



PARLIAMENT
OF KENYA
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114

Speaker	
Deputy Speaker	
Chairman	
Members	
Others	
Total	✓

REPUBLIC OF KENYA

NATIONAL ASSEMBLY

EIGHTH PARLIAMENT - THIRD SESSION

REPORT OF

THE DEPARTMENTAL COMMITTEE

ON

AGRICULTURE, LANDS AND NATURAL RESOURCES

ON

**THE ENVIRONMENTAL MANAGEMENT AND
CO-ORDINATION BILL, 1999**

**PARLIAMENT BUILDINGS
NAIROBI**

NOVEMBER, 1999

INTRODUCTION

Mr. Speaker, Sir, I am pleased to table before the House a report of the Departmental Committee No.A-on Agriculture, Lands and Natural Resources on the Environmental Management and Coordination Bill, 1999, which was committed to the Committee pursuant to Standing Orders. Some of the functions of the Departmental Committees as established under Standing Order 151 includes:-

- (i) *to study and review legislation after First Reading subject to the exemptions under S.O. 101 A(4);*
- (ii) *to investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House or a Minister;*
- (iii) *to make reports and recommendations to the House as often as possible including recommendations of proposed legislation.*

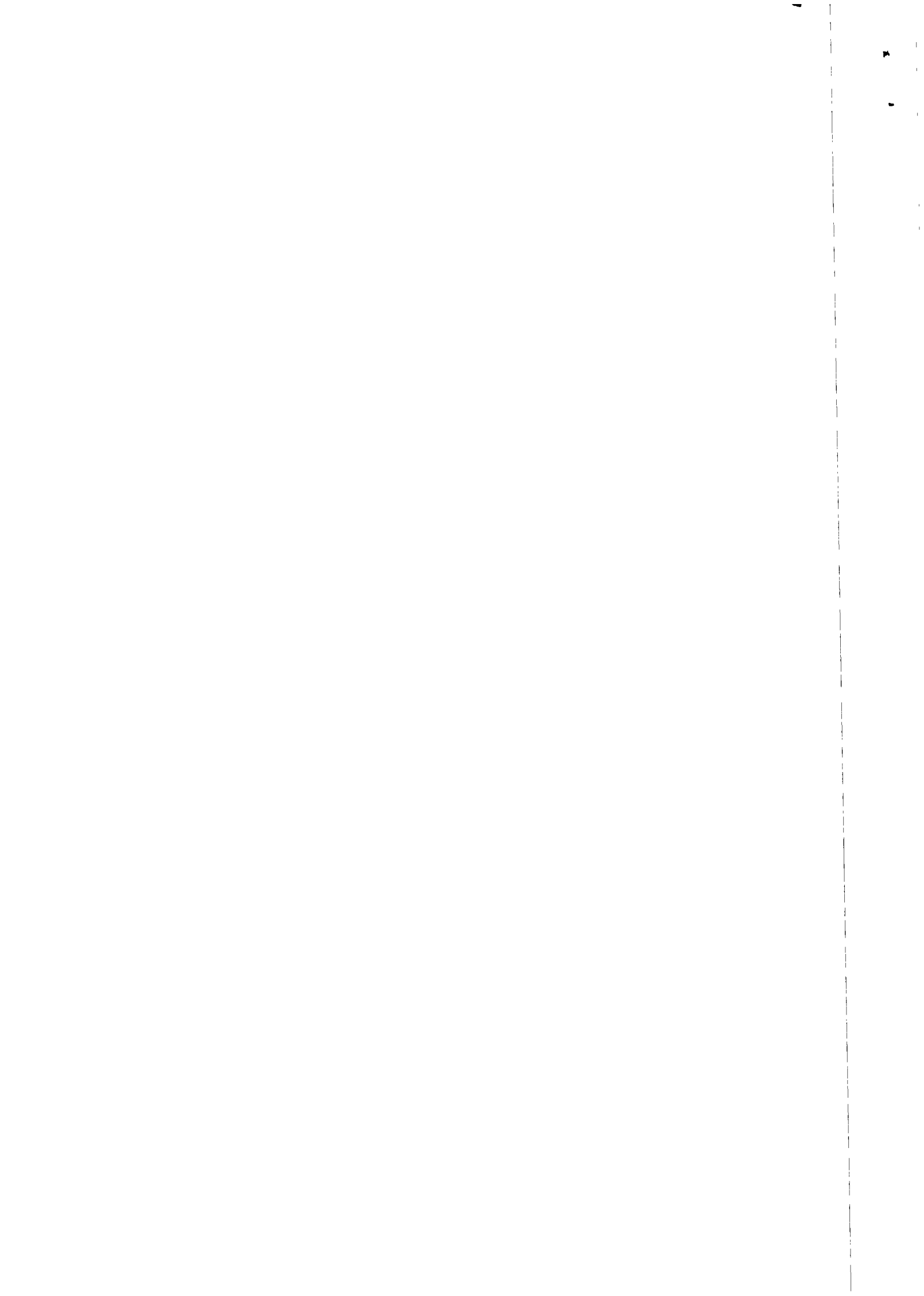
DELIBERATIONS

The Committee held eleven sittings and deliberated on the contents of the Bill. The Minister for Environment accompanied by his Permanent Secretary, and other Senior Officials in the Ministry attended several sittings of the Committee and discussed to detail the contents and implications of the Bill.

The deliberations of the Committee were enriched by the submissions of the following Organisations and stakeholders.

- (i) The Bankers Association
- (ii) The Kenya Association of Manufacturers
- (iii) The Kenya Tourism Federation
- (iv) The East African Natural History Society
- (v) The Wild Wildlife Fund for Nature
- (vi) Centre for Research and Education on Environmental Law-Faculty of Law/Univeristy of Nairobi.
- (vii) Dr. D.L.M. Nightngale
- (viii) Mombasa and Coast Tourist Association

The Committee also relied heavily on the well researched and rich contributions by its Members. I am grateful to all who contributed for without their input it would have been difficult to identify areas that required emphasis and more research.



Mr. Speaker Sir, Last but not least, may I express my gratitude to the Secretariat from the Clerks Chambers who played a crucial role in organising Sittings of the Committee, analysing submissions from stakeholders and drafting of Committee recommendations that culminated in the production of this report.

Mr. Speaker Sir, for the benefit of my colleagues, I would like to note that the Clauses of the Bill which do not appear in the Report were adopted by the Committee in their original form. The Committee comprised the following Members who have worked indefatigably to produce this report:-

The Hon. Wycliffe W. Osundwa (**Chairman**)

The Hon. Ali I. Shaaban, M.P.

The Hon Mohammed Shidiye, M.P.

The Hon Abdi M. Galgalo, M.P.

The Hon.Molu G.Shambaro, M.P.

The Hon. John K. Sambu, M.P.

The Hon. Peter N. Ndwiga, M.P.

The Hon.Joseph Munyao, M.P.

Dr.the Hon. Odongo Omamo, M.P.

The Hon. Daniel L. Khamasi, M.P.

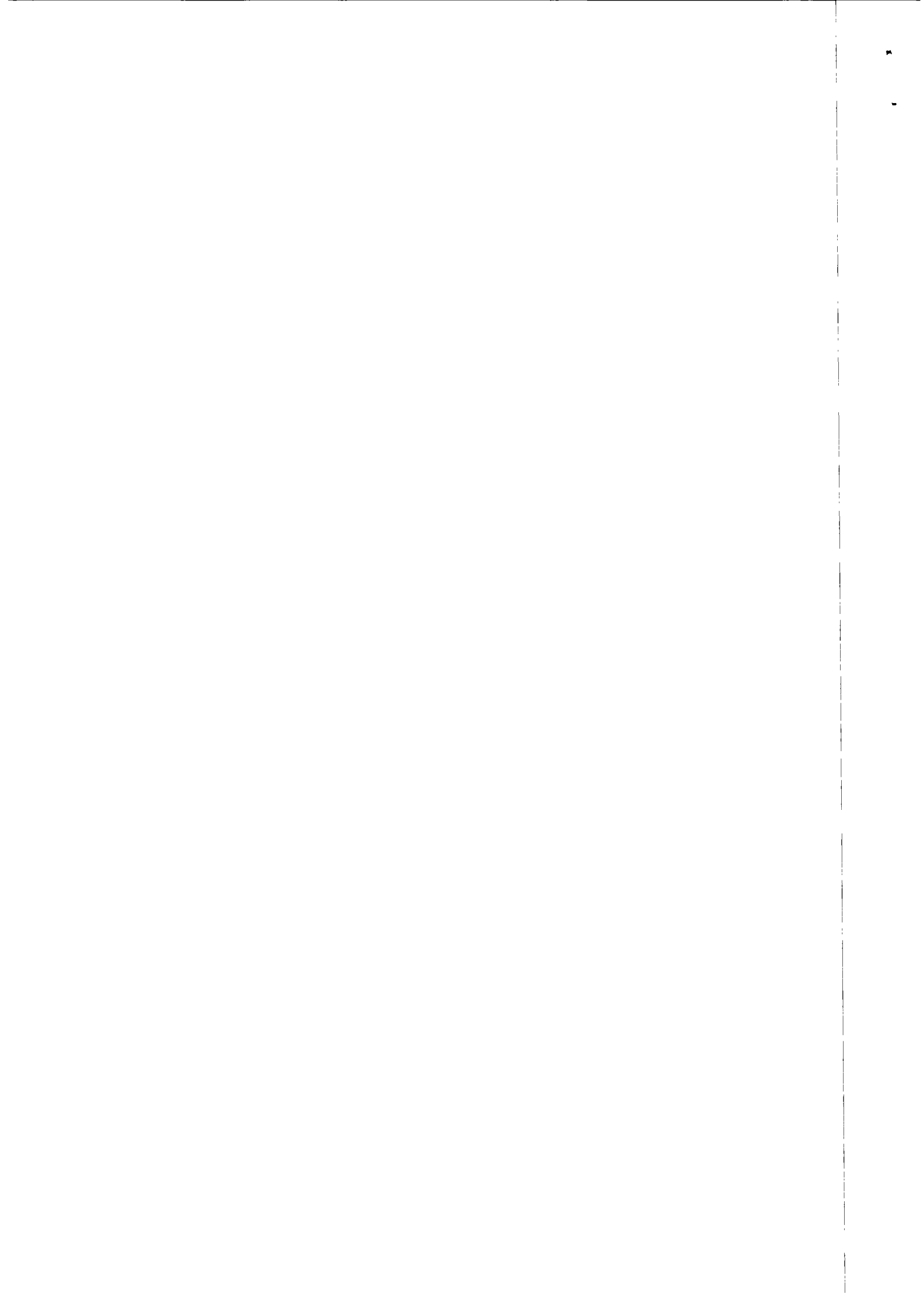
The Hon. David W. Murathe, M.P.

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION BILL, 1999

The Committee resolved after discussion with Minister for Environment that the following amendments be part of the Bill:-

Section 2-Interpretation

"Burdened Land"	-	means any land upon which an environmental easement has been imposed.
"Coastal Zone"	-	means an area declared to be a coastal zone under Section 55.
"Environmental Easement"	-	means an easement imposed under Section 112.
"Regional Development Authority	-	means a regional development authority established by an Act of Parliament



Section 6(1)

The Council shall meet at least four times in every financial year, at such place as it may deem appropriate for the transaction of its business.

Section 9(3)

The Minister shall lay every annual report on the state of the environment prepared under sub-section (2) (p) before the National Assembly as soon as reasonably practicable after its publication if the National Assembly is then sitting or if the National Assembly is not then sitting within 21 days of the next sitting.

Section 10(1) The Authority shall be managed by a Board, which shall consist of:

- (a) a Chairman appointed by the President;
 - (b) the Permanent Secretary of the Ministry for the time being responsible for matters relating to the functions of the Authority or an officer of that Ministry designated in writing by the Permanent Secretary;
 - (c) the Director General appointed by the President
 - (d) three Directors who shall be officers of the Authority;
 - (e) seven members not being public officers appointed by the Minister in consultation with the Council' and
 - (f) an officer of the authority who shall act as the Secretary to the Board.
- (2) No person shall be appointed under sub-sections (1) (a) (c)(d) and (e) unless such persons holds at least a post-graduate degree from a recognized University in the fields of environmental law, environmental science, natural resource management or relevant social science, and in the case of the Director General, has at least fifteen years' working experience in the relevant field.
- (3) The Members under sub-section (1) (a) and (e) shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.



- (4) The Members appointed under sub-section (1) (a)(c) (e) shall hold office for four years and shall be eligible for reappointment for one additional term only.
- (5) The Board shall elect a Vice-Chairman from among the members appointed under sub-section (1) (e).
- (6) The Board shall meet at least four times in every financial year.
- (7) At every meeting of the Board, the chairman, or in his absence, the Vice-Chairman, the Board shall appoint a member to serve as Chairman at the meeting in question.
- (8) The quorum necessary for the transaction of the business of the Board shall be seven members including the person presiding; and all acts, matters or things authorised or required to be done by the Board, shall be effected by a resolution passed by a majority of the members present and voting at a meeting at which there is quorum.
- (9) The Secretary to the Board shall not be entitled to vote on any matter before the Board.
- (10) The appointment of a member of the Board may be terminated by the appointing authority where the member:-
 - (a) is adjusted bankrupt or enters into a composition or scheme of arrangement with his creditors;
 - (b) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine.
 - (c) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Board; or
 - (d) becomes, for any reason, incapable or incompetent of properly performing the functions of his office.
- (11) Where a member of the Board dies or resigns or otherwise vacates office before the expiry of his term of office, the appointing authority shall appoint another person in his place.



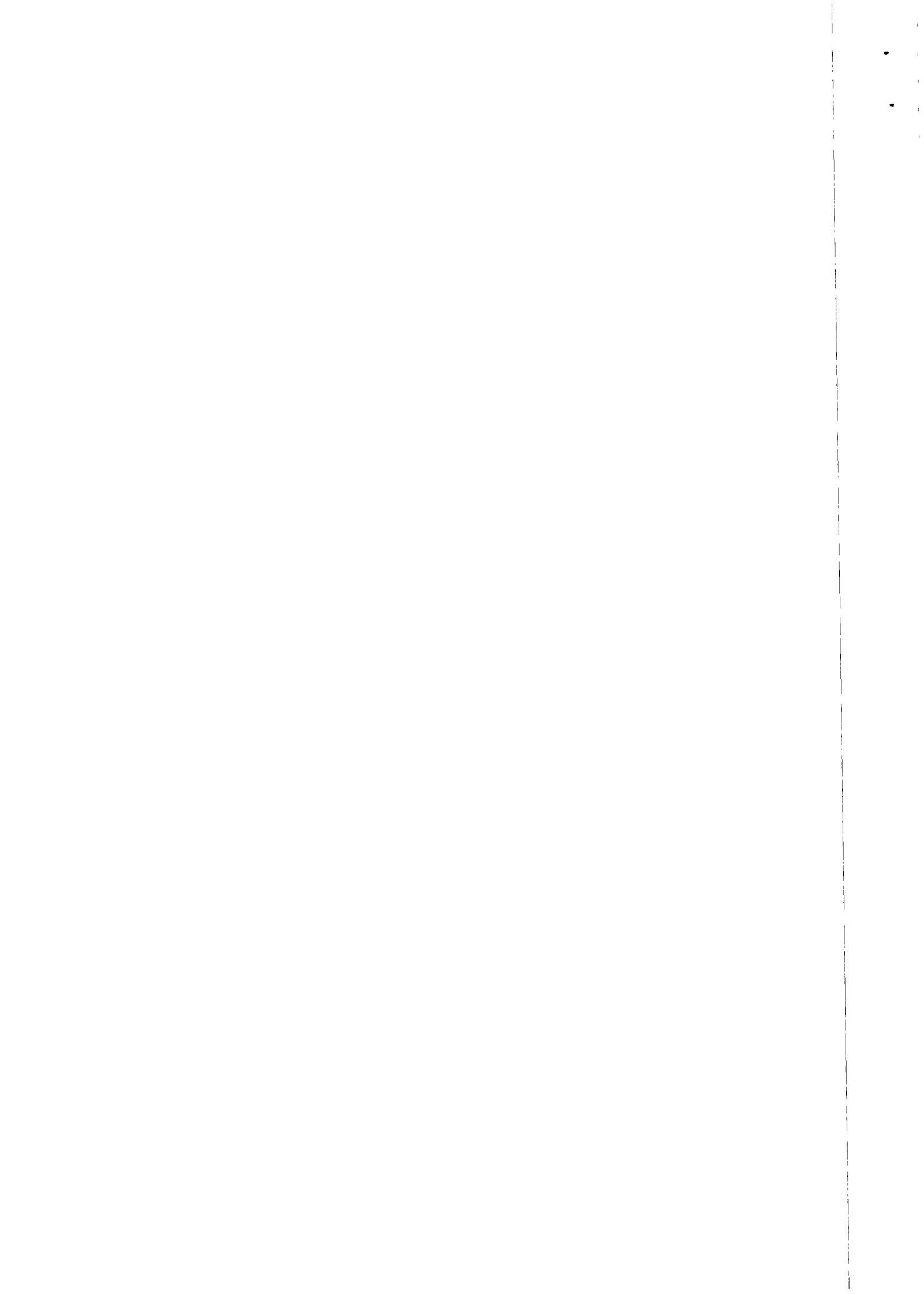
- (12) Where the Director-General is unable to perform the functions of his office due to any temporary incapacity which is likely to be prolonged, the President may appoint a substitute therefore to act with the full powers of the Director-General until such time as the President determines that the incapacity has ceased.
- (13) Subject to sub-section (6) (7) and (8), the Board shall regulate its own procedure.
- (14) (a) The Director General shall be the chief executive of the Authority and shall, subject to this Act, be responsible for the day to day management of the affairs of the authority.
- (b) The Directors shall perform such functions as are conferred by this Act and such additional duties as may, be assigned by the Director General.
- (c) The Director General and the Directors of the Authority shall be paid such salaries and allowances as may, from time to time, be determined by the President.

- Section 29 (2)** (h) a representative of every regional development authority whose area of jurisdiction falls wholly or partly within the province.
- (3) (e) four representatives of farmers, women, youth and pastoralists within the district to be appointed by the Minister;
- (f) two representatives of the community based organizations engaged in environmental management programmes, operating in the district, to be appointed by the Minister.

Section 31 (1)

There is hereby established a committee of the Authority to be known as the Public Complaints Committee (hereinafter referred to as "the Complaints Committee") which shall consist

- (a) a Chairman appointed by the Minister and who at the time of the appointment is qualified to be appointed as a judge of the High Court of Kenya;
- (b) a representative of the Attorney General;



- (c) a representative of the Law Society of Kenya;
 - (d) a representative of non-governmental organizations appointed by the National Council of Non-Governmental Organizations and who shall be the Secretary to the Complaints Committee:
 - (e) a representative of the business community appointed by the Minister; and
 - (f) two members appointed by the Minister for their active role in environmental management.
- (2) The Members of the Complaints Committee, other than the representative of the Attorney General, shall hold office for a period of three years and shall be eligible for reappointment :
- Provided that no member shall hold office for more than two terms.
- (3) A member of the Complaints Committee other than the representative of the Attorney General may-

Section 32 (b) to prepare and submit to the Council an annual report of its activities which report shall form part of the annual report on the state of the environment under Section 9 (3).

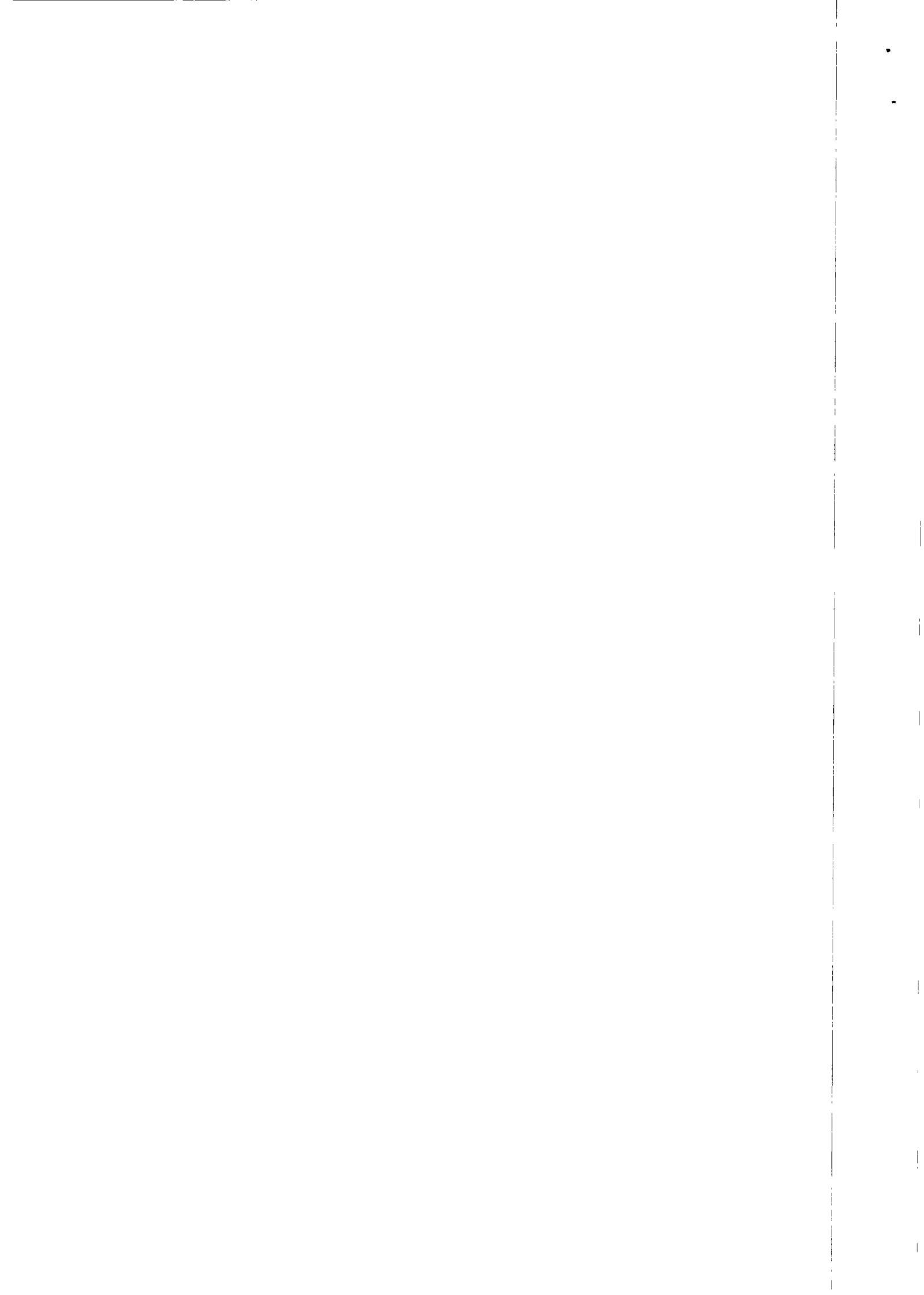
Section 43 The Minister may, by notice in the Gazette, declare the traditional interests of local communities customarily resident within or around a lakeshore, wetland, coastal zone, river bank or forest to be protected interests.

Section 48(1) Subject to sub-section (2) the Director General may, after a consultation with the Director of Forestry, enter into any contractual arrangements with a private owner of any land on such terms and conditions as may be mutually agreed for purposes of registering such land as forestland.

- (2) The Director General shall not take any action, in respect of any forest or mountain area, which is prejudicial to the traditional interest of the local communities customarily resident within or around such forest or mountain area.




- Section 58(8)** The Director General shall respond to applications for any environmental impact assessment licence within three months.
- Section 58(9)** Any person who, upon submitting his application for an environmental impact assessment, does not receive any communication from the Director General within the time stipulated under sub-section (8) may within six months of such Submission start his undertaking.
- Section 59(1)(d)** a time limit not exceeding sixty days for the submission of oral or Written comments by any member of the public on the environmental impact assessment study, evaluation or review report.
- Section 70(5)** The Standards and Enforcement Review Committee shall regulate its own procedure.
- Section 71(e)** identify and recommend to the Authority areas of research on the effects of water pollution on the environment, human beings, flora and fauna.
- Section 104 (e)** provide information, warn and protect the public in cases of actual or potential exposure to radioactive material or ionising radiation.
- Section 117(1)** The Director General shall, by notice in the Gazette, appoint duly qualified persons, whether public officers or not, by name or by title of office, to be environmental inspectors of the Authority for such jurisdiction units as shall be specified on the notice appointing them.
- Section 125(a)** a Chairman nominated by the judicial Service Commission and who at the time of his nomination shall be qualified to be appointed as a judge of the High Court of Kenya.
- Section 126(1)** The Tribunal shall not be bound by the rules of evidence as set out in the Evidence Act.



CONCLUSION

I would like to take this opportunity to thank Members of the Committee for the dedication and commitment which they portrayed during the deliberations on the Bill. I also wish to thank the Minister for Environment and his officials and all the stakeholders, for the invaluable assistance they accorded the Committee.

SIGNED 

DATE *22/11/99*



**MINUTES OF THE THIRTY FOURTH SITTING OF THE
EPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS
AND NATURAL RESOURCES HELD IN CONFERENCE
ROOM, FIRST FLOOR COUNTY HALL, ON
T H U R S D A Y , A U G U S T 2 6 , 1 9 9 9 A T**

PRESENT:

The following Members of the Committee were present:-

The Hon. Wycliffee W. Osundwa, M.P. (**Chairman**)
The Hon. Daniel L. Khamasi, M.P.
The Hon. Molu G. Shambaro, M.P.
The Hon. Mohammed Shidiye, M.P.
The Hon. Joseph Munyao, M.P.

ABSENT:

The Hon. Ali I. Shaaban, M.P.
The Hon Abdi M.Galgalo, M.P.
The Hon John K. Sambu, M.P.
The Hon. Peter N. Ndwiga, M.P.
Dr. the Hon. Odongo Omamo, M.P.
The Hon. David W. Murathe, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. J.N. Bundi - Senior Clerk Assistant
Mrs S. Kioko - Clerk Assistant III

MIN.NO.145

**VISIT TO THE KENYA MEAT COMMISSION
(KMC) PLANT - ATHI RIVER**

The Committee reiterated the need to make an inspection tour to KMC. Wednesday, September 08, 1999 was set as the date of the visit. Members would convene at Parliament Buildings at 9.00 a.m. and leave immediately so as to be at the site by 10.00 a.m. The secretariat was asked to notify the Minister and all other relevant people in good time.

The report on KMC. being prepared by the Ministry of Agriculture would be studied by the Committee on Tuesday, September 07, 1999 at 2.30 p.m.



Nevertheless, with or without the report, the Committee would still make the inspection tour.

Areas of interest to the Committee would include the holding grounds and all other assets of the plant.

The area Member of Parliament would be invited and the press addressed after the tour.

MIN.NO.146

CONSIDERATION OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL, 1999

The Committee deliberated on the Bill and proposed the following amendments:-

Preamble

No need for the establishment of National Environment Management Authority as set out in Clause 7. The National Environmental Trust Fund as set out in Clause 24 should not be established.

CLAUSE 2 Interpretation

Definition of the terms:-

"ambient air" - Minister to explain why this excludes atmosphere within a structure or within any underground space.

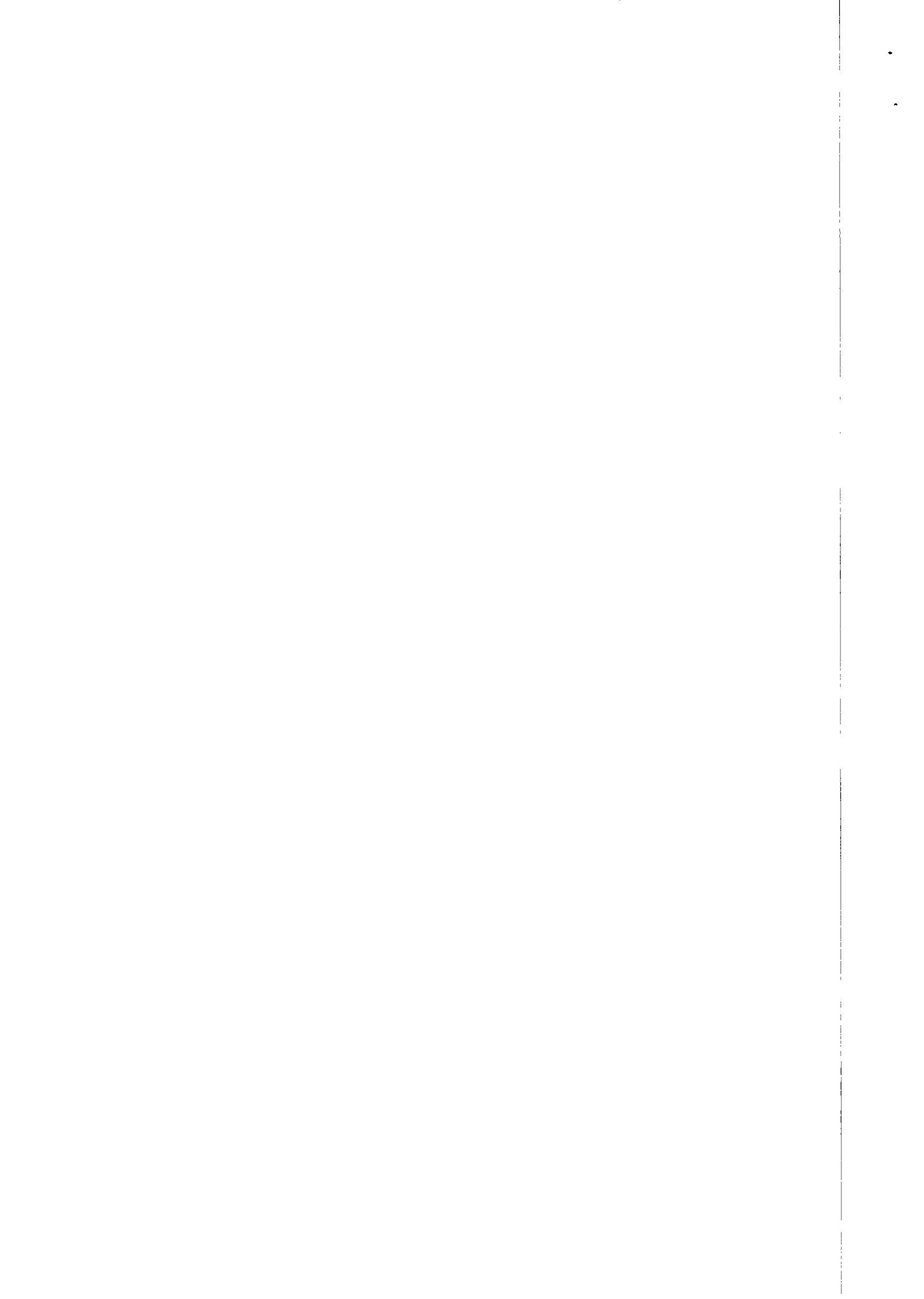
"Burdened Land" - Minister to give further explanation on the meaning.

"Developer" - Minister to explain whether an environmental impact assessment study was done on the Titanium mining project within the Coast Province.

MIN.NO.147

REPORT ON THE SEMINAR ON THE ROLE OF PARLIAMENTARIANS IN ENVIRONMENTAL MANAGEMENT

The report had information that would be helpful to Committee while analysing the Bill.



Members were therefore, requested to study the report alongside the Bill, on their own.

MIN.NO.148

ANY OTHER BUSINESS

1. **Hinderances to Committee Work**

Members expressed concern over the inability by the Liaison Committee to meet which was greatly hampering progress of the work of Departmental Committees.

Consequently, the Committee resolved that a letter be written to the Speaker of the National Assembly requesting him to convene a Liaison Committee meeting urgently.

MIN.NO.148

ADJOURNMENT

And the time being Fifteen Minutes past Twelve O'clock, the Chairman adjourned the sitting until Tuesday, September 07, 1999 at 2.30 p.m.

**CONFIRMED HON. WYCLIFFE W.OSUNDWA,M.P.
(CHAIRMAN)**

7TH SEPTEMBER, 1999

DATE



MINUTES OF THE THIRTY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN CONFERENCE ROOM, FIRST FLOOR COUNTY HALL, ON TUESDAY, SEPTEMBER 07, 1999 AT 2.30 P.M.

PRESENT:

The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
The Hon. Daniel L. Khamasi, M.P.
The Hon. Molu G. Shambaro, M.P.
Dr. the Hon. Odongo Omamo, M.P.
The Hon. Joseph Munyao, M.P.
The Hon. Mohammed M. Galgalo, M.P.

ABSENT:

The Hon. Ali I. Shaaban, M.P.
The Hon. Mohammed Shidiye, M.P.
The Hon. John K. Sambu, M.P.
The Hon Peter N. Ndwiga, M.P.
The Hon David W. Murathe, M.P.

IN ATTENDANCE:

Mr. J.N. Bundi - Senior Clerk Assistant
Mrs S. Kioko - Clerk Assistant III

MIN.NO.149/99:

CONFIRMATION OF PREVIOUS MINUTES

Minutes of the Thirty Third and Thirty Fourth Sittings held respectively on Tuesday, August 24, 1999 and Thursday, August 26, 1999 were confirmed by Members present and signed by the Chairman.

MIN.NO.150/99

MATTERS ARISING

Under Min.No.143/99/(3), the meeting with the Minister in-charge of rural Development was rescheduled for Thursday, September 16, 1999 at 10.00 a.m.

Under Min.No.143/99 (4), the Chairman reported that the Members nominated by the Committee to attend the Mombasa ASK show did not attend for lack of funds.



Under Min.No.145/99, the visit to KMC was postponed to a date to be set when the receiver Manager would be back in the country. He was on holiday abroad.

The report on KMC by the Ministry of Agriculture had not been submitted to the Committee.

MIN.NO.151/99

REPORT ON THE SEMINAR ON THE ROLE OF PARLIAMENTARIANS IN ENVIRONMENTAL MANAGEMENT

The report was read through by the Members and would be utilised during deliberations on the Environmental Management and Co-ordination Bill, 1999 where necessary.

MIN.NO.152/99

CONSIDERATION OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL, 1999

The Committee deliberated on the Bill and proposed the following amendments:-

CLAUSE 2 Interpretation

Definition of the terms:-

"Environment" - should include political dimension as was the case when apartheid in South Africa was once classified as pollutant.

"pollutant" - should include socio-political aspects.

MIN.NO.153/99

ADJOURNMENT

There being no Any Other Business, the Chairman adjourned the sitting at thirty minutes past five O'clock until Wednesday September,08, 1999 at 10.00 a.m.

HON.WYCLIFFE W. OSUNDWA, M.P.

CONFIRMED
(CHAIRMAN)

14TH SEPTEMBER, 1999

DATE



MINUTES OF THE THIRTY SIXTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN CONFERENCE ROOM, FIRST FLOOR COUNTY HALL, ON WEDNESDAY, SEPTEMBER 08, 1999 AT 10.00 A.M.

PRESENT

The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
The Hon. Daniel L. Khamasi, M.P.
Dr. the Hon. Odongo Omamo, M.P.
The Hon. Joseph Munyao, M.P.

ABSENT

The Hon. Ali I. Shaaban, M.P.
The Hon. Abdi M. Galgalo, M.P.
The Hon. Mohammed Shidiye, M.P.
The Hon. Molu G. Shambaro
The Hon. John K. Sambu, M.P.
The Hon Peter N. Ndwiga, M.P.
The Hon David W. Murathe, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. David K. Zlah - Clerk Assistant II
Mrs Sarah Kioko - Clerk Assistant III

MIN.NO.154/99

CONSIDERATION OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL 1999

CLAUSE 4 Establishment of the National Environmental Council

- 4(I) (a) Council should elect its own Chairman, who should not be Minister for the following reasons:-
- (i) the Minister may be partial owing to party allegiance
 - (ii) Ministers have very busy schedules and may not always be available for meetings



(iii) the Minister is best placed to hear appeal cases

4(i)(c)to(f) the relevant organs should nominate their own representatives and the Minister should only gazette but not appoint

4(i)(h) the number of Members of the council should be specified and those to be co-opted by the Minister to be specified

4(3) (f) Minister to explain "or has entered into a scheme or arrangements with his creditors"

CLAUSE 6 Procedure of the Council

6(i) Minimum number of meetings per year should be "four" and not "three"

6(2) Chairman who is not the Minister should preside at all meetings, and there should be provision for a vice-chairman to preside in the absence of the chairman. Incases where both are not present the council members to elect one member to preside.

MIN.NO.155/99

ADJOURNMENT

There being no Any Other Business, the Chairman adjourned the sitting at Thirty Minutes past Eleven O'clock until Tuesday, September 14, 1999 at 2.30 p.m.

HON.WYCLIFFE W. OSUNDWA, M.P.
CONFIRMED

14TH SEPTEMBER, 1999
DATE



MINUTES OF THE THIRTY SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN CONFERENCE ROOM, FIRST FLOOR COUNTY HALL, ON TUESDAY, SEPTEMBER 14, 1999 AT 14.30 P.M.

PRESENT

The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
The Hon. Daniel L. Khamasi, M.P.
Dr. the Hon. Odongo Omamo, M.P.
The Hon. Joseph Munyao, M.P.
The Hon. Mohammed Shidiye, M.P.
The Hon. Abdi M. Galgalo, M.P.

ABSENT

The following Members of the Committee were absent:-

The Hon. Ali I. Shaaban, M.P.
The Hon. Molu G. Shambaro
The Hon. John K. Sambu, M.P.
The Hon Peter N. Ndwiga, M.P.
The Hon David W. Murathe, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs Sarah Kioko - Clerk Assistant III

MIN.NO.156/99

CONFIRMATION OF THE MINUTES

Minutes of the Thirty Sixth Sitting held on Wednesday, September 08, 1999 were confirmed by Members present and signed by the Chairman. They were proposed by the Hon. Daniel Khamasi, M.P. and seconded by the Hon. Joseph Munyao, M.P.

MIN.NO.157/99

MATTERS ARISING

Under Min.No.154/99 4(1)(h), the Committee recommended that co-option of Members to the council by the Minister was not necessary.



**CONSIDERATION OF THE ENVIRONMENTAL
MANAGEMENT AND CO-ORDINATION BILL
1999**

**CLAUSE 7 - 8 Establishment of the National
Environmental Management Authority and
Headquarters**

7(1)The Committee saw no need for the establishment of the Authority for the reason that majority of the existing Authorities have not been able to function as they ought due to lack of funds and yet their staff are paid and maintained. Authorities are, hence, an unnecessary drain to the national treasury.

CLAUSE 9 Objects and Functions of the Authority

The Committee proposed that the National Environmental Secretariat be strengthened to take care of the functions of the Authority.

All clauses reflecting on the Authority should be altered so that the Authority is deleted and its functions/purposes or powers shifted to a different organ.

**CLAUSE 37 National Environment Action Plan
Committee**

37(1) (a) Minister to explain why the Permanent Secretaries responsible for national economic planning and development should be chairman.

37(1) (e) and (f) The Committee proposed that the Minister should only gazette and not appoint or determine membership of the Committee.

The organs in question should nominate committee members to represent them.

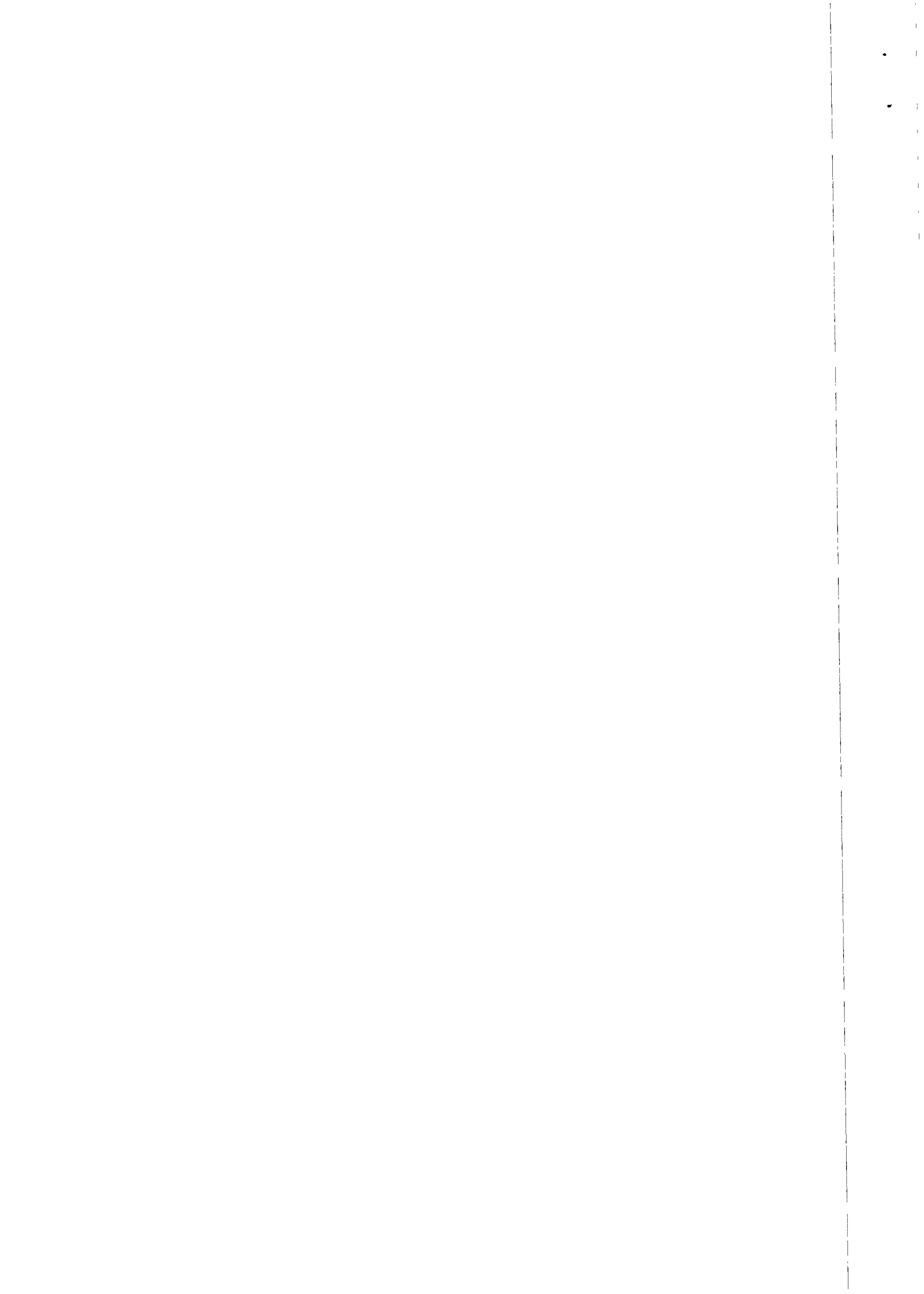
Under 37(1) (c), the Minister should explain who the business community is.



1. **Briefing by the Chairman on the Resolutions by the Liaison Committee**

The Chairman informed the Committee the Liaison Committee had resolved as follows:-

- (a) Summons to individuals to appear before Committee would be signed the Deputy Clerks when the Clerk was away.
- (b) Ministers would not be requested but required to appear before Committees.
- (c) Summons by Committees would be addressed to Ministers and Permanent Secretaries.
- (d) Funds for Departments Committees would be divided equally between the Committees after which each Committee would be at liberty to plan for visits whether within or outside Kenya depending on what the funds were able to cater for.
- (e) In nominating Members to attend international conferences all Committee Members would be given equal preference depending on the relevance of issues to be discussed.
- (f) Committees were free to solicit for funds to cater for travelling.
- (g) Members of the Liaison Committee proposed that Committee Sitting allowance be increased from Kshs.3,000 to Kshs.10,000.



2. **The Kenya Meat Commission (KMC)**

The Committee once again reiterated its concern over the assets of KMC especially the holding grounds in Athi-River and Mombasa.

3. **Consideration Estimates by Committees**

Departmental Committees should look at Estimates of Ministries assigned to them at all stages because Parliament being the people's representative should decide on the priorities for this country. This chairman was asked to forward this proposal to the Liaison committee.

4. **Executive interference in Committee Affairs**

Should be stopped and resolution by Parliament should not be overruled by the Executive.

MIN.NO.160/99

ADJOURNMENT

And the time being Five O'clock, the Chairman adjourned the Sitting until Wednesday, September 15, 1999 at 2.30 p.m.

CONFIRMED
HON. JOSEPH MUNYAO, M.P.
(CHAIRMAN)

DATE
8TH NOVEMBER, 1999



MINUTES OF THE THIRTY EIGHTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN CONFERENCE ROOM, FIRST FLOOR, COUNTY HALL, ON WEDNESDAY, SEPTEMBER 15, 1999 AT 2.30 P.M.

PRESENT

The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
The Hon. Daniel L. Khamasi, M.P.
Dr. the Hon. Odongo Omamo, M.P.
The Hon. Joseph K. Munyao, M.P.
The Hon. Abdi M. Galgalo, M.P.
The Hon. Mohamed Shidiye, M.P.
The Hon. Molu G. Shambaro, M.P.
The Hon. John K. Sambu, M.P.

ABSENT

The Hon. Ali I. Shaaban, M.P.
The Hon. Peter N. Ndwiga, M.P.
The Hon. David W. Murathe, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mrs. Sarah Kioko - Third Clerk Assistant

MIN.NO.161/99

CONSIDERATION OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL, 1999

CLAUSE 37 National Environment Action Plan Committee

37(2) The Committee should meet after every two and not five years.

CLAUSE 42 Protection of rivers, lakes and wetlands

42(2) Minister should act in consultation with the Communities affected.

42(3) Offence should be defined and punitive measures clearly specified.



CLAUSE 43 Protection of traditional interests

Minister should act in consultation with the Communities affected.

CLAUSE 44 Protection of hilltops, hillsides, mountain areas and forests

This clause should not be limited to topography only. Other features of environment such as rivers should be considered.

Minister to explain "**lead agencies**" appearing in the second line.

CLAUSE 45 Identification of hilly and mountainous areas

45(1) should encompass other features of environment such as rivers.

45(2) should be considered taking into account other Acts especially those related to agriculture so as to ensure they do not conflict.

45(3) and (4) should encompass all areas at the risk of environmental degradation.

CLAUSE 46 Reforestation and afforestation of hilltops, hillslopes and mountain areas

4(1) should not be restricted to hilly areas but should cover all areas, which require afforestation and or reforestation.

CLAUSE 47 Other measures for management of hilltops, hillsides and mountain areas

Should encompass all areas prone to environmental degradation.



CLAUSE 48 Protection of forests

48(2) indigenous communities should be specified, and local people should through the District County Councils be involved in whatever action is being taken on their land and environment.

CLAUSE 51 Conservation of biological resources in *Situ*

In prescribing measures to ensure conservation, local communities should be involved.

CLAUSE 54 Protection of environmentally significant areas

Clause found to be narrow and therefore should be expanded.

CLAUSE 55 Protection of the Coastal zone

55(2) local people should be consulted and not just lead agencies.

55(5) care should be taken to guard against dumping by multi-national companies. The fine of Kshs.1million would therefore be too lenient. It should be increased. The imprisonment period of two years is also too short unless the offender would pay both the fine and be imprisoned at the same time.

CLAUSE 56 Protection of the Ozone layer

Minister should brief the Committee on measures already in place to protect the ozone layer.

MIN.NO.162/99

ANY OTHER BUSINESS

1. Government policy on removing the water-hyacinth from Lake Victoria

The Committee would summon the Minister for Environment to explain this.



The Committee would consult with Members of Parliament from Lake Region over the hyacinth issue and make their (committee) decision known publicly.

2. **Other issues the Committee would want to investigate**

- (a) The status of KMC assets
- (b) Policy on sand harvesting
- (c) Effects of cement production in Mazeras - Coast Province.

3. **Tours by the Committee**

The Chairman was send to the Liaison Committee to press on the urgency of necessity to visit certain areas of interest to the Committee.

MIN.NO.163/99

ADJOURNMENT

And the time being thirty minutes past Five O'clock, the Chairman adjourned the sitting until Thursday, September 16, 1999 at 9.00 a.m.

HON. JOSEPH MUNYAO, M.P.

CONFIRMED:
(CHAIRMAN)

8TH NOVEMBER, 1999

DATE



MINUTES OF THE THIRTY NINTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN CONFERENCE ROOM, FIRST FLOOR, COUNTY HALL, ON THURSDAY, SEPTEMBER 16, 1999 AT 9.00 A.M.

PRESENT

The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
The Hon. Daniel L. Khamasi, M.P.
Dr. the Hon. Odongo Omamo, M.P.
The Hon. Joseph K. Munyao, M.P.

ABSENT

The Hon. Abdi M. Galgalo, M.P.
The Hon. Mohamed Shidiye, M.P.
The Hon. Molu G. Shambaro, M.P.
The Hon. John K. Sambu, M.P.
The Hon. Ali I. Shaaban, M.P.
The Hon. Peter N. Ndwiga, M.P.
The Hon. David W. Murathe, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mrs. Sarah Kioko - Third Clerk Assistant

MIN.NO.164/99

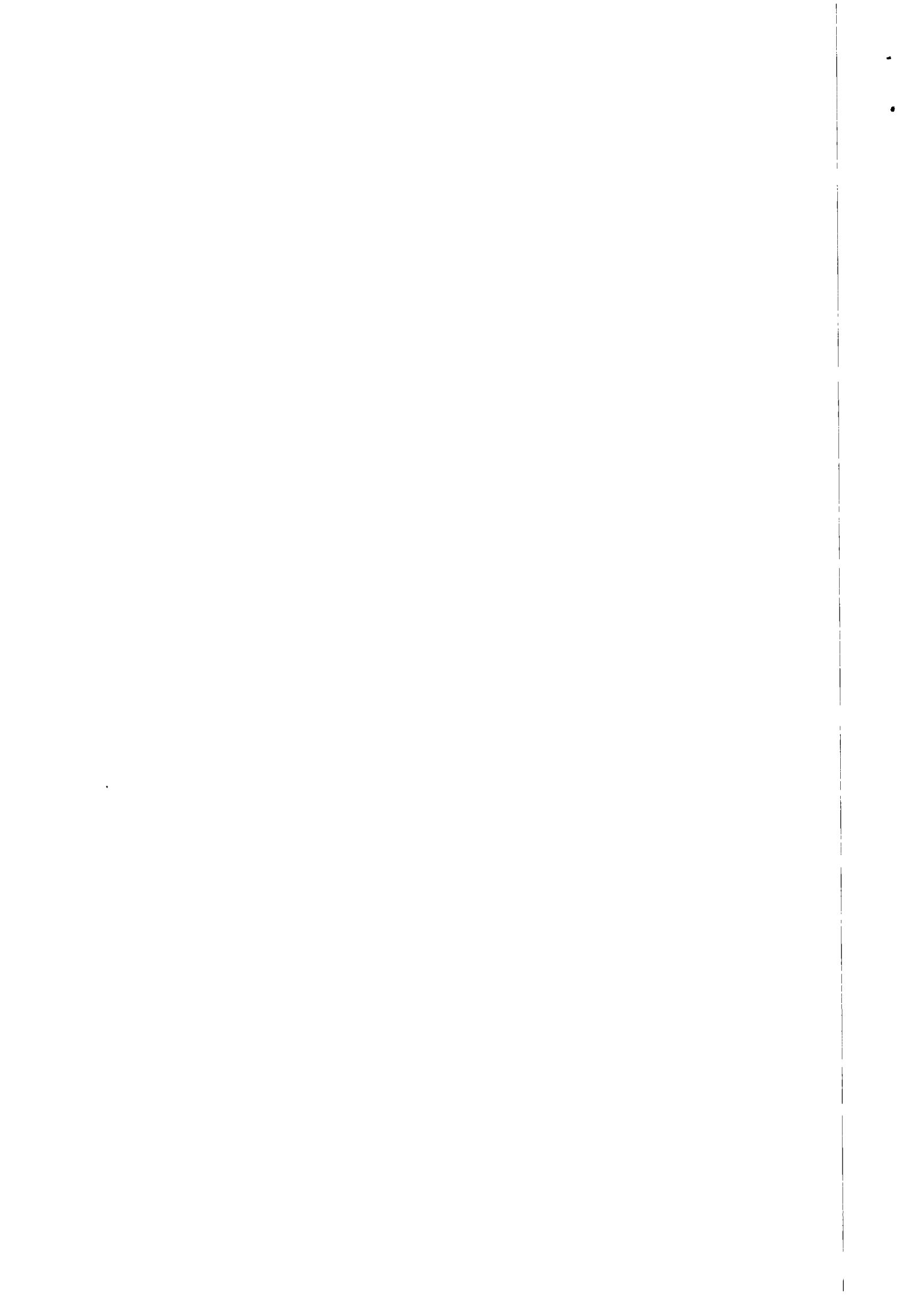
CONSIDERATION OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL, 1999

CLAUSE 58 Application for an Environmental Impact Assessment Licence

58(6) Fees required from experts wishing to be authorised to undertake Environmental Impact Assessment should be specified.

58(8) The sixth month period is too long. The Committee proposed that it be shortened to three months.

58(9) The Committee proposed six instead of nine months.



CLAUSE 59 Publication of Environmental Impact Assessment

59(1)(d) A time limit of ninety day is too long. The Committee proposed sixty days instead.

CLAUSE 64 Submission of fresh Environmental Impact Assessment report after Environmental Impact Assessment Licence issued

64(2) Punitive measures for those guilty of an offence should be specified.

CLAUSE 65 Transfer of Environmental Impact Assessment Licence

65(2) Notification should be made before transferring licence.

CLAUSE 66 Protection in respect of an Environmental Impact Assessment Licence

66(1) Minister to explain why the Government should not take responsibility for mistakes resulting from issuance of licences.

CLAUSE 70 Establishment of a Standards and Enforcement Review Committee

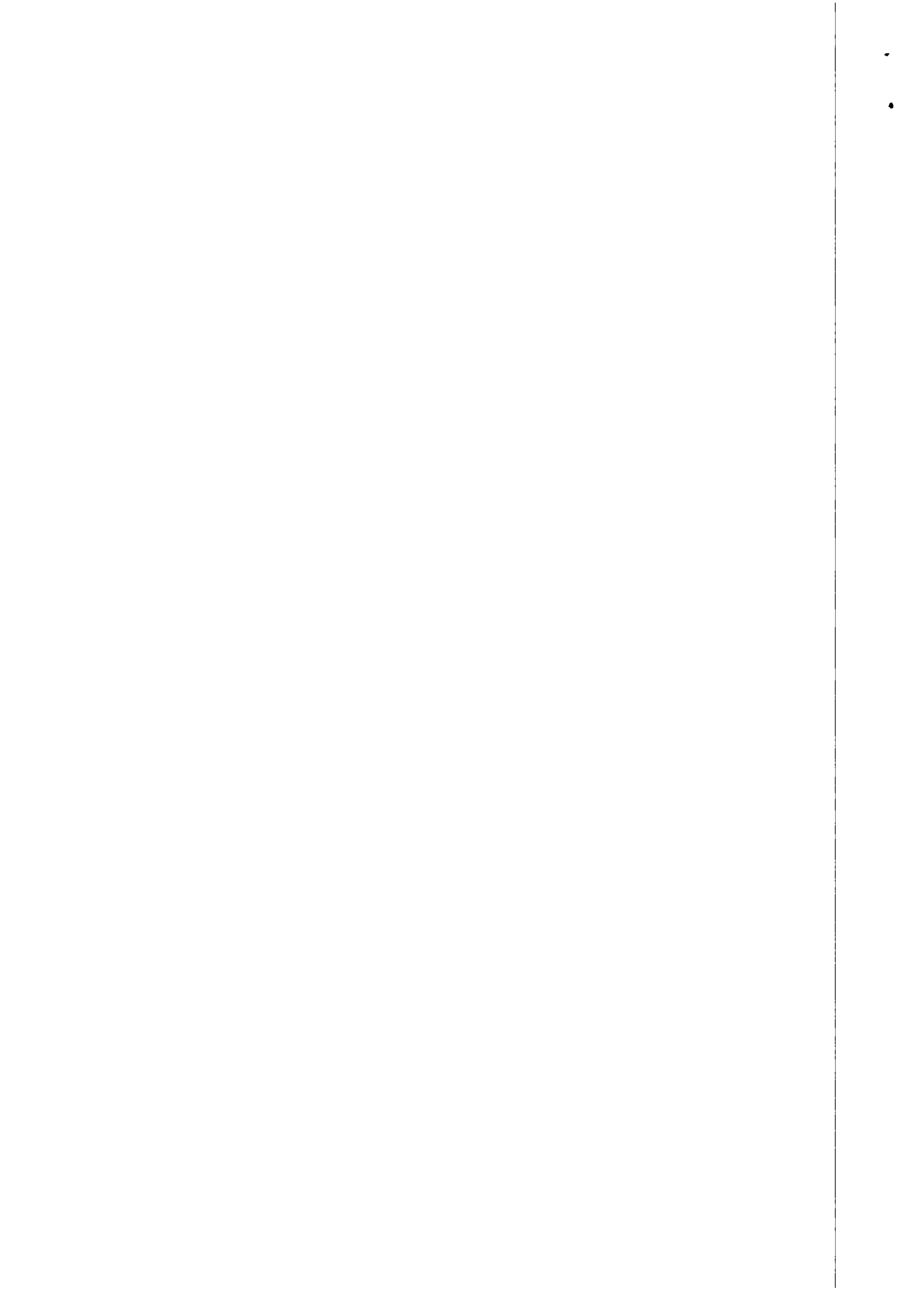
70(3) Minister to explain why the Permanent Secretary should be Chairman of the Committee.

CLAUSE 71 Functions of the Standards and Enforcement Review Committee

71(e) Insert the word "**flora**" between the words "**beings**" and "**fauna**" appearing in the third and last lines respectively.

CLAUSE 72 Water Pollution prohibition

72(1) Delete the words "**not exceeding**" appearing in the ninth line.



CLAUSE 78 Air quality standards

78(2) The Committee felt that the punishment stated would not be enough.

CLAUSE 90 Court orders to cease operation

The Committee proposed that provision be made for aggrieved parties to petition in case the Authority fails to take action on persons polluting the environment.

MIN.NO.165/98

ANY OTHER BUSINESS

1. Absenteeism, lateness and short appearances

The Committee noted that a number of Members had formed the habit of not attending sittings at all, coming late or appearing shortly and then vanishing.

The Committee therefore recommended that this problem be addressed by the House.

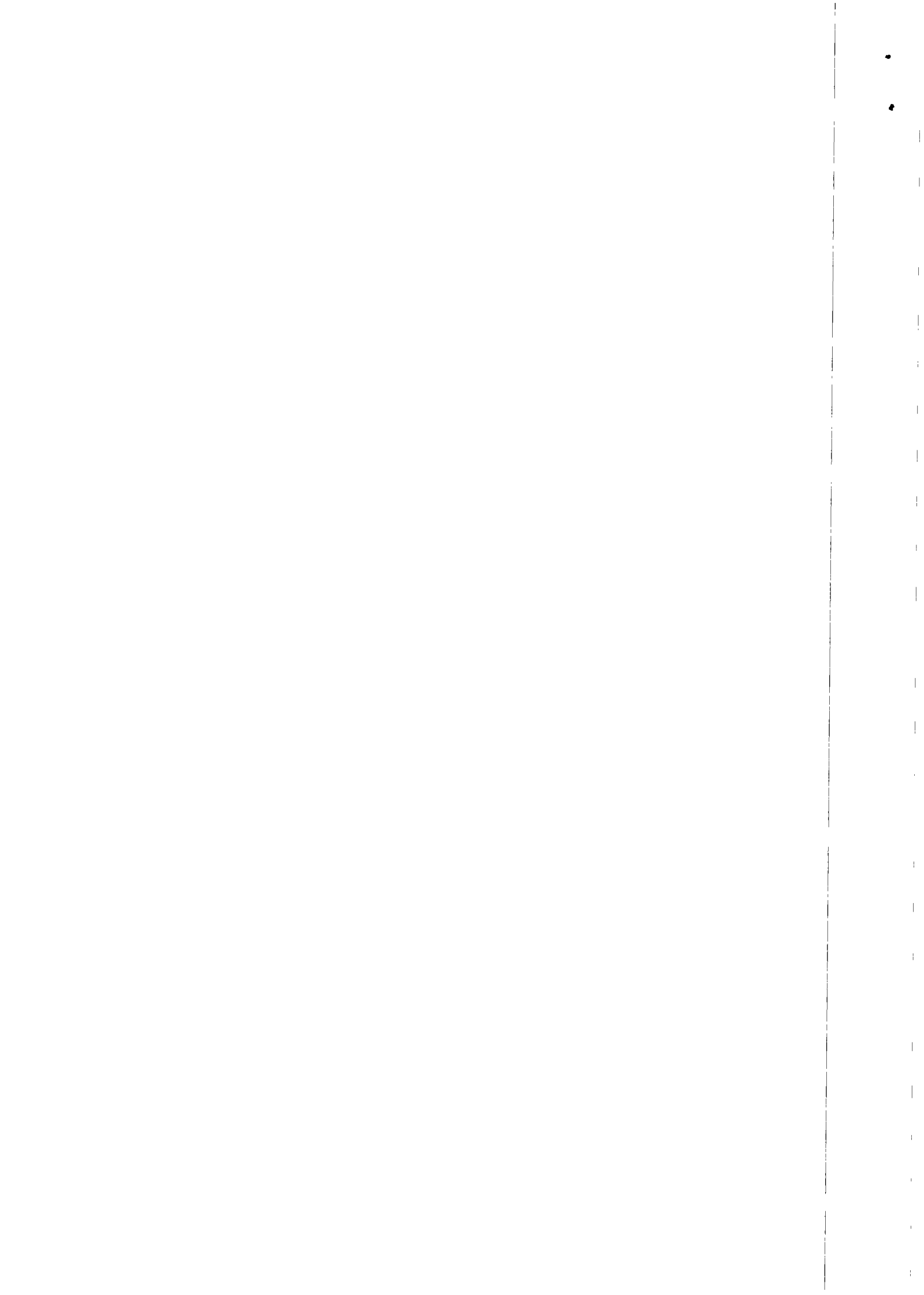
The Committee proposed that Members who failed to take Committee work seriously be replaced.

The Chairman was asked to convey the sentiments of the Committee to the Members in question before taking any action on them.

2. Government policy on the removal of water hyacinth

The Minister for Environment should be summoned to appear before the Committee on Wednesday, September 29, at 10.00 a.m to explain the procedure to be used to remove the water hyacinth and its impact on environment.

Representatives of the Company awarded the tender to remove the weed should accompany him to the Committee.



MIN.NO.166/98

ADJOURNMENT

And the time being Eleven O'clock, the Chairman adjourned the sitting until Wednesday, September 22, 1999 at 2.30 p.m.

HON. JOSEPH MUNYAO, M.P.
CONFIRMED:
(CHAIRMAN)

8TH NOVEMBER, 1999
DATE



MINUTES OF THE FORTIETH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN CONFERENCE ROOM, FIRST FLOOR, COUNTY HALL, ON WEDNESDAY, SEPTEMBER 22, 1999 AT 2.30 P.M.

PRESENT

The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
The Hon. Daniel L. Khamasi, M.P.
Dr. the Hon. Odongo Omamo, M.P.
The Hon. Joseph K. Munyao, M.P.
The Hon. Abdi M. Galgalo, M.P.
The Hon. Mohamed Shidiye, M.P.
The Hon. Molu G. Shambaro, M.P.
The Hon. John K. Sambu, M.P.

ABSENT

The Hon. Ali I. Shaaban, M.P.
The Hon. Peter N. Ndwiga, M.P.
The Hon. David W. Murathe, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Sarah Kioko - Third Clerk Assistant

MIN.NO.167/99

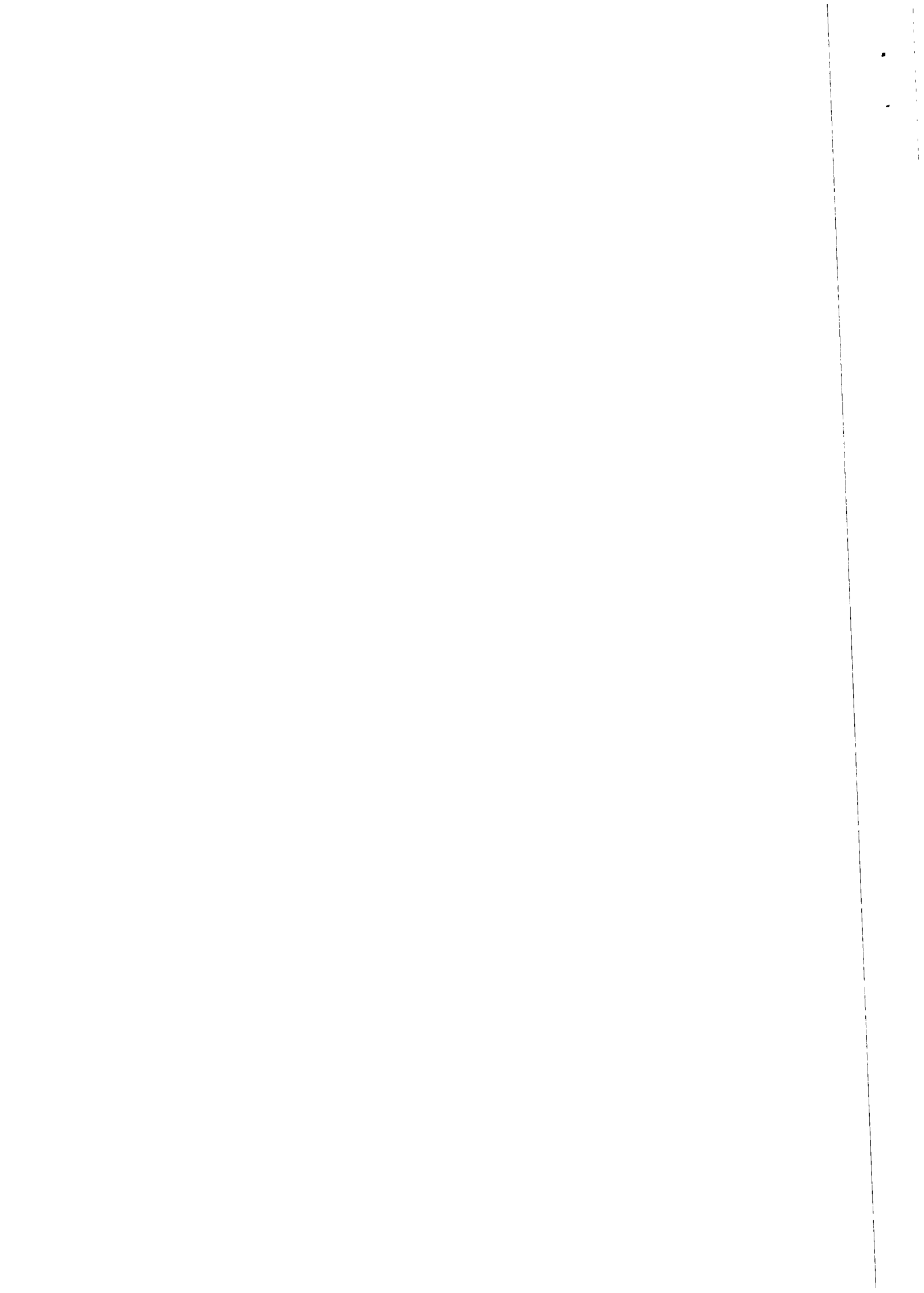
CONSIDERATION OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL, 1999

CLAUSE 95 Application for registration of pesticides and toxic substances

Minister to explain whether donated pesticides are covered under this section.

CLAUSE 97 Registration of pesticides and toxic substances

Committee proposed that this clause be compared with the standards of the Pests Control Board to ensure conformity between the two.



CLAUSE 98 Offences relating to pesticides and toxic substances

98(1)(a) labelling should be in English and letters or digits large/bold enough to be easily legible. Expiry dates should be clearly shown.

CLAUSE 99 Seizure of pesticides and toxic substances

Minister to explain whether the role of the Authority conforms with that of the Pests Control Board.

CLAUSE 101 Standard for noise

101(a) and (c)

When recommending minimum standards for vibration pollution areas within the Rift Valley, such as Nakuru Town, where emission of sub-sonic vibration could occur naturally due to the nature of base rock should be taken into account.

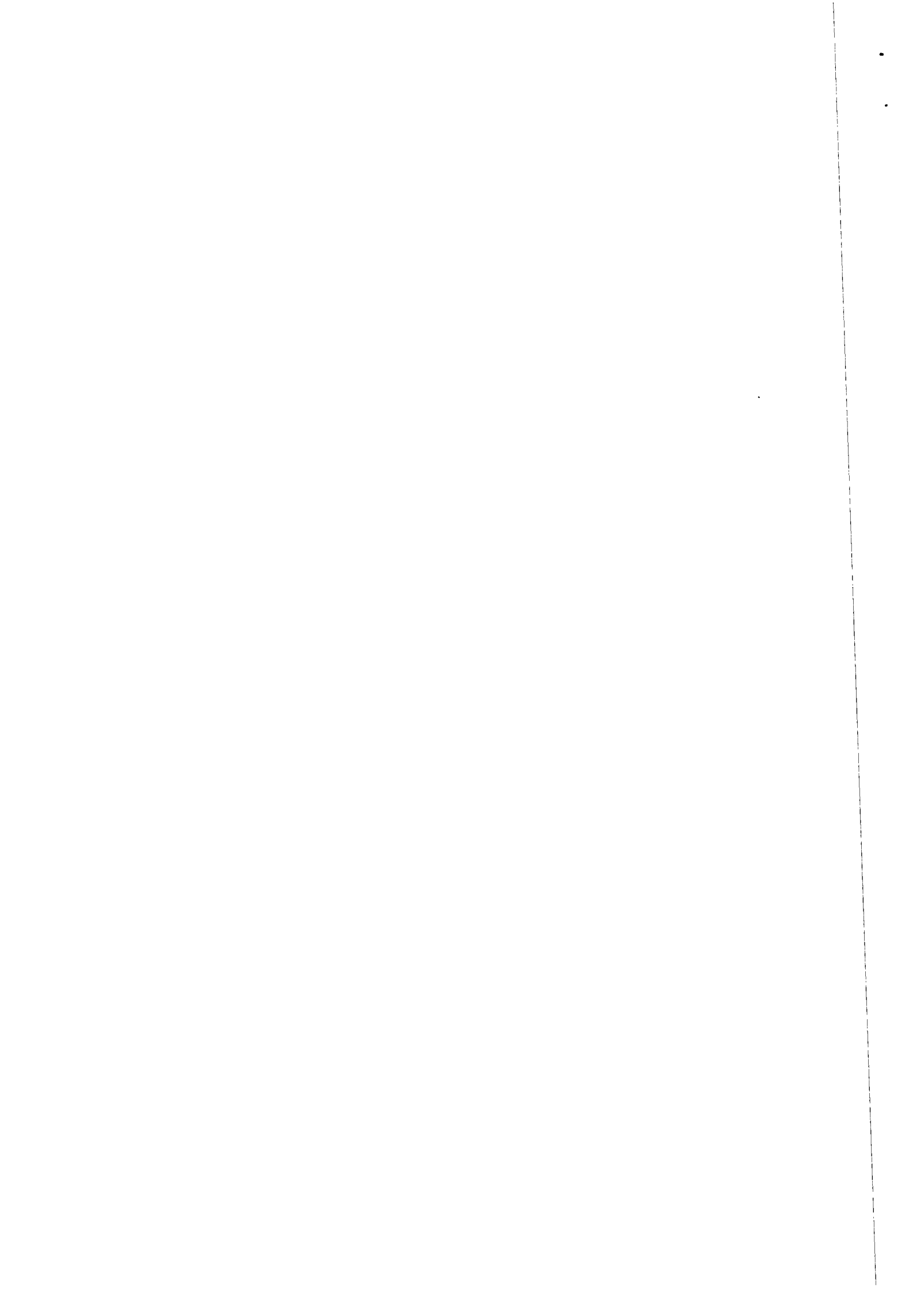
CLAUSE 103 Exemptions in respect of noise Standard

103(1) The three months period is too long a duration to allow emission of noise in excess of established standards.

Minister to explain why such a long period should be allowed.

CLAUSE 104 Standards for ionising and other radiation

The Committee proposed that the Export Processing Zones Act be harmonised with this clause and that sections of the Act which were not in conformity with the clause be repealed.



CLAUSE 105 Powers of inspectors relating to ionising radiation

The Committee noted with concern that radio-active materials were being smuggled into the country and proposed that inspection should be intensified.

The Committee recommended severe punitive measures be meted on persons found handling radio-active materials illegally.

CLAUSE 106 Offences relating to ionising radiation

106(1) The five hundred and fifty thousand shillings fine and two year imprisonment period is not punitive enough. Both fine and imprisonment term should be increased.

Offences should also be specified and fines varied so that for instance a person caught handling X-ray material illegally is not treated the same as one caught with dangerous ores.

CLAUSE 107 Standards for the control of noxious smells

There should be specific penalties for persons carrying out activities which cause noxious smells.

CLAUSE 108 Issues of Environmental Restoration Orders

108(1) All bodies which emit effluence should be included under this section. Industries, Companies and Local Authorities should be covered under this clause. If effluence is not properly disposed off, punitive measures should be taken on such bodies.

This section of the Bill should be made compatible with Local Authority by-laws, and the Bill harmonised with the Local Authorities Act.



CLAUSE 109 Contents of Environmental Restoration Orders

There should be a section under this clause which covers industries, companies and local authorities or any body or group of people which can cause pollution. The Preamble should also reflect this.

CLAUSE 110 Reconsideration of Environmental Restoration Orders

110(1) All bodies that cause pollution should be included under this sections.

110(2) Lengthening of litigations should be avoided.

CLAUSE 112 Environmental easements and environmental Conservation Orders

Minister to define "environmental easements".

MIN.NO.168/98

ANY OTHER BUSINESS

1. **Meeting with the Minister for Environment**

The meeting was rescheduled for Monday September 27, 1999 at 2.30 p.m.

MIN.NO.169/98

ADJOURNMENT

And the time being fifty minutes past Four O'clock, the Chairman adjourned the sitting until Thursday, September 23, 1999 at 2.30 p.m.

HON. JOSEPH MUNYAO, M.P.

CONFIRMED:
(CHAIRMAN)

8TH NOVEMBER, 1999

DATE



MINUTES OF THE FORTY-FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN CONFERENCE ROOM, FIRST FLOOR, COUNTY HALL, ON THURSDAY, SEPTEMBER 23, 1999 AT 2.30 P.M.

PRESENT

The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
The Hon. Daniel L. Khamasi, M.P.
Dr. the Hon. Odongo Omamo, M.P.
The Hon. Joseph K. Munyao, M.P.
The Hon. Mohamed Shidiye, M.P.

ABSENT

The Hon. Abdi M. Galgalo, M.P.
The Hon. Molu G. Shambaro, M.P.
The Hon. John K. Sambu, M.P.
The Hon. Ali I. Shaaban, M.P.
The Hon. Peter N. Ndwiga, M.P.
The Hon. David W. Murathe, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Sarah Kioko - Third Clerk Assistant

MIN.NO.170/99

CONSIDERATION OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL, 1999

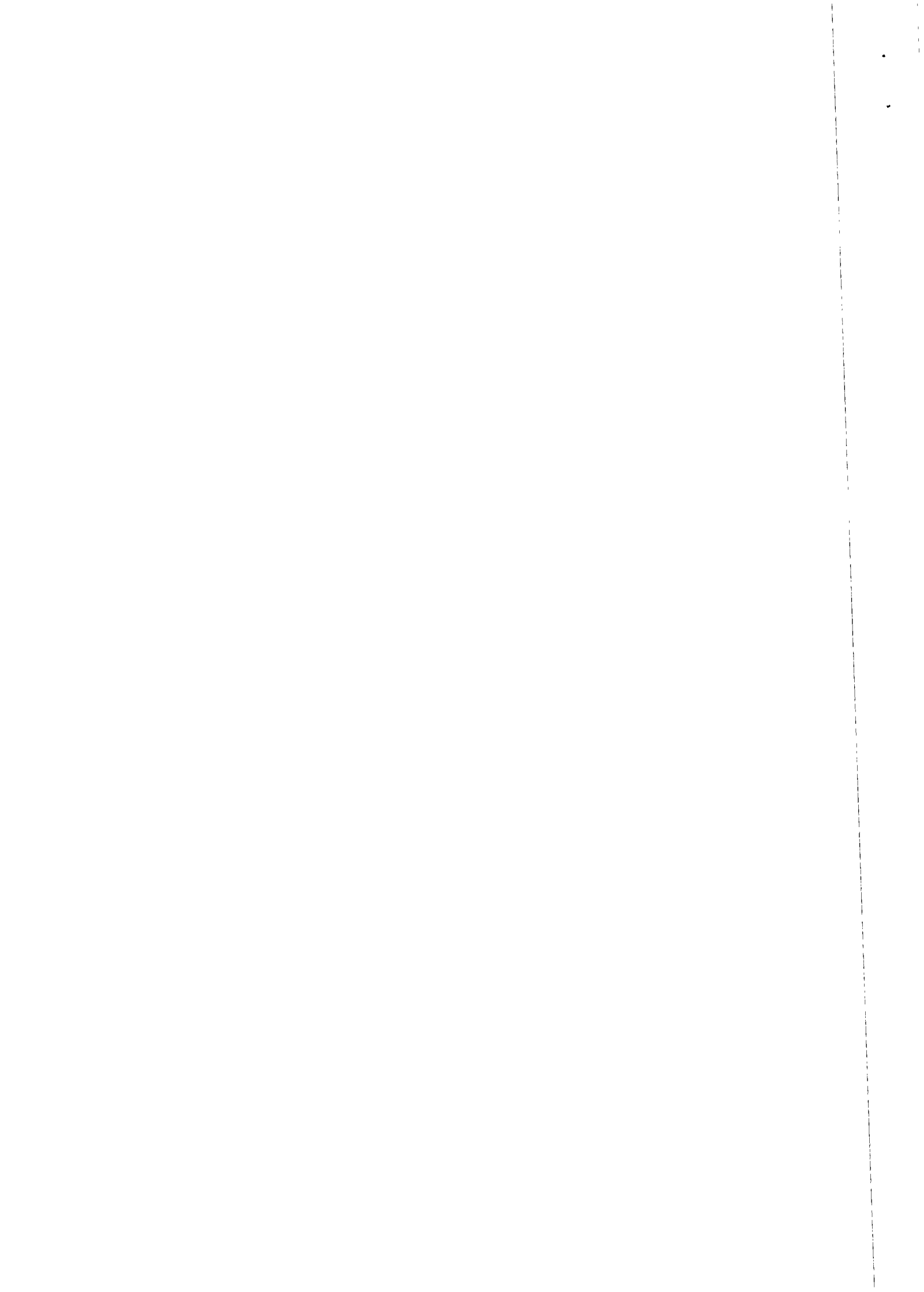
CLAUSE 116 Consideration for environmental easements

Compensation should be based on current market value of land in the affected areas.

CLAUSE 117 Appointment of Environmental Inspectors

117(1) Delete the words "**whether**" and "**or by title of office**" appearing in the second and third lines respectively.

Appointment should be by name and not by title of office to ensure only qualified persons are appointed. Qualifications should be specified.



CLAUSE 118 Environmental Inspector's powers to prosecute

Minister to explain why directions and control of the Attorney General are required.

118(b) Minister to explain why the Attorney Generals' approval should be sought.

CLAUSE 125 Establishment of the National Environment Tribunal

125(a) Chairman should at the time of appointment hold or have held the rank of a High Court Judge and should be well versed with environmental laws.

125(d) Lead agencies to nominate and not Minister to appoint.

CLAUSE 126 Proceedings of the Tribunal

126(1) Minister to explain "rules of evidence".

CLAUSE 127 Awards of the Tribunal

127(2)(e) punitive measures should be spelt out.

CLAUSE 141 Offences relating to hazardous wastes, materials, chemicals and radioactive substances

Delete the words "one million" and "or" appearing in second and third lines respectively and insert the words "ten million" and "and" in the respective lines, on page 334.

MIN.NO.171/98

ANY OTHER BUSINESS

Retreat at Lake Elementaita

The Committee resolved to hold two day retreat to discuss the Bill on Environmental Management and Co-ordination with experts on Friday, October 15 and Saturday, October 16, 1999. Departure time from Parliament Buildings would be Thursday, October 16, 1999 at 4.00 p.m and coming back to Nairobi from the retreat would be on Sunday, October 17, 1999.



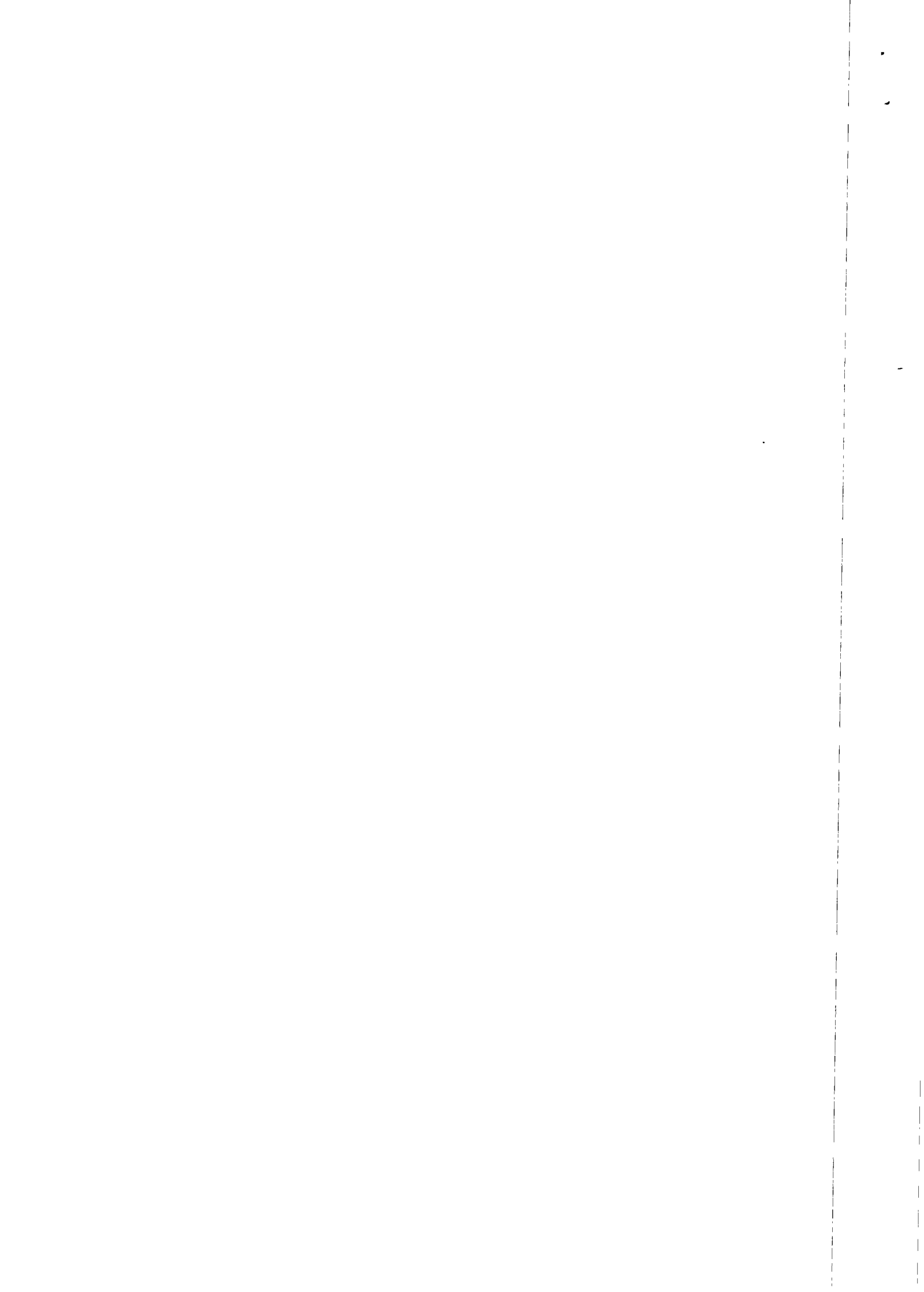
The Secretariat was asked to make all the necessary arrangements for the retreat.

MIN.NO.172/98 ADJOURNMENT

And the time being twenty minutes past Four O'clock, the Chairman adjourned the sitting until Monday, September 27, 1999 at 2.30 p.m.

HON. JOSEPH MUNYAO, M.P.
CONFIRMED
(CHAIRMAN)

8TH NOVEMBER, 1999
DATE



MINUTES OF THE FORTY-FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN COMMITTEE ROOM, FIRST FLOOR, COUNTY HALL, ON THURSDAY, OCTOBER 28, 1999 AT 10.00 A.M.

PRESENT

The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
The Hon. Daniel L. Khamasi, M.P.
The Hon. John K. Sambu, M.P.
The Hon. Joseph Munyao, M.P.
The Hon Peter N. Ndwiga, M.P.
Dr.the Hon. Odongo Omamo, M.P.

ABSENT

The Hon. Ali I. Shaaban, M.P.
The Hon Abdi M. Galgalo, M.P.
The Hon. Molu G. Shambaro, M.P.
The Hon. David W. Murathe, M.P.
The Hon. Mohammed Shidiye, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. J.N. Bundi - Senior Clerk Assistant
Mrs S.Kioko - Clerk Assistant III

I. **MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES**

Mr. Kihumba F.N., Assistant Director - National Environment Secretariat; Ms. Consolata Kiragu, Environment Officer; Mr. S.K. Mugeru- H/RM

CENTRE FOR RESEARCH AND EDUCATION ON ENVIRONMENTAL LAW

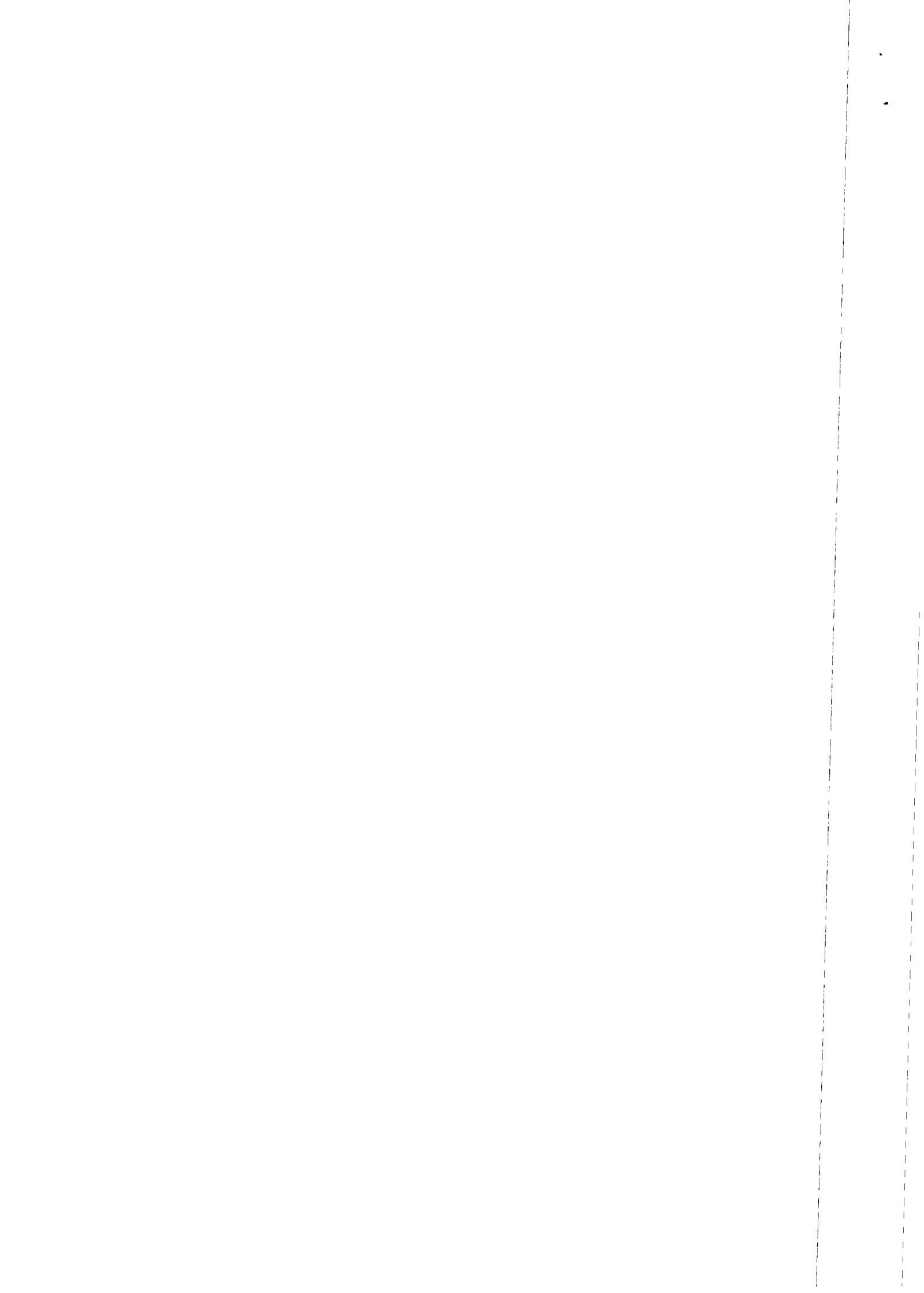
Dr. George Wamukoya - Executive Director
Mr. Julius Kemboy - Co-ordinator

NATURE KENYA

Ms. Fleur Ng'weno - Hon. Secretary

KENYA ASSOCIATION OF MANUFACTURERS

Mr. Peter Orawo - Environmental Consultant



KENYA TOURISM FEDERATION

Mr. David Onyango - Administration Manager

MIN.NO.182/99

DISCUSSION WITH INTEREST GROUPS ON THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL, 1999

The Committee received views on the Bill from representatives of various interest groups as follows:-

1. **CREEL, FACULTY OF LAW, UNIVERSITY OF NAIROBI**

CLAUSE 2 Interpretation

Definition of the terms:-

"Environment" - should encompass political environment besides physical dimension.

"Environmental Easement"

definition should have been included under interpretation.

"Environmental resources" - should include micro-organisms.

CLAUSES 4 - Establishment of the National Environment Council

4(1)(a) Minister should be Chairman since he is in charge of policy. In addition, as a Member of Parliament and the Cabinet, he is best placed to articulate matters of environment in both fora.

Besides, having the Minister as Chairman would not make Kenya the exception since several other Commonwealth countries such as the United Kingdom have a similar practice.

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There should be a provision specifying the quorum of the Council.

An agreement was reached between the Committee and all interest groups that the quorum be 50%+ 1 of the entire Council.

CLAUSES 7 Establishment of the National Environment Management Authority

The Authority will be an independent body with a sound legislative framework to enable it function effectively unlike the National Environmental Secretariat which is just a department with no legal authority and hence only relies on persuasion. The National Environment Secretariat will now be integrated within the Authority.

CLAUSES 9 Objects and Functions of the Authority

It was proposed that a new Sub-Clause 9(2)(r) be provided to cater for the inclusion of environmental studies in the school curriculum right from primary school.

CLAUSE 10 Membership of the Authority

There should be a provision specifying whom the director General is answerable to.

A board could, for instance, be constituted under the National Environment Management Authority with the approval of the National Environment council, so that the Director becomes answerable to such a board. The powers of such a board should be defined to ensure it is strong enough to control the Director.

10(1)(b) President should appoint Directors with the advice of the Board in consultation with the Public Service Commission.

10(3) Term of office should be restricted to two terms of four years.



10(9)(10) and (11) President should act on the advice of the Board.

The advisory role of the Board should not be construed as being mandatory.

CLAUSE 14 Remuneration of Director-General and directors

Salaries and allowances should be determined by the Board and not the President.

CLAUSE 16 Staff of the Authority

Appointment of Officers or other staff should be by the Board in consultation with the Public Service Commission.

CLAUSE 29 Provincial and District Environmental Committee

29(2)(a) The Chairman should be elected by the Committee and the Provincial Administration be part of the Committee membership i.e. for the purposes of capturing the political will.

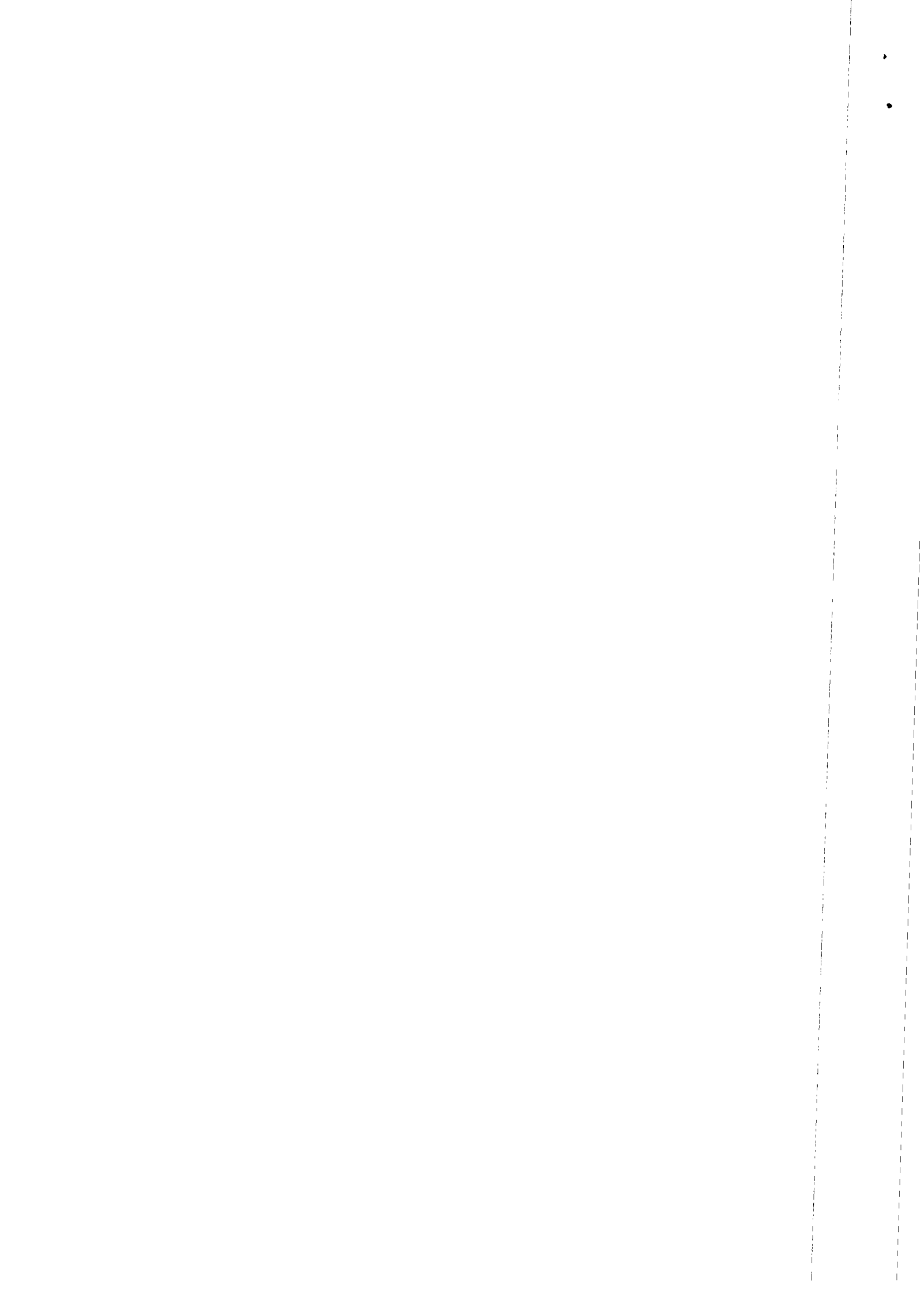
29(2)(g) Representatives of Community Based Organisations should be included to cater for areas where there are no Non-Governmental Organisations engaged in environmental management programmes.

CLAUSE 31 Public Complaints Committee

Composition of the Committee as constituted cannot guarantee public accountability. The number should be increased to either 7 or 9 with additional representation being from the private sector.

31(a) The Committee should elect its own Chairman who should not be the Attorney-Generals representative.

CLAUSE 32 Functions of the complaints



CLAUSE 32 Functions of the complaints Committee

32(a)(ii) insert the words "and the National Assembly" after the word Council appearing on the last line. This is because the National Assembly could be best suited as an enforcement agent of the findings of the committee; especially in issues where the council may have limited powers.

CLAUSE 37 National Environment Action Plan committee

37(1)(a) Permanent Secretary should be chairman since he/she chairs the National Planning Committee.

37(2) Committee should meet after every five years so as to ensure conformity with the national Development plan.

There should however be a provision to cater for emergencies/urgent matters, which cannot wait for five years.

CLAUSE 42 Protection of Rivers, Lakes, and Wetlands

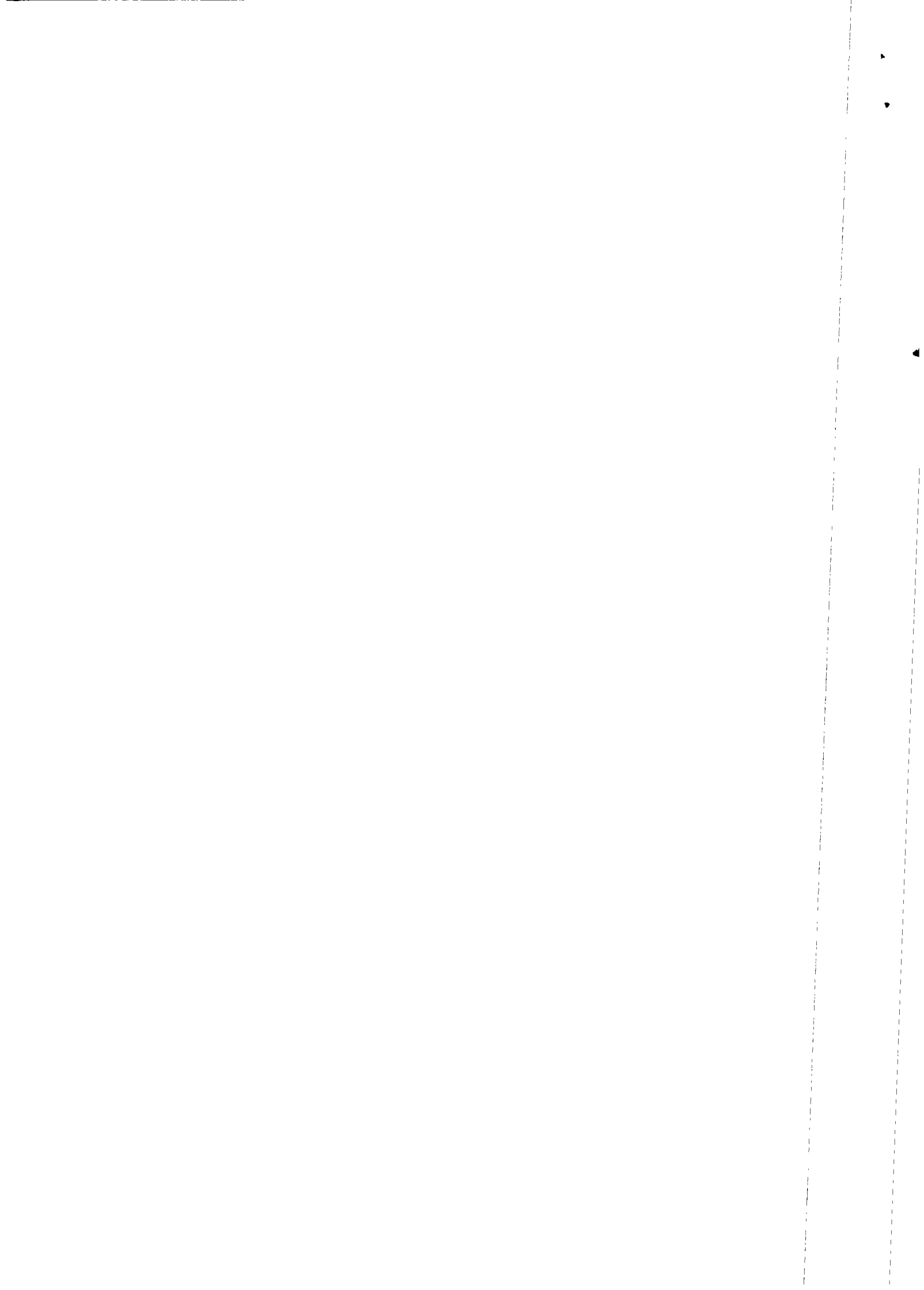
42(2) Rights of land owners may be curtailed by placing restrictions and limitations with regard to conservation without regard to the compensation for loss by proprietors.

CLAUSE 43 Protection of Traditional interests

Rights of priority should be recognised as in the Constitution (Section 75).

CLAUSE 48 Protection of Forests

48(1) Replace the words "with the approval of" appearing in the second line with the words "after consultation with". This is because the provision seems to elevate the Director of Forestry above the Director General whereas it should be the reverse.



CLAUSE 53 Access to Genetic Resources of Kenya

Ministry to provide guidance as to whom genetic resources belong. Are they owned by the Government or the land owners?

CLAUSE 55 Protection of the Coastal Zone

Ministry to define the Coastal Zone.

55(3) should conform with National Development plan which is five years.

CLAUSES 58 Application for an Environment impact Assessment Licence

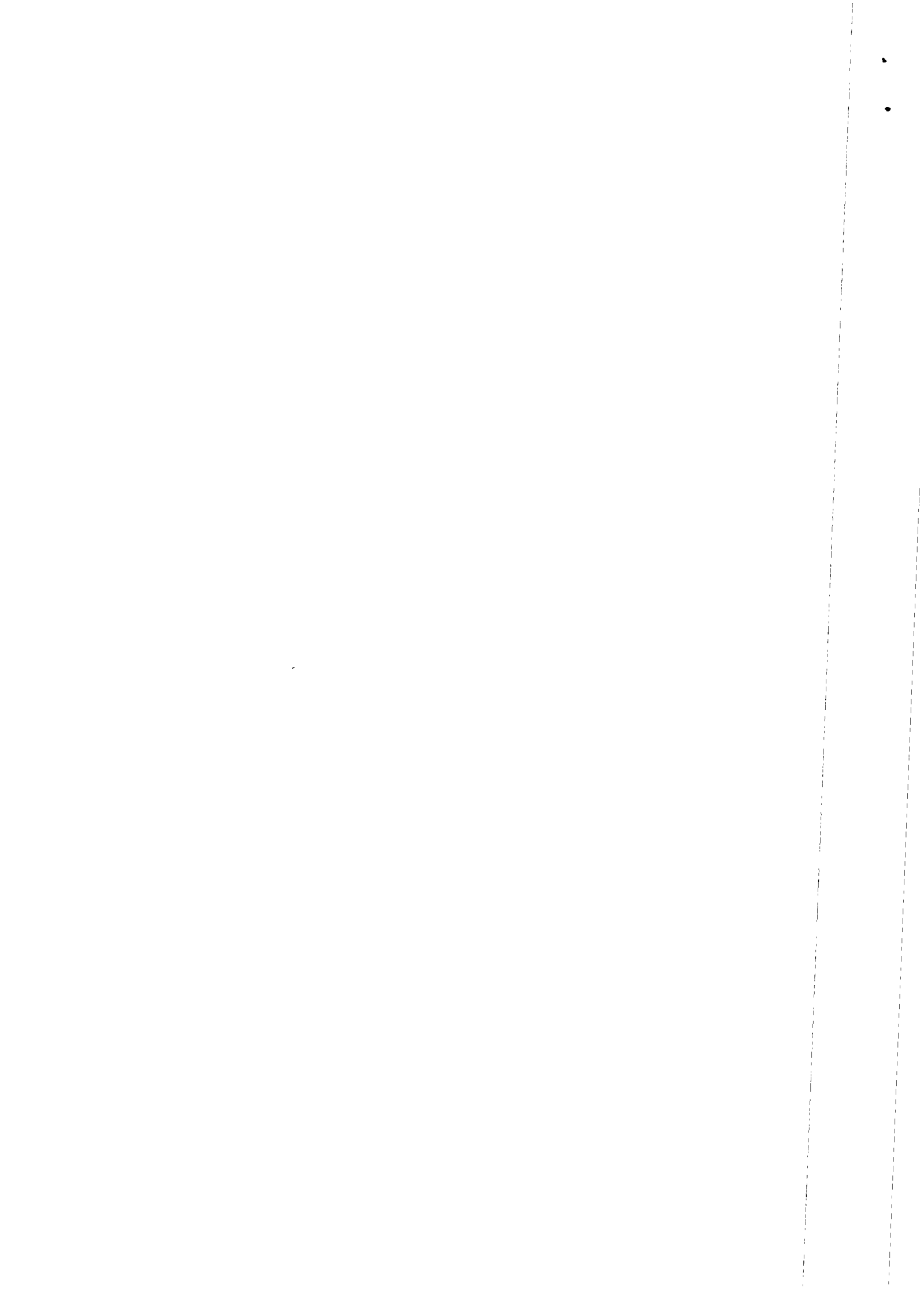
58(8) The period of six months is too long. It should be reduced subject to the Environment impact Assessment procedures.

58(9) Period should be reduced from nine to three months and the Environmental Tribunal should after this period give an order to the person allowing him to proceed with the project if the Director General does not respond.

2. NATURE KENYA

CLAUSE 4 Establishment of the National Environment Council

Membership should be drawn majorly from the private sector hence Government representative should be reduced. The following groups should be represented professional associations, investment promotion centres which environment friendly, scientific societies such as the society of chemists/physics, locally based international institutions, such as ICIPE, which does not fall under the NGO category, prominent personalities not necessary attached to any group, representative of various communities such as the pastoralists etc.



CLAUSE 29 Provincial and District Environment Committees

Composition of Committees should be similar to those of District Development Committees (DDC) and the chairman should be an environmentalist appointed by the Council and not by the provincial administration. The Secretary should be a staff member of the Authority and the provincial Environmental officer should be a member. Membership should also have representatives of the scientific societies, higher learning institutions, research institutions, women and youth groups.

3. THE KENYA ASSOCIATION OF MANUFACTURERS (KAM)

Clause 4 Establishment of the National Environment Council

KAM should have two representatives and the Federation of Kenya Employers should also be represented and so should oil industries.

CLAUSE 31 Public Complaints Committee

31(1)(d) KAM should have their own representative without being lumped together with the business community.

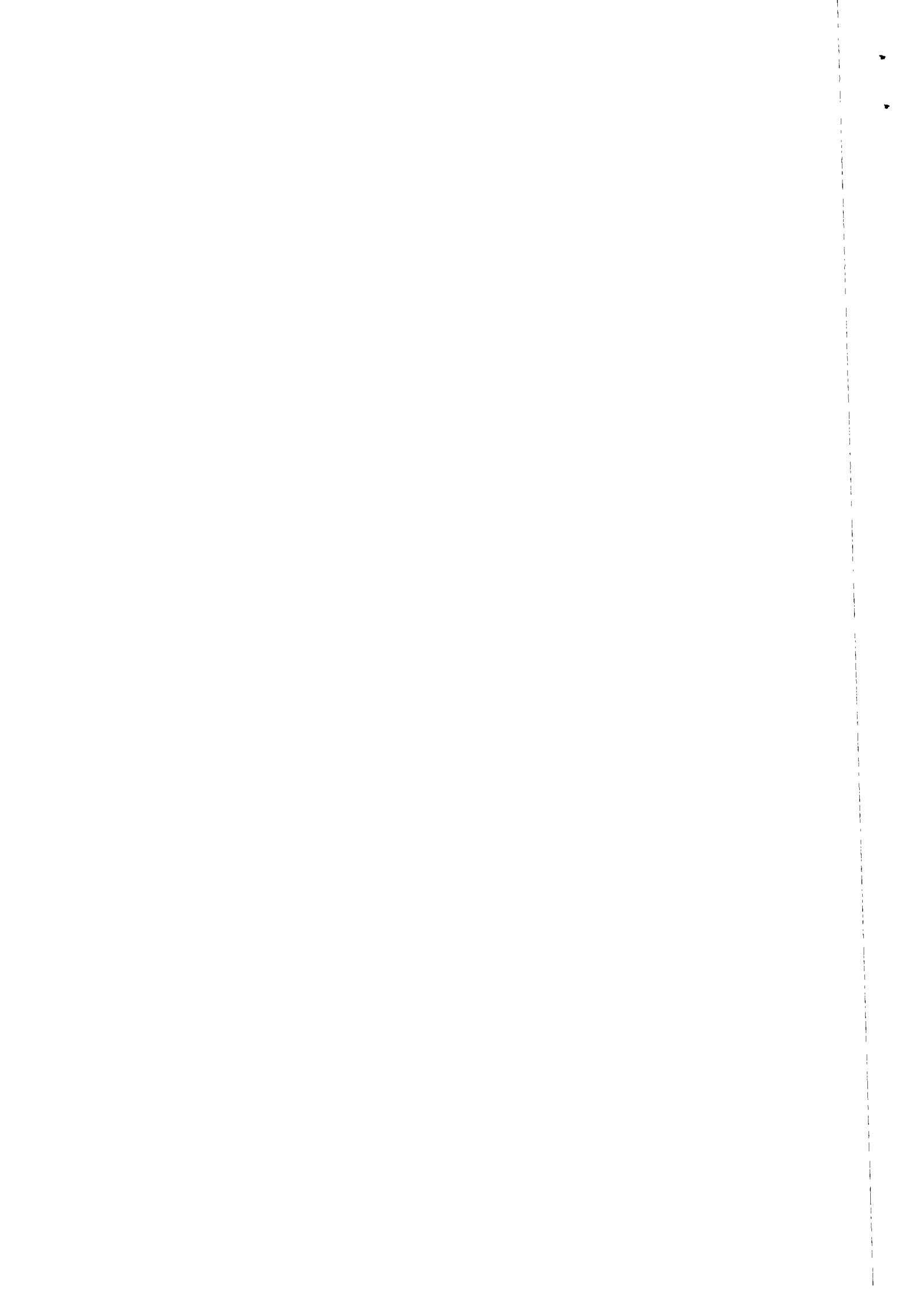
Environmental Impact Assessment (Part VI)

Only qualified persons should carry out Environmental impact Assessment.

4. KENYA TOURISM FEDERATION (KTF)

CLAUSE 4 Establishment of the National Environment council

KTF should have representation in the Council for the purposes of promoting tourism interests in order to ensure sustainable tourism.



5. **GENERAL OBSERVATION**

All groups were in favour of the Bill and they requested that it be passed quickest possible.

MIN.NO.183/99

ANY OTHER BUSINESS

1. **Punctuality**

Members should avoid lateness, to meetings, and take Committee work seriously.

2. **Inconveniences as a result of unavailability of meeting rooms**

Committee to consult with the Clerk over this matter.

MIN.NO.184/99

ADJOURNMENT

And the time being thirty minutes past one O'clock, the chairman adjourned the sitting until Monday, November 01, 1999 at 12.00 noon.

CONFIRMED
(CHAIRMAN)

DATE



MINUTES OF THE FORTY-SIXTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN COMMITTEE ROOM, FIRST FLOOR, COUNTY HALL, ON MONDAY, NOVEMBER 01, 1999 AT 2.30 P.M.

PRESENT

The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
The Hon Peter N. Ndwiga, M.P.
The Hon. Daniel L. Khamasi, M.P.
The Hon. Joseph Munyao, M.P.
The Hon Mohammed Shidiye, M.P.
Dr.the Hon. Odongo Omamo, M.P.

ABSENT

The Hon. Ali I. Shaaban, M.P.
The Hon Abdi M. Galgalo, M.P.
The Hon. Molu G. Shambaro, M.P.
The Hon. John K. Sambu, M.P.
The Hon. David W. Murathe, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

The Hon. Alfred Nderitu, M.P.	-	Member for Mwea
Mr. J.N. Bundi	-	Senior Clerk Assistant
Mrs S.Kioko	-	Clerk Assistant III

CREEL - FACULTY OF LAW, UNIVERSITY OF NAIROBI

Dr. George Wamukoya
Mr. Julius Kemboy

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

Ms. Consolata Kiragu	-	Environment Officer
Mr. Julius Ithagu	-	Environment Officer

MOMBASA AND COAST TOURIST ASSOCIATION

Mr. K.R. Sondhi	-	Hotel Keepers Association
Mr. Reuben Vincent Mugo	-	Advisor

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NATURE KENYA

Ms. Fleur Ngweno - Hon. Secretary

KENYA ASSOCIATION OF MANUFACTURERS

Mr. Peter Orawo - Consultant

KENYA TOURISM FEDERATION

Mr. David Onyango - Administration Manager

MIN.NO.184/99

**DISCUSSIONS WITH INTEREST GROUPS ON
THE ENVIRONMENTAL MANAGEMENT AND
CO-ORDINATION BILL, 1999**

The Committee received views from the various interest groups as follows:-

1. **CREEL-FACULTY OF LAW, UNIVERSITY OF
NAIROBI**

CLAUSES 68 Environmental Audit

68(2) Environmental inspector should have a court warrant to enter upon any land or premises to guard against arbitrary searches.

CLAUSE 69 Environmental Monitory

69(2) should be amended to incorporate a court warrant.

**CLAUSE 70 Establishment of a Standards and
Enforcement Review Committee**

There should be a provision specifying what the quorum of the Committee should be. It was agreed that the quorum should be 50% + 1 of the entire membership.



CLAUSE 125 Establishment of the National Environment Tribunal

125 (1)(a) Chairman should hold the rank of a judge.

General Observations

1. Definition of Lead Agencies should be provided.

2. Where do Regional Authorities fall? Are they Lead Agencies?

2. Petroleum Act should be amended to conform with the Bill.

2. **NATURE KENYA**

CLAUSES 68 Environmental Audit

There should be a provision empowering the Authority to require at any time a project to provide an environmental audit report.

3. **KENYA ASSOCIATION OF MANUFACTURERS**

CLAUSE 68 Environmental Audit

Prescribed form of inspection should be set out under regulations.

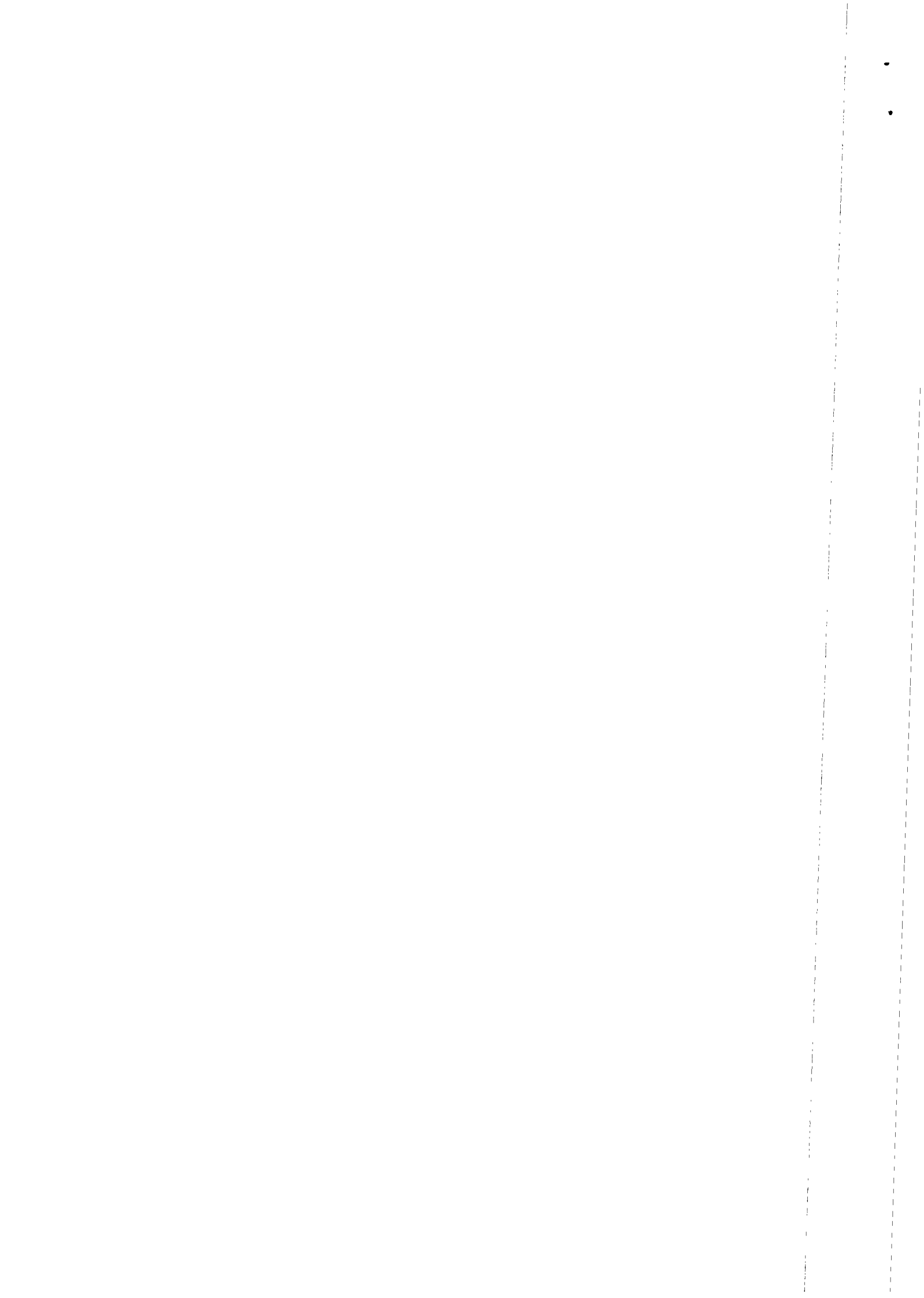
CLAUSE 2 Interpretation

A more detailed definition of "pollution" should be provided.

4 **MOMBASA AND COAST TOURIST ASSOCIATION**

The body expressed concern over the implementation of the Bill as it seemed too broad.

It requested for (at least) a period of six years to comply with the requirements of the Bill.



It was also of the view that the state should not shift what was its responsibility to the Association. As an example, it reasoned that collection of garbage, water pollution, effluence from fuel emissions should be tackled by the state and not the Hotel Industry.

It was particularly uncomfortable with Clause 74 which requires that effluents be discharged only into sewerage system and Clause 68 and 69 which permit inspection of premises.

The body was, nevertheless, given assurance that the Bill was not targeting the Hotel Industry and that many other countries had such legal framework in place. Examples such as Uganda, Zambia and South Africa were cited. The Bill was a framework setting principles on environmental standards. The body was further assured that the Minister for Environment would have powers to grant grace period to sectors needing a certain time frame to comply with the requirements of the Bill and nothing would be rushed.

NB. Written submissions by each group are available for perusal by the Committee

5. **REACTIONS FROM THE COMMITTEE**

(a) **Damage to Environment**

The Committee inquire about cases where the environment is threatened with damage due to one population as in refuges camps.

The Committee was informed that Clauses 116 provided for compensation in such instances.

(b) **Place of Religious Groups in the Bill**

Where do they fall especially since they play a key role in the lives of people.

(c) **Public Awareness**

Could measures be put in place to educate the public on environmental law and conservation.

MIN.NO.185/99

ANY OTHER BUSINESS

1. **Mwea Rice Skirmishes**

The Member of Parliament for Mwea, Hon. Alfred Nderitu, M.P. informed the Committee that the disputes at the Mwea Rice irrigation Schemes had not been settled. There were variations with regard to what the farmers owed the National Irrigation Board, with the Board claiming that it was owed over 300 million Kenya shillings and the farmers maintain that the figure was 99 million Kenya shillings.

2. **Meetings**

- (a) Monday, November 08, 1999, Committee to review submissions by the various interest groups on the Bill on Environment.
- (b) Thursday, November 11, 1999; Committee to discuss the Bill on Environment with the Minister for Environment.

MIN.NO.186/99

ADJOURNMENT

And the time being forty five minutes past five O'clock, the Chairman adjourned the sitting until Tuesday, November 02, 1999 at 10.00 a.m.

CONFIRMED
(CHAIRMAN)

DATE

MINUTES OF THE FORTY-NINTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES HELD IN COMMITTEE ROOM, FIRST FLOOR, COUNTY HALL, ON MONDAY, NOVEMBER 15, 1999 AT 1.00 A.M.

PRESENT The following Members of the Committee were present:-

The Hon. Wycliffe W. Osundwa, M.P. (**Chairman**)
Dr.the Hon. Odongo Omamo, M.P.
The Hon Peter Ndwiga, M.P.
The Hon. Daniel L. Khamasi, M.P.

ABSENT The Hon. Ali I. Shaaban, M.P.
The Hon. Mohammed Shidiye, M.P.
The Hon. David W. Murathe, M.P.
The Hon. John K.Sambu, M.P.
The Hon.Abdi M. Galgalo, M.P.
The Hon. Molu G. Shambaro, M.P.
The Hon. Joseph Munyao, M.P.

IN ATTENDANCE NATIONAL ASSEMBLY

Mr. J.N. Bundi - Senior clerk Assistant
Mrs S. Kioko - Clerk Assistant III

MIN.NO.197/99 MEETING WITH MINISTER FOR ENVIRONMENT

The Hon. Francis M. Nyenze, E.G.H., M.P. Minister for Environment appeared before the Committee accompanied by:- Dr. Mohammed Isahakia, Permanent Secretary; Mr. Mutiso, Deputy Secretary; Mr. F.Kihumba, Assistant Director/National Environment Secretariat, Mrs.J. Onyango, Senior Environment officer; Mr. C. Omondi, Electricity Regulatory Board; Dr.G. Wamukoya, Faculty of Law-University of Nairobi; Mr. D. Kinyanjui, Deputy Director/National Environment Secretariat and Mr. J.M. Nyegenye, Parliamentary Counsel, Attorney-General's Chambers.

The Chairman welcomed the Minister to the Committee at 11.00 a.m. and invited him to discuss the Environmental Management and Co-ordination Bill, 1999 with the Committee.



**DISCUSSION ON THE PROPOSED AMENDMENTS BY
THE COMMITTEE ON THE ENVIRONMENTAL
MANAGEMENT AND CO-ORDINATION BILL, 1999**

The Committee and the Minister deliberated on the Bill and agreed on the following amendments:-

CLAUSE 2- Interpretation

That definitions of the following terms be included in their proper alphabetical order;

"Burdened Land" - Means any land upon which an environmental easement has been imposed.

"Coastal zone" - means an area declared to be a coastal zone under section 55.

"Environmental Easement" - means an easement imposed under section 112.

"Environmental Resources" - Definition to include micro-organisms.

"Regional Development Authority" - means a regional development authority established under as Act of Parliament.

CLAUSE 4 The National Environment Council (NEC)

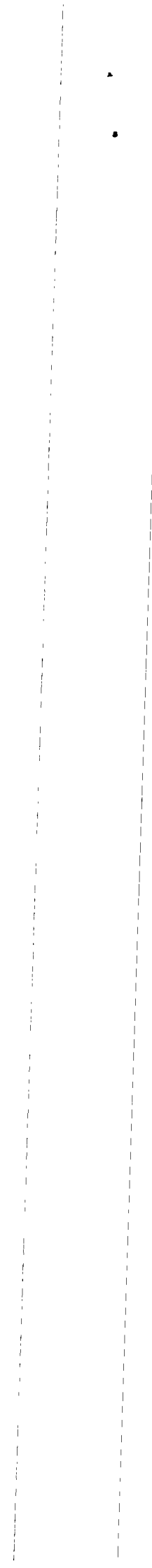
That the quorum required for the Council to transact business be 50% + 1.

CLAUSE 6 Procedure for the council

That 6(ii) be amended to provide for the Council to meet at least four times in every financial year at such a place as it may deem appropriate for the transaction of business.

CLAUSE 9 Objects and functions of the Authority

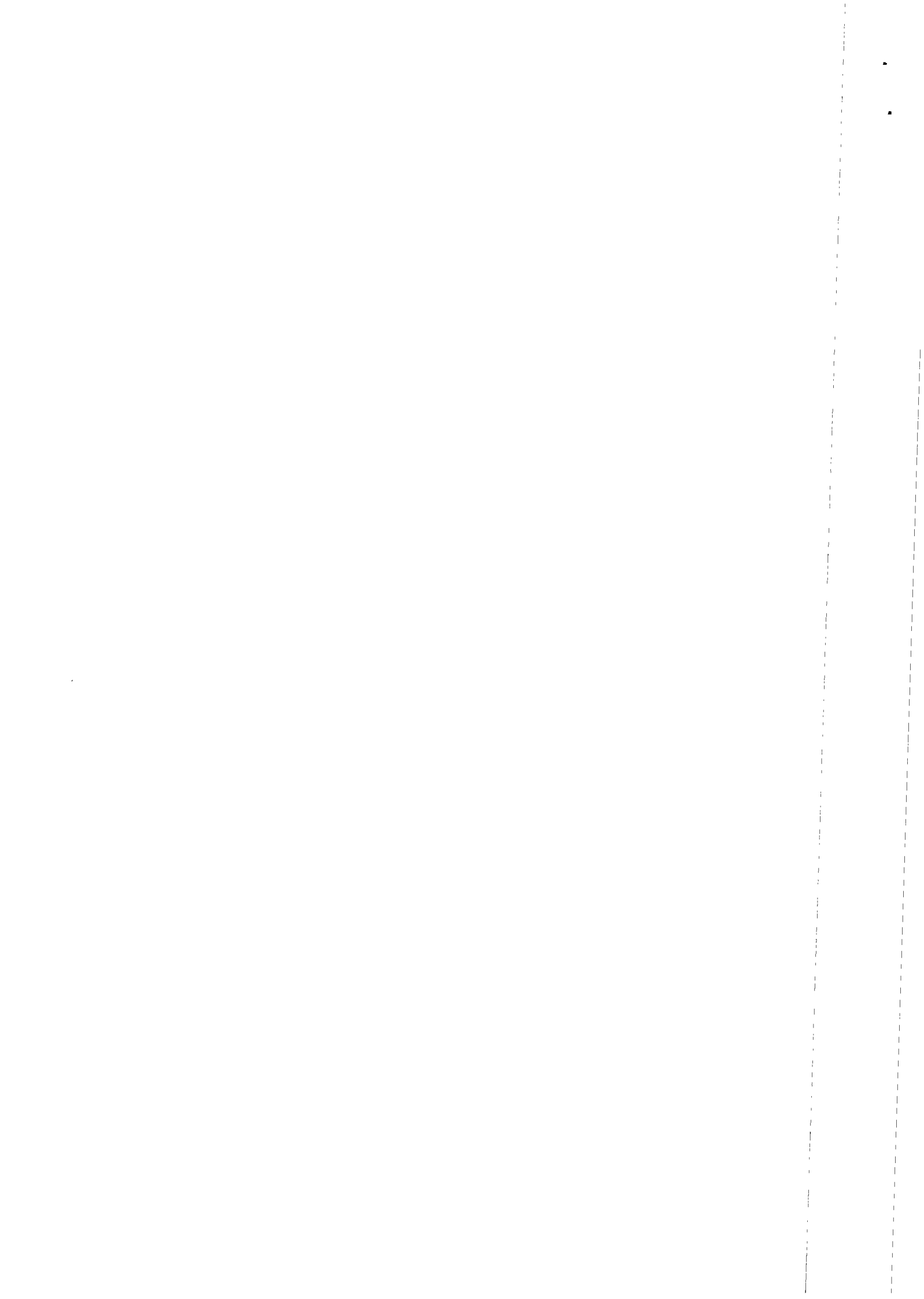
That 9(3) be amended to provide for the Minister to lay every annual report on the state of the environment prepared under sub-clause (e) (f) before the National Assembly as soon as reasonably practicable after its publication if the National Assembly is then sitting or if the Assembly is not sitting within 21 days of the next sitting.



CLAUSE 10 Membership of the Authority

That, the entire Clause be deleted and a new clause 10 be inserted to read as follows:-

- 10(1) The Authority shall be managed by a Board, which shall consist of:
- (a) a Chairman appointed by the President;
 - (b) the Permanent Secretary of the Ministry for the time being responsible for matters relating to the functions of the Authority or an officer of that Ministry designated in writing by the Permanent Secretary;
 - (c) the Director General appointed by the President
 - (d) three Directors who shall be officers of the Authority;
 - (e) seven members not being public officers appointed by the Minister in consultation with the Council; and
 - (f) an officer of the Authority who shall act as the Secretary to the Board.
- (2) No person shall be appointed under sub-sections (1) (a) (c)(d) and (e) unless such persons holds at least a post-graduate degree from a recognized University in the fields of environmental law, environmental science, natural resource management or relevant social science, and in the case of the Director General, has at least fifteen years' working experience in the relevant field.
- (3) The Members under sub-section (1) (a) and (e) shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.
- (4) The Members appointed under sub-section (1) (a)(c) (e) shall hold office for four years and shall be eligible for reappointment for one additional term only.



- (5) The Board shall elect a Vice-Chairman from among the members appointed under sub-section (1) (e).
- (6) The Board shall meet at least four times in every financial year.
- (7) At every meeting of the Board, the chairman, or in his absence, the Vice-Chairman, the Board shall appoint a member to serve as Chairman at the meeting in question.
- (8) The quorum necessary for the transaction of the business of the Board shall be seven members including the person presiding; and all acts, matters or things authorised or required to be done by the Board, shall be effected by a resolution passed by a majority of the members present and voting at a meeting at which there is quorum.
- (9) The Secretary to the Board shall not be entitled to vote on any matter before the Board.
- (10) The appointment of a member of the Board may be terminated by the appointing authority where the member:-
 - (a) is adjusted bankrupt or enters into a composition or scheme of arrangement with his creditors;
 - (b) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine.
 - (c) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Board; or
 - (d) becomes, for any reason, incapable or incompetent of properly performing the functions of his office.
- (11) Where a member of the Board dies or resigns or otherwise vacates office before the expiry of his term of office, the appointing authority shall appoint another person in his place.
- (12) Where the Director-General is unable to perform the functions of his office due to any temporary incapacity which is likely to be prolonged, the President may appoint a substitute therefore to act with the full powers of the Director-General until such time as the President determines that the incapacity has ceased.



- (13) Subject to sub-section (6) (7) and (8), the Board shall regulate its own procedure.
- (14) (a) The Director General shall be the chief executive of the Authority and shall, subject to this Act, be responsible for the day to day management of the affairs of the authority.
- (b) The Directors shall perform such functions as are conferred by this Act and such additional duties as may, be assigned by the Director General.
- (c) The Director General and the Directors of the Authority shall be paid such salaries and allowances as may, from time to time, be determined by the President.

CLAUSE 29 Provincial and District Environmental Committee

That 29(2) be amended by inserting a new 29(2) (h) immediately after 29 (2) (g) to read as follows:-

- (h) a representative of every regional development authority whose area of jurisdiction falls wholly or partly within the province.

That 29 (3) be amended by inserting a new 29 3(e) and (f) to read as follows:

- (3) (e) four representatives of farmers, women, youth and pastoralists within the district to be appointed by the Minister;
- (f) two representatives of the community based organizations engaged in environmental management programmes, operating in the district, to be appointed by the Minister.

CLAUSE 31 Public Complaints Committee

That the Clause be amended in 31(1) (a) to 31(3) to read as follows:-

- (a) a Chairman appointed by the Minister and who at the time of the appointment is qualified to be appointed as a judge of the High Court of Kenya;
- (b) a representative of the Attorney General;



- (c) a representative of the Law Society of Kenya;
 - (d) a representative of non-governmental organizations appointed by the National Council of Non-Governmental Organizations and who shall be the Secretary to the Complaints Committee;
 - (e) a representative of the business community appointed by the Minister; and
 - (f) two members appointed by the Minister for their active role in environmental management.
- (2) The Members of the Complaints Committee, other than the representative of the Attorney General, shall hold office for a period of three years and shall be eligible for reappointment :
- Provided that no member shall hold office for more than two terms.
- (3) A member of the Complaints Committee other than the representative of the Attorney General may-

CLAUSE 37 National Environment Action Plan Committee

That, a provision be made to cater for urgent matters which cannot wait for five years.

CLAUSE 43 Protection of hilltops, hillsides, mountain areas and forests

That, the word "indigenous" appearing in the second line be deleted and the word "local" be inserted in place thereof.

CLAUSE 48, Protection of Forests

48(i) That, the words "with the approval of" appearing in the second line be deleted and the words " after consultation with" be inserted in place thereof

48 (2) That the word "indigenous" appearing in the fourth line be deleted and the word "local" be inserted in place thereof.

CLAUSE 59 Publication of Environmental Impact Assessment

59 (i) (d) That, the word "ninety" appearing on first line be deleted and the word "sixty" be inserted in place thereof.

CLAUSE 70 Establishment of a Standards and Enforcement review Committee

70 (5) That, the word "proceeding" appearing in the second line be deleted and the word "procedure" be inserted in place thereof.

CLAUSE 71 - Functions of the Standards and Enforcement Review committee

71 (e) That, the word "flora" be inserted between the words "beings" and "and" appearing on the third and fourth lines respectively.

CLAUSE 97 Registration of Pesticides and Toxic Substances

Measures would be put in place to ensure conformity between this section and the standards of the pesticides control Board. Harmonization process had already begun.

CLAUSE 98 Offenses relating to pesticides and toxic substances

98(i) (a) Labelling would be in English and Kiswahili and letters and or digits bold enough to be easily legible with expiry dates clearly shown.

CLAUSE 99 Seizure of pesticides and toxic substances

Harmonization process had begun to ensure conformity with the standards of the Pesticides Control Board.

CLAUSE 101 Standards for noise

Subsidiary Legislation would specify minimum standards for vibration pollution in regard to areas within the Rift Valley province where emission of sub-somic vibration could occur naturally.

CLAUSE 104 Standards for ionising and other radiation

Harmonization process had begun to ensure conformity with the Export Processing Zones Act but where the EPZ Act, would be in conflict this section would prevail that this part be amended to read as follows:-

CLAUSE 105 Powers of inspectors relating to ionising radiation

Severe punitive measures would be meted on those found handling radioactive materials illegally.

The Committee recommended that Kenya ratifies both the *Basil* and *Bamako* Conventions which address hazardous waste.

CLAUSE 117 Appointment of Environmental

117 (1) That, this part be amended to read as follows:-

The Director General shall, by notice in the Gazette, appoint duly qualified persons, whether public officers or not, by name or by title of office, to be environmental inspectors of the Authority for such jurisdiction units as shall be specified on the notice appointing them.

CLAUSE 118 Environmental Inspector's Powers to prosecute

Attorney General's directions and control were necessary since this was a Constitutional requirement.

CLAUSE 125 Establishment of the National Environment Tribunal

125(a) That, this part be amended to read as follows:-

a Chairman nominated by the Judicial Service Commission and who at the time of his nomination shall be qualified to be appointed as a judge of the High Court of Kenya.

CLAUSE 126 Proceedings of the Tribunal

126(1) That, the words "as set out in the Evidence Act" be inserted after the word "evidence" appearing in the second line.



There being no Any Other Business, the Chairman adjourned the sitting at Four O'clock to a date to be agreed upon later.

CONFIRMED

DATE

