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THE NATIONAL ASSEMBLY

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TWELFTH PARLIAMENT - SECOND SESSION

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

REPORT ON THE SACCO SOCIETIES (AMENDMENT) BILL, 2018

(NATIONAL ASSEMBLY BILL NO. 18)

THE NATIONAL ASSEMBLY PAPERS LAID

DATE: 28 NOV 2018 DAY: WEDNESDAY

TABLED BY:	HON. JONES MLOLWA, MP MEMBER, DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES
CLERK-AT-THE-TABLE:	RACHEL KAIRI PRINCIPAL CLERK ASSISTANT 2

Directorate of Committee Services

The National Assembly,

Parliament Buildings, Continental House, Room 402

NAIROBI

NOVEMBER 2018

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CHAIRPERSON'S FOREWORD

On behalf of the Departmental Committee on Trade, Industry and Cooperatives in pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Sacco Societies (Amendment) Bill, 2018.

This report contains the Committee's proceedings of the consideration of the Sacco Societies (Amendment) Bill, 2018, National Assembly Bills No. 18 that was published on 19th June, 2018 and read a First Time on 3rd July, 2018. In processing the Bill, the Committee invited comments from the public by placing advertisements in the Daily Nation on 22nd February, 2018 pursuant to Article 118 of the Constitution. Stakeholders made oral and written submission for consideration by the Committee. The Committee has since adopted the stakeholders' amendments for introduction into the Bill during the Committee Stage of the Bill.

In considering the Bill, the Committee noted that the Bill seeks to amend the Sacco Societies Act, 2008, to provide for usage of ICT in collecting and receiving of statutory reports. This is aimed at reducing the regulatory reporting burden on SACCO and ensuring of a faster, efficient and accurate reporting, monitoring and analysis of SACCOs financial status at any time, being the cornerstone of Risk-Based Supervision (RBS). It also seeks to realign the definitions and roles of Minister to be Cabinet Secretary and also the responsibility and office of the Controller of Budget as reflected in the Act, to be in line with the Constitution.

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 wishes to thank the stakeholders for their participation in scrutinizing the Bill.

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

HON. KANINI KEGA, M.P (CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVE

EXECUTIVE SUMMARY

The Sacco Societies (Amendment) Bill, 2018 (hereinafter referred to as the Bill) seeks to introduce the usage of ICT in collecting and receiving of statutory reports

The Committee placed an advert in the dailies on Friday 6th July, 2018, calling for memoranda from the public on. The Committee received written memoranda from several stakeholders and oral submissions from The Ministry of Industry, Trade and Cooperates. The Committee deliberated on and considered the views of the stakeholders and some were adopted by the committee.

The Committee observed that the Bill seeks to introduce the usage of ICT in collecting and receiving of statutory reports. It recommends that the proposed amendments to the Sacco Societies (Amendment) Bill, 2018 be adopted with the proposed Committee stage amendments.

1.0 INTRODUCTION

1.1 Establishment of the Committee

The Departmental Committee on Trade, Industry and Cooperatives is one of the fifteen Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b) To study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- c) To study and review all legislation referred to it;
- d) To study, access and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objective;
- e) To investigate and inquire into all matters relating to the assigned ministries and departments as they may be deemed necessary, and as may be referred to the House;
- f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments); and
- g) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

1.2 Mandate of the Committee

In accordance with Second Schedule of the Standing Orders, the Committee is mandated to oversee:-

Trade, securities exchange, consumer protection, pricing policies, commerce, industrialization including special economic zones, enterprise promotion and development including small and medium-size enterprises, intellectual property, industrial standards, anti-counterfeit policies and co-operatives development.

In executing its mandate, the Committee oversees the Ministry of Industry, Trade and Cooperatives.

1.3 Committee Membership

The Committee on Trade, Industry and Cooperatives was constituted by the House on Thursday 14th December, 2017 and comprises of the following Members:-

Chairperson	Hon. Kanini Kega, MP
Vice Chairperson	Hon. Cornelly Serem, MP
Members	Hon. Alexander Kimutai Kigen Kosgey, MP
	Hon. Alois Musa Lentoimaga, MP
	Hon. Anab Mohamed Gure, MP
	Hon. Andrew Mwadime, MP
	Hon. Bunyasi John Sakwa, MP
	Hon. Daniel Maanzo, MP
	Hon. Wanyonyi Ferdinand, MP
	Hon. James Mukwe, MP
	Hon. Jones Mlolwa, MP
	Hon. Kipruto Moi, MP
	Hon. Murungi Kathuri, MP
	Hon. Gichimu Robert, MP
	Hon. Kimani Patrick Wainaina Jungle, MP
	Hon. Korir Generali Nixon Kiprotich, MP
	Hon. Nduati Joseph Ngugi, MP
	Hon. Wachira Rahab Mukami, MP
	Hon. (Dr.) Wilberforce Oundo, Phd, MP

2.0 CONSIDERATION OF THE BILL

2.1 Background

The Sacco Societies (Amendment) Bill, 2018 was introduced in the National Assembly on 3rd July, 2018 as National Assembly Bills No.18 of 2018 through Kenya Gazette Supplement No. 70 of 2018. Following the First reading, of the Bill stood committed to the Departmental Committee on Trade, Industry and Co-operatives pursuant to the National Assembly Standing Orders.

The Bill seeks to amend the Sacco Societies Act, 2008, to provide for usage of ICT in collecting and receiving of statutory reports. This is aimed at reducing the regulatory reporting burden on SACCO and ensuring of a faster, efficient and accurate reporting, monitoring and analysis of SACCOs financial status at any time, being the cornerstone of Risk-Based Supervision (RBS). It also seeks to realign the definitions and roles of Minister to be Cabinet Secretary and also the responsibility and office of the Controller of Budget as reflected in the Act, to be in line with the Constitution.

Pursuant to Article 118 of the Constitution and Standing Order 130(1) the Committee during its fourth sitting considered the Bill and resolved to subject it to public participation. The Committee sought for submission of memoranda from the public/stakeholders through an advert that appeared in the local dailies on Friday 6th July, 2018.

2.2 Clause by Clause Analysis

The Committee during its fourteenth Sitting analyzed the proposed amendments clause by clause as follows—

Clause 1

This Act may be cited as the Sacco Societies (Amendment) Bill, 2018.

Clause 2

The Sacco Societies Act, (in this Act referred to as the “principal Act”) is amended by deleting the word “Minister” wherever it appears and substituting therefor the words “Cabinet Secretary”

Clause 3

Section 6 of the principal Act is amended in subsection (4) by deleting paragraph (a) and substituting therefor the following new paragraph-

“(a) a Member of Parliament or County Assembly”

Clause 4

Section 20 of the principal Act is amended-

- (a) In subsection (2) by deleting the words “Controller and”;
- (b) In subsection (3) by deleting the expression: “2003” and substituting therefor the expression “2015”.

Clause 5

Section 24 of the principal Act is amended in subsection (2) by deleting the words “Second Schedule” appearing in paragraph (b) and substituting therefor the word “regulations”.

Clause 6

Section 27 of the principal Act is amended-

- (a) In subsection (1), by deleting the words “prescribed in section 30 and the Second Schedule” appearing in paragraph (d) and substituting therefor the words “as may be prescribed in the regulations”;
- (b) In subsection (7), by deleting the word “Tribunal” and substituting therefor the words “Cabinet Secretary”; and
- (c) By inserting the following new subsection immediately after subsection (7)-
“(8) the registration of a Sacco Society, the license of which, is revoked under the provisions of this Act shall be cancelled in accordance with section 62 (d) of the Co-operatives Societies Act.”

Clause 7

Section 45 of the principal Act is amended in paragraph (a) by deleting the expression “Cap. 486” appearing in the marginal note.

Clause 8

Section 51 of the principal Act is amended-

- (a) By inserting the following words “or any officer, director, committee member, employee or agent of the Society in such amounts as the Authority may consider fit” immediately after the word “society” appearing in paragraph (m); and
- (b) By deleting the word “and” appearing at the end of paragraph (p) and substituting therefor the word “or”.

Clause 9

The principal Act is amended by inserting the following new section immediately after section 53-

53A (1) The Authority may establish and operate an electronic filing system for the purposes of electronic filing of the statutory returns and documents or other information required to be furnished to Authority under the Act or any other written law.

(2) The Authority shall, in establishing an electronic filing system, issue general or specific guidelines and directions on the use and procedure of the system, including-

- (a) the registration of Sacco Societies to participate in the electronic filing system;
- (b) the issuing and cancellation of authentication of codes to the registered users of the electronic system;
- (c) statutory returns, documents or other information that may be transmitted through the electronic filing system;
- (d) the correction of errors in, or amendments to, statutory returns, documents or other information filed in the electronic filing system;
- (e) the use of the electronic filing system, including the procedure applicable if there is a breakdown or other interruption in the system;
- (f) the use, in any electronic transmission or filing, of symbols, codes, abbreviations or other notations to represent any particulars or information required under the Act or any other written law; and
- (g) any other matters for the better use and provision of the electronic filing system.

(3) A Sacco Society shall, subject to any directions or guidelines issued by the Authority, furnish any return, document or other information required to be furnished under the Act, these Regulations or any other written law through the use of the electronic filing system established by the Authority.

(4) The Authority may, in accordance with the directions or guidelines issued under subsection (3), serve a notice or any other document to the registered computer account of the Sacco Society.

3.0 PUBLIC PARTICIPATION

Following the call for memoranda from the public on Friday 6th July, 2018, the Committee received written memoranda from Kenya Union of Savings and Credit Co-operatives (KUSSCO) Limited, Kipkenda and Company Advocates and Bunge la Wazalendo Organization and held several meetings with stakeholders. The Committee deliberated on and considered the views of the stakeholders as follows:-

3.1 Principal Secretary for Co-operatives

The principal Secretary, Ms. Susan Mochache submitted before the Committee as follows, that:-

SACCO Societies remains an important subsector in the Kenyan national financial sector. The prudential regulatory framework for the DT-SACCOs segment in 2010 has seen a tremendous improvement in the financial stability of DT-SACCOs; in addition to spurring confidence among the depositors therein. The sustained growth, together with the expansion of financial services and products offerings by DT-SACCOs calls for a more robust supervisory legal framework; as well as compliance with international financial standards.

Towards this end, the following amendments were included in the Sacco Societies (Amendment) Bill No. 18 (National Assembly) of 2018 as part of the Budget Policy Statement for the F/Y2018/2019.

- a) **Miscellaneous Amendments:** These are array of proposed amendments aimed at aligning the Sacco Societies Act with the Constitution, 2010, as well as the Companies Act, 2015. Others are to address minor errors and omissions apparent on the face of the Sacco Societies Act.
- b) **Usage of Information Communication Technology (ICT) by the Authority:** The proposed amendment seeks to lay a legal foundation for the usage of ICT, by the Authority in the discharge of its supervision and regulatory functions. In particular, the Authority has been using an electronic returns submission system, which allows SACCO Societies to submit the periodic statutory reports and returns online.

In addition, the Authority has been progressively implementing a Risk Based Supervision framework that heavily relies on the usage of ICT. However, the prevailing provisions of the Sacco Societies Act do not recognize electronic submission of information. This has often presented legal impediments in the credibility, integrity and enforceability of the electronically submitted documents or information. The usage if ICT will go a long way in easing the regulatory burdens associated with manual paper work.

- c) **Liquidation of SACCO Societies whose deposit-taking business licenses are revoked:** The proposal herein is to align the provisions of the SSA which deals with revocation of

deposit-taking licenses of SACCO Societies, with the provisions of the CSA which deals with cancellation of registration, and liquidation of Cooperatives Societies. The proposed amendment thus opines that once a license is revoked under the SSA, the CCCD should cancel the registration under the CSA and commence liquidation of the entity.

3.2 Submission by the Kenya Union of Savings and Credit Co-operatives (KUSSCO) Limited

The union submitted that:-

KUSSCO was established in 1973 as an umbrella body for SACCOs in Kenya, responsible for speaking on behalf of SACCOs and representing them in business and legal requirements.

The proposed amendments to the Act will provide the basis for the usage of ICT in collecting and receiving of statutory reports for Risk-Based supervision (RBS) and thereby reducing the regulatory reporting burden on SACCOs to promote efficient and accurate reporting.

In that regard, the Act be amended to incorporate the following proposed amendments:

Amend

Section 6 (4) (d) a person who is prohibited from being a director or to take part in the management of a cooperative or financial institution by the Commissioner under the Cooperatives Societies Act (CAP 490) OR BY THE Central Bank of Kenya respectively.

Proposed Amendment

Rewrite the word cooperative (underline above) to start with a capital letter and have a hyphen as follows: ... Co-operative...

Committee Resolution

Adopt the proposed amendment

Amend

Section 6 (5) A member of the Board appointed under subsection (1) (c) may be removed from office by the Minister, if that member-

Section 6 (6) A member of the Board appointed under subsection (1)(e) may resign office by giving a fourteen days' notice to the Minister.

Section 24 (3) A SACCO society may appeal to the Minister in reference to refusal to grant a license within thirty days after receipt of notification of refusal.

Section 24 (4) The Minister may reverse the decision of the Authority only if-

Section 24 (5) The Authority shall, in consultation with the Minister make regulations providing for further requirements to be fulfilled before the grant of license to a SACCO society.

Section 27 (5) An aggrieved SACCO society may appeal to the Minister in respect of a revocation of its license within thirty days after being notified of the revocation.

Section 53 (5) The Minister may require the Authority or a deposit-taking SACCO to furnish to him, at such a time and in such a manner as he may direct, such information as the Minister may require.

Proposed Amendment

Substitute the word Minister (underlined above) with Cabinet Secretary as proposed in amendment no.2 of the Bill.

3.3 Submission by Kipkenda and Company Advocates

Kipkenda and Company Advocates submitted that:-

Parliament as an entity sworn to uphold the provisions of the constitution, should bring laws that were enacted pre 2010 to conformity with the values and aspirations embodied in it. One such provision is contained in chapter six on ethics and integrity of persons aspiring to hold public office.

Proposed Amendment

Adding another sub-clause immediately after clause 6 (4) to read “does not meet the requirements of chapter six of the constitution of Kenya 2010”

Justification

The constitution should be conformed to as contained in chapter six on ethics and integrity of persons aspiring to hold public office

Proposed Amendment

Section 28 of the Principal Act be amended to provide that the list of Sacco Societies to be published and updated on its website

Justification

This will ensure access to information and a quick search engine to verify the status of Sacco societies and hence an informed population.

Proposed Amendment

Section 4 and 5 to make provision for the decentralization of the Sacco services to ensure their accessibility throughout the country.

Justification

This is in the spirit of bringing services closer and more accessible to the people.

3.4 Submission by Bunge la Wazalendo Organization

Bunge la Wazalendo Organization submitted that:-

Under Sub-section 2 (b) **Declarations of wealth**, the reputation and character, financial integrity and reliability of the person and further ref to page 3 sec 48A sec 3(iii) to read as **director of financial institution** which was voluntarily liquidated is under involuntary liquidation or has been placed under statutory management.

3.5 Cooperative Alliance of Kenya

The CAK submitted on behalf of Cooperative Societies as follows, that:-

Section 2, 3, 4, 5, 6(a), 7, 8(b) of the Sacco Societies (Amendment) Bill, 2018 contains amendments that are of housekeeping nature which are necessary to clean the Sacco Societies Act to be in tandem with changes brought about by various factors.

Section 6(b) of the amendment Bill seeks to amend section 27 of the Sacco Societies Act thus giving what was hitherto reserved for the Tribunal to the Cabinet Secretary. Aggrieved Deposit-taking Saccos whose licenses get revoked by the Authority will have to seek recourse with the Cabinet Secretary. Referring issues to the Tribunal is very slow and thus denies quick justice to the Saccos therefore the stakeholders support the proposed amendments.

Section 6 © of the amendment Bill seeks to introduce a new subsection immediately after subsection 7 of the Sacco Societies Act by vesting the power of cancellation to the Commissioner for Co-operative development. The stakeholders support the amendment but the amendment should not only stop at cancellation but also comprehensively take care of the liquidation process at large.

Section 8(a) of the amendment Bill that seeks to widen the scope of those who the Authority can take action against so much so that persons such as directors, managers, officers, agents etc. are included is a welcome amendment.

Section 9 of the amendment Bill seeks to introduce application of ICT by introducing section 53A to the Sacco Societies Act. The stakeholders support the proposed amendment on condition that it is not intended to saddle Saccos with the burden of requiring them to purchase prescribed ICT systems.

3.6 Submission by SASRA

SACCO Societies remains an important subsector in the Kenyan national financial sector. The prudential regulatory framework for the DT-SACCOs segment in 2010 has seen a tremendous improvement in the financial stability of DT-SACCOs; in addition to spurring confidence among the depositors therein. The sustained growth, together with the expansion of financial services and products offerings by DT-SACCOs calls for a more robust supervisory legal framework; as well as compliance with international financial standards. Towards this end, the following amendments were included in the Sacco Societies (Amendment), Bill (National Assembly Bill No. 18) of 2018 as part of the Budget Policy Statement for the F/Y2018/2019.

1. Policy Objective

To align the provisions of the Sacco Societies Act with the Constitution of Kenya 2010, the new Companies Act 2015 as well as rectify minor errors and omissions apparent on the face of the Act

2. Policy statements

Align the definition of Minister to Cabinet Secretary, provide for disqualification of both Members of Parliament as well as County Assembly from serving in the Board of the Authority, and align the separation of the former office of the Controller and Auditor General, to that of the Auditor-General.

Recommendations

- (a) **Sacco Societies Act is amended** by deleting the word "**Minister**" wherever it occurs in the Act and substitute therefor the words "**Cabinet Secretary**"
- (b) **Section 6** of the Sacco Societies Act is amended in **Sub-section (4)** by deleting **paragraph (a)** and substituting therefor the following new paragraph:-

“(a) A Member of Parliament or County Assembly;”

- (c) **Section 20** of the Sacco Societies Act is amended in **subsection (2)** deleting the expression “Controller and”

The Companies Act 2015 which has largely been operationalized had a direct impact on several legislations. These legislations were amended vide the Companies and Insolvency Legislations (Consequential Amendments) Act, 2015. The Sacco Societies Act was however not included in the consequential amendments, particularly with regard to the definition and qualifications of external auditors.

It is therefore proposed to amend the Sacco Societies Act to define a qualified auditor in line with the Companies Act, 2015.

Recommendations

a) **Section 45 of the Sacco Societies Act is amended –**

- a) In paragraph (a) by deleting the marginal note therein and replacing therefor “*Act No. 19 of 2015*”

To rectify errors and other material omissions apparent on the face of the Sacco Societies Act, in order to enhance the effectiveness of its implementation.

- a) **Section 24 of the Sacco Societies Act** is amended in subsection (2), paragraph (b) by deleting the expression “*prescribed in the Second Schedule*” substituting therefor “*prescribed in the regulations*”

Explanatory Notes: The Act does not have the Second Schedule referred to, and the capital requirements to be maintained are contained in the regulations and not the Act itself. The minimum capital requirements to be maintained are in the regulations made under the Act.

- b) **Section 27** of the Sacco Societies Act is amended in **subsection (1), paragraph (d)** by deleting the expression “*prescribed in section 30 and the Second Schedule*” substituting therefor “as may be prescribed in the regulations”

Explanatory Notes: The Act does not have the Second Schedule referred to, and the capital requirements to be maintained are contained in the regulations and not the Act itself. Section 30 referred to deals with liquidity issues and not capital which are contained in Section 29. Even then, Section 29 does not prescribe the capital to be maintained, but donates that power to the Authority. Ultimately the minimum capital requirements to be maintained are in the regulations made under the Act.

- c) **Section 27** of the Sacco Societies Act is amended in **subsection (7)** by deleting the expression “**Tribunal**” appearing therein and substituting therefor the expression “**Cabinet Secretary**”.

Explanatory Notes: Since subsection (5) and (6) specifically provides that the appeals shall be to the Cabinet Secretary, it follows that subsection (7) which deals with the grounds upon which the appeal should be decided should relate to the Cabinet Secretary and not the Tribunal as appears in the Act. The grounds could relate to the Tribunal only if the appeals were to Tribunal rather than the Cabinet Secretary.

- d) **Section 51** of the Sacco Societies Act is amended-

- (i) **in paragraph (k)** by deleting the word “**and**” appearing therein

(ii) **in paragraph (m)** by adding the following words immediately after the expression society appearing therein –

“or any officer, director, committee member, employee or agent of the Society in such sums as the Authority may assess”

(iii) **in paragraph (p)** by inserting the word “or” immediately after the word “society” therein

Explanatory notes: the word “and” appearing in **paragraph (k)** is misplaced since it implies that the next paragraph following would be the last one. This is not so, since there are several other paragraphs thereafter.

In **paragraph (m)** the imposition of financial penalties omitted to officers of the Sacco Society, which is crucial so that the same may be in tandem with **paragraph (p)** which is clear that legal proceedings may be commenced against both the Sacco Society and officers thereof. The amendment seeks to insert the omissions.

The insertion of the word “or” in **paragraph (p)** is to signify the fact that all the paragraphs may be read disjunctively depending on the circumstances of each case.

3. Liquidation of Sacco Societies whose licenses are revoked

Policy Objective

To provide for an orderly exit from the market for SACCO Societies whose licenses have been revoked by the Authority; and align the Sacco Societies Act with the Cooperative Societies Act as well as the Insolvency Act 2015 in respect of liquidation of Sacco Societies.

Recommendations

In order to cure the apparent lacunae and provide for an orderly process of liquidation of SACCO Societies whose deposit-taking licenses have been revoked, it is recommended that:

(a) *Section 27 of the Sacco Societies Act be amended by –*

(i) *Inserting the following new subsection immediately after subsection(7) –*

“(8) The registration of a Sacco Society whose license is revoked under the provisions of this Act shall be cancelled in accordance with Section 62 (c) of the Cooperative Societies Act”

4.0 COMMITTEE STAGE AMENDMENTS

The Committee adopts the Sacco Societies (Amendment) Bill, 2018 with the proposed Committee stage amendments as follows:-

Clause 1

Agreed to

Clause 2

Agreed to

Clause 3

THAT, clause 3 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)—

“(aa) does not meet the requirements of chapter six of the constitution of Kenya 2010.”

Justification

The constitution should be conformed to as contained in chapter six on ethics and integrity of persons aspiring to hold public office

Clause 4

(a) Agreed to

(b) Deleting paragraph and substituting therefor the following new paragraph “b”

“(b) in subsection (3) by deleting the expression “2003 (No. 12 of 2003)” and substituting therefor the expression “2015 (No. 34 of 2015)”

Justification

To correct a cross referencing error

Clause 5

Agreed to

Clause 6

THAT, clause 6 of the Bill be amended—

- (a) Agreed to
- (b) by deleting paragraph (b); and
- (c) in the proposed amendment to section 27 by deleting the expression “(d)” appearing in the proposed new subsection (8).

Justification

Deletion of the proposed amendment to subsection (7) is intended to retain the current status quo by ensuring that the Tribunal established under the Co-operative Societies Act (Cap. 490) retains the power to reverse the decisions of the Authority.

Clause 7

THAT, clause 7 of the Bill be amended in the proposed amendment to section 45 by deleting the expression “Cap. 486” and substituting therefor the expression “No. 17 of 2015”

Justification

To provide the correct citation for the Companies Act.

Clause 8

THAT, clause 8 of the Bill be amended in the proposed amendment to section 51 by deleting the words “the Authority may consider fit” and substituting therefor the words “as may be prescribed through regulations”.

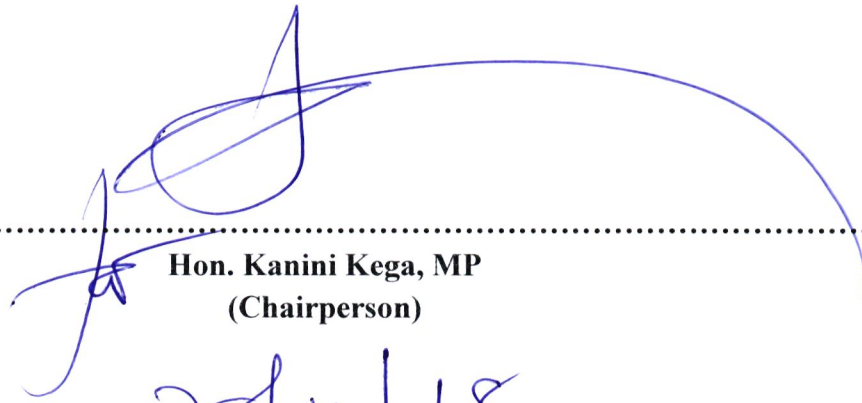
Justification

To take away the discretion of determining financial penalties to be imposed on a Sacco Society, any officer, director, committee member, employee or agent of the Society and provide that the financial penalty shall be prescribed through regulations.

Clause 9

Agreed to

SIGNED.....

A large, stylized handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

**Hon. Kanini Kega, MP
(Chairperson)**

DATE.....

28/11/18



DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES

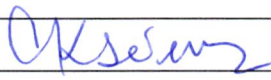
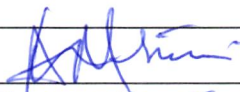




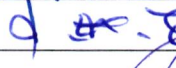
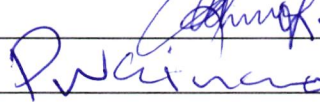
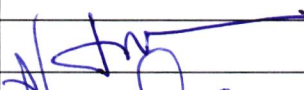


ADOPTION LIST

**Clerk's Chambers
National Assembly
NAIROBI**

Agenda: Adoption of the report on the Sacco Societies (Amendment) Bill, 2018

Date: 27th November, 2018

Time: 11.30 am

NO.	NAME	SIGNATURE
1.	Hon. Kanini Kega, M.P. – Chairperson	
2.	Hon. Cornelly Serem, M.P. – Vice Chairman	
3.	Hon. Alexander Kimutai Kigen Kosgey, MP	
4.	Hon. Alois Musa Lentoimaga, MP	
5.	Hon. Anab Mohamed Gure, MP	
6.	Hon. Andrew Mwadime, MP	
7.	Hon. Bunyasi Sakwa John, MP	
8.	Hon. Daniel Maanzo, MP	
9.	Hon. Gideon Sitetu Konchella, MP	
10.	Hon. James Mukwe, MP	
11.	Hon. Jones Mlolwa, MP	
12.	Hon. Kipruto Moi, MP	
13.	Hon. Jeremiah Ekamais Lomorukai, MP	
14.	Hon. Gichimu Robert, MP	
15.	Hon. Kimani Patrick Wainaina Jungle, MP	
16.	Hon. Korir Generali Nixon Kiprotich, MP	
17.	Hon. Nduati Joseph Ngugi, MP	
18.	Hon. Wachira Rahab Mukami, MP	
19.	Hon. Dr. Wilberforce Oundo, Phd, MP	

**ERIC NYAMBATI
FOR: CLERK OF THE NATIONAL ASSEMBLY**



MINUTES OF THE 31ST SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON TUESDAY 27TH NOVEMBER, 2018 IN THE COMMITTEE ROOM12, NEW PARLIAMENT WING, AT 12.00 PM.

PRESENT

1. Hon. Kanini Kega, MP – **Chairperson**
2. Hon. Cornelly Serem, MP – **Vice Chairperson**
3. Hon. Andrew Mwadime, MP
4. Hon. Kipruto Moi, MP
5. Hon. James Mukwe, MP
6. Hon. (Dr.) Wilberforce Oundo, Phd, MP
7. Hon. Bunyasi John Sakwa, MP
8. Hon. Kimani Patrick Wainaina Jungle, MP
9. Hon. Jeremiah Ekamais Lomorukai, MP
10. Hon. Nduati Joseph Ngugi, MP
11. Hon. Gichimu Robert, MP
12. Hon. Daniel Maanzo, MP
13. Hon. Jones Mlolwa, MP

APOLOGIES

1. Hon. Alois Musa Lentoimaga, MP
2. Hon. Wachira Rahab Mukami, MP
3. Hon. Anab Mohamed Gure, MP
4. Hon. Gideon Konchela, MP
5. Hon. Korir Generali Nixon Kiprotich, MP

ABSENT

1. Hon. Alexander Kimutai Kigen Kosgey, MP

IN ATTENDANCE

Kenya National Accreditation Service

1. Mr. Martin Chesire - CEO
2. Ms. Mwanasha Rajab - Legal Officer

National Assembly

1. Ms. Nuri K. Nataan - Clerk Assistant III
2. Mr. Peter Mwaura - Senior Legal Counsel
3. Mr. Chelanga Maiyo - Research Officer III
4. Mr. Yaqub Ahmed - Media Officer

MIN. NO.129/DC-N/2018 PRELIMINARIES

The Chairperson called the meeting to order at 12.00 pm and proceeded to say the prayer. Introductions were made thereafter. The Chair invited the Chief Executive Officer for KENAS to brief the Committee in regards to the Kenya Accreditation Service Bill, 2018.

MIN. NO.130/DC-N/2018 MEETING WITH THE KENYA NATIONAL ACCREDITATION SERVICE MANAGEMENT ON THE KENYA ACCREDITATION SERVICE BILL, 2018

Mr. Martin Chesire, Chief Executive Officer informed the Committee that following previous engagements with the Committee, the Authority had undertaken to incorporate the proposal of the various stakeholders and the Committee at large and therefore submit as follows, that:-

Section 11 on Appeals Committee is substituted and reframed as “The Accreditation Appeals Tribunal” inserted as a new Section 22 inserted the in proper sequence of Part IV ACCREDITATION, immediately after section 21 on Suspension or withdrawal of accreditation.

Section 12 Appeals Committee is deleted altogether, relevant paragraphs included in the newly inserted Section 22 The Accreditation Appeals Tribunal

New Section 10 New Proposal as follows:

Corporation Secretary inserted the following new proposed amendment immediately after section 9. The Chief Executive Officer.

Section 10. (1) There shall be a Corporation Secretary who shall be appointed on such terms and conditions as the Board may determine.

(2) A person shall be qualified for appointment as a Corporation Secretary if such person holds a university degree in law recognised in Kenya and is a registered certified public secretary with at least seven years relevant experience.

(3) The Corporation Secretary shall—

- (a) be the Secretary to the Board;
- (b) record and keep minutes and other records of the Board;
- (c) keep custody of the seal of the Board; and
- (d) carry out such other functions as the Service or the Chief Executive Officer may, from time to time, assign.

(4) In the performance of his duties under this Act, the Corporation Secretary shall be responsible to the Chief Executive Officer

MIN. NO.131/DC-N/2018

**CONSIDERATION AND ADOPTION OF THE
REPORT ON THE SACCO SOCIETIES
(AMENDMENT) BILL, 2018**

The Committee considered and adopted the report on the Sacco Societies (Amendment) Bill, 2018 with the following Committee stage amendments:-

Clause 1

Agreed to

Clause 2

Agreed to

Clause 3

THAT, clause 3 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)—

“(aa) does not meet the requirements of chapter six of the constitution of Kenya 2010.”

Justification

The constitution should be conformed to as contained in chapter six on ethics and integrity of persons aspiring to hold public office

Clause 4

- (a) Agreed to
- (b) Deleting paragraph and substituting therefor the following new paragraph “b”

“(b) in subsection (3) by deleting the expression “2003 (No. 12 of 2003)” and substituting therefor the expression “2015 (No. 34 of 2015)”

Justification

To correct a cross referencing error

Clause 5

Agreed to

Clause 6

THAT, clause 6 of the Bill be amended—

- (a) Agreed to
- (b) by deleting paragraph (b); and
- (c) in the proposed amendment to section 27 by deleting the expression “(d)” appearing in the proposed new subsection (8).

Justification

Deletion of the proposed amendment to subsection (7) is intended to retain the current status quo by ensuring that the Tribunal established under the Co-operative Societies Act (Cap. 490) retains the power to reverse the decisions of the Authority.

Clause 7

THAT, clause 7 of the Bill be amended in the proposed amendment to section 45 by deleting the expression “Cap. 486” and substituting therefor the expression “No. 17 of 2015”

Justification

To provide the correct citation for the Companies Act.

Clause 8

THAT, clause 8 of the Bill be amended in the proposed amendment to section 51 by deleting the words “the Authority may consider fit” and substituting therefor the words “as may be prescribed through regulations”.

Justification

To take away the discretion of determining financial penalties to be imposed on a Sacco Society, any officer, director, committee member, employee or agent of the Society and provide that the financial penalty shall be prescribed through regulations.

Clause 9

Agreed to

MIN. NO.132/DC-N/2018

ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 1.30 p.m. The date for the next meeting will be held on notice.

SIGNED.....



Hon. Kanini Kega, MP
(Chairperson)

DATE.....

28/11/18



MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON TUESDAY 23RD OCTOBER, 2018 IN THE MAIN CHAMBER, MAIN PARLIAMENT BUILDING, AT 10.30 AM.

PRESENT

1. Hon. Kanini Kega, MP – **Chairperson**
2. Hon. Cornelly Serem, MP – **Vice Chairperson**
3. Hon. Andrew Mwadime, MP
4. Hon. Kipruto Moi, MP
5. Hon. James Mukwe, MP
6. Hon. Jones Mlolwa, MP
7. Hon. Wachira Rahab Mukami, MP
8. Hon. (Dr.) Wilberforce Oundo, Phd, MP
9. Hon. Nduati Joseph Ngugi, MP
10. Hon. Gichimu Robert, MP
11. Hon. Korir Generali Nixon Kiprotich, MP
12. Hon. Daniel Maanzo, MP

APOLOGIES

1. Hon. Alois Musa Lentoimaga, MP
2. Hon. Anab Mohamed Gure, MP
3. Hon. Gigeon Konchela, MP
4. Hon. Jeremiah Lomorukai, MP
5. Hon. Bunyasi John Sakwa, MP
6. Hon. Kimani Patrick Wainaina Jungle, MP

ABSENT

1. Hon. Alexander Kimutai Kigen Kosgey, MP

IN ATTENDANCE

Stakeholders

- | | | |
|--------------------------|---|------------------------------------|
| 1. Mr. George Ototo, MBS | - | CEO KUSCCO |
| 2. Mr. Daniel Marube | - | CEO, Cooperative Alliance Of Kenya |
| 3. Mr. Chris Useki | - | CEO Stima Sacco |
| 4. Mr. Joseph Bee | - | CEO, Bandari Sacco |
| 5. Mr. Moses Manyuanda | - | CEO, Kenya Police Sacco |

- | | | |
|-----------------------|---|----------------|
| 6. Mr. Sammy Malatu | - | Bunge Sacco |
| 7. Mr. Justus Wahome | - | Bunge Sacco |
| 8. Ms. Gladys Gichohi | - | Harambee Sacco |
| 9. Ms. Sharon Makiti | - | KUSCCO |

National Assembly

- | | |
|-----------------------|---------------------------------|
| 1. Mr. Erick Nyambati | Clerk Assistant III |
| 2. Mr. Peter Mwaura | Legal Counsel II |
| 3. Mr. Chelanga Maiyo | Research and Policy Analyst III |
| 4. Mr. Yaqub Ahmed | Media Officer III |
| 5. Ms. | Audio Officer |

MIN. NO.117/DC-N/2018

PRELIMINARIES

The Chairperson called the meeting to order at 10.30 am and proceeded to say the prayer. Introductions were made thereafter. The Chair invited the stakeholders to give submissions regarding the Sacco Societies Amendment Bill 2018; National Assembly Bill number 18

MIN. NO.118/DC-N/2018

CONFIRMATION OF MINUTES

Confirmation of minutes was deferred to the next sitting

MIN.NO.119/DC-N/2018

SUBMISSION FROM STAKEHOLDERS ON THE SACCO SOCIETIES AMENDMENT BILL, 2018

1. The Cooperative Alliance of Kenya

The CEO for CAK, Mr. Marube submitted on behalf of Cooperative Societies as follows, that:-

Section 2, 3, 4, 5, 6(a), 7, 8(b) of the Sacco Societies (Amendment) Bill, 2018 contains amendments that are of housekeeping nature which are necessary to clean the Sacco Societies Act to be in tandem with changes brought about by various factors.

Section 6(b) of the amendment Bill seeks to amend section 27 of the Sacco Societies Act thus giving what was hitherto reserved for the Tribunal to the Cabinet Secretary. Aggrieved Deposit-taking Saccos whose licenses get revoked by the Authority will have to seek recourse with the Cabinet Secretary. Referring issues to the Tribunal is very slow and thus denies quick justice to the Saccos therefore the stakeholders support the proposed amendments.

MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON TUESDAY 23RD OCTOBER, 2018 IN THE MAIN CHAMBER, MAIN PARLIAMENT BUILDING, AT 10.30 AM.

PRESENT

1. Hon. Kanini Kega, MP – **Chairperson**
2. Hon. Cornelly Serem, MP – **Vice Chairperson**
3. Hon. Andrew Mwadime, MP
4. Hon. Kipruto Moi, MP
5. Hon. James Mukwe, MP
6. Hon. Jones Mlolwa, MP
7. Hon. Wachira Rahab Mukami, MP
8. Hon. (Dr.) Wilberforce Oundo, Phd, MP
9. Hon. Nduati Joseph Ngugi, MP
10. Hon. Gichimu Robert, MP
11. Hon. Korir Generali Nixon Kiprotich, MP
12. Hon. Daniel Maanzo, MP

APOLOGIES

1. Hon. Alois Musa Lentoimaga, MP
2. Hon. Anab Mohamed Gure, MP
3. Hon. Gigeon Konchela, MP
4. Hon. Jeremiah Lomorukai, MP
5. Hon. Bunyasi John Sakwa, MP
6. Hon. Kimani Patrick Wainaina Jungle, MP

ABSENT

1. Hon. Alexander Kimutai Kigen Kosgey, MP

IN ATTENDANCE

Stakeholders

- | | | |
|--------------------------|---|------------------------------------|
| 1. Mr. George Ototo, MBS | - | CEO KUSCCO |
| 2. Mr. Daniel Marube | - | CEO, Cooperative Alliance Of Kenya |
| 3. Mr. Chris Useki | - | CEO Stima Sacco |
| 4. Mr. Joseph Bee | - | CEO, Bandari Sacco |
| 5. Mr. Moses Manyuanda | - | CEO, Kenya Police Sacco |

- | | | |
|-----------------------|---|----------------|
| 6. Mr. Sammy Malatu | - | Bunge Sacco |
| 7. Mr. Justus Wahome | - | Bunge Sacco |
| 8. Ms. Gladys Gichohi | - | Harambee Sacco |
| 9. Ms. Sharon Makiti | - | KUSCCO |

National Assembly

- | | |
|-----------------------|---------------------------------|
| 1. Mr. Erick Nyambati | Clerk Assistant III |
| 2. Mr. Peter Mwaura | Legal Counsel II |
| 3. Mr. Chelanga Maiyo | Research and Policy Analyst III |
| 4. Mr. Yaqub Ahmed | Media Officer III |
| 5. Ms. | Audio Officer |

MIN. NO.117/DC-N/2018 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 am and proceeded to say the prayer. Introductions were made thereafter. The Chair invited the stakeholders to give submissions regarding the Sacco Societies Amendment Bill 2018; National Assembly Bill number 18

MIN. NO.118/DC-N/2018 CONFIRMATION OF MINUTES

Confirmation of minutes was differed to the next sitting

MIN.NO.119/DC-N/2018 SUBMISSION FROM STAKEHOLDERS ON THE SACCO SOCIETIES AMENDMENT BILL, 2018

1. The Cooperative Alliance of Kenya

The CEO for CAK, Mr. Marube submitted on behalf of Cooperative Societies as follows, that:-

Section 2, 3, 4, 5, 6(a), 7, 8(b) of the Sacco Societies (Amendment) Bill, 2018 contains amendments that are of housekeeping nature which are necessary to clean the Sacco Societies Act to be in tandem with changes brought about by various factors.

Section 6(b) of the amendment Bill seeks to amend section 27 of the Sacco Societies Act thus giving what was hitherto reserved for the Tribunal to the Cabinet Secretary. Aggrieved Deposit-taking Saccos whose licenses get revoked by the Authority will have to seek recourse with the Cabinet Secretary. Referring issues to the Tribunal is very slow and thus denies quick justice to the Saccos therefore the stakeholders support the proposed amendments.

Section 6 (c) of the amendment Bill seeks to introduce a new subsection immediately after sub-section 7 of the Sacco Societies Act by vesting the power of cancellation to the Commissioner for Co-operative development. The stakeholders support the amendment but the amendment should not only stop at cancellation but also comprehensively take care of the liquidation process at large.

Section 8(a) of the amendment Bill that seeks to widen the scope of those who the Authority can take action against so much so that persons such as directors, managers, officers, agents etc. are included is a welcome amendment.

Section 9 of the amendment Bill seeks to introduce application of ICT by introducing section 53A to the Sacco Societies Act. The stakeholders support the proposed amendment on condition that it is not intended to saddle Saccos with the burden of requiring them to purchase prescribed ICT systems.

2. Kenya Union of Savings and Credit Co-Operatives Ltd. (KUSCCO)

KUSCCO submitted as follows, that:-

- i. Section 6(4)(d) rewrite the word cooperative to start with a capital letter.
- ii. Section 6(5) ,6(6), 24(3),24(4),24(5),27(5),53(5) substitute the word Minister with Cabinet Secretary as proposed in amendment no.2 of the Bill.
- iii. Section 62(d) is not provided in the Co-operative Societies Act Cap 490.
 - a. “(8) the registration of A Sacco Society, the licence of which is revoked under the provisions of this Act shall be:
 - iv. revert to the original Back Office Services Activity and cease to operate FOSA activity:
 - v. cancelled in accordance with section 62 (d) of the Co-operative Societies Act”
 - vi. In reference to the (8) (a) above, there should be provision for SACCOs to revert to the Back Office operations without necessarily having to cancel the registration, where a SACCO can still serve the interest of its members but cannot afford to meet some justified licensing requirements. Front Office Services Activity (FOSA) as an activity should not determine the fate of a SACCO that started with Back office operations before The FOSA Operations.

Proposed amendment

Re-write all words reading society to start with capital S.

3. Invited Saccos

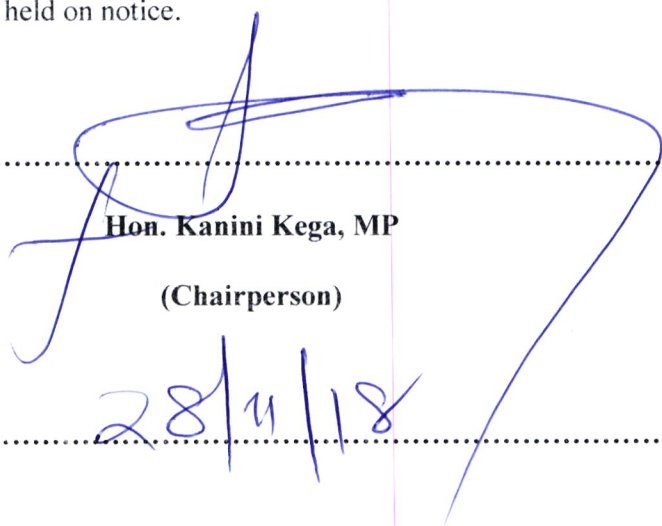
Mr. Chris Useki the CEO Stima Sacco, Mr. Joseph Bee the CEO, Bandari Sacco , Mr. Moses Manyuanda the CEO, Kenya Police Sacco and Ms Gladys Gichoi of Harambee Sacco in their oral submission supported the Bill without any amendment. Mr Sammy Malatu and Mr Justus Wahome who represented the Secretary of Bunge Saving and Credit Cooperative Ltd presented a written submission supporting the bill without amendments.

MIN. NO.120/DC-N/2018

ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 1.00 p.m. The date for the next meeting to be held on notice.

SIGNED.....

A large, stylized handwritten signature in blue ink is written over the dotted line for the signature and extends upwards and to the right.

Hon. Kanini Kega, MP

(Chairperson)

DATE.....

28/11/18

MINUTES OF THE 1ST SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON FRIDAY 12TH OCTOBER, 2018 IN THE BAOBAB CONFERENCE ROOM IN SERENA HOTEL, MOMBASA, AT 9.30 AM.

PRESENT

1. Hon. Kanini Kega, MP – **Chairperson**
2. Hon. Cornelly Serem, MP – **Vice Chairperson**
3. Hon. Andrew Mwadime, MP
4. Hon. Kipruto Moi, MP
5. Hon. James Mukwe, MP
6. Hon. Wachira Rahab Mukami, MP
7. Hon. Anab Mohamed Gure, MP
8. Hon. Nduati Joseph Ngugi, MP
9. Hon. Gichimu Robert, MP
10. Hon. Daniel Maanzo, MP
11. Hon. Jones Mlolwa, MP

APOLOGIES

1. Hon. Alois Musa Lentoimaga, MP
2. Hon. Wanyonyi Ferdinand, MP
3. Hon. Murungi Kathuri, MP
4. Hon. Bunyasi John Sakwa, MP
5. Hon. Kimani Patrick Wainaina Jungle, MP
6. Hon. Korir Generali Nixon Kiprotich, MP
7. Hon. (Dr.) Wilberforce Oundo, Phd, MP

ABSENT

1. Hon. Alexander Kimutai Kigen Kosgey, MP

IN ATTENDANCE

Ministry of Industry, Trade and Investment (MITI)

1. Ms. Susan Mochache - Principal Secretary for Co-operatives
2. Mr. John Mwaka - CEO Sacco Societies Regulatory Authority
3. Ms. Doris Githua - Head of Legal, MITI
4. Mr. Stanley Ongeti - Head of Policy and Capacity Building
5. Ms. Roselyne Ragama - Corporation Secretary
6. Mr. Jeremiah Were - Head of Policy

National Assembly

1. Ms. Florence Abonyo - Director, Committee Services
2. Mr. Erick Nyambati - Clerk Assistant II
3. Ms. Nuri K. Nataan - Clerk Assistant III
4. Mr. Peter Mwaura - Senior Legal Counsel
5. Mr. Chelanga Maiyo - Research Officer III
6. Mr. Yaqub Ahmed - Media Officer
7. Ms. Beatrice Auma - Personal Secretary
8. Mr. Collins Mahamba - Audio Officer
9. Mr. Richard Sang - Sergeant at Arms

MIN. NO.001/DC-N/2018

PRELIMINARIES

The Chairperson called the meeting to order at 10.20 am and proceeded to say the prayer. Introductions were made thereafter. The Chair invited the Ministry officials to brief the Committee in regards to the Bill.

MIN. NO.002/DC-N/2018

MEETING WITH THE MINISTRY OF INDUSTRY, TRADE & COOPERATIVES

Principal Secretary for Co-operatives

The principal Secretary, Ms. Susan Mochache briefed the Committee as follows, that:-

SACCO Societies remains an important subsector in the Kenyan national financial sector. The prudential regulatory framework for the DT-SACCOs segment in 2010 has seen a tremendous

improvement in the financial stability of DT-SACCOs; in addition to spurring confidence among the depositors therein. The sustained growth, together with the expansion of financial services and products offerings by DT-SACCOs calls for a more robust supervisory legal framework; as well as compliance with international financial standards.

Towards this end, the following amendments were included in the Sacco Societies (Amendment) Bill No. 18 (National Assembly) of 2018 as part of the Budget Policy Statement for the F/Y2018/2019.

- a) **Miscellaneous Amendments:** These are array of proposed amendments aimed at aligning the Sacco Societies Act with the Constitution, 2010, as well as the Companies Act, 2015. Others are to address minor errors and omissions apparent on the face of the Sacco Societies Act.
- b) **Usage of Information Communication Technology (ICT) by the Authority:** The proposed amendment seeks to lay a legal foundation for the usage of ICT, by the Authority in the discharge of its supervision and regulatory functions. In particular, the Authority has been using an electronic returns submission system, which allows SACCO Societies to submit the periodic statutory reports and returns online.

In addition, the Authority has been progressively implementing a Risk Based Supervision framework that heavily relies on the usage of ICT. However, the prevailing provisions of the Sacco Societies Act do not recognize electronic submission of information. This has often presented legal impediments in the credibility, integrity and enforceability of the electronically submitted documents or information. The usage if ICT will go a long way in easing the regulatory burdens associated with manual paper work.

- c) **Liquidation of SACCO Societies whose deposit-taking business licenses are revoked:** The proposal herein is to align the provisions of the SSA which deals with revocation of deposit-taking licenses of SACCO Societies, with the provisions of the CSA which deals with cancellation of registration, and liquidation of Cooperatives Societies. The proposed amendment thus opines that once a license is revoked under the SSA, the CCCD should cancel the registration under the CSA and commence liquidation of the entity.

Presentation on the Bill by SASRA

Mr. Jeremiah Were took the Committee through the Bill clause by clause while giving justifications for the proposed amendments as follows, that:-

SACCO Societies remains an important subsector in the Kenyan national financial sector. The prudential regulatory framework for the DT-SACCOs segment in 2010 has seen a tremendous

improvement in the financial stability of DT-SACCOs; in addition to spurring confidence among the depositors therein. The sustained growth, together with the expansion of financial services and products offerings by DT-SACCOs calls for a more robust supervisory legal framework; as well as compliance with international financial standards. Towards this end, the following amendments were included in the Sacco Societies (Amendment), Bill (National Assembly Bill No. 18) of 2018 as part of the Budget Policy Statement for the F/Y2018/2019.

1. Policy Objective

To align the provisions of the Sacco Societies Act with the Constitution of Kenya 2010, the new Companies Act 2015 as well as rectify minor errors and omissions apparent on the face of the Act

2. Policy statements

Align the definition of Minister to Cabinet Secretary, provide for disqualification of both Members of Parliament as well as County Assembly from serving in the Board of the Authority, and align the separation of the former office of the Controller and Auditor General, to that of the Auditor-General.

Recommendations

(a) Sacco Societies Act is amended by deleting the word "Minister" wherever it occurs in the Act and substitute therefor the words "Cabinet Secretary"

(b) Section 6 of the Sacco Societies Act is amended in Sub-section (4) by deleting paragraph (a) and substituting therefor the following new paragraph:-

“(a) A Member of Parliament or County Assembly;”

(c) Section 20 of the Sacco Societies Act is amended in subsection (2) deleting the expression “Controller and”

The Companies Act 2015 which has largely been operationalized had a direct impact on several legislations. These legislations were amended vide the Companies and Insolvency Legislations (Consequential Amendments) Act, 2015. The Sacco Societies Act was however not included in the consequential amendments, particularly with regard to the definition and qualifications of external auditors.

It is therefore proposed to amend the Sacco Societies Act to define a qualified auditor in line with the Companies Act, 2015.

Recommendations

a) Section 45 of the Sacco Societies Act is amended –

- a) In paragraph (a) by deleting the marginal note therein and replacing therefor “*Act No. 19 of 2015*”

To rectify errors and other material omissions apparent on the face of the Sacco Societies Act, in order to enhance the effectiveness of its implementation.

- a) **Section 24 of the Sacco Societies Act** is amended in subsection (2), paragraph (b) by deleting the expression “*prescribed in the Second Schedule*” substituting therefor “*prescribed in the regulations*”

Explanatory Notes: The Act does not have the Second Schedule referred to, and the capital requirements to be maintained are contained in the regulations and not the Act itself. The minimum capital requirements to be maintained are in the regulations made under the Act.

- b) **Section 27** of the Sacco Societies Act is amended in **subsection (1), paragraph (d)** by deleting the expression “*prescribed in section 30 and the Second Schedule*” substituting therefor “as may be prescribed in the regulations”

Explanatory Notes: The Act does not have the Second Schedule referred to, and the capital requirements to be maintained are contained in the regulations and not the Act itself. Section 30 referred to deals with liquidity issues and not capital which are contained in Section 29. Even then, Section 29 does not prescribe the capital to be maintained, but donates that power to the Authority. Ultimately the minimum capital requirements to be maintained are in the regulations made under the Act.

- c) **Section 27** of the Sacco Societies Act is amended in **subsection (7)** by deleting the expression “**Tribunal**” appearing therein and substituting therefor the expression “**Cabinet Secretary**”.

Explanatory Notes: Since subsection (5) and (6) specifically provides that the appeals shall be to the Cabinet Secretary, it follows that subsection (7) which deals with the grounds upon which the appeal should be decided should relate to the Cabinet Secretary and not the Tribunal as appears in the Act. The grounds could relate to the Tribunal only if the appeals were to Tribunal rather than the Cabinet Secretary.

- d) **Section 51** of the Sacco Societies Act is amended-

- (i) **in paragraph (k)** by deleting the word “**and**” appearing therein

(ii) **in paragraph (m)** by adding the following words immediately after the expression society appearing therein –

“or any officer, director, committee member, employee or agent of the Society in such sums as the Authority may assess”

(iii) **in paragraph (p)** by inserting the word “or” immediately after the word “society” therein

Explanatory notes: the word “and” appearing in **paragraph (k)** is misplaced since it implies that the next paragraph following would be the last one. This is not so, since there are several other paragraphs thereafter.

In **paragraph (m)** the imposition of financial penalties omitted to officers of the Sacco Society, which is crucial so that the same may be in tandem with **paragraph (p)** which is clear that legal proceedings may be commenced against both the Sacco Society and officers thereof. The amendment seeks to insert the omissions.

The insertion of the word “or” in **paragraph (p)** is to signify the fact that all the paragraphs may be read disjunctively depending on the circumstances of each case.

3. Liquidation of Sacco Societies whose licenses are revoked

Policy Objective

To provide for an orderly exit from the market for SACCO Societies whose licenses have been revoked by the Authority; and align the Sacco Societies Act with the Cooperative Societies Act as well as the Insolvency Act 2015 in respect of liquidation of Sacco Societies.

Recommendations

In order to cure the apparent lacunae and provide for an orderly process of liquidation of SACCO Societies whose deposit-taking licenses have been revoked, it is recommended that:

(a) Section 27 of the Sacco Societies Act be amended by –

(i) Inserting the following new subsection immediately after subsection(7) –

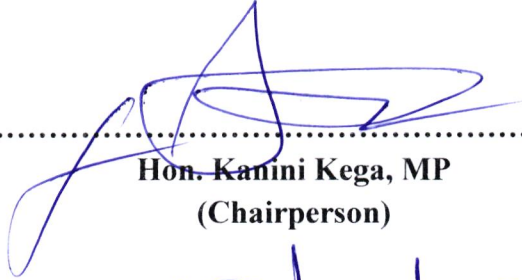
“(8) The registration of a Sacco Society whose license is revoked under the provisions of this Act shall be cancelled in accordance with Section 62 (c) of the Cooperative Societies Act”

MIN. NO.003/DC-N/2018

ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 1.35 p.m. The date for the next meeting will be held on notice.

SIGNED.....



**Hon. Kanini Kega, MP
(Chairperson)**

DATE.....

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MINUTES OF THE 22ND SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON WEDNESDAY 26TH SEPTEMBER, 2018 IN THE COMMITTEE ROOM ON 5TH FLOOR CONTINENTAL HOUSE, AT 10.30 AM.

PRESENT

1. Hon. Cornelly Serem, MP – **Vice Chairperson (Chairing)**
2. Hon. Andrew Mwadime, MP
3. Hon. Daniel Maanzo, MP
4. Hon. Kipruto Moi, MP
5. Hon. Bunyasi John Sakwa, MP
6. Hon. Kimani Patrick Wainaina Jungle, MP
7. Hon. (Dr.) Wilberforce Oundo, Phd, MP

APOLOGIES

1. Hon. Kanini Kega, MP – **Chairperson**
2. Hon. Alexander Kimutai Kigen Kosgey, MP
3. Hon. Alois Musa Lentoimaga, MP
4. Hon. Wanyonyi Ferdinand, MP
5. Hon. James Mukwe, MP
6. Hon. Jones Mlolwa, MP
7. Hon. Murungi Kathuri, MP
8. Hon. Korir Generali Nixon Kiprotich, MP
9. Hon. Wachira Rahab Mukami, MP
10. Hon. Gichimu Robert, MP
11. Hon. Anab Mohamed Gure, MP
12. Hon. Nduati Joseph Ngugi, MP

IN ATTENDANCE

National Assembly

- | | | |
|-----------------------|---|----------------------|
| 1. Ms. Nuri K. Nataan | - | Clerk Assistant III |
| 2. Mr. Linnet Otieno | - | Legal Counsel II |
| 3. Mr. Chelanga Maiyo | - | Research Officer III |
| 4. Mr. Yaqub Ahmed | - | Media Officer |
| 5. Ms. Rose Njuki | - | Sergeant at Arms |

MIN. NO.091/DC-N/2018

PRELIMINARIES

The Chairperson called the meeting to order at 10.30 am and proceeded to say the prayer.

MIN. NO.092/DC-N/2018

CONSIDERATION OF MEMORANDA FROM THE PUBLIC ON THE OF THE SACCO SOCIETIES (AMENDMENT) BILL, 2018

Following the call for memoranda from the public on Friday 6th July, 2018 the Committee received written memoranda from Kenya Union of Savings and Credit Co-operatives (KUSSCO) Limited, Kipkenda and Companies Advocates and Bunge la Wazalendo Organization.

The Committee deliberated on and considered the views of the stakeholders as follows:-

1. Submission by the Kenya Union of Savings and Credit Co-operatives (KUSSCO) Limited

The union submitted that:-

KUSSCO was established in 1973 as an umbrella body for SACCOs in Kenya, responsible for speaking on behalf of SACCOs and representing them in business and legal requirements.

The proposed amendments to the Act will provide the basis for the usage of ICT in collecting and receiving of statutory reports for Risk-Based supervision (RBS) and thereby reducing the regulatory reporting burden on SACCOs to promote efficient and accurate reporting.

In that regard, the Act be amended to incorporate the following proposed amendments:

Amend

Section 6 (4) (d) a person who is prohibited from being a director or to take part in the management of a cooperative or financial institution by the Commissioner under the Co-operatives Societies Act (CAP 490) OR BY THE Central Bank of Kenya respectively.

Proposed Amendment

Rewrite the word cooperative (underline above) to start with a capital letter and have a hyphen as follows: ... Co-operative...

Committee Resolution

Adopt the proposed amendment

Amend

Section 6 (5) A member of the Board appointed under subsection (1) (c) may be removed from office by the Minister, if that member-

Section 6 (6) A member of the Board appointed under subsection (1)(e) may resign office by giving a fourteen days' notice to the Minister.

Section 24 (3) A SACCO society may appeal to the Minister in reference to refusal to grant a license within thirty days after receipt of notification of refusal.

Section 24 (4) The Minister may reverse the decision of the Authority only if-

Section 24 (5) The Authority shall, in consultation with the Minister make regulations providing for further requirements to be fulfilled before the grant of license to a SACCO society.

Section 27 (5) An aggrieved SACCO society may appeal to the Minister in respect of a revocation of its license within thirty days after being notified of the revocation.

Section 53 (5) The Minister may require the Authority or a deposit-taking SACCO to furnish to him, at such a time and in such a manner as he may direct, such information as the Minister may require.

Proposed Amendment

Substitute the word Minister (underlined above) with Cabinet Secretary as proposed in amendment no.2 of the Bill.

Committee Resolution

Reject the amendment

Justification

The proposed amendment has already been catered for in the proposed amendment Bill under Clause 2

2. Submission by Kipkenda and Companies Advocates

Kipkenda and Companies Advocates submitted that:-

Parliament as an entity sworn to uphold the provisions of the constitution, should bring laws that were enacted pre 2010 to conformity with the values and aspirations embodied in it. One such provision is contained in chapter six on ethics and integrity of persons aspiring to hold public office.

Proposed Amendment

Adding another sub-clause immediately after clause 6 (4) to read “does not meet the requirements of chapter six of the constitution of Kenya 2010”

Justification

The constitution should be conformed to as contained in chapter six on ethics and integrity of persons aspiring to hold public office

Committee Resolution

Adopt the proposed amendment

Proposed Amendment

Section 28 of the Principal Act be amended to provide that the list of Sacco Societies to be published and updated on its website

Justification

This will ensure access to information and a quick search engine to verify the status of Sacco societies and hence an informed population.

Committee Resolution

Adopt the proposed amendment

Proposed Amendment

Section 4 and 5 to make provision for the decentralization of the Sacco services to ensure their accessibility throughout the country.

Justification

This is in the spirit of bringing services closer and more accessible to the people.

Committee Resolution

The legal counsel was tasked to find out what is provided for in the Sacco Societies Act and the Co-operatives Act. This was informed by the belief that some mandate of the Sacco and Co-operatives governing bodies have already been devolved.

3. Submission by Bunge la Wazalendo Organization

Bunge la Wazalendo Organization submitted that:-

Under Sub-section 2 (b) **Declarations of wealth**, the reputation and character, financial integrity and reliability of the person and further ref to page 3 sec 48A sec 3(iii) to read as **director of financial institution** which was voluntarily liquidated is under involuntary liquidation or has been placed under statutory management.

Committee Resolution

The Committee noted that, the proposed amendment is non-existent in the proposed amendment Bill and therefore rejected the proposed amendment.

MIN. NO.093/DC-N/2018

ANY OTHER BUSINESS

The Committee resolved to:-

1. Invite the Managing Director for East African Portland Cement on 4th October, 2018. The agenda to be the petition regarding the complaint raised on mismanagement and financial impropriety at EAPC by Hon. Peris Tobiko, MP.
2. Invite the Ministry of Industry, Trade and Cooperative, the Director General for Kenya Revenue Authority and the Head of the Multi-Agency Task Force on Tuesday, 9th October, 2018. The agenda of the meeting to be the Petition by Hon. Charles Kanyi, MP on harassment of Nairobi Importers by the government in the guise of fighting contraband.
3. Schedule a consultative meeting with the Cabinet Secretary for Ministry of Industry, Trade and Cooperative. The Committee needs to appraise itself with the status of projects and programmes being undertaken by the Ministry.

MIN. NO.094/DC-N/2018

ADJOURNMENT

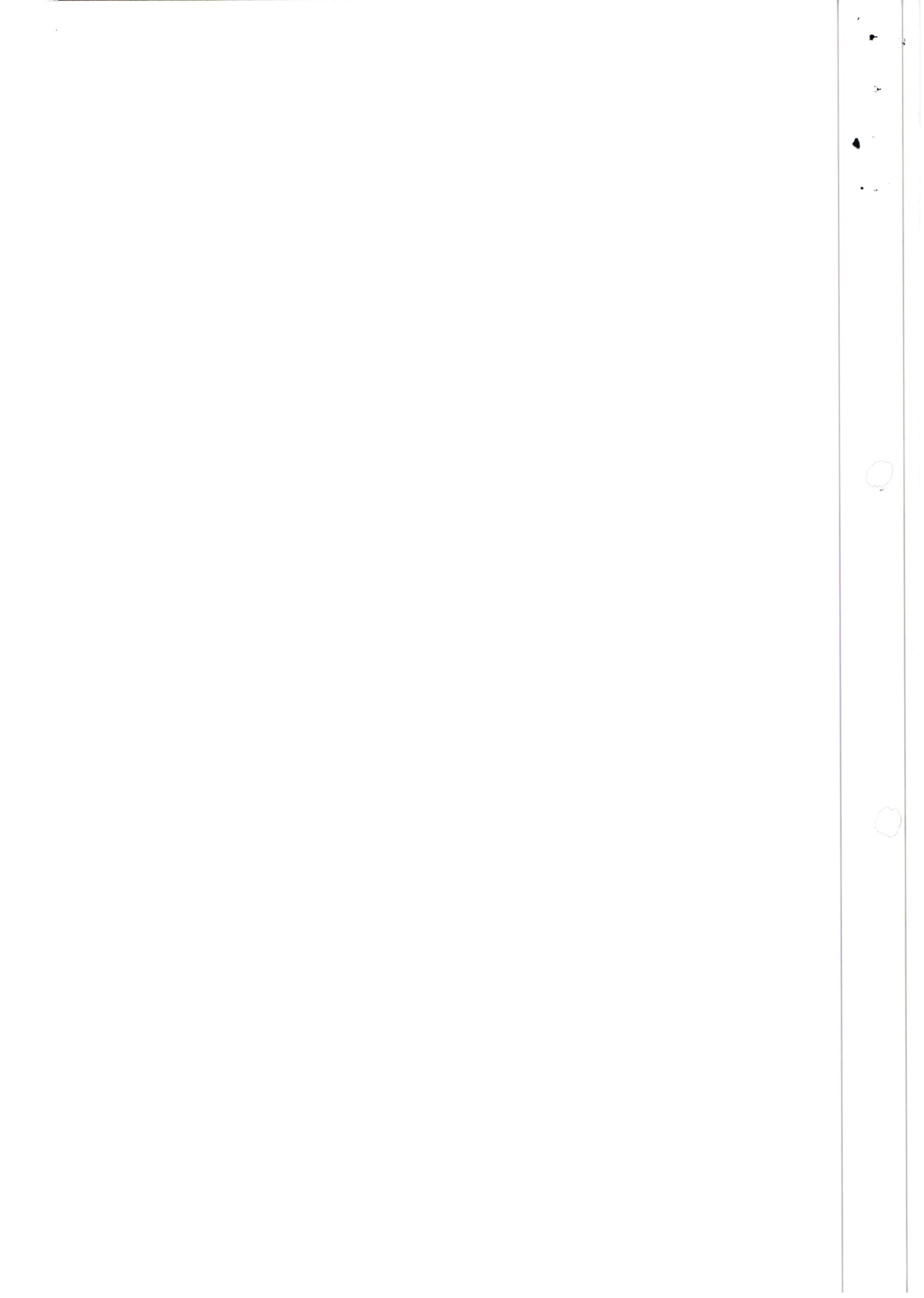
The Chairperson adjourned the meeting at 12.30pm until 3.00pm same day.

SIGNED.....


Hon. Kanini Kega, MP
(Chairperson)

DATE.....

13/10/18



MINUTES OF THE 21ST SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON TUESDAY 25TH SEPTEMBER, 2018 IN THE COMMITTEE ROOM ON 5TH FLOOR CONTINENTAL HOUSE, AT 3.00 PM.

PRESENT

1. Hon. Cornelly Serem, MP – **Vice Chairperson (Chairing)**
2. Hon. Andrew Mwadime, MP
3. Hon. Daniel Maanzo, MP
4. Hon. Kipruto Moi, MP
5. Hon. Bunyasi John Sakwa, MP
6. Hon. Kimani Patrick Wainaina Jungle, MP
7. Hon. Gichimu Robert, MP

ABSENT WITH APOLOGY

1. Hon. Kanini Kega, MP – **Chairperson**
2. Hon. Alexander Kimutai Kigen Kosgey, MP
3. Hon. Alois Musa Lentoimaga, MP
4. Hon. Wanyonyi Ferdinand, MP
5. Hon. James Mukwe, MP
6. Hon. Jones Mlolwa, MP
7. Hon. Murungi Kathuri, MP
8. Hon. Korir Generali Nixon Kiprotich, MP
9. Hon. Wachira Rahab Mukami, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Nduati Joseph Ngugi, MP
12. Hon. (Dr.) Wilberforce Oundo, Phd, MP

IN ATTENDANCE

National Assembly

- | | | | |
|----|--------------------|---|----------------------|
| 1. | Ms. Nuri K. Nataan | - | Clerk Assistant III |
| 2. | Mr. Linnet Otieno | - | Legal Counsel II |
| 3. | Mr. Chelanga Maiyo | - | Research Officer III |
| 4. | Mr. Yaqub Ahmed | - | Media Officer |
| 5. | Ms. Rose Njuki | - | Sergeant at Arms |

MIN. NO.088/DC-N/2018

PRELIMINARIES

The Chairperson called the meeting to order at 3.00 pm and proceeded to say the prayer.

MIN. NO.089/DC-N/2018

**CONSIDERATION OF THE SACCO SOCIETIES
(AMENDMENT) BILL, 2018 AND THE**

The Committee analyzed the proposed amendments clause by clause as follows:-

Clause 1

This Act may be cited as the Sacco Societies (Amendment) Bill, 2018.

Clause 2

The Sacco Societies Act, (in this Act referred to as the “principal Act”) is amended by deleting the word “Minister” wherever it appears and substituting therefor the words “Cabinet Secretary”

Clause 3

Section 6 of the principal Act is amended in subsection (4) by deleting paragraph (a) and substituting therefor the following new paragraph-

“(a) a Member of Parliament or County Assembly”

Clause 4

Section 20 of the principal Act is amended-

(a) In subsection (2) by deleting the words “Controller and”;

(b) In subsection (3) by deleting the expression: “2003” and substituting therefor the expression “2015”.

Clause 5

Section 24 of the principal Act is amended in subsection (2) by deleting the words “Second Schedule” appearing in paragraph (b) and substituting therefor the word “regulations”.

Clause 6

Section 27 of the principal Act is amended-

(a) In subsection (1), by deleting the words “prescribed in section 30 and the Second Schedule” appearing in paragraph (d) and substituting therefor the words “as may be prescribed in the regulations”;

(b) In subsection (7), by deleting the word “Tribunal” and substituting therefor the words “Cabinet Secretary”; and

(c) By inserting the following new subsection immediately after subsection (7)-

“(8) the registration of a Sacco Society, the license of which, is revoked under the provisions of this Act shall be cancelled in accordance with section 62 (d) of the Co-operatives Societies Act.”

Clause 7

Section 45 of the principal Act is amended in paragraph (a) by deleting the expression “Cap. 486” appearing in the marginal note.

Clause 8

Section 51 of the principal Act is amended-

(a) By inserting the following words “or any officer, director, committee member, employee or agent of the Society in such amounts as the Authority may consider fit” immediately after the word “society” appearing in paragraph (m); and

(b) By deleting the word “and” appearing at the end of paragraph (p) and substituting therefor the word “or”.

Clause 9

The principal Act is amended by inserting the following new section immediately after section 53-

53A (1) The Authority may establish and operate an electronic filing system for the purposes of electronic filing of the statutory returns and documents or other information required to be furnished to Authority under the Act or any other written law.

(2) The Authority shall, in establishing an electronic filing system, issue general or specific guidelines and directions on the use and procedure of the system, including-

(a) the registration of Sacco Societies to participate in the electronic filing system;

(b) the issuing and cancellation of authentication of codes to the registered users of the electronic system;

(c) statutory returns, documents or other information that may be transmitted through the electronic filing system;

(d) the correction of errors in, or amendments to, statutory returns, documents or other information filed in the electronic filing system;

(e) the use of the electronic filing system, including the procedure applicable if there is a breakdown or other interruption in the system;

(f) the use, in any electronic transmission or filing, of symbols, codes, abbreviations or other notations to represent any particulars or information required under the Act or any other written law; and

(g) any other matters for the better use and provision of the electronic filing system.

(3) A Sacco Society shall, subject to any directions or guidelines issued by the Authority, furnish any return, document or other information required to be furnished under the Act, these Regulations or any other written law through the use of the electronic filing system established by the Authority.

(4) The Authority may, in accordance with the directions or guidelines issued under subsection (3), serve a notice or any other document to the registered computer account of the Sacco Society.

MIN. NO.090/DC-N/2018

ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 5.30 p.m. The date for the next meeting will be held on notice.

SIGNED.....

Hon. Kanini Kega, MP
(Chairperson)

DATE.....

13/10/18

MINUTES OF THE 20TH SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON TUESDAY 25TH SEPTEMBER, 2018 IN THE COMMITTEE ROOM ON 5TH FLOOR CONTINENTAL HOUSE, AT 10.30 AM.

PRESENT

1. Hon. Cornelly Serem, MP – **Vice Chairperson (Chairing)**
2. Hon. Andrew Mwadime, MP
3. Hon. Daniel Maanzo, MP
4. Hon. Kipruto Moi, MP
5. Hon. Bunyasi John Sakwa, MP
6. Hon. Kimani Patrick Wainaina Jungle, MP
7. Hon. Gichimu Robert, MP

ABSENT WITH APOLOGY

1. Hon. Kanini Kega, MP – **Chairperson**
2. Hon. Alexander Kimutai Kigen Kosgey, MP
3. Hon. Alois Musa Lentoimaga, MP
4. Hon. Wanyonyi Ferdinand, MP
5. Hon. James Mukwe, MP
6. Hon. Jones Mlolwa, MP
7. Hon. Murungi Kathuri, MP
8. Hon. Korir Generali Nixon Kiprotich, MP
9. Hon. Wachira Rahab Mukami, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Nduati Joseph Ngugi, MP
12. Hon. (Dr.) Wilberforce Oundo, Phd, MP

IN ATTENDANCE

National Assembly

- | | | |
|-----------------------|---|----------------------|
| 1. Ms. Nuri K. Nataan | - | Clerk Assistant III |
| 2. Mr. Linnet Otieno | - | Legal Counsel II |
| 3. Mr. Chelanga Maiyo | - | Research Officer III |
| 4. Mr. Yaqub Ahmed | - | Media Officer |
| 5. Ms. Rose Njuki | - | Sergeant at Arms |

MIN. NO.084/DC-N/2018

PRELIMINARIES

The Chairperson called the meeting to order at 10.30 am and proceeded to say the prayer.

MIN. NO.085/DC-N/2018

INTRODUCTION OF BILLS BEFORE THE COMMITTEE

The following Bills were introduced to the Committee as follow, that:-

1. The Sacco Societies (Amendment) Bill, 2018

- The Sacco Societies (Amendment) Bill, 2018 was introduced in the National Assembly on 3rd July, 2018 as National Assembly Bills No.18 of 2018 through Kenya Gazette Supplement No. 70 of 2018. Following the First reading, of the Bill stood committed to the Departmental Committee on Trade, Industry and Co-operatives pursuant to the National Assembly Standing Orders.
- The Bill seeks to amend the Sacco Societies Act, 2008, to provide for usage of ICT in collecting and receiving of statutory reports. This is aimed at reducing the regulatory reporting burden on SACCO and ensuring of a faster, efficient and accurate reporting, monitoring and analysis of SACCOs financial status at any time, being the cornerstone of Risk-Based Supervision (RBS). It also seeks to realign the definitions and roles of Minister to be Cabinet Secretary and also the responsibility and office of the Controller of Budget as reflected in the Act, to be in line with the Constitution.
- Pursuant to Article 118 of the Constitution and Standing Order 130(1) the Committee during its fourth sitting considered the Bill and resolved to subject it to public participation. The Committee sought for submission of memoranda from the public/stakeholders through an advert that appeared in the local dailies on 22nd February, 2018.

2. The Kenya Accreditation Service Bill, 2018

- The Bill seeks to establish the Kenya National Accreditation Service and an internationally recognized and effective accreditation system. The Bill shall establish the Service as the sole recognized body for accreditation in Kenya. The Bill shall also repeal the Kenyan Accreditation Service Order, 2009, which was made under the State Corporations Act (Cap. 466 of the Law of Kenya).

- The Bill gives powers to the responsible Cabinet Secretary to make regulations; however, it does not limit fundamental rights and freedoms. The Bill does not concern county governments in terms of Articles 110(1)(a) of the Constitution. The Bill is a money Bill for the purposes of Article 114 of the Constitution and that the enactment of the Bill will occasion additional expenditure of public funds as it seeks to set an Authority.
- The Bill has 34 clauses, three Schedules and divided into seven parts.

MIN. NO.086/DC-N/2018

ANY OTHER BUSINESS

The Committee highlighted the following issues, that:-

1. The attendance of meeting by Members was very poor and hence a way forward has to be established to deal with the problem.
2. The Secretariat to avail to the Members any business received for the Committee. This will help Members interrogate issues before the business is introduced in the Committee and therefore improve on discussions in the Committee.

MIN. NO.087/DC-N/2018

ADJOURNMENT

The Chairperson adjourned the meeting at 12.15 pm until 3.00pm same day.

SIGNED.....


Hon. Kanini Kega, MP

(Chairperson)

DATE.....

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REPUBLIC OF KENYA


**NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – SECOND SESSION**

In the Matter of the Approval by the National Assembly of the person nominated for appointment as Chairperson of the Salaries and Remuneration Commission

SUBMISSION OF MEMORANDA

Section 7 (11) of the Salaries and Remuneration Act, 2011, provides that the National Assembly shall, within fourteen days of the day it next sits after receipt of the names of the nominees under subsection (9), consider all nominations and may approve or reject any nomination. Pursuant to the said Act, **Dr. Ben Chumo** has been nominated for appointment to serve as **Chairperson of the Salaries and Remuneration Commission**.

Following the receipt of the nomination from H.E the President, the **Departmental Committee on Finance and National Planning** is mandated to vet, consider their suitability for appointment and submit its report to the House for approval.

Pursuant to Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Committee now invites interested members of the public to submit any representations by written statement on oath (affidavit), that they may have in the suitability or otherwise of the nominees for appointment as Chairperson for the Salaries and Remuneration Commission. The representations may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to clerk@parliament.go.ke; to be received **on or before Thursday 12th July, 2018 at 5.00 pm.**

**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA


**NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – SECOND SESSION**

In the Matter of consideration by the National Assembly of the Sacco Societies (Amendment) Bill, 2018 (National Assembly Bill No. 18)

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Standing Order 127(3) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account views and recommendations of the public when the Committee makes its report to the House".

The Sacco Societies (Amendment) Bill, 2018 seeks to amend the Act by providing for the usage of ICT in collecting and receiving of statutory reports. This is aimed at reducing the regulatory reporting burden on SACCOs and ensuring a faster, efficient and accurate reporting, monitoring and analysis of SACCOs financial status at any time, being the cornerstone of Risk-Based Supervision (RBS).

The Sacco Societies (Amendment) Bill, 2018 has undergone First Reading in accordance with the provisions of Standing Order 127(3) and is now committed to the **Departmental Committee on Trade, Industry and Cooperatives** for consideration and thereafter report to the House:

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee invites members of the Public to submit any representations they may have on the said Bill. The representations may be forwarded to the Clerk of the National Assembly, **P.O. Box 41842-00100, Nairobi**; hand-delivered to the Office of the Clerk of the National Assembly, **First Floor, Main Parliament Buildings, Nairobi**, or emailed to clerk@parliament.go.ke, to be received on or before **Thursday 12th July, 2018 at 5.00 pm.**

**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA


**NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – SECOND SESSION**

In the Matter of the Approval by the National Assembly of the person nominated for appointment as Chairperson of the Salaries and Remuneration Commission

**NOTIFICATION FOR VETTING BY THE DEPARTMENTAL
COMMITTEE ON FINANCE AND NATIONAL PLANNING**

Pursuant to Section 6 (4) of the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Order 45 (3), the National Assembly hereby informs Members of the Public that the Departmental Committee on Finance and National Planning will be vetting **Dr. Ben Chumo**, the nominee for Chairperson for the Salaries and Remuneration Commission on **Monday 23rd July, 2018 at 9.00 a.m.**

The nominee should bring with him his original academic and professional certificates, National Identification card and other relevant documents and testimonials. In addition, the nominee should bring letters/certificates of clearance/compliance from:-

1. The Ethics and Anti-Corruption Commission;
2. The Kenya Revenue Authority on Tax compliance;
3. The Higher Education Loans Board;
4. The Criminal Investigations Department; and
5. Any of the Credit Reference Bureaus.

**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA


**NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – SECOND SESSION**
In the matters of consideration by the National Assembly:-
1. The Insurance (Amendment) Bill, 2018
2. The Capital Markets (Amendment) Bill, 2018
SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Standing Order 127(3) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account views and recommendations of the public when the Committee makes its report to the House".

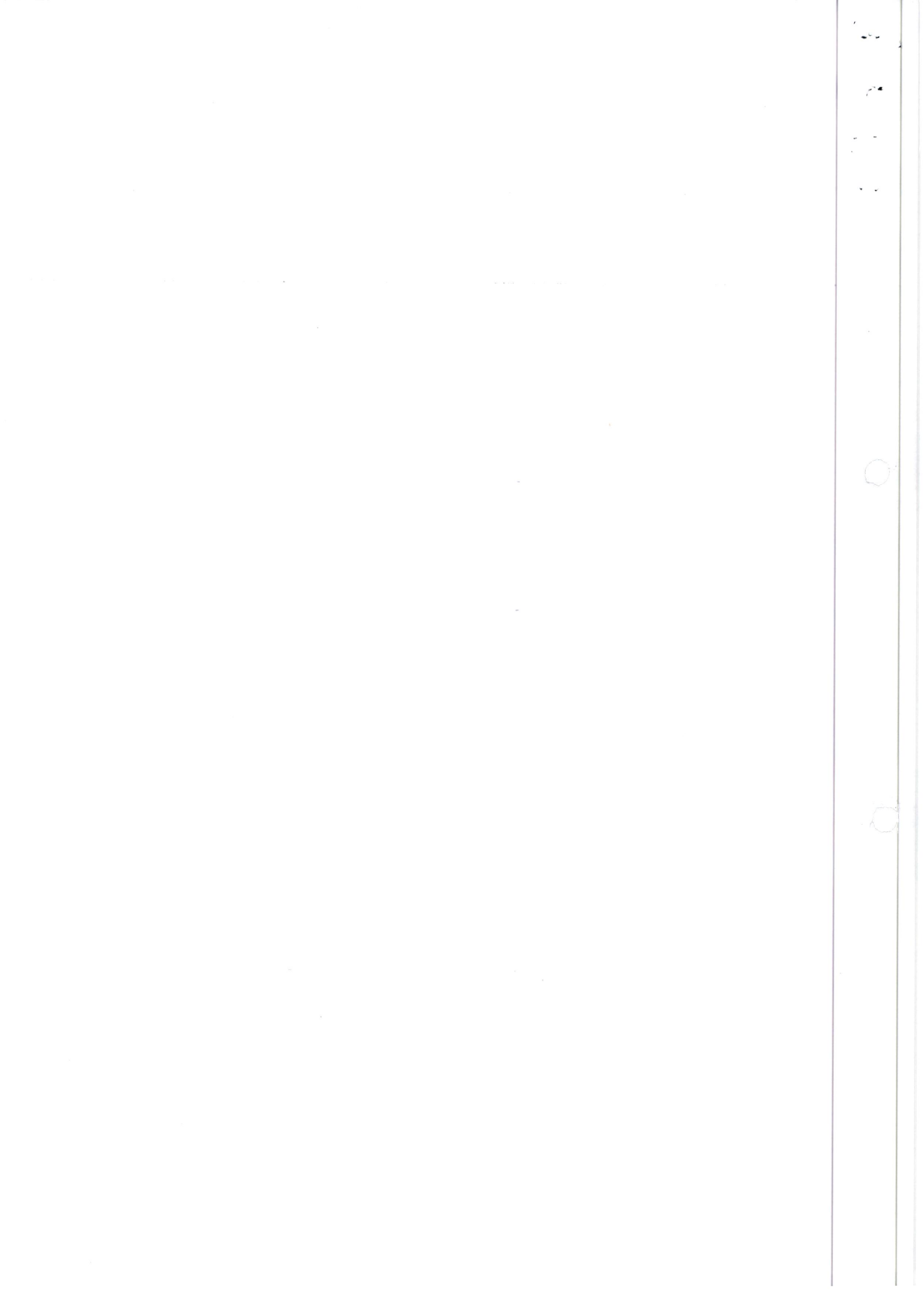
The Insurance (Amendment) Bill, 2018 seeks to amend the Insurance Act to address the adverse selection and high costs of loss assessment related to traditional indemnity-based agriculture insurance by providing for index based insurance as an alternative with an intention to reduce moral hazard, adverse selection, underwriting and claim assessment costs while speeding up claim settlements. In addition, the Bill seeks to amend the Act by introducing a legal provision creating offences on insurance fraud, including penalties intended to address the problem of insurance fraud that continues to be a major challenge to the stability of the insurance industry in the country. The amendment further ensures that the Act complies with International Association of Insurance Supervisors (IAIS) standards on countering insurance fraud.

The Capital Markets (Amendment) Bill, 2018 seeks to amend the Capital Markets Act to facilitate punishment of persons involved in embezzlement activities and further ensure that administrative enforcement action set out is sufficiently explicit in application to key employees of listed companies.

The above two (2) Bills have undergone First Reading in accordance with the provisions of Standing Order 127(3) and are now committed to the **Departmental Committee on Finance and National Planning** for consideration and thereafter report to the House.

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee invites members of the Public to submit any representations they may have on the said two Bills. The representations may be forwarded to the Clerk of the National Assembly, **P.O. Box 41842-00100, Nairobi**; hand-delivered to the Office of the Clerk of the National Assembly, **First Floor, Main Parliament Buildings, Nairobi**, or emailed to clerk@parliament.go.ke, to be received on or before **Thursday 12th July, 2018 at 5.00 pm.**

**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**





THE SACCO SOCIETIES REGULATORY AUTHORITY (SASRA)

UAP-OLD MUTUAL TOWER
18th & 19th Floor, Upper Hill Road, Upper Hill
P.O. Box 25089-00100
Nairobi, Kenya
Tel: +254(20)27177414/5/7/8
E-mail: info@sasra.go.ke, Website: www.sasra.go.ke

POLICY PROPOSALS AND JUSTIFICATIONS ON THE SACCO SOCIETIES (AMENDMENT) BILL NO. 18 (NATIONAL ASSEMBLY) OF 2018

October, 2018

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ABBREVIATIONS

ACT	: Sacco Societies Act
CCD	: Commissioner for Cooperative Development
CSA	: Cooperative Societies Act
CFT	: Combating the Financing of Terrorism
DT-SACCOs	: Deposit-Taking Sacco Societies
ICT	: Information Communication Technology
ICURN	: International Credit Unions Regulators' Network
Non-DT-SACCOs	: Non-deposit taking Sacco Societies
SACCOs	: Savings and Credit Cooperative Societies
SASRA	: Sacco Societies Regulatory Authority
SSA	: Sacco Societies Act

EXECUTIVE SUMMARY

SACCO Societies remains an important subsector in the Kenyan national financial sector. The prudential regulatory framework for the DT-SACCOs segment in 2010 has seen a tremendous improvement in the financial stability of DT-SACCOs; in addition to spurring confidence among the depositors therein. The sustained growth, together with the expansion of financial services and products offerings by DT-SACCOs calls for a more robust supervisory legal framework; as well as compliance with international financial standards.

Towards this end, the following amendments were included in the Sacco Societies (Amendment) Bill No. 18 (National Assembly) of 2018 as part of the Budget Policy Statement for the F/Y2018/2019.

- a) **Miscellaneous Amendments:** Aimed at aligning the Sacco Societies Act with the Constitution, 2010, as well as the Companies Act, 2015. Others are to address minor errors and omissions apparent on the face of the Sacco Societies Act.
- b) **Usage of Information Communication Technology (ICT) by the Authority:** The proposals herein seek to lay a legal foundation for the usage of ICT, by the Authority in the discharge of its supervision and regulatory functions. In particular, the Authority has been using an electronic returns submission system, which allows SACCO Societies to submit the periodic statutory reports and returns online.

In addition, the Authority has been progressively implementing a Risk Based Supervision framework that heavily relies on the usage of ICT. However, the prevailing provisions of the Sacco Societies Act do not recognize electronic submission of information. This has often presented legal impediments in the credibility, integrity and enforceability of the electronically submitted documents or information. The usage of ICT will go a long way in easing the regulatory burdens associated with manual paper work.

- c) **Liquidation of SACCO Societies whose deposit-taking business licenses are revoked:** The proposal herein is to align the provisions of the SSA which deals with revocation of deposit-taking licenses of SACCO Societies, with the provisions of the CSA which deals with cancellation of registration, and liquidation of Cooperatives Societies. The proposal thus opines that once a license is revoked under the SSA, the CCCD should cancel the registration under the CSA and commence liquidation of the entity.

1.0. BACKGROUND

1.1. INTRODUCTION

The Deposit Taking SACCO Societies (DT-SACCOs) form a significant segment of the wider co-operative sector in Kenya. Firstly, they are co-operatives in their legal form. Secondly, they are financial intermediaries in their business model. As co-operatives, DT-SACCOs are universally defined as autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically-controlled enterprise.

SACCO Societies are ideally the representation of "*Savings and Credit Cooperative*" societies, which are a specific type of cooperative societies registered under the Cooperative Societies Act (Cap 490). The key object and purpose for their incorporation is usually to deal with the mobilization of savings and advancement of credit on the collateral of such savings, and thus the acronym "SACCO", simply denotes the "*Savings and Credit Cooperatives*". Savings and credit are basically financial services, and this has led to SACCOs being referred to in some jurisdictions as financial services cooperatives.

2.0. THE LEGAL, REGULATORY AND INSTITUTIONAL FRAMEWORK

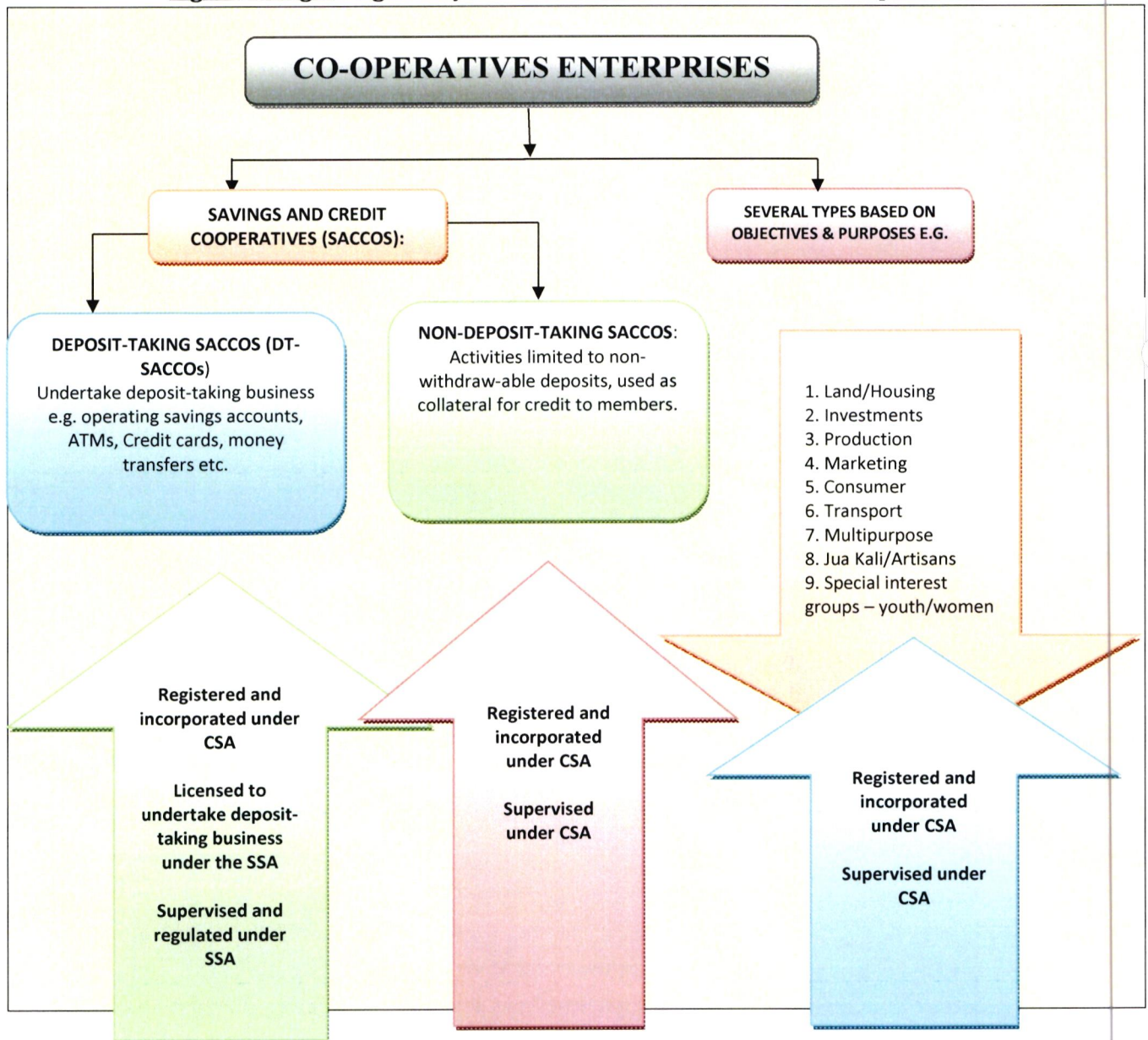
There are currently two major statutes which govern the regulation and supervision in Kenya namely the Cooperative Societies Act and the Sacco Societies Act. The Cooperative Societies Act which has been in force since the early independence days, albeit through various amendments, principally deals with the registration, incorporation and general supervision of all cooperatives societies, including SACCOs and is administered by the office of the Commissioner for Cooperative Development.

However, the Cooperative Societies Act did not provide for a framework for the prudential supervision of deposit-taking SACCO Societies (DT-SACCOs). This led the enactment of the Sacco Societies Act in 2008, which provides the legal mechanisms for the prudential regulations of DT-SACCOs in Kenya in line with international best practices of financial regulation and supervision of deposit-taking financial institutions. The Sacco Societies Act is administered by the Sacco Societies Regulatory Authority.

In conclusion, the Cooperatives sector has a dual supervisory framework. The Cooperative Societies Act which is applicable to all cooperatives, and the Sacco Societies Act which applies to the prudential aspects of supervision and regulation of deposit-taking SACCOs. It must be said that even though it was anticipated that the Sacco Societies Act will also apply to certain "specified" non-deposit taking SACCOs (non-DT-SACCOs), the regulations to specify such non-DT-SACCOs to which it would apply have not been developed. Consequently, its application

remains with the DT-SACCOs only. The legal, regulatory and institutional framework for DT-SACCOs as a segment of the Cooperative sector is shown in **Figure 1**.

Figure 1: Legal, Regulatory and Institutional Framework for Cooperatives



3.0. POLICY PROPOSALS

3.1. MISCELLANEOUS PROPOSALS

a) Policy Objective

To align the provisions of the Sacco Societies Act with the Constitution of Kenya 2010, the new Companies Act 2015 as well as rectify minor errors and omissions apparent on the face of the Act

b) Policy statements

1. Align the definition of Minister to Cabinet Secretary, provide for disqualification of both Members of Parliament as well as County Assembly from serving in the Board of the Authority, and align the separation of the former office of the Controller and Auditor General, to that of the Auditor-General.

RECOMMENDATIONS:

(a) Sacco Societies Act is amended by deleting the word "**Minister**" wherever it occurs in the Act and substitute therefor the words "**Cabinet Secretary**"

(b) Section 6 of the Sacco Societies Act is amended in **Sub-section (4)** by deleting **paragraph (a)** and substituting therefor the following new paragraph:-

“(a) A Member of Parliament or County Assembly;”

(c) Section 20 of the Sacco Societies Act is amended in **subsection (2)** deleting the expression “Controller and”

2. The Companies Act 2015 which has largely been operationalized had a direct impact on several legislations. These legislations were amended vide the Companies and Insolvency Legislations (Consequential Amendments) Act, 2015. The Sacco Societies Act was however not included in the consequential amendments, particularly with regard to the definition and qualifications of external auditors.

It is therefore proposed to amend the Sacco Societies Act to define a qualified auditor in line with the Companies Act, 2015.

Recommendations

a) Section 45 of the Sacco Societies Act is amended –

a) In paragraph (a) by deleting the marginal note therein and replacing therefor “Act No. 19 of 2015”

3. To rectify errors and other material omissions apparent on the face of the Sacco Societies Act, in order to enhance the effectiveness of its implementation.

a) Section 24 of the Sacco Societies Act is amended in subsection (2), paragraph (b) by deleting the expression “*prescribed in the Second Schedule*” substituting therefor “*prescribed in the regulations*”

EXPLANATORY NOTES: The Act does not have the Second Schedule referred to, and the capital requirements to be maintained are contained in the regulations and not the Act itself. The minimum capital requirements to be maintained are in the regulations made under the Act.

b) Section 27 of the Sacco Societies Act is amended in **subsection (1), paragraph (d)** by deleting the expression “*prescribed in section 30 and the Second Schedule*” substituting therefor “as may be prescribed in the regulations”

EXPLANATORY NOTES: The Act does not have the Second Schedule referred to, and the capital requirements to be maintained are contained in the regulations and not the Act itself. Section 30 referred to deals with liquidity issues and not capital which are contained in Section 29. Even then, Section 29 does not prescribe the capital to be maintained, but donates that power to the Authority. Ultimately the minimum capital requirements to be maintained are in the regulations made under the Act.

c) Section 27 of the Sacco Societies Act is amended in **subsection (7)** by deleting the expression “**Tribunal**” appearing therein and substituting therefor the expression “**Cabinet Secretary**”.

EXPLANATORY NOTES: Since subsection (5) and (6) specifically provides that the appeals shall be to the Cabinet Secretary, it follows that subsection (7) which deals with the grounds upon which the appeal should be decided should relate to the Cabinet Secretary and not the Tribunal as appears in the Act. The grounds could relate to the Tribunal only if the appeals were to Tribunal rather than the Cabinet Secretary.

d) Section 51 of the Sacco Societies Act is amended-

(i) **in paragraph (k)** by deleting the word “**and**” appearing therein

(ii) **in paragraph (m)** by adding the following words immediately after the expression society appearing therein -

“or any officer, director, committee member, employee or agent of the Society in such sums as the Authority may assess”

(iii) **in paragraph (p)** by inserting the word “**or**” immediately after the word “**society**” therein

Explanatory notes: the word “**and**” appearing in **paragraph (k)** is misplaced since it implies that the next paragraph following would be the last one. This is not so, since there are several other paragraphs thereafter.

In **paragraph (m)** the imposition of financial penalties omitted to officers of the Sacco Society, which is crucial so that the same may be in tandem with **paragraph (p)** which is clear that legal proceedings may be commenced against both the Sacco Society and officers thereof. The amendment seeks to insert the omissions.

The insertion of the word “**or**” in **paragraph (p)** is to signify the fact that all the paragraphs may be read disjunctively depending on the circumstances of each case.

3.2. APPLICATION OF INFORMATION COMMUNICATION TECHNOLOGY (ICT)

Policy Objective

To provide a legal and regulatory framework for the Authority to use ICT, for the collection and receipt of the mandatory statutory reports; and other information from SACCO Societies

Policy statement

The Sacco Societies Act and the Regulations made thereunder requires SACCO Societies to submit periodic statutory reports and other information to the Authority, mainly on a monthly and quarterly basis. These statutory reports are critical components and tools for the daily monitoring and evaluation of the financial performance of the SACCO Societies, such as their liquidity status, capital adequacy, and asset quality among others. However, there are no concurrent provisions in the Act or Regulations that these statutory reports and information may be submitted in electronic format.

Taking into account the diverse geographical localities of many SACCO Societies, and to reduce the regulatory burden on SACCOs; the Authority developed an internal Returns Filing System in 2012; and which many of the SACCOs have been using to file their periodic statutory reports and information. Unfortunately, the return system is not supported by law, and consequently, where legal disputes emerge, the documents and information generated from the Returns System, always risk being inadmissible.

At the same time, the Authority has been progressively adopting a Risk Based Supervision (RBS) model of supervision, which is the internationally accepted supervision model for financial institutions. The RBS model is heavily dependent of real time and accurate data and other statistical information from the SACCOs. These in turn, allow for real time analysis and accurate feedback and monitoring on financial condition of the SACCO Societies; and calls for a legal framework to institutionalize the usage of ICT.

The usage of ICT in collecting and receiving of statutory reports, and information shall thus provide legal basis for the Authority's current electronic returns system; but will further reduce the regulatory reporting burden on SACCOs. It will also ensure a faster, efficient and accurate

reporting, monitoring and analysis of the SACCOs financial status at any time, which is the cornerstone of RBS model¹.

Recommendations:

It is therefore proposed that an amendment be introduced into the Sacco Societies Act to institutionalize the use of ICT, as follows:

The Sacco Societies Act is amended by inserting a new Section 53A immediately after the existing Section 53 **Amendment of No. 14 of 2008**

53A (1) *The Authority may establish and operate an electronic filing system for purposes of electronic filing of the statutory returns and documents or other information required to be furnished to the Authority under the Act and these Regulations or any other written law.* **Application of Information Communication**

(2) *The Authority shall in establishing an electronic filing system under subsection (1) above, issue general or specific guidelines and directions on the use and procedure of the electronic filing system, including;*

a) *the registration of Sacco Societies to participate in the electronic filing system;*

b) *the issuing and cancellation of authentication of codes to the registered users of the electronic system;*

c) *the statutory returns, documents or other information that may be transmitted through the electronic filing system;*

d) *the correction of errors in or amendments to the statutory returns, documents or other information filed in the electronic filing system;*

e) *the use of the electronic filing system, including the procedure applicable if there is a breakdown or other interruption in the system;*

f) *the use, in any electronic transmission or filing, of*

¹ . See Part X of the Value Added Tax for comparison purposes only (statute in *pari materia*). The fact that SACCOs are spread in different geographical locations of the country makes a strong case for institutionalization of the application of ICT.

symbols, codes, abbreviations or other notations to represent any particulars or information required under the Act, these Regulations or any other written law;

- g) any other matters for the better use and provision of electronic filing system.*
- (3) *A Sacco Society shall, subject to any directions or guidelines issued by the Authority, furnish any return, document or other information required to be furnished under the Act, these Regulations or any other written law through the use of the electronic filing system established by the Authority*
- (4) *The Authority may in accordance with the directions or guidelines issued under subsection (3) serve a notice or any other document to the registered computer account of the Sacco Society*

3.3. LIQUIDATION OF SACCO SOCIETIES WHOSE LICENSES ARE REVOKED

Policy Objective

To provide for an orderly exit from the market for SACCO Societies whose licenses have been revoked by the Authority; and align the Sacco Societies Act with the Cooperative Societies Act as well as the Insolvency Act 2015 in respect of liquidation of Sacco Societies.

Policy Statement

International best practices demands that legislations governing the supervision and regulation of financial institutions, should not only provide with certainty the procedures and minimum entry requirements (for licensing), but must also provide an orderly exit of financial institutions which fail or are unable to maintain the prescribed minimum supervision and prudential requirements.

The exit requirements for failed financial institutions, such as SACCO Societies include the revocation of deposit-taking licenses, followed by their **liquidation** in a manner that protects depositors in those institutions, as well as respects the interest and rights of creditors.

The Sacco Societies Act specifically provides the powers of the Authority to revoke a deposit-taking license in respect of a failed SACCO Society on certain grounds as enumerated in Section 27 thereof. However, there are no concomitant provisions dealing with the orderly exit through liquidation of the SACCO Society whose license has been revoked. This has led to the undesirable situation whereby SACCO Societies whose deposit-taking licenses have been revoked², remain in existence in the registers; and may be used to commit or perpetuate fraudulent activities against members of the public.

In order to protect depositors therein as well as secure the interests and rights of creditors thereof, it is important that the legal framework provides for the revocation of a deposit license of a financial institution to be done concurrently with the seamless takeover of the institution for purposes of liquidation or administration.

The Liquidation and administration processes in respect of failed Cooperative Societies in Kenya specifically governed by the provisions of the Cooperative Societies Act³ as read together with the Insolvency Act No. of 2015⁴. However, these statutes have no direct linkage with the Sacco Societies Act, and therefore leave lacunae on how to deal with a SACCO Society whose

² The Authority has since 2014 revoked deposit-taking licenses of 10 SACCO Societies. Three (3) licenses were revoked in 2014, five (5) licenses were revoked in 2015 and two (2) licenses were revoked in 2016.

³ Administered by the Commissioner for Cooperative Development

⁴ Insolvency Act, 2015 provides inter-alia that liquidation ought to be undertaken by registered Insolvency Practitioners. And Section 65 of the Cooperative Societies Act provides that the liquidation of a Cooperative Society shall be undertaken by an Insolvency Practitioner appointed by the Commissioner for Cooperative Development.

deposit license has been revoked. It is noteworthy that the Regulations 2010 made under the Sacco Societies Act envisaged that upon revocation of a deposit-taking license, the Sacco Society ought to be liquidated by providing inter alia that *“upon revocation of the license, the assets, books and records of the Sacco Society shall be preserved by the Authority pending liquidation.”*⁵

Ideally SACCO Societies are incorporated under the Cooperative Societies Act principally with the objects of undertaking deposit-taking SACCO business. Consequently, any SACCO Society whose license has been revoked by the Authority pursuant to Section 27 of the Sacco Societies Act will have essentially failed in the objects for which it was incorporated. Thus, a SACCO Society whose license is revoked by the Authority should equally have its registration cancelled for having failed in its objects under the Cooperatives Societies Act. As currently drafted, there are no legal provisions to trigger the cancellation of the registration upon the revocation of the license. This calls for an alignment of Section 27 of the Sacco Societies Act with Section 62 of the Cooperatives Societies Act.

Recommendations

In order to cure the apparent lacunae and provide for an orderly process of liquidation of SACCO Societies whose deposit-taking licenses have been revoked, it is recommended that:

(a) Section 27 of the Sacco Societies Act be amended by –

(i) Inserting the following new subsection immediately after subsection(7) –

“(8) The registration of a Sacco Society whose license is revoked under the provisions of this Act shall be cancelled in accordance with Section 62 (c) of the Cooperative Societies Act”

⁵ Reg. 6(2) of the Sacco Societies (Deposit-Taking Sacco Business) Regulations 2010

BUNGE CO-OPERATIVE SAVINGS AND CREDIT SOCIETY LTD
 P.O BOX 41842-00100
 NAIROBI
 TEL: 254-020-2848000
 EMAIL: bungesacco@gmail.com

Date: 23rd October, 2018

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

(1) 10/10/2018
 23/10/2018

Dear Sir,

RE: AMENDMENTS TO THE SACCO SOCIETIES (AMENDMENT) BILL, 2018

We refer to the above matter and acknowledge with thanks, receipt of your letter dated 16th October, 2018 inviting us to attend stakeholders meeting on Tuesday 23rd October, 2018.

The management of Bunge Sacco has reviewed the proposed amendments to the Sacco Societies Act as stated in the Sacco Societies Amendment Bill, 2018 and we have no proposal against the changes proposed.

Thank you for the invitation to attend the stakeholders meeting.

Yours Faithfully,

Signature

Peter A. Meikoki,
CHAIRMAN
BUNGE SACCO.



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23rd October 2018

**The Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI.**

THE SACCO SOCIETIES (AMENDMENT) BILL, 2018

WRITTEN MEMORANDUM AND PROPOSALS BY THE CO-OPERATIVE ALLIANCE
OF KENYA (CAK)

The above matter refers.

We bring you greetings from the Co-operative movement fraternity. Co-operative Alliance of Kenya (CAK) is an umbrella Apex Co-operative Organisation formed by the Co-operative Movement in Kenya. Its sole purpose is to represent the interests of co-operative societies both locally and internationally. This mandate inter alia extends to providing general consultancy and advocacy services to the co-operative movement. In executing its mandate, CAK draws its mandate from the Co-operative Societies Act CAP 490 under which it (CAK) is formed and registered. CAK, which also is an affiliate of the International Co-operative Alliance (ICA) operates within International Co-operative Principles as are constituted and periodically revised from time to time by the ICA.

Participation in the process of developing legal frameworks managing the Co-operative Sector is one of our core advocacy roles that we play. For this purpose, we seek for your leave to throw in our voice into this matter as follows:

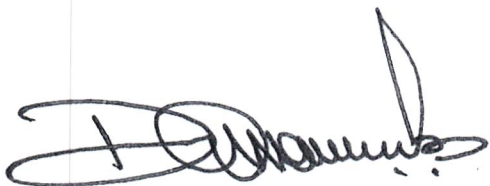
OBSERVATIONS ON THE PROPOSED AMENDMENTS

1. CAK considers sections 2, 3, 4,5, 6(a), 7, 8(b) of the Sacco Societies (Amendment) Bill, 2018 (the Amendment Bill) to contain proposed amendments that are of housekeeping in nature that are necessary to clean the Sacco Societies Act (SSA) to be in tandem with changes brought about by various factors. These may include changes brought about by the Constitution of Kenya, 2010 and amendment of other statutes. Errors that crept in during the enactment of the SSA are also cleaned through the said sections of the amendment Bill. In view of these, we have no issues with the above sections of the amendment bill.
2. Section 6(b) of the amendment bill which seeks to amend section 27 of the SSA thus giving what was hitherto reserved for the Tribunal to the Cabinet Secretary is a very welcome amendment for the co-operative sector at large. Aggrieved Deposit-taking Saccos whose licenses get revoked by the Authority now seek recourse with the Cabinet Secretary. This is a quick way of resolving such disputes since this requires an administrative intervention anyway. Referring these issues to the Tribunal will prove slow and thus deny quick justice to the saccos. We thus welcome this amendment.
3. Section 6 © of the amendment bill seeking to introduce a new subsection immediately after sub-section 7 of the SSA is a welcome amendment since it vests the power of cancellation to the Commissioner for co-operative development, which is the right office as far as this is concerned. However, we suggest that this amendment should not only stop at cancellation but also comprehensively take care of the liquidation process at large. However we notice that the amendment bill does not correctly refer to section 62 of the co-operative societies Act since there is no such section as 62(d). It should simply be referred to as section 62 of the co-operative societies Act.

4. Section 8(a) of the amendment bill that seeks to widen the scope of those who the Authority can take action against so much so that persons such as directors, managers, officers, agents etc. are included is a welcome amendment.

5. Section 9 of the amendment bill seeks to introduce application of ICT by introducing section 53A to the SSA. CAK is not opposed to this amendment on condition that it is not intended to saddle saccoes with the burden of requiring them to purchase prescribed ICT systems.

Yours

A handwritten signature in black ink, appearing to read 'Daniel Marube', with a stylized flourish at the end.

Daniel Marube
CHIEF EXECUTIVE OFFICER

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**STATEMENT OF THE BUNGE LA WAZALENDO ORGANIZATION
ON SACCO SOCIETIES (AMMENDMENT BILL 2018)**

**TO: THE CLERK OF THE NATIONAL ASSEMBLY
PARLIAMENT BUILDING
NAIROBI – KENYA**

*1) Dicommittees
23/08*

**FROM: BUNGE LA WAZALENDO ORGANIZATION
NAIROBI – KENYA**

SUBJECT: SACCO SOCIETIES AMENDMENT BILL 2018

DATE: 10th August, 2018

NATIONAL ASSEMBLY
MAIN RECORDS UNIT
22 AUG 2018
RECEIVED (2)
NAIROBI, KENYA

INTRODUCTION:

Pursuant to the provisions of Article 118 and the relevant standing orders of the parliament on the public hearing and receipt of memorandum on the bill in question. We as members of **Bunge La Wazalendo** organization fully committed to the rule of law under the true spirit of constitutionalization and democracy do hereby contribute as follows:-

REACTIONS

*2) Erick
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Ref Page3 Section 48A

Sub- section 2 (b) **Declaration of wealth**, the reputation, and character, financial integrity and reliability of the person. Further ref to page 3 sec 48A sub sec 3(iii) to read as **director of financial institution** which was voluntarily liquidated is under involuntary liquidation or has been placed under statutory management.

In conclusion, we call for a serious interrogation of this bill by all members of the legislation for a fruitful outcome.

Thank you.
Yours faithfully,

Tabu Charles
Chairman
Bunge La Wazalendo Organization.
0727 106 899
0713 968 763
bungelawazalendo1@gmail.com

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22 AUG 2018
CLERK'S OFFICE

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KIPKENDA

Your Ref: TBA Our Ref: SK/18/PAL/4099 Date: 11th July, 2018

The Clerk of the National Assembly,
Office of the Clerk, 1st Floor,
Main Parliament Buildings,
P.O. Box 41842 -- 00100,
NAIROBI, KENYA

By Email: clerk@parliament.go.ke

Dear Sir/Madam,

RE: IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE SACCO SOCIETIES (AMENDMENT) BILL, 2018 (NATIONAL ASSEMBLY BILL NO. 18)

Reference is made to the above subject matter, your invitation to submit memoranda and article 118 (1) (b), 119 of the *Constitution of Kenya, 2010*. We submit our comments and proposals as follows:

1. Inclusion of the Provisions of Chapter Six of the Constitution to Section 6 of the Act

It is our submission that parliament as an entity sworn to uphold the provisions of the Constitution, should bring laws that were enacted pre 2010 to conformity with the values and aspirations embodied in it. One such provision is contained in Chapter Six on ethics and integrity of persons aspiring to hold public office. Section 6 to the Principal Act especially Section 6 (4) as we propose, should reflect the details of Chapter Six of the Constitution i.e. persons appointed to serve as board members must match the requirements of Chapter Six. This can be achieved by adding another sub-clause that a person shall not be qualified to be appointed as a member of the board if he/she does not meet the requirements of Chapter Six of the Constitution of Kenya, 2010.

2. Inclusion of the Authority's Website as one of the Forums for Publication of List of Sacco Societies

To harness the advantage of technology to ensure access to information we propose an amendment to section 28 of the Principal Act that the society shall cause a list of all Sacco Societies to be published and updated on its website so as to act as a quick search engine to verify the status of Sacco Societies and hence and improve reputation.

Kipkenda & Co. Advocates

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✉ info@kipkenda.co.ke
🌐 www.kipkenda.co.ke

Dropping Zone No. 36 Revlon Professional Plaza Tuhman Road

NATIONAL ASSEMBLY
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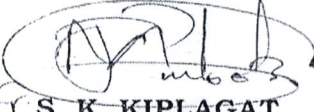
13 JUL 2018

SENIOR DEPUTY CLERK
LEGAL & COMMITTEES
P.O. Box 41842 - 00100, NAIROBI

3. Devolving the Services of the Authority to the 47 Counties of the Republic of Kenya

The Act contemplates a much centralised operation of the authority. Section 4 and 5 of the Act make no provision for the decentralisation of their services or ensuring their accessibility throughout the country. With the increased base of Sacco societies both in formal and informal outlooks, there is need to ensure the availability of the services of the Authority especially for licensing purposes in each of the 47 Counties. This is in the spirit of bringing services closer and more accessible to the people. We therefore propose an addition of a statutory requirement that the authority must ensure that services are decentralised progressively to ensure their presence in all the counties and their services made accessible to promote licensing and regulation of small deposit taking institutions.

Yours Faithfully,



fr **S. K. KIPLAGAT**

KIPKENDA AND COMPANY ADVOCATES

/it/cc

207



KUSCCO LTD.

The SACCO Family Union

KUSCCO Centre
Kilimanjaro Avenue, Upper Hill
P.O. Box 28403 - 00200, Nairobi, KENYA
Tel: 020 -2730191 / 2722927
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Email: info@kuscco.com
Web: www.kuscco.com

Our Ref: KUSCCO/ADV/VOL I/119

24th October, 2018

Your Ref:

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

Handwritten notes:
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31/10/2018

Dear

RE: KUSCCO SUBMISSION ON THE SACCO SOCIETIES (AMENDMENT) BILL, 2018 (NATIONAL ASSEMBLY BILL NO.18).

Receive compliments from the Board of Directors, Management and staff of the Kenya Union of savings and credit Co-operatives (KUSCCO) Limited.

KUSCCO was established in 1973 as an umbrella body for SACCOs in Kenya, responsible for speaking on behalf of SACCOs and representing them in business and legal requirements.

We acknowledge the fact that Co-operatives are private organizations that deal with public good and the role of the Government is to ensure existence of an environment that nurtures a dynamic and vibrant movement.

We continue to observe that our appeal to have the Draft Co-operative Development Policy 2017 approved to allow for comprehensive review of the Co-operative Societies CAP 490 and SACCO Societies Act, 2008 has not been taken. This means therefore that we have to contend with piece meal amendments as in this case.

We however note that the spirit of this bill will provide the basis for the Usage of ICT in collecting and receiving of statutory reports for Risk-Based Supervision (RBS) and thereby reducing the regulatory reporting burden on SACCOs to promote efficient and accurate reporting.

In this regard, we have made the following comments on the Sacco Societies (Amendment) Bill, 2018 (National Assembly Bill No. 18).

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**NATIONAL ASSEMBLY
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20 OCT 2018
SENIOR DEPUTY CLERK
LEGAL & COMMITTEES
P. O. Box 41842 - 00100, NAIROBI

THE SACCO SOCIETIES (AMENDMENT) BILL, 2018 (ASSEMBLY BILL NO.18)

The following sections of the revised Act need to be amended to incorporate the proposed amendments:

1. Section 6 (4) (d) a person who is prohibited from being a director or to take part in the management of a cooperative or financial institution by the Commissioner under the Co-operatives Societies Act (CAP 490) or by the Central Bank of Kenya respectively.

Rewrite the word cooperative (underlined above) to start with a capital letter and have a hyphen as follows: ... Co-operative. This should be the case for all the words reading Co-operative in the Bill.

2. Section 6(5) A member of the Board appointed under subsection (1)(e) may be removed from office by the Minister, if that member-

Substitute the word Minister (underlined above) with Cabinet Secretary as proposed in amendment no.2 of the Bill.

3. Section 6(6) A member of the Board appointed under subsection (1)(e) may resign office by giving a fourteen days' notice to the Minister.

Substitute the word Minister (underlined above) with Cabinet Secretary as proposed in amendment no.2 of the Bill.

4. Section 24(3) A Sacco society may appeal to the Minister in reference to refusal to grant a license within thirty days after receipt of notification of refusal.

Substitute the word Minister (underlined above) with Cabinet Secretary as proposed in amendment no.2 of the Bill.

5. Section 24(4) The Minister may reverse the decision of the Authority only if-

Substitute the word Minister (underlined above) with Cabinet Secretary as proposed in amendment no.2 of the Bill.

6. Section 24(5) The Authority shall, in consultation with the Minister make regulations providing for further requirements to be fulfilled before the grant of licence to a Sacco society.

Substitute the word Minister (underlined above) with Cabinet Secretary as proposed in amendment no.2 of the Bill.

7. Section 27(5) An aggrieved Sacco society may appeal to the Minister in respect of a revocation of its licence within thirty days after being notified of the revocation.

Substitute the word Minister (underlined above) with Cabinet Secretary as proposed in amendment no.2 of the Bill.



8. Section 53(5) The Minister may require the Authority or a deposit-taking Sacco to furnish to him, at such a time and in such a manner as he may direct, such information as the Minister may require.

Substitute the word Minister (underlined above) with Cabinet Secretary as proposed in amendment no.2 of the Bill.

6 (c) by inserting the following new subsection immediately after subsection (7)-

“(8) the registration of A Sacco Society, the licence of which is revoked under the provisions of this Act shall be cancelled in accordance with section 62 (d) of the Co-operative Societies Act”

Section 62(d) is not provided in the Co-operative Societies Act Cap 490.

CUSCCO Proposes an addition of (a) as here below: -

“(8) the registration of A Sacco Society, the licence of which is revoked under the provisions of this Act shall be:

- (a) revert to the original Back Office Services Activity and cease to operate FOSA activity;
- (b) cancelled in accordance with section 62 (d) of the Co-operative Societies Act”

Justification

1. *In reference to the (8) (a) above, there should be a provision for SACCOs to revert to the Back Office operations without necessarily having to cancel the registration, where a SACCO can still serve the interest of its members but cannot afford to meet some justified licensing requirements. Front Office Services Activity(FOSA) as an activity should not determine the fate of a SACCO that started with Back office operations before The FOSA Operations.*
2. *S27(5) and (7) Of the Sacco Societies Act,2008 supports (a) above*
3. *The Authority should exercise S 48,49,50,51,52of the SACCO Societies Act,2018 before cancellation of a Licence and Registration.*

General Corrections and observations on the Proposed Bill.

1. Re-write all words reading society to start with a capital S as follows: Society....
2. The SACCO Societies Act,2008 S37- Dormant Accounts- should be reviewed/ enhanced or have a new Section altogether to cover unclaimed Assets in SACCOs.
3. There are many Sections of the Sacco Societies Act that needs to be reviewed.



The Co-operative Societies Act Cap 490

1. There are many sections of the Act that needs to be reviewed
2. Many Saccos continue to suffer due to non-remittance of the dues from the Companies and employers some of which are Government entities. S35 of the Co-operative Act Cap 490 needs to be relooked at to include stiffer penalties for failure to remit the Sum deducted.

Constitution of Kenya 2010

Both the Co-operative Act, CAP 490 and the SACCO Societies Act,2008 needs to aligned to the Constitution of Kenya 2010.

With Warm Co-operative Regards,



George Ototo. MBS. ICUDE
MANAGING DIRECTOR.