we even have the Kenya deposits insurance corporation	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed by incorporating mechanisms for resolutions as provided for in the Bankruptcy Act as well as the Companies Act in matters relating to cooperatives.
Clause 78 Transfer of share or interest of deceased members	Kenya National Police DT Sacco	Amend to enable refund of interest or share upon exit of a member. Amend to allow SACCOs to buy back shares of members who are exiting.	Capital is defined as permanent members equity in the form of common stock and includes all disclosed reserves, retained earnings, grants or donations	Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide that a cooperative should transfer of share or interest of deceased members within sixty days of a claim.
Clause 83 Restriction on borrowing	Cooperative Alliance of Kenya (CAK)	The Bill to be amended to provide that borrowing powers of all cooperatives be approved by the National government.	This is because the county officers sit in the board of cooperatives and therefore, they cannot	Accommodated. The Committee considered the proposal and justification submitted and noted that the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			be objective enough when appraising the indebtedness of a cooperative. This is to avoid conflict of interest by having an independent person.	proposal would be accommodated through a committee stage amendment to provide that a cooperative must obtain approval from the Commissioner to give or seek a loan to any person that is not a member.
Clause 84(a) Investment of Cooperative's funds	Kenya National Police DT Sacco	Expand the investment list to include investment opportunities by secondary, apex cooperatives and investment cooperatives that are regulated by SASRA.	There is a need to expand the investment areas to include investment opportunities by cooperatives regulated by SASRA to support the sector i.e. secondary, apex cooperatives and investment cooperatives.	Rejected as proposed. The Committee noted that the proposal contradicts the limits of application proposed under clause 5 (2) of the Bill.
Clause 87 Declaration and payment of bonus	CUK	Propose deletions in sub clause (2) as follows; A Cooperative shall not pay a dividend, bonus or distribute any part of its <i>accumulated</i> funds without a balance sheet and audited accounts and report disclosing the surplus funds out of which the dividend, bonus or distribution is to be made. Introduce a new sub-clause as follows; <i>87(4) A Cooperative shall not pay a dividend, bonus or</i>	To incorporate a reserve fund as one of the sources of funds for distribution of dividends and bonuses.	Rejected as proposed. The Committee noted that the proposal contradicts the principal of good governance in the management of cooperatives as provided for under ILO recommendation no.193 of 2002 and Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		<i>distribute any part of its reserve fund except with written approval from the Commissioner or County Director of Cooperatives.</i>	To ensure there is government oversight in the management of liquidity of Cooperatives	the State Department for Cooperatives.
Clause 85 Investment in non-core activities	Mwalimu National Sacco	Rephrase to include as prescribed in the Regulations.	Clarity on where the prescription will be found is necessary.	Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide that prescription shall be regulations.
Clause 86(1)(b)	Sheila Chiraka, Zaddok Nganyi Cooperative officer and others	Approval by Commissioner or Director		Rejected. The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of the Cooperatives in the County.
Clause 88(1) Maintenance of reserve fund	Kenya National Police DT Sacco	Clearly state nature of these transactions		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				not clearly demonstrate the mischief sought to be addressed.
Clause 88 Maintenance of reserve fund	Cooperative University of Kenya	An amendment to the Bill to allow for distribution of dividends from the reserve fund with authority from the Commissioner or the County Director of Cooperatives	<p>maintenance of a reserve fund states that the fund can only be invested in liquid assets and settlement of liabilities upon dissolution of a cooperative</p> <p>The limited application of the reserve fund would discourage cooperatives from setting aside funds as reserves as it is tantamount to locking up resources.</p> <p>This amendment will create stability in the disbursement of dividends in an increasingly volatile market economy as cooperatives can set aside funds as reserves when performance is good and distribute as dividends during a period of low earnings. This stability is important as the cost of living rises.</p>	<p>Rejected as proposed.</p> <p>The Committee noted that the proposal contradicts the principal of good governance in management of cooperatives as provided for under ILO recommendation no.193 of 2002 and Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Clause 88(2)	Kenya National Police DT Sacco	Prescribe a proportion The Statutory Reserve Fund should be increased from 25% to 50% of the surplus to enable societies build adequate institutional capital that would help in financial institutional strengthening & Capacity.	The building of the Societies Financial capability would enable Co-operative institutions to invest in systems/structures that would enhance members' service delivery and increase the ability to compete adequately in the financial sector market. Without financial capability a cooperative society cannot operate.	Rejected as proposed. The Committee noted that the proposal contradicts the principal of good governance in management of cooperatives as provided for under ILO recommendation no.193 of 2002 and Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.
89	Ugunja Sub County	The Bill should clarify who regulate the borrowing powers at a primary cooperative between Commissioner of Cooperatives		
89 to 105	Zaddok Nganyi Cooperative officer, Sheila Chiraka and others	Inquiry, inspection and surcharge should be done by the County Director and Commissioner either way depending on the situation. the Counties can request the Commissioner to undertake inquiry depending on the situation.		Rejected. The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of the Cooperatives in

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				the County.
90-98	State Department of Cooperatives	Introduction for penalties for not registering charges within the stipulated time. Provides for Charges of societies assets which must be registered with the commissioner	Protection of cooperative assets	The Committee noted that the submission was presented in support of the clause that provides introduction for penalties for not registering charges within the stipulated time. Provides for Charges of societies assets which must be registered with the commissioner.
Clause 99 Inquiry by the Commissioner	Joint submission by Ministry of Cooperatives & MSMSEs and the Council of Governors	The Commissioner, shall on request by the CECM for Cooperatives or the Authority or on the application of a liquidator or of any creditor or not less than one-third of the members present and voting at a meeting of the Cooperative which has been duly convened, hold an inquiry or direct any person authorized by the Commissioner in writing to hold an inquiry, into the by- laws, working and financial conditions of any Cooperative registered in Kenya.	Amend this clause to remove "may on the commissioner's own accord" The technical committee agreed that there shall be no any direct request by the members on inquiry to the commissioner	Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment.
Clause 99 Inquiry by the Commissioner Clause 100 Power to surcharge	Cooperative Alliance of Kenya (CAK)	Inspection to be done by both National and County governments. Inquiries to be done through consultations between the two levels of	Counties promote, train, supervise cooperative, preside over elections. undertake audit and undertake inspections.	Rejected as proposed. The Committee noted that the proposal contradicts the principal of good governance in

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
<p>officers of a Cooperative</p> <p>Clause 101 Appeal against surcharge order</p> <p>Clause 102 Recovery of surcharge</p> <p>Clause 105 Routine inspection</p>		<p>government and the Apex Cooperative</p> <p>Counties to recommend for inquiries of primary and secondary cooperatives to the National Government</p> <p>The Commissioner in consultation with the Apex Cooperative to appoint inquiry officers upon recommendation by counties, liquidator, creditor or members.</p>	<p>Counties are also ex official members of cooperative boards. As such, they are conflicted to undertake an objective inquiry as they cannot investigate themselves.</p> <p>Commissioner uses officers from different counties to conduct inquiries.</p> <p>The Apex is the most important stakeholder and therefore it is only fair to be consulted when an inquiry is to be instituted to safeguard members interests.</p> <p>Involvement of the apex will ensure that cooperative misapplied as was the case of KCC, KPCU, KFA, KNFC and many Coffee District Cooperative Unions.</p>	<p>management of cooperatives as provided for under ILO recommendation no.193 of 2002 and Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.</p>

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Clause 100 Power to surcharge officers of a Cooperative	Cooperative Alliance of Kenya (CAK)	<p>This should be amended to allow the Commissioner to escalate matters that are of criminal nature to DCI and DPP.</p> <p>To provide for asset recovery mechanisms in collaboration with relevant government bodies.</p> <p>To provide stiff penalties for persons found to have misappropriated cooperative money. This to be treated as a crime against humanity.</p>	Stealing of funds is criminal and the Cooperative Tribunal is limited in dealing with such matters.	The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal did not address the fact that the role of the Commissioner is administrative in nature and the provisions of the Proceeds of Crime and Money Laundering Act are available for prosecution and recovery of cooperative assets.
„Clause 105 (1) Routine inspection;	Meru County Cooperative Forum	Gives the Commissioner or the County Director for Cooperatives power to carry out inspection into the affairs of Cooperatives.	The use of “or” brings ambiguity to this function if not done in concurrence.	Rejected. The Committee considered the proposal and upon careful consideration, resolved that Clause 103(3) of the Bill clarifies that the exercise of powers of the Commissioner under this section apply with respect to the Apex Cooperative and Cooperative federations, and the exercise of powers of the County Director for Cooperatives shall apply with respect to the primary and secondary Cooperatives within their respective

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				jurisdictions.
107(1) Cancellation of registration	Meru County Cooperative Forum	Review.	The use of "or" brings ambiguity to this function if not done in concurrence.	Rejected. The Committee considered the proposal and upon careful consideration, resolved that that the exercise of powers of the Commissioner under this section apply with respect to the Apex Cooperative and Cooperative federations, and the exercise of powers of the County Director for Cooperatives shall apply with respect to the primary and secondary Cooperatives within their respective jurisdictions.
106-115	Zaddok Nganyi Cooperative officer, Sheila Chiraka and others	whoever registers should liquidate		Rejected. The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of the Cooperatives in the County.
Clause 106 Procedure for dissolution	Cooperatives Alliance of Kenya (CAK)	The Bill should be amended to provide that liquidation of primary and secondary cooperatives to	The county government initiated the process through recommending it to	The Committee considered the proposal and upon careful consideration, resolved

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		be undertaken through recommendation by the Counties to National government	the National Government. This helps in preventing one person from making such heavy decisions alone.	to propose an amendment to provide clarity in the provision.
	Cooperatives Alliance of Kenya (CAK)	The National government to consult the Apex when making decisions on liquidation.	The Apex to be consulted in order to ensure the cooperative interests are safeguarded	The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to provide clarity in the provision.
Clause 107 Cancellation of registration	county government	give deregistration of cooperative societies to the county government		The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to assign the role of recommending to the Commissioner deregistration of dormant Cooperatives to the County Directors of Cooperatives.
114(1)(a)	Ugunja Sub County	The words "the Commissioner may – rescind or vary any order made by the liquidator and make any new order he thinks proper;" are capable of abuse as they appear to give the		Rejected. The Committee considered the proposal and upon careful consideration, resolved that the Commissioner's power to vary would act as a

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		liquidator wide powers		check against a liquidator who fails to act in accordance with their mandate.
Clause 124	State Department of Cooperatives	Establishes the Cooperative Tribunal and the constitution and appointment of the members	There was a suggestion to expand the tribunal to allow for more benches to reduce case backlog	The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.
Clause 124 Establishment of the Cooperatives Tribunal	Joint submissions by the Ministry of Cooperatives and the Council of Governors	The tribunal to consists of nine; the chairperson, the deputy chairperson and not less than seven other members The Council of county governments to nominate two representatives	Increase the membership to 9 members and include county governments' representation	The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.
Clause 124 & 125	Cooperatives Alliance of Kenya (CAK)	The Cooperative Tribunal to expanded to 13 members distributed as follows: Judicial service		The Committee considered the proposal and justification submitted and noted that the proposal would

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		<p>commission to appoint the Chair and the Vice Chair</p> <p>* The Cabinet Secretary nominate four persons to be appointed by JSC</p> <p>* The Apex Cooperative to nominate 3</p> <p>* The COG to nominate two persons</p> <p>* he LSK to nominate two persons to be appointed by JSC</p> <p>* ADR to be strengthened to support the Cooperative Tribunal</p>		be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.
Clause 124 Establishment of the Cooperatives Tribunal	Ugunja Sub County	The Bill should make dispute resolution accessible in the County governments by devolving the disputes of the tribunal	There are many disputes that pending before the tribunal that are affecting the effective operations of cooperatives in Siaya County	The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.
Clause 124 Establishment of the Cooperatives Tribunal	Mr. Hussein Ibrahim of Isiolo County	Proposed that there should be a tribunal in every county to bring justice closer to the people.		The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.
Clause 124 Establishment of the Cooperatives Tribunal	Ms. Nzisa Katini of Machakos County	Opined that one Cooperative tribunal as opposed to having each tribunal in every county would suffice.		The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.
Clause 125 Appointment of members of the Cooperative Tribunal	University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Amend clause 125 (1) as follows: The Chairperson and Deputy Chairperson of the Cooperative Tribunal shall be appointed by the Judicial Service Commission from persons of the opposite gender.	To cement gender equality in the leadership of the Cooperative Tribunal.	The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Clause 125 Appointment of members of the Cooperative Tribunal	Ms. Jillo Mumina Konso of Isiolo County in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Amend clause 125 (1) as follows: The Chairperson and Deputy Chairperson of the Cooperative Tribunal shall be appointed by the Judicial Service Commission from persons of the opposite gender.	To cement gender equality in the leadership of the Cooperative Tribunal.	The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.
Clause 125 Appointment of members of the Cooperative Tribunal	Ms. Jillo Mumina Konso, Ms. Emily Wanjia Ms Christine Wanjiru and Ms. Jane Lamwaga of Kirinyaga Women economic empowerment in collaboration with the University of Nairobi African Women Studies Research	Amend clause 125 (1) as follows: The Chairperson and Deputy Chairperson of the Cooperative Tribunal shall be appointed by the Judicial Service Commission from persons of the opposite gender.		The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
	Centre Women's Economic Empowerment Hub			
Clause 125 Appointment of members of the Cooperative Tribunal	Ms. Mary Mueni Ndunge of Machakos Women economic empowerment in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Amend clause 125 (1) as follows: The Chairperson and Deputy Chairperson of the Cooperative Tribunal shall be appointed by the Judicial Service Commission from persons of the opposite gender.		The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.
Clause 125 Appointment of members of the Cooperative Tribunal	Mr Kioko of Machakos	Amend clause 125 (1) as follows by deleting the 125(4)(b) that precludes officials of political parties from being members of the cooperative tribunal.		The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				Tribunal to 9 members to allow the Tribunal to sit as 3 panels.
125(3)(a) and (b)	Ugunja Sub County	There is need to clarify the meaning of the words " <i>or practice</i> ," There is no clear rationale for the proposal that a member of the tribunal <i>should be a member of a professional body responsible for the regulation of Cooperative professionals;</i>		Accommodated. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to delete clause (3)(b).
Clause 147 Procurement of goods, services and works by Cooperatives	Cooperative Alliance of Kenya	The Bill has just provided that the Cabinet Secretary shall through regulations prescribe procurement procedures The Bill fails to give a framework and therefore we propose at least a section be provided on the minimum conditions on procurement The Bill should also provide on how assets of dormant cooperatives can be safeguarded by the government in collaboration with the Apex	Procurement is one of the grey areas in operations of cooperatives that is used to misappropriate financial resources. Currently, there is no legal framework to guide procurement and disposal of assets of cooperatives since the Procurement and Public Disposal Act was thrown out by High Court as cooperative officials are not public officers • In the past, assets of dormant cooperatives have been stolen. An	Rejected as proposed. The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal did not clearly demonstrate the mischief sought to be addressed by subjecting cooperatives to the operations of the Public Procurement and Asset Disposal Act contrary the cooperative principle of democratic member control.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
			example of this is the assets of the KINFC, KCC, KPU, KFA and doormat District Cooperative Unions etc This will preserve the hard-earned assets of our forefathers for prosperity	
Clause 148 Enforcement of Ethics and Integrity in Cooperatives	University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Include the following sub-clause: (4) Cooperatives shall develop a code of conduct for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in the cooperative.		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed by providing for a code of conduct to that is discriminatory in application.
Clause 148	David Munyendo	After declaring wealth... what next? More tough rules be added to punish those officials who cause losses.... Most officials are just removed from offices and no action taken Heavy penalties. clearly stated		The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for filing a statement of wealth declaration.
149	State Department of Cooperatives	New. Provides for internal regulation and Alternative Dispute	Promote harmony in the sector	The Committee noted that the submission was presented in support of

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		Resolution (ADR) by cooperatives.		the clause that provides an administrative framework to c for internal regulation and Alternative Dispute Resolution by cooperatives to promote harmony in the sector.
Clause 151	Ernest Langat – CEO – Imarisha SACCO	Supports interlending between SACCOs		The Committee noted that the submission was presented in support of the clause that provides inter lending between SACCOs.
Clause 151	David Munyendo	Inter Co-op borrowing. This must be properly regulated it may lead to other Co-op collapse due to default, caused by poor management. More rules required		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal was not accompanied by specific suggestions on what rules to incorporate.
Clause 154	State Department of Cooperatives	Established the Cooperative Development Fund to be financed by cooperatives. Never been implemented.	Promote research, training, community support, Ushirika day etc	The Committee noted that the submission was presented in support of the clause that provides for establishment of the Cooperative Development Fund to be financed by cooperatives to promote research, training, and

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				community support.
Clause 154 Cooperative development fund	Council of Governors and Ministry of Cooperatives	The Fund shall be shared between the national and county governments at the ratio of 60:40 per centum	To allow development of the cooperatives sector at both levels of government	Accommodated and adopted. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide that The Fund shall be shared between the national and county governments at the ratio of 60 to 40 percent.
Clause 154 Cooperative development fund	CUK	Introduce new sub-clauses as follows; <i>154(4) The Fund shall vest in a Board of nine trustees who shall include-</i> (a) <i>Six members elected by Cooperatives through the Apex Cooperative;</i> (b) <i>The Commissioner;</i> (c) <i>A representative of a professional body for Cooperative practitioners; and</i> (d) <i>A representative of an academic institution of higher learning that specializes in Cooperative development</i>	To provide clarity on the management of the Cooperative Development Fund; expound on its usage; assign responsibility for setting acceptable Cooperative norms and standards; and provide for oversight of the national and county Cooperative research and information centres.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not convincingly demonstrate the mischief sought to be addressed by not having the Cabinet Secretary establish the Fund by Regulations.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		<i>154(5) Despite the generality of subsection (3), the Board shall-</i> <i>(a) Recommend to the Commissioner on acceptable standards for Cooperative education, training and capacitation; and</i> <i>Oversee the running and management of national and county Cooperative research and information centres.</i>		
Clause 154 Cooperative development fund	Mr. Albert Ireri Njogu of Kirinyaga timber Cooperative Society	Introduce a clause on management of the Fund by a board. Have a clause that seeks to ensure that proceeds of the fund are also allocated to clear debts by cooperatives that are almost collapsing.	To provide for a board that will be instrumental in the management of the cooperative development fund. To also have a clause that expressly states that proceeds from the fund should be channeled towards reviving cooperatives beleaguered by debts	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not convincingly demonstrate the mischief sought to be addressed by not having the Cabinet Secretary establish the Fund by Regulations.
Clause 154 Cooperative development fund	Mr. Onesmus Mutua of Machakos	Introduce a clause that seeks to ensure that proceeds of the fund are used to market the cooperatives in the country.	In a bid to gap some of the marketing challenges that SACCOS face, then some funds of the Fund should be diverted to marketing of the cooperatives.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not prevent the support for marketing using monies from the Fund.
Clause 154	Isiolo County	There is need for		Rejected as proposed.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
	Government	consideration of developing a Cooperative Revolving Fund		The Committee considered the proposal and justification submitted and noted that the proposal did not convincingly demonstrate the mischief sought to be addressed as clause 87 of the Bill envisions the creation of revolving funds for each cooperative registered under the Bill.
Clause 154 Cooperative development fund	Mr. Phillip Musyoka of Machakos	Introduce a clause that seeks to ensure that both levels of government contribute to the growth of this fund.	The growth of the surplus of the Fund will create a reserve that can better serve the objects of the Fund.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not consider the fact that the source of funding is money contributed by cooperatives in compliance with cooperative principle of autonomy and independence as recommended under ILO Recommendation 193 of 2002.
Clause 155 Regulations	State Department of Cooperatives	Gives Powers to CS to make regulations	To operationalise the Bill once enacted	The Committee noted that the submission was presented in support of the clause that gives Powers to CS to make regulations.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
Clause 155 Regulations	Ernest Langat – CEO – Imarisha SACCO	Dual submission of funds to SASRA and the cooperative development fund		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed.
Clause 155 Regulations	University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Introduce the following sub-clause under clause (2)-(mm) prescribing affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.	The Cabinet Secretary sits at the apex position in regulation of cooperatives. Through regulation the Cabinet Secretary is able to offer affirmative action guidelines for special interest groups. The guidelines will inform the subsequent affirmative action guidelines to be coordinated by the Commissioner.	Adopted. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to clause 155 (2) prescribing affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.
Clause 155 Regulations	Ms. Emily Wanja, Ms. Christine Wanjiru, and Ms. Jane Kamwaga of Kirinyaga	Introduce the following sub-clause under clause (2)(mm) prescribing affirmative action guidelines for the benefit of special interest groups of women, youth, persons	The Cabinet Secretary sits at the apex position in regulation of cooperatives. Through regulation the Cabinet Secretary is able to offer	Adopted. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
	Women Economic Empowerment network in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	with disability, and minority and marginalized communities in cooperatives.	affirmative action guidelines for special interest groups. The guidelines will inform the subsequent affirmative action guidelines to be coordinated by the Commissioner.	a committee stage amendment to clause 155 (2) prescribing affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.
Clause 155 Regulations	Ms Jillo Mumina Konso in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub	Introduce the following sub-clause under clause (2)(mm) prescribing affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.	The Cabinet Secretary sits at the apex position in regulation of cooperatives. Through regulation the Cabinet Secretary is able to offer affirmative action guidelines for special interest groups. The guidelines will inform the subsequent affirmative action guidelines to be coordinated by the Commissioner.	Adopted. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to clause 155 (2) prescribing affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				communities in cooperatives.
Clause 155 Regulations	<i>Ms. Mary Mueni of Machakos County Women Empowerment Group in collaboration with the University of Nairobi African Women Studies Research Centre Women's Economic Empowerment Hub</i>	Introduce the following sub-clause under clause (2)(mm) prescribing affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.	The Cabinet Secretary sits at the apex position in regulation of cooperatives. Through regulation the Cabinet Secretary is able to offer affirmative action guidelines for special interest groups. The guidelines will inform the subsequent affirmative action guidelines to be coordinated by the Commissioner.	Adopted. The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to clause 155 (2) prescribing affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.
Clause 155 Regulations	Cooperatives Alliance of Kenya (CAK)	Regulations to be done by the Cabinet Secretary or County Executive Committee Member in consultation with the Apex Cooperative.	This is to ensure member cooperatives interests are taken into account.	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not convincingly demonstrate the mischief sought to be addressed yet clause 4(2) of the Bill provides that application of the

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
				Bill is guided by the principles of Article 10 of the Constitution that includes public participation and stakeholder consultation.
Clause 155 Regulations	Zaddok Nganyi Cooperative officer.	CECM should also be given powers to make county specific regulations the law should address the issues of cooperative shares trading platform since shareholding in the cooperative is not refundable		Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not convincingly demonstrate the mischief sought to be addressed yet clause 4(2) of the Bill provides that application of the Bill is guided by the principles of Article 10 of the Constitution that includes public participation and stakeholder consultation.
Clause 158- Other powers of the Commissioner	Council of Governors and Ministry of Cooperatives.	158. Without prejudice to any other powers under this Act, the Commissioner may— a. call for elections for Cooperative Federations, Diapora Cooperatives or Apex Cooperative; b. attend meetings of a	The section allows the Commissioner to over step the mandate outlined in section 9 of the Bill. <i>The Commissioner has no power to delegate powers to any other person</i>	Rejected as proposed. The Committee considered the proposal and justification submitted and noted that the proposal did not convincingly demonstrate the mischief sought to be addressed.

Clause	Organization / Region	Submission/Proposed Amendment	Justification	Committee Observation/ Resolution
		<p>Cooperative Federations, Diapora Cooperatives or Apex Cooperative and require every Cooperative Federations, Diapora Cooperatives or Apex Cooperative to send to the Commissioner at a proper time, notice and agenda of every meeting and all minutes and communications in respect thereof;</p> <p>(c) issue circulars and guidelines for the better administration of this Act Cooperative Federations, Diapora Cooperatives or Apex Cooperative;</p> <p>(d) require that Cooperative Federations, Diapora Cooperatives or Apex Cooperative update their by-laws; and</p> <p>(e) exercise such other powers consistent with this Act as may be prescribed in Regulations</p>		

CHAPTER FIVE

5.0 COMMITTEE'S ANALYSIS OF SUBMISIONS AND RESOLUTIONS ON PROPOSED AMENDMENTS

5.1 Observations

39) The Committee analysed the submissions from members of the public and made the following observations.

- i. That in respect to the Long Title, the State Department for Devolution, submitted that the Bill should focus on development of policy, norms and standards for development and management of the cooperative sector and the purpose of the Bill should not be for the creation of the office of the Commissioner.

The Committee rejected the proposal. The Committee noted that the Bill been drafted pursuant to Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.

- ii. On Clause 3 (2) of the Bill regulating the objects of the Act, the State Department for Devolution proposes to delete paragraph (a) on the justification that it is covered in all the other subsequent objects.

The Committee rejected the proposal as it negates the long title of the Bill and overall purpose of the Bill.

- iii. On Clause 3 (2) of the Bill regulating the objects of the Act, the State Department for Devolution proposes to rearrange clauses **g, b, and c** appear first in that order. These are the broad objectives for the devolved function.

The Committee accommodated the proposal and resolved to move (c) from its current position to (a). renumber and be amended (c) to read— (a) establishment of offices in the national government and county governments, responsibilities and functions of the national and county governments and their respective agencies.

- iv. On Clause 3 (2) of the Bill regulating the objects of the Act, the State Department for Devolution proposes to merge **clauses d, e, f and h** to read: "To provide a Framework for the promotion, development and management of Cooperatives at both National and County levels" on the grounds that these clauses are all speaking on the management of Intergovernmental matters.

The Committee rejected the proposal on the grounds the proposal does not address a mischief in the paragraphs as drafted.

- v. On Clause 4 (a) of the Bill regulating the guiding principles, the Cooperative Alliance of Kenya proposes rephrasing of the sub-clause (iii) as follows; "(iii) member economic participation; "To enhance clarity and align with the language use by the International Cooperative Alliance.

The Committee considered the proposal and resolved to adopt as proposed.

- vi. On Clause 4 (a) of the Bill regulating the guiding principles, the University of Nairobi African Women Studies Research Centre proposes to amend paragraph (c) to read (c) Affirmative action for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities, to recognize the critical role of women as individuals and collectives to the economy particularly through the informal sector and to affirm that bridging the inequality gap is a foundational objective of the Act.

The Committee considered the proposal and rejected the same on the grounds that sub clause (2) provides that the national values and principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperative principles. Equity, inclusiveness and human rights is one the principles under Article 10.

- vii. On Clause 4 (a) of the Bill regulating the guiding principles, the Kenya National Police DT Sacco proposes to include an eight principle of Diversity, Equity and Inclusion.

The Committee considered the proposal and rejected the same on the grounds that the principles under clause 4(2) are derived from the cooperative principles as stated by the International Cooperative Alliance.

- viii. On Clause 4 (a) of the Bill regulating the objects of the Act, the State Department for Devolution proposes that the Principle of Consultation and Cooperation and interdependence of the two levels of government should be one of the principles of the Bill on the grounds that (1) The country is operating under a devolved system of government; and (2) Cooperative societies is a devolved function whose effective delivery will be through consultation and cooperation.

The Committee considered the proposal and rejected the same on the grounds that consultation and cooperation is principle of sharing and devolution of power under Article 10 of the Constitution. Sub clause (2) provides that the national values and

principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperatives principles.

- ix. On Clause 4 (c) of the Bill regulating the guiding principles, the Cooperative Alliance of Kenya proposes to include under clause 4(c) an amendment to include the words Cooperative values of self-help, self-responsibility, democracy, equality, equity, and solidarity, to enhance the objects of Cooperatives as adopted in the Statement on the Cooperative Identity by the International Cooperative Alliance.

The Committee considered the proposal and rejected the same on the grounds that the Bill as drafted is in accordance with the **ILO Recommendation No. 193 of 2002** is the "**Promotion of Cooperatives Recommendation, 2002**" that provides guidelines and a framework for governments, employers, workers' organizations, and cooperative enterprises to promote the development and strengthening of cooperatives in all sectors of the economy.

- x. On Clause 5 (2) of the Bill regulating the application of the Act, the State Department for Devolution proposes to delete clause 5(2) and replace with "Align the Sacco Societies Act 2008 to the provisions of this Act" on the grounds that the Sacco Societies Act was a pre- devolution law which requires to be aligned with the Constitution.

The Committee considered the proposal, the justifications and after careful consideration of the submission, and resolved to introduce a sub clause to provide that all Sacco societies are registered and regulated under the Cooperatives Act, and where there is a conflict in laws the Cooperatives Act will apply in clause 5.

- xi. On Clause 6 (2) of the Bill regulating the application of the Act, the State Department for Devolution proposes the establishment of the Commissioner for Cooperative Development as an office in the Public office on the grounds that the office exists in the current Act but has been restructured in Bill to accommodate the devolved structure and restructure the office of the Commissioner as per Sessional Paper No.4 of 2020 and further to merge Division 1 and 2 on the grounds that the performance of cooperative societies is assigned to the Counties hence the need to have the mirror-approach to this office.

The Committee considered the proposal and rejected the same on the grounds that the proposal does not take into consideration that offices are established individually in accordance with the national values and principles of governance regulating sharing and devolution of power provided under Article 10 of the Constitution.

- xii. On Clause 7 of the Bill regulating the guiding principles, the Cooperative Alliance of Kenya proposes that the Public Service Commission or County Public Service Board shall appoint/designate technical officers to the offices on the grounds that the performance of cooperative societies is assigned to the Counties hence the need to have the mirror-approach to this office.

The Committee considered the proposal and rejected the same on the grounds that the proposal does not take into consideration that clause 12 and 13 of the Bill provide that the County Public Service Board shall recruit a County Director for Cooperatives through a competitive recruitment process.

- xiii. The Kenya National Police DT Sacco submitted a proposal to deny 'professional body' on the grounds that the term professional body is not well defined and does not clearly distinguish who the professionals are and their qualifications.

The Committee considered the proposal and resolved to delete clauses 8(2) and 13(2)(b) on the grounds that the professional bodies that exist are not registered with the Registrar of Societies and therefore should not be used to discriminate persons who may qualify for appointment as the Commissioner or a County Director for Cooperatives. Further, the Committee resolved to propose amendments at Committee stage to provide minimum qualification as a degree in cooperative management or a related field of study, with eight years of experience in management, for a commissioner and 5 years' experience for appointment as a county Director of Cooperatives in the respective county.

- xiv. On clause 9(1) of the Bill relating to the functions of the Commissioner, the Committee received several submissions from the public including the Cooperative Alliance of Kenya, the Meru County Cooperatives Forum, Mr. Nicholas Kariuki from Meru County, Mr. David Maru of Machakos, Ms. Emily Mutua from Isiolo County, Mr. Moses Miriti from Isiolo County, Duncan Joel Omondi concerning the lack of clarity in the roles of the national and county government on their roles on matters relating to the cooperatives.

The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives in the respective county.

- xv. On clause 9(2)(c) of the Bill relating to the functions of the Commissioner, the Ministry of Cooperatives and MSMEs Development and Council of Governors proposed to delete Clause 9(2)(b) on the grounds that it is provided for in clause 16.

The Committee considered the proposal and rejected the proposal on the grounds that the model of the Forum is not established under the Intergovernmental Relations Act, Cap 265F, to usurp the functions of the National Government in regulation of the cooperatives.

- xvi. On clause 9(2)(c) of the Bill relating to the functions of the Commissioner, the technical committee from the Ministry of Cooperatives and MSMEs Development and Council of Governors proposed to limit the role of the Commissioner of Cooperatives to conduct inquiries into the affairs of federations, apex and diaspora cooperatives in accordance with this Act.

The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register all cooperatives in the country and the County Directors of cooperatives shall regulate the operations of Cooperatives in the respective county.

- xvii. On proposed new clause 9 (2) of the Bill relating to the functions of the Commissioner, the technical committee from the Ministry of Cooperatives and MSMEs Development and Council of Governors proposed to insert a sub clause (d) and (e) to provide that the Commissioner would develop guidelines in consultation with the Council of Governors for registration and a standard certificate with a common seal and signature from the commissioner.

The Committee considered the proposal and rejected the same on the grounds that the Cabinet Secretary is typically mandated to develop regulatory instruments in accordance with Article 10 of the Constitution and Statutory Instruments Act and must conduct public participation and stakeholder engagement.

- xviii. On clause 9(2)(c) of the Bill relating to the functions of the Commissioner, Meru County Cooperatives Forum proposed the establishment of an integrated cooperative management information system.

The Committee considered the proposal, the justifications and after careful consideration of the proposal, resolved to introduce a clause to provide for establishment of an integrated cooperative management information system as paragraph (ca)

- xix. On clause 9(2)(c) of the Bill relating to the functions of the Commissioner, the University of Nairobi African Women Studies Research Centre proposed to insert a new sub clause to empower the Commissioner of Cooperatives to coordinate the development of an affirmative action framework for the benefit of special interest

groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.

The Committee considered the proposal, the justifications and after careful consideration of the submission, rejected the proposal and resolved that the Commissioner shall register recommend to the Cabinet Secretary the formulation of a national policy framework and standards for the development and growth of Cooperatives. The latter shall be based on cooperative principles under clause 4. Clause 4 (2) provides that the national values and principles of governance provided under Article 10 of the Constitution apply as guiding principles along with cooperative principles. Equity, inclusiveness and human rights is one the principles under Article 10.

- xx. On clause 9(2)(c) of the Bill relating to the functions of the Commissioner, the Cooperative Bank of Kenya and CIC Insurance Group PLC proposed to retain the following functions with the Commissioner: (1) registration of cooperatives and maintenance of the national cooperatives register, (2) supervision of cooperatives operating in several counties or nationally; (3) issuance of borrowing powers to cooperatives; and (4) conducting of inquiries into the affairs of cooperatives.

The Committee considered the proposal, the justifications and after careful consideration of the submission, rejected the proposal and resolved that the powers of registration, supervision and inquiries were provide under paragraphs(c), (e) and (f).

- xxi. On clause 9(2)(c) of the Bill relating to the functions of the Commissioner, the Kenya National Police DT Sacco submitted that registration of regulated SACCOs is done by SASRA thus there is need for clarity.

The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved to introduce a sub clause to provide that all Sacco Societies are registered and regulated under the Cooperatives Act, and where is a conflict in laws the Cooperatives Act will apply under clause 5.

- xxii. On clause 9(2)(c) of the Bill relating to the functions of the Commissioner, the County Government of Isiolo proposed to amend the Bill to provide for the role of the county chief officer who controls the departmental financial resource that is not properly provided for and defined in this Bill.

The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved that the cooperatives are private entities

and it was misplaced to consider them as tools of revenue raising measures for purposes of strengthening remittances to the Consolidated Fund.

- xxiii. On clause 11 of the Bill relating to the establishment of the offices of the county directors of cooperatives, the Cooperative Alliance of Kenya submitted that the County Public Service Board shall appoint such a number of technical officers with *necessary academic qualifications, competencies and experience in Cooperative management and practice* to the Office of County Director for Cooperatives, as may be necessary for the implementation of the provisions of this Act.

The Committee considered the proposal, the justifications and after careful consideration of the submission, resolved to introduce an amendment to provide that County Public Service Board shall appoint such a number of technical officers with necessary academic qualifications, competencies and experience in Cooperative management and practice to the Office of County Director for Cooperatives,

- xxiv. On clause 11 of the Bill relating to the establishment of the offices of the county directors of cooperatives, Mr. Mugo Wagikombo of Kirinyaga Constituency did not approve the devolution of cooperatives in the county governments as he feared that there would be undue political influence from the county government.

The Committee noted that the comment submitted in concern, that Mr. Mugo did not approve the devolution of cooperatives in the county governments as he feared that there would be undue political influence from the county government.

- xxv. On clause 12 of the Bill relating to the staff of the offices of the county directors of cooperatives, the Council of Governors proposes to amend the clause to provide that "The County Public Service Board shall in consultation with the respective County Department, competitively recruit and appoint such a number of technical officers to the office of County Director for Cooperatives, as may be necessary for the implementation of the provisions of this Act", with the justification that the amendment shall provide for a consultative mechanism between the County Public Service Board and the County Department of Cooperative in the identification of the necessary human resource for the office.

The Committee considered the proposal and upon careful consideration, resolved that the proposal be rejected in order to retain autonomy and independence of the county public service boards while discharging their functions of recruitment and in any event, consultation with respective county department on any matter may be done administratively.

- xxvi. On clause 14 (1) of the Bill relating to the functions of the offices of the county directors of cooperatives, the technical committee from the Ministry of Cooperatives and MSMEs Development and Council of Governors proposed to empower county directors of cooperatives to register primary and secondary cooperatives.

The Committee considered the proposal and upon careful consideration, resolved to amend the Bill to provide that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives.

- xxvii. On clause 14 of the Bill relating to the functions of the offices of the county directors of cooperatives, the technical committee from the Ministry of Cooperatives and MSMEs Development and Council of Governors proposed to empower county directors of cooperatives to maintain county cooperatives register.

The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall license the operations of cooperatives.

- xxviii. On clause 14 of the Bill relating to the functions of the offices of the county directors of cooperatives, the technical committee from the Ministry of Cooperatives and MSMEs Development and Council of Governors proposes to assign county directors of cooperatives, the power to recommend conduct of inquiries to the commissioner into the affairs of primary and secondary cooperatives in accordance with this Act.

The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register cooperatives and the County Directors of cooperatives shall license the operations of cooperatives.

- xxix. On clause 14 of the Bill relating to the functions of the offices of the county directors of cooperatives, the Cooperatives Alliance of Kenya objected to the presiding of elections by county officers as provided in the Bill. The county offices can be easily used as a political tool to destabilize cooperatives, more so cooperatives in coffee, tea, dairy and transport sub sectors.

The Committee considered the proposal and upon careful consideration, rejected the proposal as it observed that the County Directors of cooperatives have been presiding over elections with minimal complaints.

- xxx. On clause 14 of the Bill relating to the functions of the offices of the county directors of cooperatives, the University of Nairobi African Women Studies proposed to empower county directors of cooperatives to coordinate the implementation of the affirmative

action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives at the County level, to ensure affirmative action is monitored and carefully implemented vertically; from the county to the national level.

The Committee considered the proposal and upon careful consideration, resolved that the proposal would be accommodated under an amendment to be proposed to clause 17 of the Bill.

- xxxi. On clause 14 of the Bill relating to the functions of the offices of the county directors of cooperatives, the County Government of Isiolo proposed to empower county directors of cooperatives to carry out capacity building for county cooperative officers.

The Committee considered the proposal and upon careful consideration and rejected the proposal as it is accommodated under clause 14(f).

- xxxii. On clause 15 of the Bill relating to the Annual Report by County Director for Cooperatives, the Kenya National Police DT Sacco proposed to empower county directors of cooperatives to allow County Directors two months after April to submit an annual report on the performance, activities and operations of the office and of the Cooperatives within the county on the basis that SACCOs complete audits in April. County directors should be given two months after that.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to provide to allow County Directors to submit the audited reports five months in September after the end of the cooperative financial year.

- xxxiii. On clause 14 of the Bill relating to the Annual Report by County Director for Cooperatives, the University of Nairobi African Women Studies proposed to empower county directors of cooperatives to include a statement reporting the progress of the implementation of the affirmative action framework for the benefit of special interest groups at County level.

The Committee considered the proposal and upon careful consideration, resolved that the proposal would be accommodated under an amendment to be proposed to clause 15 of the Bill to provide that the report should include a statement on values and principles.

- xxxiv. On clause 16 of the Bill relating to the establishment of Inter-Governmental Cooperatives Relations Technical Forum, the technical committee from the

Ministry of Cooperatives and MSMEs Development and Council of Governors proposed to empower county directors of cooperatives to amend to provide that for the Forum to be co-chaired between the Commissioner and the chairperson of the caucus of the County Executive Committee Members responsible for Cooperatives on the grounds that all intergovernmental relations bodies by tradition are co-chaired and the executive power in the county government is vested in the CEC.

The Committee considered the proposal and upon careful consideration, and resolved that the proposal be rejected as the forum in the Bill is not established under the Intergovernmental Technical Relations Act but as a forum to facilitate dialogue between technocrats on matters affecting the administration of cooperatives. Further, **the Committee resolved to insert an amendment stating that the forum shall act as a mechanism for alternative dispute resolution among members of the technical forum.**

- xxxv. On clause 17 of the Bill relating to the functions of Inter-Governmental Cooperatives Relations Technical Forum, the State Department for Devolution proposed to empower county directors of cooperatives to amend to provide that the proposed Forum should be an Intergovernmental Sector Forum as contemplated in the IGR Act 2012 on the grounds that Technical Officers hold pre-forum meetings to prepare the Agenda for a Sector Forum and or address administrative issues affecting the Sector and the latter is as stipulated in the Intergovernmental Sector Forum Regulations.

The Committee considered the proposal and upon careful consideration, and resolved that the proposal be rejected as the forum in the Bill is not established under the Intergovernmental Relations Act but as a forum to facilitate dialogue between technocrats on matters affecting the administration of cooperatives. **Further, the Committee resolved to insert an amendment stating that the forum shall act as a mechanism for alternative dispute resolution among members of the technical forum.**

- xxxvi. On clause 17 of the Bill relating to the functions of Inter-Governmental Cooperatives Relations Technical Forum, the technical committee from the Ministry of Cooperatives and MSMEs Development and Council of Governors proposed to amend the provision to expand the functions of the Forum to align with the Intergovernmental Structures and proposals of the Intergovernmental Relations.

The Committee considered the proposal and upon careful consideration, and resolved that the proposal be rejected as the forum contemplated in the Bill is not

established under the Intergovernmental Relations Act but as a forum to facilitate dialogue between technocrats on matters affecting the administration of cooperatives.

- xxxvii. On clause 16 of the Bill relating to the establishment of Inter-Governmental Cooperatives Relations Technical Forum, the University of Nairobi African Women Studies proposed to empower the Forum to formulate the development of an affirmative action framework for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal because the forum in the Bill is not established under the Intergovernmental Relations Act but as a forum to facilitate dialogue between technocrats on matters affecting the administration of cooperatives and to insert an amendment stating that the forum shall act as a mechanism for alternative dispute resolution among members of the technical forum.

- xxxviii. **On clause 16 of the Bill relating to the establishment of Inter-Governmental Cooperatives Relations Technical Forum**, the Kenya Teachers Sacco Association proposed to empower the Forum to provide a clear path for administrative resolutions of disputes at the county level.

The Committee resolved to insert an amendment stating that the forum shall act as a mechanism for alternative dispute resolution among members of the technical forum.

- xxxix. On clause 20 of the Bill relating to the cooperative four tier structure, the State Department for Devolution proposed to empower county directors of cooperatives to amend to provide for distinguishing the roles and responsibilities of the National Cooperatives and the County Cooperatives.

The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.

- xl. On clause 20 of the Bill relating to the primary cooperatives, the Safaricom Investment Cooperative proposed to amend the definition of "Savings and Investment Cooperatives" to "a savings and investment Cooperative shall be a Cooperative registered under this Act with the objects of receiving funds from members who wish to purchase investments in real estate, listed market

securities, private equity or such other viable investment ventures as approves in the bylaws for profitable returns and growth of individual member asset base." to enhance clarity on the objective of investment cooperatives.

The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.

- xli. On clause 20 of the Bill relating to the primary cooperatives, the University of Nairobi African Women Studies proposed to empower county directors of cooperatives to amend to provide for women empowerment cooperatives.

The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.

- xlii. On clause 20 of the Bill relating to the primary cooperatives, David Munyendo proposed to amend to, first, be very clear Primary Cooperatives be allowed to diversify their objects or activities and second, to delete Workers Co-operatives as it's like a repetition of others. He was of the view that workers can form Sacco, Marketing, Housing Coop.

The Committee considered the proposal and noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy on promoting co-operatives for socio-economic transformation from the State Department for Cooperatives.

- xliii. On clause 20 of the Bill relating to the primary cooperatives, Kenya National Police DT Sacco proposed to amend to include Health Cooperatives.

The Committee considered the proposal and after careful consideration, resolved that the proposal be rejected as it was noted that the proposal does not align with the principles outlined under Sessional Paper no. 4 of 2020 on National Cooperative Policy and would invite additional regulation from the health sector that has not been factored in the proposal.

- xliv. On clause 21 of the Bill relating to the prohibition against multiple objects in primary Cooperatives, Mwalimu National Sacco, and Felister Mutisya proposed to delete the clause on the grounds that there is a need for the rationale for not

registering primary cooperatives with multiple objects or purposes nor undertake multiple purposes or objects.

The Committee considered the proposal and resolved to incorporate an amendment to provide that a cooperative may not be registered under more than one purpose under clause 20(2).

- xliv. On clause 22(1) of the Bill relating to the objects of secondary Cooperatives, Kenya National Police DT Sacco proposed to amend to provide that membership of secondary cooperatives should be restricted to primary cooperatives and in accordance with Clause 29.

The Committee considered the proposal and will sponsor an amendment to clarify the membership of a secondary cooperative in compliance with clause 29.

- xlvi. On clause 22(1) of the Bill relating to the objects of secondary Cooperatives, Felister Mutisya from Mombasa County proposed to amend to provide one of the objects as to provide centralized services to technology, finance, and banking among others to its members affiliate.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the clause is drafted in accordance with the ILO recommendation 193 of 2002 where units that operate at the local level and individual members come together to form a cooperative for mutual benefit.

- xlvi. On clause 22(2) of the Bill relating to the on-compete, Kenya National Police DT Sacco proposed the Bill be amended to include a clause for penalties in case for penalties in case of violation of the non-compete clause.

The Committee considered the proposal and rejected the proposal that clause 165 provides for a general penalty.

- xlvi. On clause 23 of the Bill relating to the objects of Cooperative Federations, the State Department for Devolution proposed to amend to provide the criteria for registration of a Cooperative Federation.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that Clause 29 of the Bill contains provisions regulating registration of cooperatives.

- xlix. On clause 23(2) of the Bill relating to the objects of Cooperative Federations, Kenya National Police DT Sacco proposed to amend to provide that membership

of secondary cooperatives should be restricted to primary cooperatives and in accordance with Clause 29.

The Committee considered the proposal and will sponsor an amendment to clarify the membership of a Cooperative Federation in compliance with clause 29.

1. On clause 23(2) of the Bill relating to the objects of Cooperative Federations, KEPSA proposed to amend to delete the word subsector on the grounds if the subsector as envisaged in the Bill is ill-defined, there is mischief of balkanizing the movement back to its current structure where one person runs with the federation.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to delete, the word "subsector" as it does not provide clarity in the manner it is used.

- li. On clause 24 of the Bill relating to the Registration and subscription to the Apex Cooperatives, and the Kenya National Police DT Sacco proposed to amend to provide that membership and subscription should be drawn from the Cooperative Federation, and that CAK is not a parastatal and should not work in consultation with the Cabinet Secretary to prescribe subscription fees.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that clause as drafted empowers the apex cooperative to coordinate the activities of cooperatives, advocate for interests of cooperatives, and provide leadership in promoting cooperative values and principles in accordance with the requirements of ILO recommendation 193 of 2002.

- lii. On clause 24 of the Bill relating to the Registration and subscription to the Apex Cooperatives, David Munyendo proposed to amend to provide room for more than one Apex society.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal fails to consider the provision is drafted in accordance with the requirements of ILO recommendation 193 of 2002.

- liii. On clause 24 of the Bill relating to the Registration and subscription to the Apex Cooperatives, Felister Mutisya from Mombasa County proposed to amend to provide that CAK is not a parastatal and should not work in consultation with the Cabinet Secretary to prescribe subscription fees.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that clause is drafted empowers the apex cooperative to coordinate the activities of cooperatives, advocate for interests of cooperatives, and provide leadership in promoting cooperative values and principles in accordance with the requirements of ILO recommendation 193 of 2002.

- liv. On clause 25 of the Bill relating to the role and functions of the Apex Cooperative, the Cooperative Alliance of Kenya proposed that the Committee should amend the clause to provide in the regulations especially on the role of the Apex in cooperative self-regulation and provision of shared services.

The Committee considered the proposal and upon careful consideration, noted that the submissions as drafted empowers the apex cooperative to coordinate the activities of cooperatives, advocate for interests of cooperatives, and provide leadership in promoting cooperative values and principles in accordance with the requirements of ILO recommendation 193 of 2002.

- lv. On clause 25 of the Bill relating to the role and functions of the Apex Cooperative, State Department for Devolution proposed to amend the clause to empower the Apex Cooperative to establish institutions to promote Cooperative Education, professional norms and standards.

The Committee considered the proposal and upon careful consideration, noted that the proposal fails to recognize that clause 25 (d) provides that the Apex cooperative shall promote Cooperative education, training, research and self-regulation within the Cooperatives in accordance with the cooperative principles and ILO recommendation 193 of 2002.

- lvi. On clause 25 of the Bill relating to the role and functions of the Apex Cooperative, Meru County Cooperative Forum proposed that the clause goes against the Cooperative principle of voluntary and open membership.

The Committee considered the proposal and upon careful consideration, resolved that the proposed amendment be rejected as it fails to recognize that clause 24 (2) is drafted in accordance with the requirements for subscription under the cooperative principles and ILO recommendation 193 of 2002.

- lvii. On clause 25 of the Bill relating to the role and functions of the Apex Cooperative, Felister Mutisya proposed to amend the clause to include a function that "subject to compliance with the computer society of Kenya, shall provide a shared pool of

information systems audit services" and promotion of good governance practices in cooperatives.

The Committee considered the proposal and upon careful consideration, resolved that the proposal be rejected as it fails to recognize that the roles and functions of the Apex Cooperative under clause 25 is drafted in accordance with the requirements for subscription under the cooperative principles and ILO recommendation 193 of 2002.

- lviii. On clause 26 of the Bill relating to the registration, regulation and operations of Apex Cooperative, the State Department for Devolution proposed to amend the clause to empower the Apex Cooperative to establish institutions to promote Cooperative Education, professional norms and standards.

The Committee considered the proposal and upon careful consideration, resolved that the proposal be rejected as it fails to recognize that clause 25 (d) provides that the Apex cooperative shall promote Cooperative education, training, research and self-regulation within the Cooperatives in accordance with the cooperative principles and ILO recommendation 193 of 2002.

- lix. On clause 27 of the Bill relating to the registration, regulation and operations of Apex Cooperative, the State Department for Devolution proposed to amend the clause to empower the Apex Cooperative to County Assemblies shall formulate local legislation to give impetus to implementation at County level.

The Committee considered the proposal and upon careful consideration, noted that the proposal fails to recognize that clause 155 of the Bill contains provisions empowering the Cabinet Secretary to enact regulations on preparation and submission of annual reports by an Apex Cooperative.

- lx. On clause 27 of the Bill relating to the registration, regulation and operations of Apex Cooperative, Felister Mutisya proposed to amend the clause to empower Cooperatives to be involved in formulation of regulation.

The Committee considered the proposal and upon careful consideration, resolved that the proposal be rejected as it fails to recognize the guiding principles on inclusivity as provided for under clause 4 of the Bill.

- lxi. On clause 28(a) of the Bill relating to the registration of limited liability cooperative, the Kenya National Police DT Sacco proposed to amend the clause to replace the word 'welfare' with the word 'social'.

The Committee considered the proposal and upon careful consideration, resolved that the proposal be rejected as it does not address a mischief.

- lxii. On clause 28 of the Bill relating to the registration, Sheila Chiraka from Vihiga County proposed to amend the clause to provide that the county government should register primary and secondary cooperatives while the Commissioner registers Diaspora, Federative and Apex cooperatives.

The Committee considered the proposal and upon careful consideration, resolved that the Commissioner shall register all cooperatives in the Country and the County Directors of cooperatives shall regulate the operations of cooperatives.

- lxiii. On clause 29 of the Bill relating to the procedure for registration, the Mwalimu National Sacco and Sheila Chiraka from Vihiga County proposed to amend the clause to provide that the minimum member required to register cooperatives should vary according to the type of cooperatives such as worker cooperative 10, producer 25, and SACCO 100.

The Committee considered the proposal and upon careful consideration, resolved to amend the Bill to provide that the minimum number of members should be 25 for a primary cooperative and 5 primary cooperatives to form a secondary cooperative.

- lxiv. On clause 29 of the Bill relating to the restriction of registration of Cooperatives within the same common bond, the Mwalimu National Sacco and Felister Mutisya from Mombasa County proposed to amend the clause to address grammatical error in the statement under sub clause (1)(b) and (c) of the Bill and to delete sub clause (1)(e) that provides for commitment letter for cheque off for employer-based cooperatives.

The Committee considered the proposal and upon careful consideration, **resolved to amend the Bill to correct the grammatical errors in sub clauses (1)(b) and (c)** and further rejected the proposal to delete sub clause (3)(e) because the employer's letter of commitment is necessary to guarantee an employee's financial health and for effective check and balance.

- lxv. On clause 43 of the Bill relating to the mandatory usage of names in certain cooperatives, the University of Nairobi African Women Studies Research Centre proposed to amend the clause to provide that where a cooperative is registered as a women empowerment cooperative, the cooperative shall: Incorporate the word "women empowerment" immediately before the word "cooperative", as part of its name; and at all times use the said name or the abbreviation WOM-EMP-COOP

or any of its derivatives or any other words indicating the transaction of women empowerment business or the equivalent, in the name, description or title under which it transacts business, for ease of identification of the cooperative by potential members.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that on grounds that it discriminates against cooperatives whose membership is composed of men and women, and does not address a mischief.

- lxvi. On clause 44(1)(a) of the Bill relating to the qualification for membership, the Mwalimu National Sacco proposed to amend the clause to include sound mind as ground for qualification for membership to a cooperative.

The Committee considered the proposal and upon careful consideration, resolved that the proposal be rejected on the grounds that the use of sound mind is to disqualify a person who is already holding an existing office and not qualifying a person from appointment to an office.

- lxvii. On clause 44(1)(a) of the Bill relating to the qualification for membership, the Mwalimu National Sacco proposed to amend the clause to include body corporates in the definition with the justification that financial inclusion needs to address access to financial services including facilities by membership 's incorporated legal entities thus this definition needs to include body corporates.

The Committee considered the proposal and upon careful consideration, resolved that the proposal be rejected but proposed an amendment to clause 36 to amend the words body corporate to read 'corporate body' to bring consistency and clarity in the Bill.

- lxviii. On clause 44(1)(a) of the Bill relating to the qualification for membership, the Mwalimu National Sacco and the Kenya National Police DT Sacco proposed to amend the clause to reword the subsection to include diaspora under the justification that the membership of Saccos in this current paradigm where the world is a global village in more than just its physical jurisdiction, and that the Cooperative has membership in diaspora i.e. outside Kenya and to legislate this section will disenfranchise their access to funds and affect their remittances to Kenya which the country also relies on.

The Committee considered the proposal and upon careful consideration, resolved that the proposal be rejected on the grounds that the proposal negates the

principals of cooperatives as provided in accordance with the ILO recommendation 193 of 2002 on matters relating to international cooperation.

- lxix. On clause 44(1)(b) of the Bill relating to the qualification for membership, the Mwalimu National Sacco proposed to amend the clause to reword the subsection to delete the words "or the board of directors" under the justification that This section is not in Line with practice there are by-laws that provide for unincorporated and corporate bodies to join membership and hence the law needs to catch up with the practice.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to delete the words "or the board of directors' subject to ratification by the members at a general meeting".

- lxx. On clause 47 of the Bill relating to the limitation of membership to producer cooperatives, the Kenya National Police DT Sacco, Mr. Samson Mureithi of Kibirigwi Cooperative Society in Kirinyaga, Ms. Cecily Muchiri of Kirinyaga, Mr. James Muriuki of Kirinyaga, and Mr. James Kieti from Kangundo proposed the deletion of the clause under the justification that Bill should address movement of members from one society to another, especially to deal with members who move from one society to another to escape debts that they owe.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to provide to delete the word "producer" so that limitation was not discriminatory.

- lxxi. On clause 48(2) of the Bill relating to the voting rights of members, the Mwalimu National Sacco and Mr. Ben Kasyoki of Machakos proposed to amend to delete the clause under the justification that intends to criminalize the classification or categorization of members into clusters or groups. This will affect the current categorization of the Sacco's membership into class A and 8 which is in its B\ Law Categorization is important based on a member's contribution/legitimate interests in the Sacco and there are SACCOs members who have withdrawn all their FOSA and BOSA deposits and are in the process selling their share capital, their interest in the Sacco are not at par with a member who has FOSA and BOSA savings and thus it would be misplaced to have them acquiring voting and leadership rights.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal contradicts the principal of democratic member control and equal voting as provided for under ILO recommendation no.193 of 2002.

- lxxii. On clause 50 (d) and 53 of the Bill, Mwalimu National Sacco proposed to amend the clause to include the words "subject to the provisions of the Data Protection Act" under the justification that some of the indicated information has personal data and private data.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to provide for compliance with the Data Protection Act.

- lxxiii. On clause 55(9)(b) of the Bill relating to the Accounts and audits, the Mwalimu National Sacco proposed to amend to delete the clause under the justification that inclusion of all communication that a member is entitled to is not a requisite as the external auditor's role in the ADM/AGM is restricted to the audited accounts.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that proposal contradicts the principal of democratic member control as provided for under ILO recommendation no.193 of 2002.

- lxxiv. On clause 55(11) of the Bill relating to the Accounts and audits, Sheila Chiraka from Vihiga County proposed to amend to provide that returns to be filed with the County Director or Commissioner.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to provide for electronic filing of any records.

- lxxv. On clause 62 of the Bill relating to the membership and powers of the board, the Cooperative Alliance of Kenya and Mwalimu National Sacco, proposed to amend to provide that members of the board of directors shall be elected for a term of three years, and shall be eligible for re-election provided a member shall not serve for more than two terms uninterrupted under the justification that specific members do not dominate Boards through prolonged tenures and enhance opportunities for new members to serve.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to limit the tenure of office of a Director.

- lxxvi. On clause 62 of the Bill relating to the membership and powers of the board, Mr. Joseph Arap Bett from Sotik in Bomet County proposed to amend to provide for a clause on 'allowances and other payments' The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to limit the terms of a Director.

The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to regulate payment of allowances to directors.

- lxxvii. On clause 63 (1)(b) of the Bill relating to the eligibility to the board of directors, the Mwalimu National Sacco proposed to amend to include that the definition of what constitutes chapter six in the context of the cooperative movement will be as defined in the Regulations.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal sought to contradict the provisions of the Article 10 of the Constitution which are expressly included as guiding principles under clause 4 of the Bill.

- lxxviii. On clause 63 (1)(b) of the Bill relating to the eligibility to the board of directors, Mr. Ndege Muriuki Chairman Mwea Rice Growers Cooperative Society proposed to amend to do away with the requirement for education qualification of directors.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal contradicts the international cooperative principles as provided in accordance with ILO recommendation 193 of 2002.

- lxxix. On clause 65 (3) of the Bill relating to the Supervisory Board and its duties, the University of Nairobi African Women Studies Research Centre proposed to amend to the supervisory Board shall prepare and submit quarterly reports to be presented to the commissioner and not to the board of directors under the justification that most board of directors can be easily compromised so there is a need to have the reports submitted to an independent entity.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal sought to have quarterly reports to be presented to the commissioner and not to the board of directors and would violate the cooperative principle of democratic member control contrary to ILO recommendation 193 of 2002.

- lxxx. On clause 69 of the Bill relating to the Charge over member's produce, KEPSA proposed to amend to ensure growth in co-operatives in curtailed by lack clear provision on mergers acquisitions and regulatory resolution of co-operatives in distress as evidenced in the banking sector.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal sought did not clearly

demonstrate the mischief sought to be addressed and further that clauses 67 and 68 were sufficient to address matters relating to amalgamation.

- lxxxii. On clause 70(3) of the Bill relating to Fines for violation of by-laws, the Mwalimu National Sacco proposed to amend to expunge the word produce and allow the Cooperatives other means of set off for fines.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal is a reasonable manner of offsetting of fines.

- lxxxiii. On clause 73 of the Bill relating to failure to remit the sum deducted, the Joint submission by Ministry and Council of Governors, and the Cooperative Alliance of Kenya proposed to amend to empower the County Government to issue the demand notices and where it fails to achieve remittance, they shall escalate the issue for enforcement of agency notices to National Government.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal for county governments to issue demand notices for primary and secondary cooperatives.

- lxxxiv. On clause 76 of the Bill relating to liability of past members, the Kenya National Police DT Sacco proposed to amend to provide that the limitation of actions proposed to be 6 years under the justification on actions of contracts under section 4 of the Limitation of Actions Act.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal did not clearly demonstrate the mischief sought to be addressed by introducing limitation of actions as 6 years to address liability of past members.

- lxxxv. On clause 77 of the Bill relating to liability of deceased members, KEPSA proposed to amend to delete the clause under the justification that the clause transfers the burden of securing the loans of the deceased against death to the members which is an administrative issue of the co-operative.

The Committee considered the proposal and upon careful consideration resolved to adopt the proposal by deleting the clause from the Bill.

- lxxxvi. On clause 78 of the Bill relating to liability of deceased members, Kenya National Police DT Sacco proposed to amend to enable refund of interest or share upon exit

of a member and to allow SACCOs to buy back shares of members who are exiting with the justification that capital is defined as permanent members equity in the form of common stock and includes all disclosed reserves, retained earnings, grants or donations.

The Committee considered the proposal and upon careful consideration, resolved accommodate the proposal.

- lxxxvi. On clause 83 of the Bill relating to restriction on borrowing, the Cooperative Alliance of Kenya proposed to amend to that borrowing powers of all cooperatives be approved by the National government with the justification that county officers sit in the board of cooperatives and therefore, they cannot be objective enough when appraising the indebtedness of a cooperative.

The Committee considered the proposal and upon careful consideration, resolved that the proposal be accommodated through a committee stage amendment to provide that a cooperative must obtain approval from the Commissioner to give or seek a loan to any person that is not a member.

- lxxxvii. On clause 84(a) of the Bill relating to investment of cooperative's funds, Kenya National Police DT Sacco proposed to amend to expand the investment list to include investment opportunities by secondary, apex cooperatives and investment cooperatives that are regulated by SASRA, with the justification that there is a need to expand the investment areas to include investment opportunities by cooperatives regulated by SASRA to support the sector i.e. secondary, apex cooperatives and investment cooperatives.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal did not take into account the limit in application of the Sacco Societies Act, 2008 under clause 5 of the Bill.

- lxxxviii. On clause 87 of the Bill relating to declaration and payment of bonus, the Cooperative Alliance of Kenya proposed to amend to provide that a Cooperative shall not pay a dividend, bonus or distribute any part of its reserve fund except with written approval from the Commissioner or County Director of Cooperatives with the justification that the proposal will ensure there is government oversight in the management of liquidity of Cooperatives.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal did not clearly demonstrate the mischief sought to be addressed by incorporating a reserve fund as one of the

sources of funds for distribution of dividends and bonuses or enhancing government oversight in the management of liquidity of Cooperatives.

- lxxxix. On clause 88 of the Bill relating to maintenance of reserve fund, the Cooperative University of Kenya proposed to amend to allow for distribution of dividends from the reserve fund with authority from the Commissioner or the County Director of Cooperatives with the justification that the limited application of the reserve fund would discourage cooperatives from setting aside funds as reserves as it is tantamount to locking up resources.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal did not clearly demonstrate the mischief sought to be addressed by amending to the Bill to allow for distribution of dividends from the reserve fund with authority from the Commissioner or the County Director of Cooperatives.

- xc. On clause 88(2) of the Bill relating to maintenance of reserve fund, the Kenya National Police DT Sacco proposed to amend to prescribe a proportion of the Statutory Reserve Fund should be increased from 25% to 50% of the surplus to enable societies build adequate institutional capital that would help in financial institutional strengthening and capacity, with the justification that the building of the societies financial capability would enable co-operative institutions to invest in systems/structures that would enhance members' service delivery and increase the ability to compete adequately in the financial sector market.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal did not clearly demonstrate the mischief sought to be addressed by increasing the reserve fund from 25% to 50% of the surplus as the latter was dependent on the financial performance of a cooperative.

- xc. On clause 100 of the Bill relating to the power to surcharge officers of a cooperative, the Cooperative Alliance of Kenya, proposed to allow the Commissioner to escalate matters that are of criminal nature to DCI and DPP with the justification that stealing of funds is criminal and the Cooperative Tribunal is limited in dealing with such matters.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal did not address the fact that the role of the Commissioner is administrative in nature and the provisions of the Proceeds of Crime and Money Laundering Act are available for prosecution and recovery of cooperative assets.

- xcii. On clause 106 of the Bill relating to procedure for dissolution, the Cooperative Alliance of Kenya proposed that the Bill should be amended to provide that liquidation of primary and secondary cooperatives to be undertaken through recommendation by the Counties to National government.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to provide clarity in the provision.

- xciii. On clause 107 of the Bill relating to cancellation of registration, the Meru County Cooperative Forum proposed that the use of “or” brings ambiguity to this function if not done in concurrence.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to provide clarity to the provision.

- xciv. On clause 107 of the Bill relating to cancellation of registration, the County Government of Siaya proposed to assign deregistration of cooperative societies to the county government.

The Committee considered the proposal and upon careful consideration, resolved to propose an amendment to assign the role of recommending to the Commissioner deregistration of dormant Cooperatives to the County Directors of Cooperatives.

- xcv. On clause 124 of the Bill relating to establishment of the cooperatives tribunal, Joint submission by Ministry of Cooperatives & MSMSEs and the Council of Governors, the Cooperative Alliance of Kenya, Ms. Nzisa Katini of Machakos County, Hussein Ibrahim of Isiolo County and officers from Ugunja Sub County proposed to expand the tribunal to allow for more benches to reduce case backlog.

The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.

- xcvi. On clause 125 of the Bill relating to appointment of members of the cooperative tribunal, the University of Nairobi African Women Studies Research Centre proposed to expand the tribunal to allow for the Chairperson and Deputy Chairperson of the Cooperative Tribunal to be appointed by the Judicial Service Commission from persons of the opposite gender to cement gender equality in the leadership of the Cooperative Tribunal.

The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.

- xcvii. On clause 147 of the Bill relating to procurement of goods, services and works by cooperatives, the Cooperative Alliance of Kenya proposed to amend the clause to provide that propose at least a section be provided on the minimum conditions on procurement with the justification that there is no legal framework that regulates procurement by cooperatives in Kenya.

The Committee considered the proposal and upon careful consideration, resolved to reject the proposal on the grounds that the proposal did not clearly demonstrate the mischief sought to be addressed by subjecting cooperatives to the operations of the Public Procurement and Asset Disposal Act contrary the cooperative principle of democratic member control.

- xcviii. On clause 148 of the Bill relating to enforcement of ethics and integrity in cooperatives, the University of Nairobi African Women Studies Research Centre proposed to amend the clause to provide that cooperatives shall develop a code of conduct for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in the cooperative.

The Committee considered the proposal and justification submitted and noted that the proposal did not clearly demonstrate the mischief sought to be addressed by providing for a code of conduct to that is discriminatory in application.

- xcix. On clause 148 of the Bill relating to enforcement of ethics and integrity in cooperatives, David Munyendo proposed to amend to address the fact that most officials are just removed from offices and no action taken.

The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide for filing a statement of wealth declaration.

- c. On clause 154 of the Bill relating to Cooperative Development Fund, the Council of Governors and Ministry of Cooperatives proposed to amend the clause to provide that the Fund shall be shared between the national and county governments at the ratio of 60:40 percent with the justification that the allocations will accelerate development of the cooperatives sector at both levels of government.

The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to provide that The Fund shall be shared between the national and county governments at the ratio of 60 to 40 percent.

- ci. On clause 154 of the Bill relating to expenses of inquiry and inspection, the Cooperative University of Kenya, the Cooperative Alliance of Kenya proposed to amend the clause to provide a Board of nine trustees for the Fund to provide clarity on the management of the Cooperative Development Fund.

The Committee considered the proposal and justification submitted and noted that the proposal did not convincingly demonstrate the mischief sought to be addressed by not having the Cabinet Secretary establish the Fund by Regulations.

- cii. On clause 155 of the Bill relating to Regulations, the University of Nairobi African Women Studies Research Centre proposed to empower the Cabinet Secretary to prescribe affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.

The Committee considered the proposal and justification submitted and noted that the proposal would be accommodated through a committee stage amendment to clause 155 (2) prescribing affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives.

- ciii. On clause 155 of the Bill relating to Regulations, the Cooperative Alliance of Kenya Cooperative Alliance of Kenya proposed to amend the clause to provide that Regulations to be done by the Cabinet Secretary or County Executive Committee Member in consultation with the Apex Cooperative to ensure member cooperatives interests are taken into account.

The Committee considered the proposal and justification submitted and noted that the proposal did not convincingly demonstrate the mischief sought to be addressed yet clause 4(2) of the Bill provides that application of the Bill is guided by the principles of Article 10 of the Constitution that includes public participation and stakeholder consultation.

- civ. On clause 158 of the Bill relating to other powers of the Commissioner, the Council of Governors and Ministry of Cooperatives proposed to amend the clause to limit the functions of the Commissioner to issue circulars and guidelines for the

better administration of this Act Cooperative Federations, and Diaspora Cooperatives or Apex Cooperative.

The Committee considered the proposal and justification submitted and noted that the proposal did not convincingly demonstrate the mischief sought to be addressed.

5.2 Committee Recommendations

- 40) The Committee, having considered the Cooperatives Bill, 2023 (National Assembly Bills No. 7 of 2024) recommends that the House approves the Bill with amendments as proposed below:

106) CLAUSE 5

THAT, clause 5 of the Bill be deleted and substituted with the following new clause—

Application. 5. (1) This Act *shall apply* to all Cooperatives in Kenya.

(2) A Cooperative s register with the Office of the Commissioner for Cooperative Development established under section 6.

No. 14 of 2008. (3) A Cooperative that is registered under the Sacco Societies Act, 2008 shall —

(a) comply with subsection (2); and

(b) conduct business, be licensed, be regulated and be supervised by the Sacco Societies Act, 2008.

(4) This Act shall apply in any case where there is any inconsistency on any matter between this Act and any other legislation.

Justification: The Committee resolved to introduce a sub clause to provide that all Sacco Societies shall be registered and regulated under the Cooperatives Act, and where is a conflict in laws the Cooperatives Act will apply.

107) CLAUSE 8

THAT, clause 8 of the Bill be amended—

(a) in paragraph (a) by deleting the expression (a);

(b) in paragraph (a) by deleting the expression ‘; and’ and substituting therefor the punctuation mark ‘.’

(c) by deleting paragraph (b).

Justification: The Committee considered the proposal and resolved to delete clauses 8(2) and 13(2)(b) on the grounds that the professional bodies that exist are not

registered with the Registrar of Societies and therefore should not be used to discriminate persons who may qualify for appointment as the Commissioner or a County Director for Cooperatives.

108) CLAUSE 9

THAT, clause 9 of the Bill be amended by inserting the word 'registration' immediately after the words 'responsible for the' appearing in sub clause (1).

Justification: The Committee considered submissions from the public and resolved to sponsor this amendment to clarify that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives in the respective county.

109) CLAUSE 12

THAT, clause 12 of the Bill be amended—

- (a) by renumbering the clause as sub clause (1);
- (b) by inserting the following sub clause immediately after sub clause (1)—

“(2) The technical officers appointed under sub clause (1) shall have relevant academic qualifications, competencies and experience in Cooperative management and practice.”

Justification: The Committee resolved to propose this amendment at Committee stage to provide minimum qualification for appointment as technical staff in the office of the County Director for Cooperatives.

110) CLAUSE 13

THAT, clause 13 of the Bill be amended—

- (a) in paragraph (a) by deleting the expression (a);
- (b) in paragraph (a) by deleting the expression ‘; and’ and substituting therefor the punctuation mark ‘.’
- (c) by deleting paragraph (b).

Justification: The Committee considered the proposal and resolved to delete clauses 8(2) and 13(2)(b) on the grounds that the professional bodies that exist are not registered with the Registrar of Societies and therefore should not be used to discriminate persons who may qualify for appointment as the Commissioner or a County Director for Cooperatives.

111) CLAUSE 14

THAT, clause 14 of the Bill be amended by inserting the words 'regulating the operations including' immediately after the words 'responsible for' appearing in sub clause (1).

Justification: The Committee considered submissions from the public and resolved to sponsor this amendment to clarify that the Commissioner shall register cooperatives and the County Directors of cooperatives shall regulate the operations of cooperatives in the respective county.

112) CLAUSE 15

THAT, clause 15 of the Bill be amended by deleting the word 'three' and substituting therefor the word 'five' appearing immediately after the words 'committee member within'

Justification: The Committee resolved to propose an amendment to provide to allow County Directors to submit the audited reports five months in September after the end of the cooperative financial year.

113) CLAUSE 17

THAT, clause 17 of the Bill be amended—

(a) in paragraph (d), by deleting the word 'and';

(b) by inserting the following paragraph immediately after paragraph (d)—

"(da) alternative dispute resolution among the members under section 16(1) on any Cooperative matter that relates to consultation, administration and operation of Cooperatives."

Justification: The Committee resolved to propose an amendment to provide that the forum shall act as a mechanism for alternative dispute resolution among members of the technical forum.

114) CLAUSE 20

THAT, clause 20 of the Bill be amended by inserting the following sub clause immediately after sub clause (3) —

"(4) A person may join two or more Cooperatives that do not share the same objectives or proposes.

(5) A person under subsection (1) shall—

(a) disclose membership and financial liability to a Cooperative registered under this Act to the Commissioner; and

(b) submit a letter from a Cooperative under paragraph (b) confirming the nature and extent of financial liability,

to the Commissioner and to a Cooperative that a person applies to register as a member;

(6) A primary Cooperative may be formed by at least twenty persons."

Justification: The Committee resolved to propose an amendment to provide and ensure that a person who applies for membership to more than one primary cooperative must disclose membership and financial liability to the Commissioner and to the prospective Cooperative.

115) CLAUSE 21

THAT clause 21 of the Bill be deleted and substituted with the following clause—

Prohibition against multiple objects in primary Cooperatives	21. (1) The Commissioner shall not register a primary Cooperative that has more than one objective under section 20(2). (2) A person may apply to the Commissioner to register a primary Cooperative with more than one objective under subsection (1). (3) The Cabinet Secretary may make regulations generally for the better carrying into effect the provisions under subsection (2).
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Justification: The Committee proposes the amendment to provide that a cooperative may not be registered under more than one purpose without approval of the Commissioner.

116) CLAUSE 22

THAT clause 22 of the Bill be amended, by deleting sub clause (2) and substituting therefor the following new sub clause —

"(2) A secondary Cooperative shall comprise of membership from at least five primary Cooperatives."

Justification: The Committee proposes the amendment to clarify the membership of a secondary cooperative in compliance with clause 29.

117) CLAUSE 23

THAT clause 23 of the Bill be amended—

- (a) in sub clause (1), by deleting the word "subsector" appearing in paragraph (a);
- (b) in sub clause (2), by deleting the words "business line or Cooperative subsector" and substituting therefor the words "or business line";
- (c) by inserting the following new sub clause immediately after sub clause (2) —

"(3) A Cooperative federation shall comprise of membership from at least two secondary Cooperatives."

Justification: The Committee proposes the amendment to clarify the membership of a Cooperative federation in compliance with clause 29 and to make it easier for a group of persons to form a cooperative by reducing the threshold from 25 persons to 20 persons.

118) CLAUSE 27

THAT clause 27 of the Bill be deleted and substituted with the following new clause—

Registration, regulation and operations of Apex Cooperative.	27. The Cabinet Secretary shall make regulations on registration, regulation, governance and management of the Apex Cooperative
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Justification: The clause has been redrafted to make it clear and comply with the drafting style of the National Assembly.

119) CLAUSE 29

THAT clause 29 of the Bill be amended—

- (a) in paragraph (a) by deleting the word "-five" ;
- (b) by deleting paragraph (b) and substituting therefor with the following paragraph—
 - "(a) by at least five primary Cooperatives in case of registration of a secondary Cooperative; or"

Justification: The Committee resolved to amend the Bill to correct the grammatical errors in sub clause (1)(b) and to provide that the minimum number of persons required to register one, a primary Cooperative shall be twenty members and second, a secondary Cooperative shall be five primary Cooperative to ensure benefit of economies of scale is practical.

120) CLAUSE 30

THAT clause 30 of the Bill be amended—

- (a) by renumbering the clause as sub clause (1);
- (b) by inserting the following new sub clause immediately after sub clause (1)—
 - "(2) A person may apply to the Commissioner for exemption of the requirements under subsection (1).
 - (3) The Cabinet Secretary may make regulations generally for the better carrying into effect the provisions under subsection (2)."

Justification: The Committee proposes to incorporate an amendment to provide that a cooperative may not be registered under more than one purpose without approval of the Commissioner.

121) CLAUSE 36

THAT clause 36 of the Bill be amended in sub clause (1), by deleting the words “body corporate” and substituting therefor with the words “corporate body”.

Justification: The clause has been redrafted to make it clear to amend the words body corporate to read ‘corporate body’ to bring consistency and clarity in the Bill.

122) CLAUSE 44

THAT clause 44 of the Bill be amended in sub clause (2), by deleting the words “or the board of directors’ subject to ratification by the members at a general meeting”.

Justification: The Committee resolved to propose an amendment to delete the words “or the board of directors’ subject to ratification by the members at a general meeting” to prevent misuse of the power to ratify.

123) CLAUSE 47

THAT clause 47 of the Bill be deleted.

Justification: The Committee resolved to propose an amendment to provide to delete the Limitation of membership to producer Cooperatives as it is discriminatory.

124) CLAUSE 50

THAT clause 50 of the Bill be amended by inserting the following new sub clause immediately after sub clause (1)—

“(2) The provisions of subsection (1)(d) shall apply in compliance with the Data Protection Act, 2019.”

Justification: The Committee resolved to propose an amendment to provide for compliance with the Data Protection Act.

125) CLAUSE 55

THAT clause 55 of the Bill be amended by inserting the following new sub clause immediately after sub clause (13)—

“(14) A document required to be filed under this section may be filed as a hard copy or as an electronic copy

(15) The Commissioner shall facilitate filing of records under subsection (14).”

Justification: The Committee resolved to propose an amendment to provide for electronic filing of any records.

126) CLAUSE 57

THAT clause 57 of the Bill be amended —

(a) by inserting the following new sub clause immediately after sub clause (2)—

“(2A) Where a Cooperative does not comply with subsection (1), a member of a Cooperative may write to the Commissioner or County Director of Cooperatives to convene a meeting under subsection (1), two months after receipt of the certificate of registration of the cooperative.”

(b) in sub clause (3), by deleting the words “In subsequent years, a Cooperative” and substituting therefor the words “A Cooperative that has complied with subsection (2),”

Justification: The Committee resolved to propose an amendment to enable a person to write to the Commissioner or County Director of Cooperatives to convene a meeting where the Directors fail to call for a meeting.

127) CLAUSE 62

THAT clause 62 of the Bill be amended —

(a) in sub clause (2), by inserting the words “one term of three years” immediately after the word “re-election”

(b) in sub clause (5) by inserting the following new paragraph immediately after paragraph (a)—

“(aa) the appointment of two thirds of the directors is done at different times to ensure continuity in the governance of a Cooperative;”

Justification: The Committee resolved to propose an amendment to provide for staggered appointment of Directors to ensure that there is institutional memory and to provide a limit to terms that a person may serve as a director.

128) NEW CLAUSE 62A

THAT clause 62 of the Bill be amended by inserting the following new clause —

Payment of
expenses.

62A (1) A member of the board of directors shall not receive remuneration in the form of a salary or any fixed or periodic payments for services a director gives to a Cooperative.

(2) A Cooperative may pay a director for expenses that a director incurs in the course of executing a duty to the benefit of the society and at such rates as the members shall approve during the general meeting.

(3) This section shall apply to a member of the

Supervisory Board.

Justification: The Committee resolved to propose an amendment to enable for a regulation of allowances and other payments of Directors to avoid situations where there is conflict of interest.

129) CLAUSE 73

THAT clause 73 of the Bill be amended—

(a) in sub clause (1), by deleting the word 'made' and substituting therefor the word 'make' appearing immediately after the words 'instructions of the';

(b) by deleting sub clause (3) and substituting therefor the following new sub clauses—

“(3) A County Director for Cooperatives shall issue written notice to an employer who operates within the boundaries of a county for the sum owing under subsection (1).

(3A) The Commissioner shall issue written notice to an employer who operates beyond the boundaries of a county for the sum owing under subsection (1).

(3B) Where an employer does not respond to a notice issued under subsection (3), a County Director for Cooperatives shall notify the Commissioner in writing of an employer who has not complied with a notice issued under subsection (3).

(3C) The Commissioner shall, by written notice, appoint any person, bank or institution to be an agent of the Cooperative for the purposes of collection and recovery of a debt owed to the Cooperative and that has not complied with a notice under subsection (3).”

Justification: The Committee resolved to propose an amendment to enable county governments to issue demand notices as proposed by the submission of the joint technical committee from the state department from the Ministry of the Small and Medium Enterprises and the Council of Governors.

130) CLAUSE 77

THAT clause 77 of the Bill be deleted.

Justification: The Committee resolved to propose an amendment to delete the clause to ensure that a Cooperative exercise due diligence in mitigating risks and insures loans in case of death of a member.

131) CLAUSE 78

THAT clause 78 of the Bill be amended by deleting sub clause (3) and substituting therefor the following new sub clause—

"(3) All transfers and payments made by a Cooperative in accordance with this section shall be—

- (a) valid and effectual against any demand made upon the Cooperative by any other person
- (b) paid within sixty days."

Justification: The Committee resolved to propose an amendment to enable payment of any demand to a cooperative within sixty days.

132) CLAUSE 85

THAT clause 85 of the Bill be amended by inserting the words "in regulations under by the Cabinet Secretary" appearing immediately after the word "prescribe".

Justification: The Committee resolved to propose an amendment to provide clarity.

133) CLAUSE 86

THAT clause 86 of the Bill be deleting sub clause (4) and substituting therefor the following new sub clause —

"(4) The Cabinet Secretary shall enact regulations on investment in companies including operations of holding Cooperatives."

Justification: The Committee resolved to propose an amendment to empower the Cabinet Secretary to enact regulations on investment in companies including operations of holding Cooperatives.

134) CLAUSE 107

THAT clause 107 of the Bill be amended —

- (a) in sub clause (1) by deleting the word "or" and substituting therefor the word "and" appearing immediately and after the words "was registered" in paragraph (c).
- (b) by inserting the following sub clause immediately after sub clause (1)—

"(1A) A County Director of Cooperatives may recommend to the Commissioner to cancel and dissolve a cooperative that has not complied with the provisions of subsection (1) for a period of not less than ten years."

Justification: The Committee resolved to propose an amendment to prevent arbitrary Cancellation of registration of a cooperative and to assign the role of recommending to the Commissioner deregistration of dormant Cooperatives to the County Directors of Cooperatives.

135) CLAUSE 124

THAT clause 124 of the Bill be amended in sub clause (2)—

- (a) by deleting paragraph (b) and substituting the following new paragraph—

157 | Report on the Consideration of the Cooperatives Bill, (National Assembly Bill No. 7 of 2024)

- "(b) two deputy chairpersons; and"
- (b) in paragraph (c), be deleting the word "five" and substituting therefor the word "six" appearing immediately after the word "than"

Justification: The Committee resolved to propose an amendment to provide for two deputy chairpersons and expansion of the membership of the Tribunal to 9 members to allow the Tribunal to sit as 3 panels.

136) CLAUSE 124

THAT clause 125 of the Bill be amended in sub clause (3) (3) by deleting paragraph (b)

Justification: The Committee resolved to propose an amendment to delete the requirement that a person can only be appointed as a member of the Board where that person is a member of a professional body that regulates cooperative professionals as no such body is registered with the Registrar of Societies.

137) CLAUSE 154

THAT clause 154 of the Bill be amended by inserting the following sub clause immediately after sub clause (2)—

- "(2A) The application of the Fund under established under subsection (1) shall be distributed as follows—
- (a) sixty percent to the National Government; and
 - (b) forty percent to the County Government." ;

Justification: The Committee resolved to propose an amendment to provide that the Cooperative Development Fund shall be shared between the national and county governments at the ratio of 60 to 40 percent.

138) CLAUSE 155

THAT clause 155 of the Bill be amended—

- (a) in sub clause 2:
- (i) by deleting the words 'sub sector,' appearing in paragraph (dd);
 - (ii) by deleting the word "and" appearing immediately after the word "webinar;" on paragraph (kk)
 - (iii) by inserting the following paragraph immediately after paragraph (kk) —
"(kka) provide guidelines for affirmative action for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives."

Justification: The Committee resolved to propose an amendment to empower the Cabinet Secretary to prescribe affirmative action guidelines for the benefit of special interest groups of women, youth, persons with disability, and minority and marginalized communities in cooperatives in compliance with the Constitution.

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

HON. JAMES MWANGI GAKUYA, MP

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND
COOPERATIVES





THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

ADOPTION SCHEDULE

Report on the Consideration and Adoption of Committee Report on
The Cooperatives Bill (National Assembly Bill No. 7 of 2024)

No.	MEMBER NAME	SIGNATURE
1.	Hon. Gakuya James Mwangi, MP- Chairperson	
2.	Hon. Kitany Marianne Jebet, MP – Vice Chairperson	
3.	Hon. Dr. Oundo Wilberforce Ojiambo, MP	
4.	Hon. Dr. Beatrice Adagala, MP	
5.	Hon. Githinji Robert Gichimu, MP	
6.	Hon. Kamene Joyce, MP	
7.	Hon. Mwalyo Joshua Mbithi Mutua, MP	
8.	Hon. Oluoch Anthony Tom, MP	
9.	Hon. Wainaina Antony Njoroge, MP	
10.	Hon. Waithaka John Machua, MP	
11.	Hon. Guyo Adhe Wario, MP	
12.	Hon. Korir Adams Kipsanai, MP	
13.	Hon. Maina Mwago Amos, MP	
14.	Hon. Sakimba Parashina Samuel, MP	

