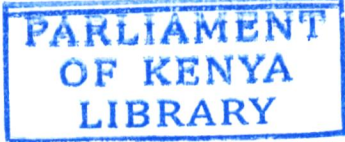


Approved for tabling

BNA  
SNA  
21/7/16



REPUBLIC OF KENYA  
27 JUL 2015



Paper Laid  
by Hon. Adam Noore, MP  
Chairperson - DC Agric, Livestock  
and Cooperatives  
Thurs 21.07.2016 (pm)  
Mmw

ELEVENTH PARLIAMENT - FOURTH SESSION - 2016

THE NATIONAL ASSEMBLY

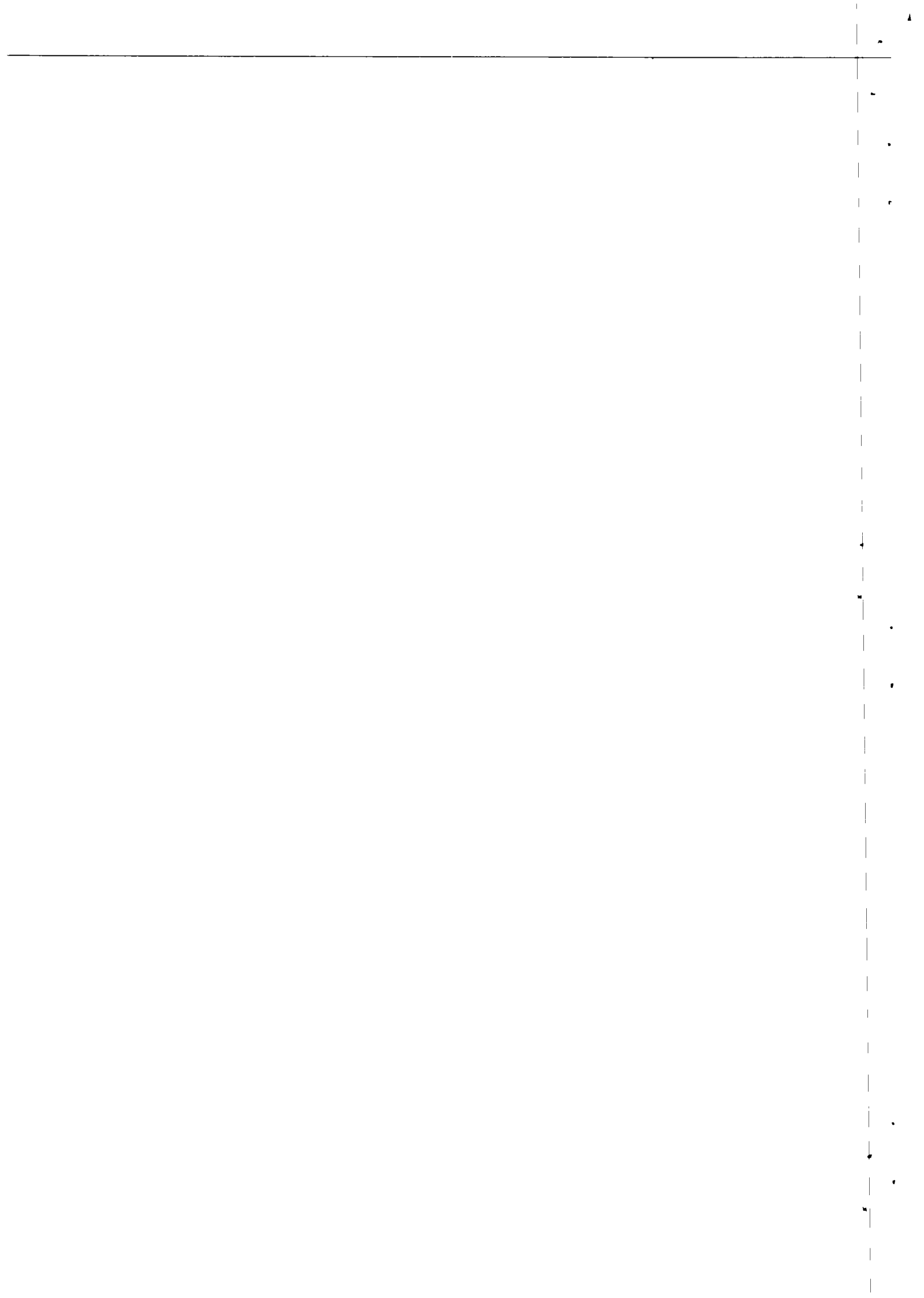
DEPARTMENTAL COMMITTEE OF AGRICULTURE LIVESTOCK AND  
COOPERATIVES

REPORT ON THE CONSIDERATION OF THE WAREHOUSE RECEIPT SYSTEM  
BILL, 2015

21 JUL 2015

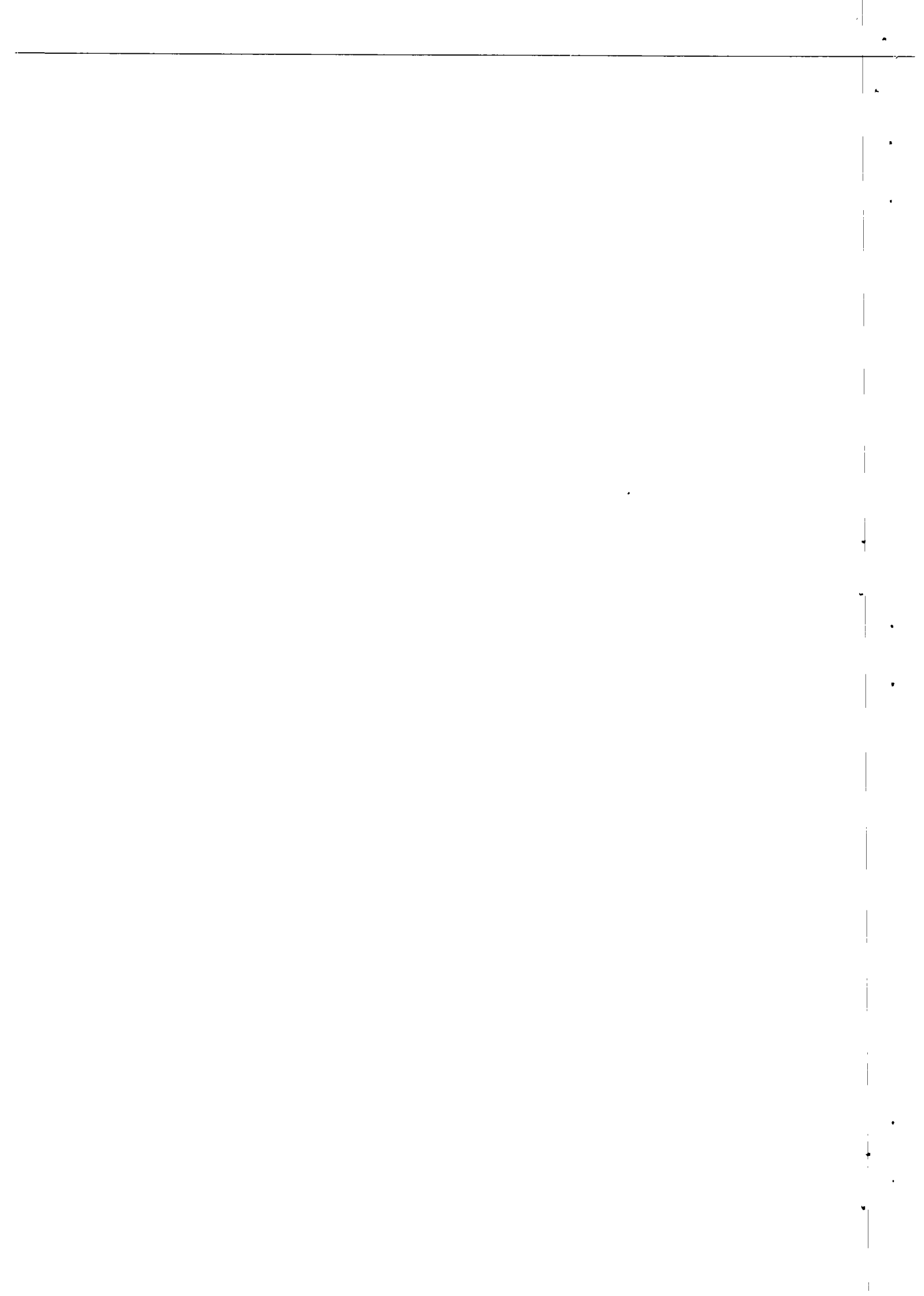
Directorate of Committee Services,  
Clerk's Chambers  
Parliament Buildings,  
NAIROBI

July, 2015



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**ABBREVIATIONS**

WRS - Warehouse Receipt System

CEO -Chief Executive Officer

USAID -United States Aid for International Development

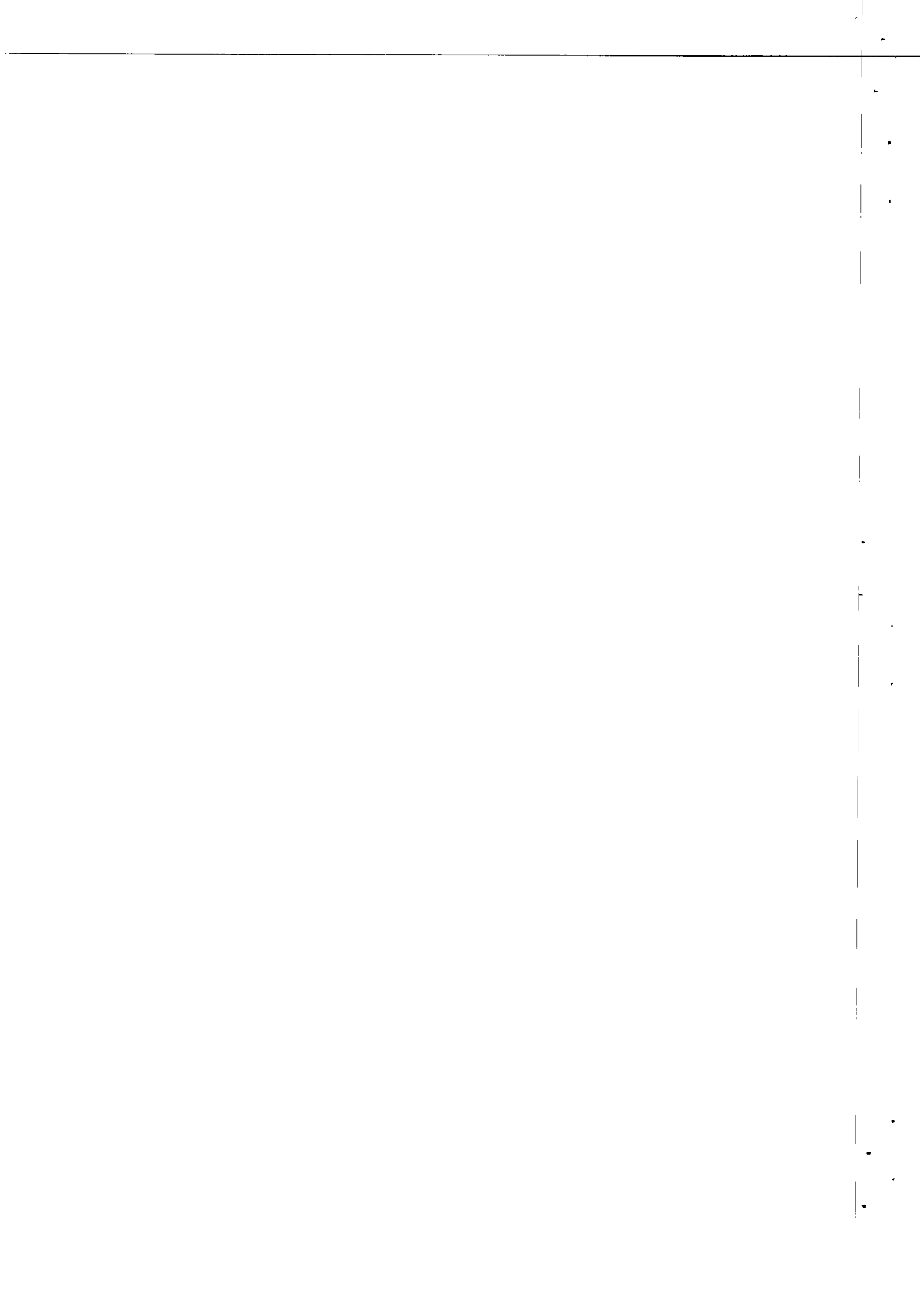
EAGC \*- East African Grain Council

NCPB - National Cereals and Produce Board

COMEX - Commodity Exchange

MoALF - Ministry of Agriculture Livestock and Fisheries

IFC - International Finance Cooperation



## **1.0 CHAIR'S FOREWORD**

The Warehouse Receipt Bill was introduced as the National Assembly Bill No. 12 of 2015 and thereafter committed to the Departmental Committee on Agriculture, Livestock and Cooperatives on Thursday 16<sup>th</sup> April 2015 for deliberation pursuant to the Standing Order.

The Committee invited and held meetings with the State Department of Agriculture-MoALF, National Cereals and Produce Board, Agriculture Fisheries and Food Authority and other key stakeholders drawn majorly from the private sector whose views are captured and contained in the body of this Report.

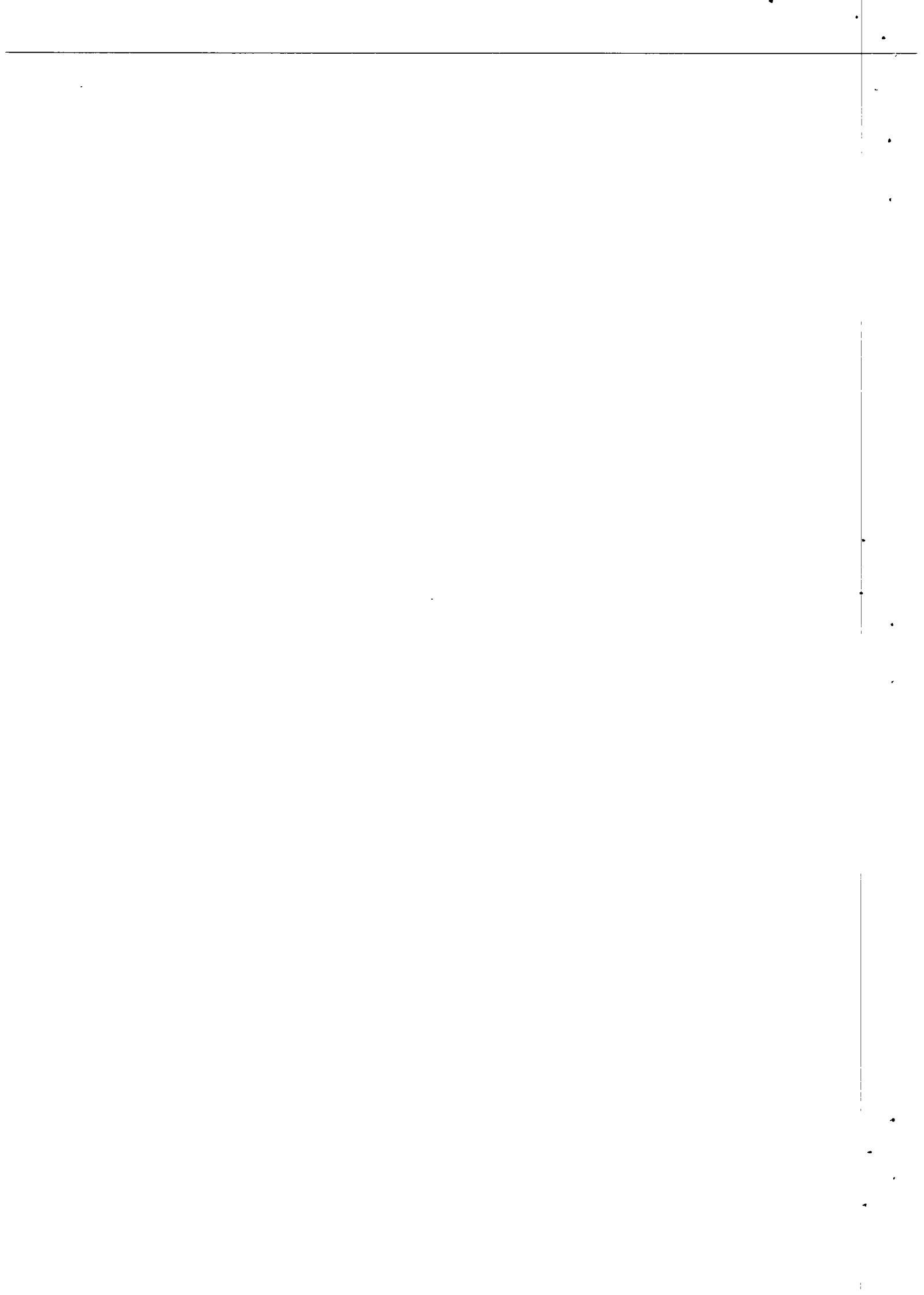
In considering the bill, the Committee invited comments from the public by placing advertisements in the Daily Nation and Standard newspaper on 22<sup>nd</sup> April 2015, conferring to Article 118 of the Constitution

The Committee engaged the stakeholders and deliberated on the issues in the bill, a workshop was held on Warehouse Receipt System Bill, 2015 at Safari park Hotel, Nairobi from 3<sup>rd</sup> to 4<sup>th</sup> November, 2015.

The Committee appreciate to the Office of the Speaker and the Clerk of the National Assembly for the support accorded to it to complete this report.

On behalf of the Departmental Committee on Agriculture, Livestock and Cooperatives, it is my pleasant privilege and honor to present to this House the Report of the Committee on its consideration of the Warehouse Receipt System Bill, 2015 National Assembly Bill No. 12 of 2015.

**The Hon. Adan.M. Nooru, MBS, CBS, M.P**





## 2.0 EXECUTIVE SUMMARY

The object and reasons of this bill is to provide for a legal framework for regulation and development of the warehouse receipt system to cure the challenge of marketing cereal product in the country.

This report as interpreted in Clause 2 explains the meaning of Warehouse Receipt system (WRS) as a process of depositing commodities in a licensed warehouse, the issuance of a warehouse receipt reflecting the quantity and quality of the deposited commodity. The management of the transfer of receipts as a document of the title but it is not limited to the regulation and actors in the associated processes.

The bill elaborates the establishment of the warehouse receipt system council as body corporate its objects and function, membership, powers and funds of the council.

The bill provides for the licensing and inspection of the warehouse, the application of the warehouse and its operations within, it also emphasizes on the revocation and suspension of the license.

The bill states clearly the general inspection by the authorized officers from the council, the publication of the general inspection and examination of books and records of the licensed warehouse.

The bill pursues to provide for an act of parliament to provide for the development and regulation of a Warehouse Receipt System for agricultural commodities, the establishment of the Warehouse Receipts System Council and for connected purposes.

The Bill seeks to create a platform for establishment of a commodity exchange and widening marketing options for farmers to handle post-harvest of agricultural products.

The report concludes by stating that adoption of innovative approaches and employ technology when establishing and operating commodity exchange. Roles played by the two levels of government should be clearly spelt out in as far as regulation of WRS is concerned.

Use of modern technology platforms especially use of mobile telephony and tracking devices) should be integrated into the WRS as this will aid in the supervision of warehouses and reduce cost in the long run.



### 3.0 MANDATE OF THE COMMITTEE

The Committee on Agriculture, Livestock and Cooperatives is one of the Departmental Committees of the National Assembly established under Standing Order 216 and mandated to:-

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- ii. To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
- iii. To study and review all legislation referred to it;
- iv. To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
- v. 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;
- vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*); and
- vii. Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee is mandated to consider the following subjects:-

- i. Agricultural services
- ii. Livestock services
- iii. Fisheries
- iv. Irrigation Services
- v. Cooperatives



#### **4.0 OVERSIGHT**

In executing its mandate, the Committee oversees the following Government Departments and agencies, namely:-

- i. The State department of Agriculture
- ii. The State Department of livestock
- iii. The State Department for fisheries
- iv. The State Department of Cooperatives
- v. The State Department of Irrigation



## 5.0 MEMBERS OF THE COMMITTEE

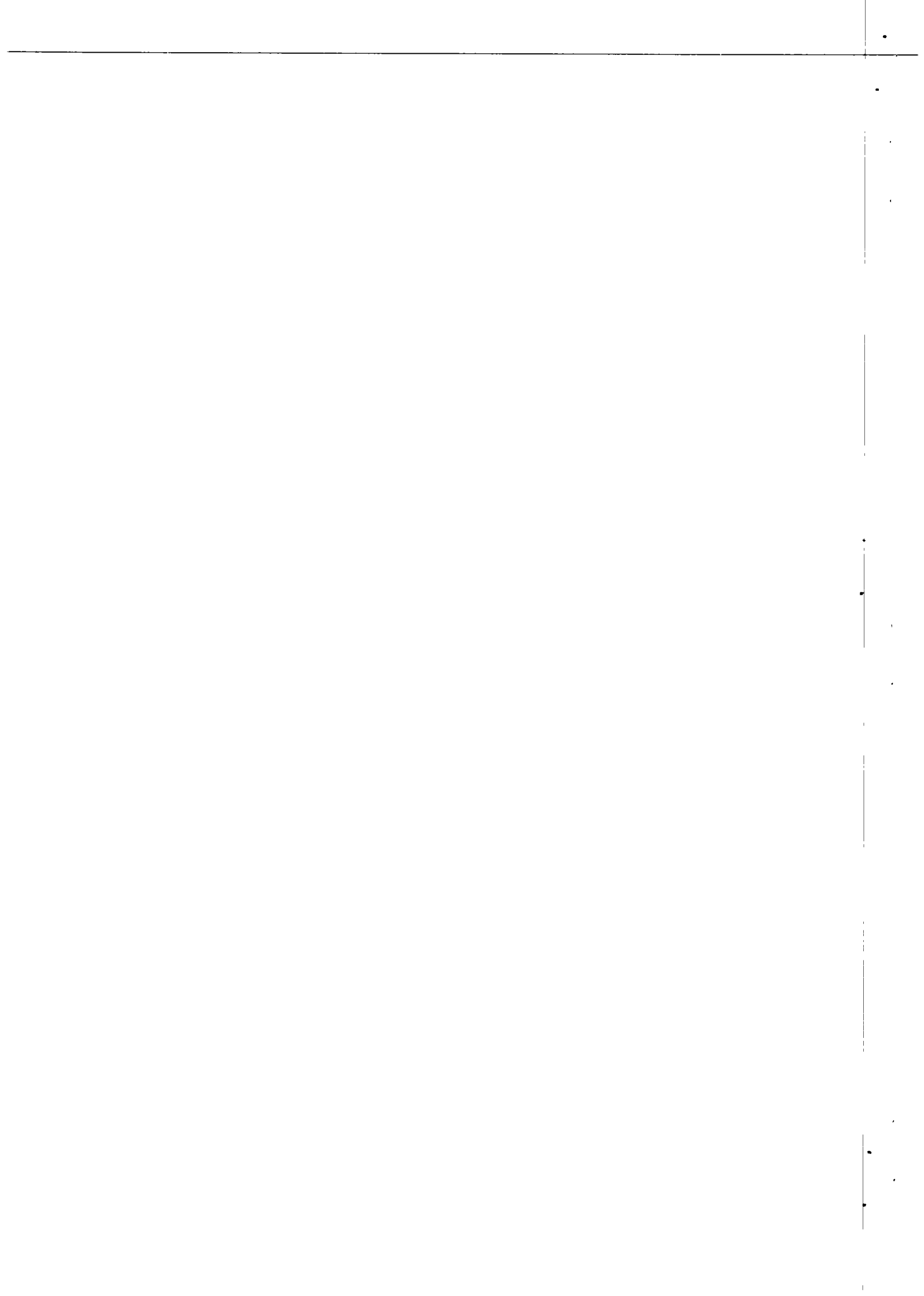
<b>Chairperson</b>	The Hon. Adan M. Nooru, MBS, CBS, MP
<b>Vice Chairperson</b>	The Hon. Kareke Mbiuki, M.P
<b>Members</b>	The Hon. Daniel Maanzo, MBS, The Hon. Silas Tiren, M.P The Hon. Maison Leshoomo, M.P The Hon. Mary Wambui, M.P The Hon. (Dr.) Victor Munyaka, M.P The Hon. Korei Ole Lemein, M.P The Hon. John B. Serut, M.P The Hon. Peter N. Gitau, M.P The Hon. Florence Mutua, M.P The Hon. John Kobado, M.P The Hon. Benjamin Washiali, M.P The Hon. Patrick Wangamati, M.P The Hon. Awiti Bollo , M.P The Hon. Raphael Letimalo, M.P The Hon. Ayub Savula Angatia, M.P. The Hon. Waititu Munyua, M.P The Hon. Kimani Ichung'wah, M.P The Hon. Ferdinand Wanyonyi, M.P The Hon. Kabando Wa Kabando, M.P The Hon. Justice Kemei, M.P The Hon. Benjamin Andayi, M.P The Hon. Millie Odhiambo - Mabona, M.P The Hon. Jude Njomo, M.P The Hon. Fredrick Outa, M.P The Hon. Aisha Jumwa, M.P The Hon. Alfred Kiptoo Keter, M.P The Hon. Paul Simba Arati, M.





## 6.0 COMMITTEE SECRETARIAT

<b>First Clerk Assistant</b>	-	Mr. Benjamin Magut
<b>Clerk Assistant</b>	-	Ms. Naserian Lotuai
<b>Clerk Assistant</b>	-	Mr. Ahmad Guliye
<b>Legal Counsel</b>	-	Ms. Brigita Mati
<b>Research &amp; Policy Analyst</b>	-	Mr. David Ngeno
<b>Fiscal Analyst</b>	-	Ms. Lucy Makara



## 8.0 LIST OF RECOMMENDATIONS

The Committee is proposing the following amendments during the Committee Stage of the Bill.

**THAT** the Bill be amended in

**Clause.2 -Interpretations** by providing for new definitions of term

**“Warehouse Receipt System”** **“Warehouse Receipt System”** means part or the whole of the process of depositing commodities in a licensed warehouse, the issuance of a warehouse receipt reflecting the quantity and quality of the deposited commodity, the management of the transfer of the receipts as a document of title and includes but not limited to, the regulation of warehouses and actors in the associated processes.

### **Justifications**

*No provision on the definition of “Warehouse Receipt System had been provided and there was need to provide for clarity on the meaning of “Warehouse Receipt System”*

**Clause 3 -Establishment of the WRS Council**

**Amend Sub -clause 3**

(3) The Council shall consist of—

- (a) the Principal Secretary for the time being responsible for matters relating to agriculture or his representative;
- (b) the Principal Secretary for the time being responsible for matters relating to finance or his representative;
- (c) **one person representing Council of Governors**
- (d) **the Director General of the Agriculture, Food and Fisheries Authority or his representative;**
- (e) one person representing the financial sector;
- (f) one person representing traders and processors;
- (g) one person representing agricultural producers;
- (h) one person representing warehouse operators; and
- (i) **one person representing consumers organization;**



- (4) The Cabinet Secretary shall make Regulations to prescribe how the persons referred to in (3) (e) to (i) above shall be nominated.
- (5) The Cabinet Secretary shall appoint the members nominated in subsection (4) above.
- (6) The Council shall at its first sitting elect a Chairperson and Vice-Chairperson from amongst its members.
- (7) The Chairperson and Vice-Chairperson shall be of the opposite gender.
- (8) A decision of the Council shall not be invalid by reason only of a vacancy among the members thereof.

***Justifications***

- a) *There should be stakeholder participation in constituting the WRS Council*
- b) *Since the Bill concerns and shall be largely be implemented in the Counties then representation of Council of Governors is crucial.*
- c) *Agriculture Food and Fisheries Authority should be a member of the Council since it's a regulatory institution in-charge of Food and Cereal items.*
- d) *Appointment of the Chairperson and Vice-Chairperson of the Council should be from amongst the nominated members.*

**Amend Sub -clause 5 (c)**

By deleting the clause and therefore replacing it with “gross misconduct and abuse of office in contravention of the Public Officer Ethics Act and any other relevant law.”

***Justifications***

***To provide for clarity in the procedure for vacation of office by members of the Council.***

**Amend Sub -clause 5 (e)**

By deleting the sub-clause and therefore replacing it with the following sub-clause

"The member becomes, by reason of unsound mind or physical infirmity, incapable of performing his duties as a member of the Council."

***Justifications***

***To provide for clarity in the procedure for vacation of office by members of the Council***



## **Clause 4 - Functions of the Council**

### **Amend Clause 4**

Amend Clause by rectifying the numbering of the clauses (Delete (1) since there is only one Clause

#### *Justifications*

*Clean for consistency in numbering*

### **Amend Clause 4 (b)**

By deleting the sub-clause and therefore replacing it with the following sub-clause

“Establish and maintain a Warehouse Receipts System that contributes towards structured trading in agricultural commodities.”

#### *Justifications*

*Clarify the function of the Council as relates to the scope of the WRS and its linkage/contribution to the intended Commodity exchange*

### **Amend Clause 4 (c)**

By deleting the sub-clause and therefore replacing it with the following sub-clause

“Establish and maintain a central registry for management of warehouse receipts transactions under the Act.”

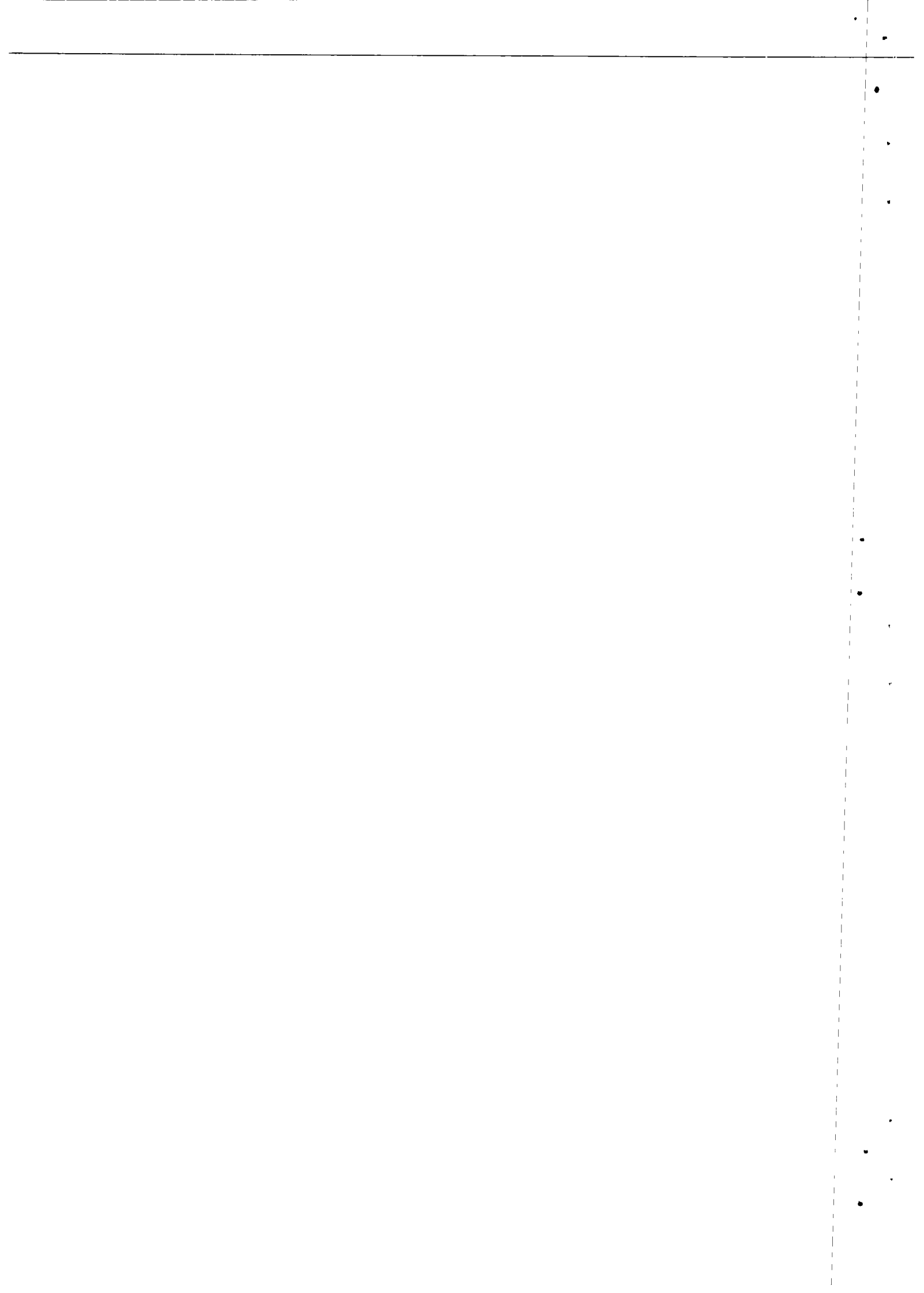
#### *Justifications*

*Broaden the role of the central registry to cater for all transactions on which warehouse receipts are likely to be undertaken*

### **Amend Clause 4 (e)**

By deleting the word "Licensed" appearing immediately after the word "managers" and therefore replacing it with the words

"and other service providers operating"





*Justifications*

*To clarify the role of various actors operating under the Act on their responsibility on stored agricultural commodities and related duties*

**Amend Clause 4 (h)**

By deleting the word "may" appearing immediately before the word "issue"

*Justifications*

*To correct the grammar in the clause*

**Amend Clause 4 (i)**

By deleting the word "may" appearing immediately before the word "issue"

*Justifications*

*To correct the grammar in the clause*

**Amend Clause 4**

By introducing and new sub clause 'o' as follows

"Register or de-register warehouse entities under this Act"

*Justifications*

*To provide a function on registration and de-registration of actors under the Act*

**Clause 7 – Remuneration of members of the Council**

Amend Clause 7 by inserting the following words after word 'Cabinet Secretary'

'In consultation with the Salaries and Remuneration Commission'

*Justifications*

*Provide clarity as to how remuneration of members to the council will be undertaken*



**Clause 8 - Chief Executive Officer****Amend Clause 8 (4)**

By reducing the tenure of the CEO of the Council from 5 to 3 years renewable once:

**Amend Clause 8 (5)(c)(v)**

Amend clause 8 (5)(c)(v) by deleting the words “by the Cabinet Secretary” immediately after the word 'deemed'

***Justifications***

*Review the powers of the Cabinet Secretary to remove the CEO of the Council*

**Clause 12 – Funds for the Council****Amend Clause 12 (b)**

By replacing the word “Service” appearing immediately after the words 'by the' with the word ‘Council’.

***Justifications***

*For consistency*

**Part III – Licensing and Inspection of Warehouses**

Amend title of Part III to read,

“Registration, Licensing and Inspection of Warehouses”

***Justifications***

*To provide for registration of warehouses in line with proposed amendment in clause 4 (o)*

**Clause 18 – Revocation of license and suspension of license or operations.****Amend Clause 18 (1)(c)**

By deleting the Sub clause 1(C)



*Justification*

*It is difficult to determine rationally whether an operator is incompetent and incapable.*

**Amend Clause 18**

By introducing a sub clause (7) to read as follows

"Where a license has been suspended or revoked, the Council shall appoint an independent warehouse manager to operate the warehouse in the interim until the matter is resolved."

*Justifications*

*This is to safeguard the commodities stored in warehouses and the interest of parties to the commodity.*

**Amend Clause 18**

By introducing a sub clause (8) to read as follows

"The Cabinet Secretary in consultation with the Council shall make regulations to bring into effect the provisions of this section with regard to the management of a warehouse whose license has been suspended or revoked and commodities stored therein."

*Justifications*

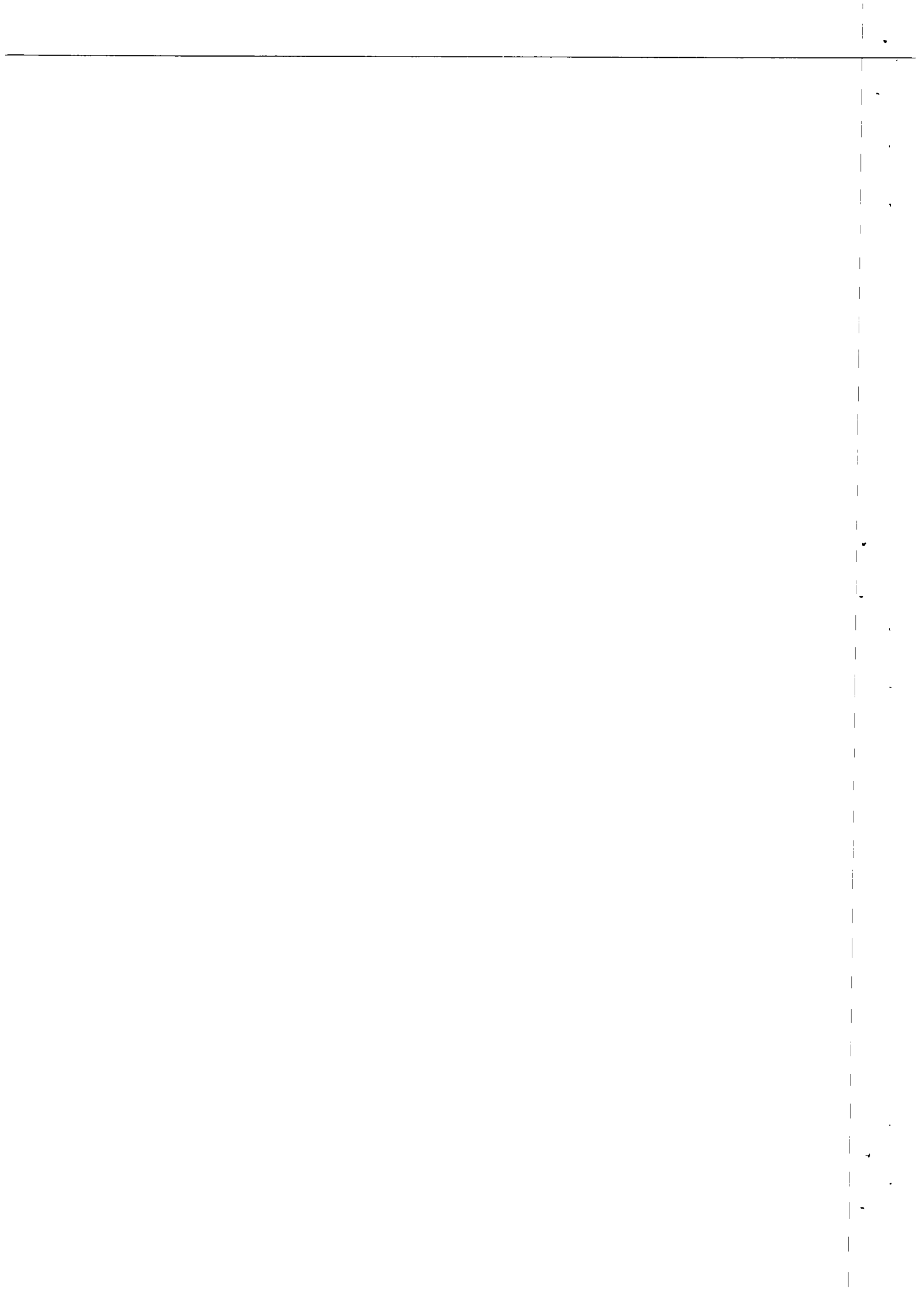
*This is to safeguard the commodities stored in warehouses and the interest of parties to the commodity.*

**Clause 20 – Warehouse Receipts Appeals Committee****Amend Clause 20 (1)**

By replacing the word "one" appearing immediately before the words 'other members ' with the word "two".

*Justifications*

*To broaden the membership to the Warehouse Receipts Appeals Committee for greater fairness.*



### **Clause 21 – Grading and weighing of agricultural Products**

#### **Amend Clause 21 (1)**

By replacing the word “calibrated” appearing immediately after the words 'using equipment ' with the word “certified”.

#### *Justifications*

*Provide for terminology that reflects actual practice.*

#### **Amend Clause 21 (2)**

By replacing the word “recognized competent” appearing immediately after the words 'certified by a ' with the word “mandated”.

#### *Justifications*

*Provide for terminology that reflects actual practice.*

### **Clause 23 – Publication of general inspections**

**Amend Clause 23** Remove the word “bonded”. Replace the word “persons” with “operators.”

By deleting the word 'bonded' appearing immediately after the words 'locations of the licensed'

By replacing the word “persons” appearing immediately after the words 'names of the ' with the word “operators”.

#### *Justifications*

*Remove anomaly in this Act does not consider warehouses as customs bonded warehouses.*

### **Clause 26 – warehouse receipts**

#### **Amend Clause 26(3)(h)**

By inserting the following words 'crop year, season' immediately after the word 'grade'

#### *Justifications*

*Provide additional details on the information on a warehouse receipt to assist determine the age of the agricultural commodity stored in a warehouse.*





**Clause 27 – Establishment of Central Registry****Amend Clause 27(4)**

By inserting the following word 'search' immediately before the 'certificate'

*Justifications*

*Provide for terminology that reflects actual practice.*

**Clause 41 – Issuing of receipts with false information****Amend Clause 41(4)**

By inserting the following word 'search' immediately before the 'certificate'

*Justifications*

*Provide for terminology that reflects actual practice.*

**Clause .42 – Unlawful issuing of duplicate receipts****Amend Clause**

By inserting the word “of” immediately after the words 'facilitates the issuing'

*Justifications**Grammatical corrections***Clause 44- Regulations****Amend Clause 44 (1)**

By inserting the word “relevant” appearing immediately before the word ‘council’

*Justifications**Grammatical corrections***Schedule - Provisions for Meetings and Procedure of the Council**



**Amend Clause 1 (1)**

By inserting the words “or any other designated venue” immediately after the words "registered offices”

***Justifications***

*Provide for flexibility on meeting venue where situations may warrant.*

**Amend Clause 1 (5)**

By replacing the words appearing as “one-third” with the words “two-thirds”

***Justifications***

*Provide for the standard two-thirds quorum for meeting of the Council.*



## 9.0 INTRODUCTION

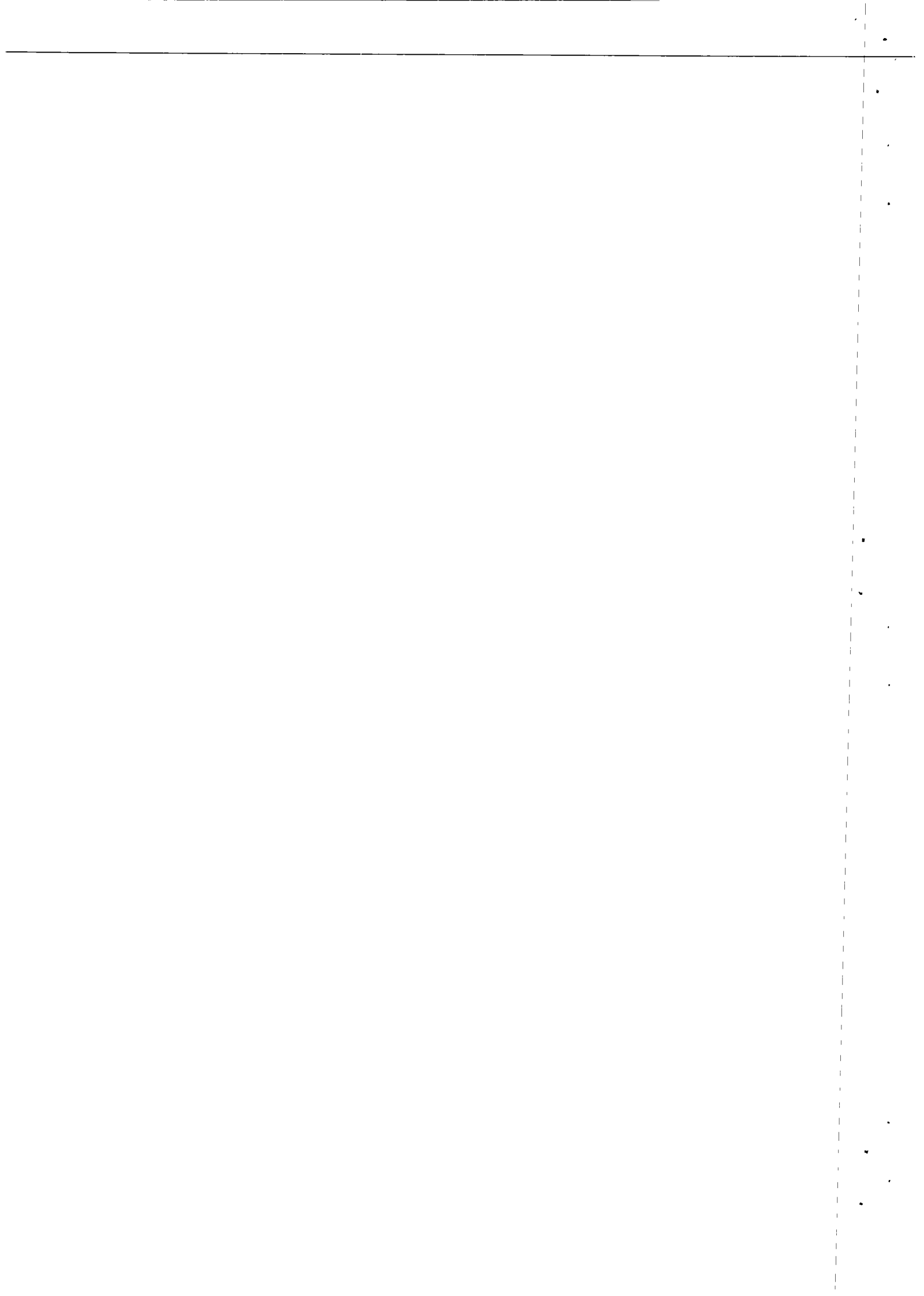
The Warehouse Receipt Bill was introduced in the National Assembly on 16<sup>th</sup> April 2015 as National Assembly Bill No. 12 of 2015, has undergone the second reading and been committed to the National Assembly Committee on Agriculture, Livestock and Cooperatives.

On 3<sup>rd</sup> and 4<sup>th</sup> November 2015, the Committee convened a meeting at Safari park Hotel, Nairobi and invited the State Department of Agriculture Ministry of Agriculture, Livestock and Fisheries (MoALF) National Cereals and Produce Board (NCPB), Agriculture Fisheries and Food Authority and other key stakeholders drawn majorly from the private sector for discussions on the Bill. The Ministry team was led by the Ag. Cabinet Secretary who also gave opening remarks. In his remarks, he underscored the importance of the Bill in creating a platform for the establishment of a commodity exchange and widening marketing options for farmers. The following specific institutions were represented during the meeting;

- (a) International Finance Corporation of World Bank(IFC)
- (b) Insurance companies
- (c) Banking and Financial Institutions
- (d) Millers
- (e) Warehouse Operators
- (f) Commodity/Cereal Traders
- (g) Farmer Associations e.g. East Africa Farmer Federation and Kenya National Federation of Farmers.
- (h) Council of Governors
- (i) East Africa Trade Hub of USAID
- (j) Capital Markets Authority
- (k) Eastern Africa Grain Council

The Chairman of the Committee led the team in detailed discussions on the Bill. Each clause was reviewed and proposed amendments considered.

As a way forward a team of drafters was tasked to make write up on the changes as agreed during the meeting. This team met on the 11<sup>th</sup> November at Jacaranda Hotel, Nairobi and constituted of technical staff and drafters from the State Department of Agriculture; East Africa Grain Council; National Cereals and Produce Board ,Agriculture, Fisheries and Food Authority and Secretariat from the Committee on Agriculture, Livestock and Fisheries.

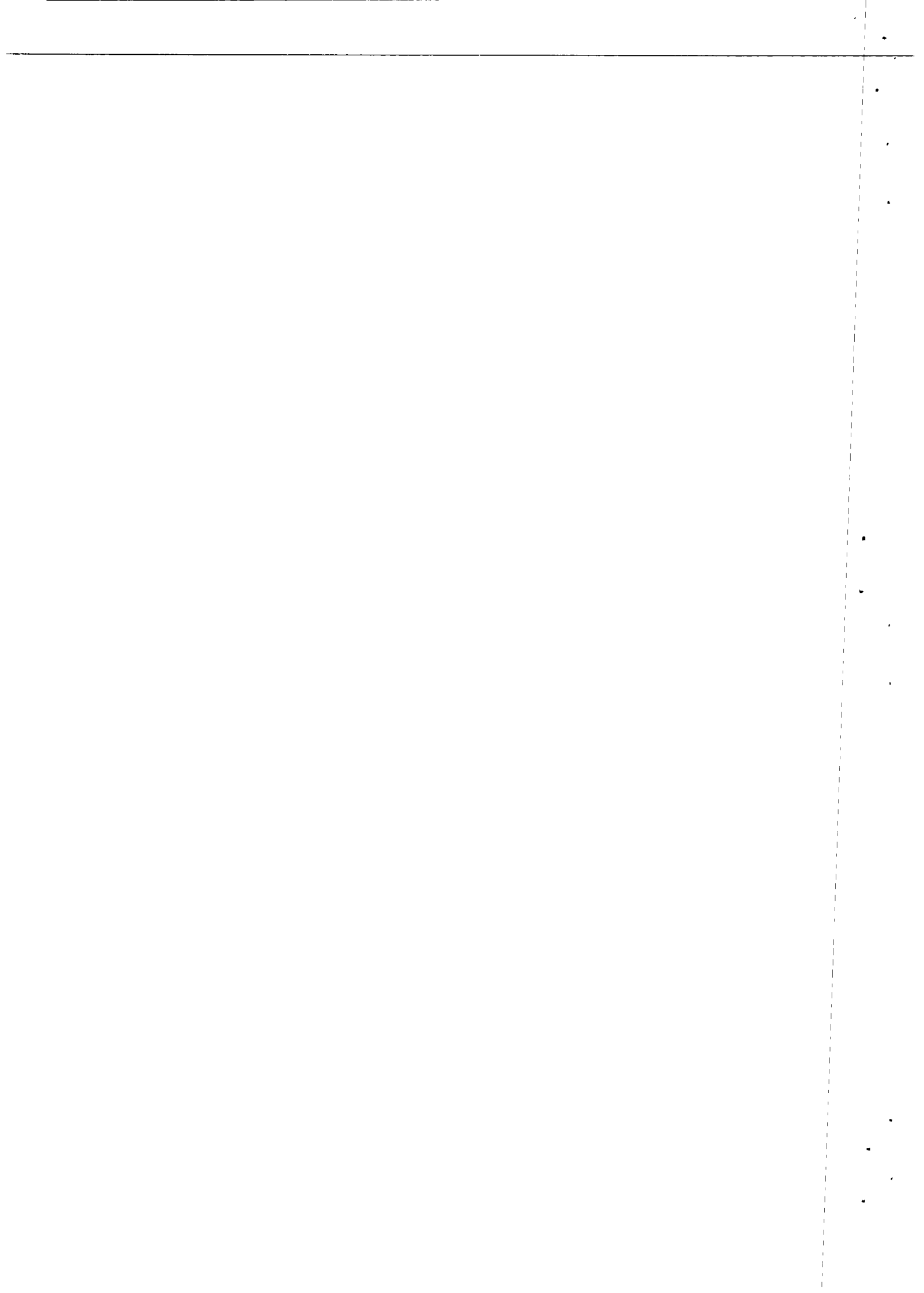


## **10.0 Evidence/Presentations**

### **10.1 Ministry of Agriculture Livestock and Cooperative**

While appearing before the Committee Mr. Ombalo Principal Policy Officer in the Ministry of Agriculture ,Livestock and Fisheries presented a consolidated presentation from all the stakeholders with exception of the Council of Governors as follows;

1. Constitution and membership to the WRS Council should be rationalized and provide for the following; More rational nomination process that involves stakeholder participation process and inclusion of representation from the following categories County level of government, Agriculture Fish and Food Authority and Consumer organization
2. Appointment of the chairperson and Vice-Chairperson from amongst the nominated members should be made in a clear manner.
3. The conditions and procedure for a member of the Council to vacate Office should be clearly provided.
4. The areas that have been identified as requiring attention for an effective WRS and Commodities exchange are as follows:
  - Financing of warehouse development and warehouse operations
  - National storage capacity, network and quality of warehouse management
  - Aggregation and community storage
  - Farmer/stakeholder awareness creation and education
  - Sustainable rural extension services model for farmers
  - Grain quality standards
  - Capacity building and training
  - Regional approach vs national commodity exchange platforms



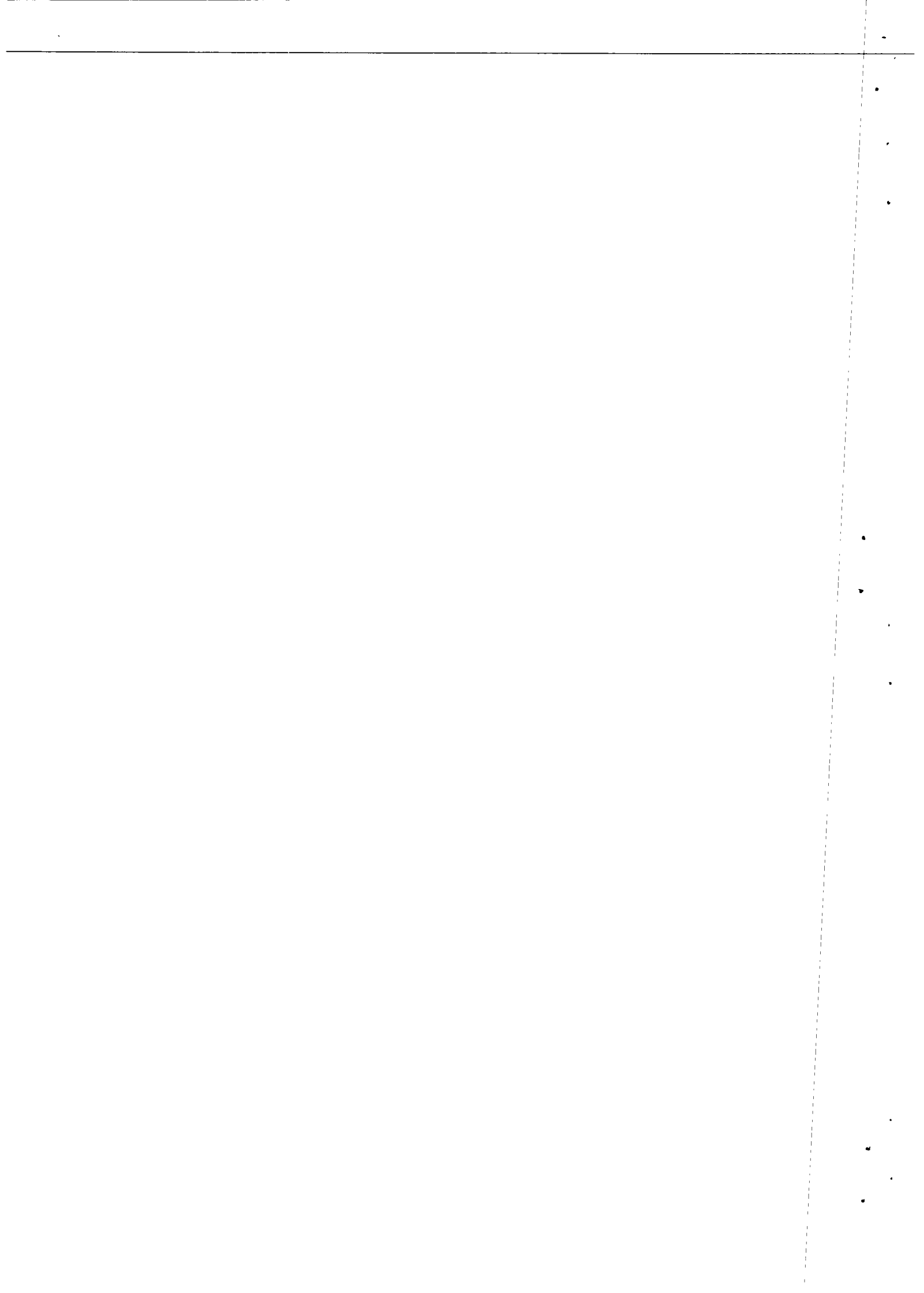


5. The current pilot Warehouse Receipt System is operated by the NCPB, EAGC, Export trading and Lesiolo Grain handlers with maize as the main commodities are promising but are faced with the following challenges;

- Limited scale in commodity range, volumes and outreach coverage
- Lack of trust and acceptability by the a majority of small scale farmers
- Absence of legal framework for credible and dependable WRS and commodity exchange
- Low awareness by the farmers on the opportunities and potential benefits of WRS and commodities exchange
- Limited involvement of financial and insurance institution

6. The proposed implementation plan and way forward are indicated below;

- Capacity building for warehouse receipts system stakeholders. This would enable stakeholders to build physical, financial and human skills capacity and training needs will be identified for WRS Authority and actors along the value chains.
- Attract investments along warehouse receipt value chain by Identifying, prioritizing and proposing incentives for areas in the WRS for attracting investments and PPPs that is establishment of private warehouses, rural commodity aggregation and storage centers, transport and logistics support to producers and traders of agricultural commodities. Facilitate collection and discussion of information on potential investors along the value chain including establishment of information portals .Participate in workshops with investors and other relevant national and county government institutions
- Operationalization of a Warehouse Receipts System including Warehouse Receipts Authority Finalize draft regulations and rules for operationalizing the WRS Legislation should consider:
  - ❖ Convening of consultative workshops on WRS Regulations and Rules with various stakeholders.
  - ❖ Incorporating stakeholders' comments received during consultations into the final Regulations and Rules



- ❖ Facilitating the Gazettement of Regulations and Rules through the State Law Office
- ❖ Convening of workshops for WRS actors and key stakeholders for awareness creation
- ❖ Finalization of Legal Framework for Warehouse Receipts System. To convene consultative engagement with parliamentary committees on agriculture National Assembly and Senate. Follow up and coordinate the finalization of the enactment of the WRS law through Parliamentary process.

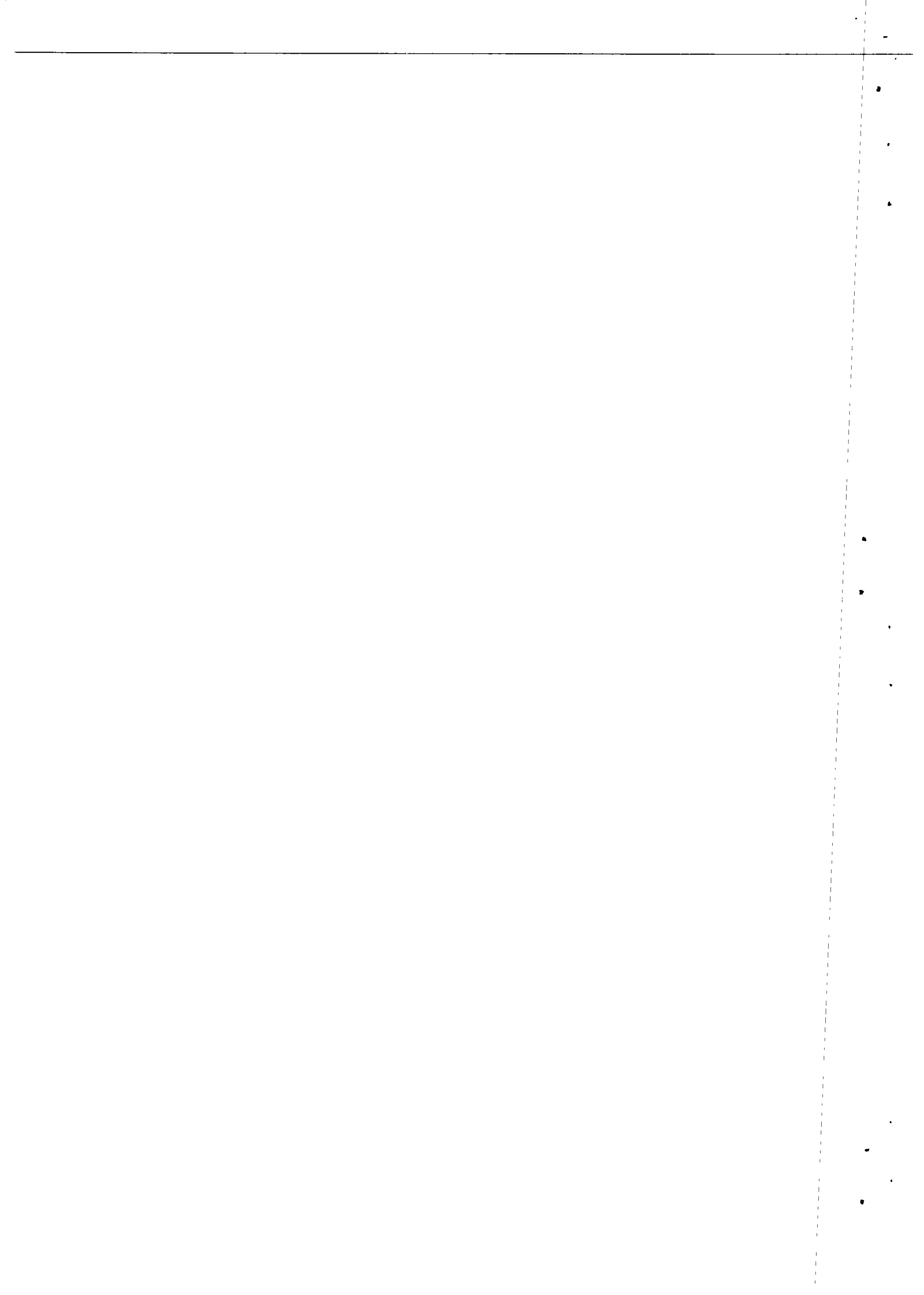
7. The next step for follow up of the bill should be as follows:

- Meet relevant National Assembly and Senate Committees to clarify provisions of WRS Bill subsequent to tabling in the National Assembly and the Senate.
- Benchmarking study tour for both National Assembly and Senate Committee leadership (India) to inform debate on the Bill and Development of regulations and linkages with COMEX.
- Convene experts' committee to develop WRS Regulations.
- Appoint WRS Board, establish interim and substantive offices of the WRS Council and Registrar (Chief Executive Officer)
- Undertake multiagency capacity building for WRS Stakeholders
- Implement activities for attracting investments along Warehouse Receipts value chain.
- Undertake impact assessment

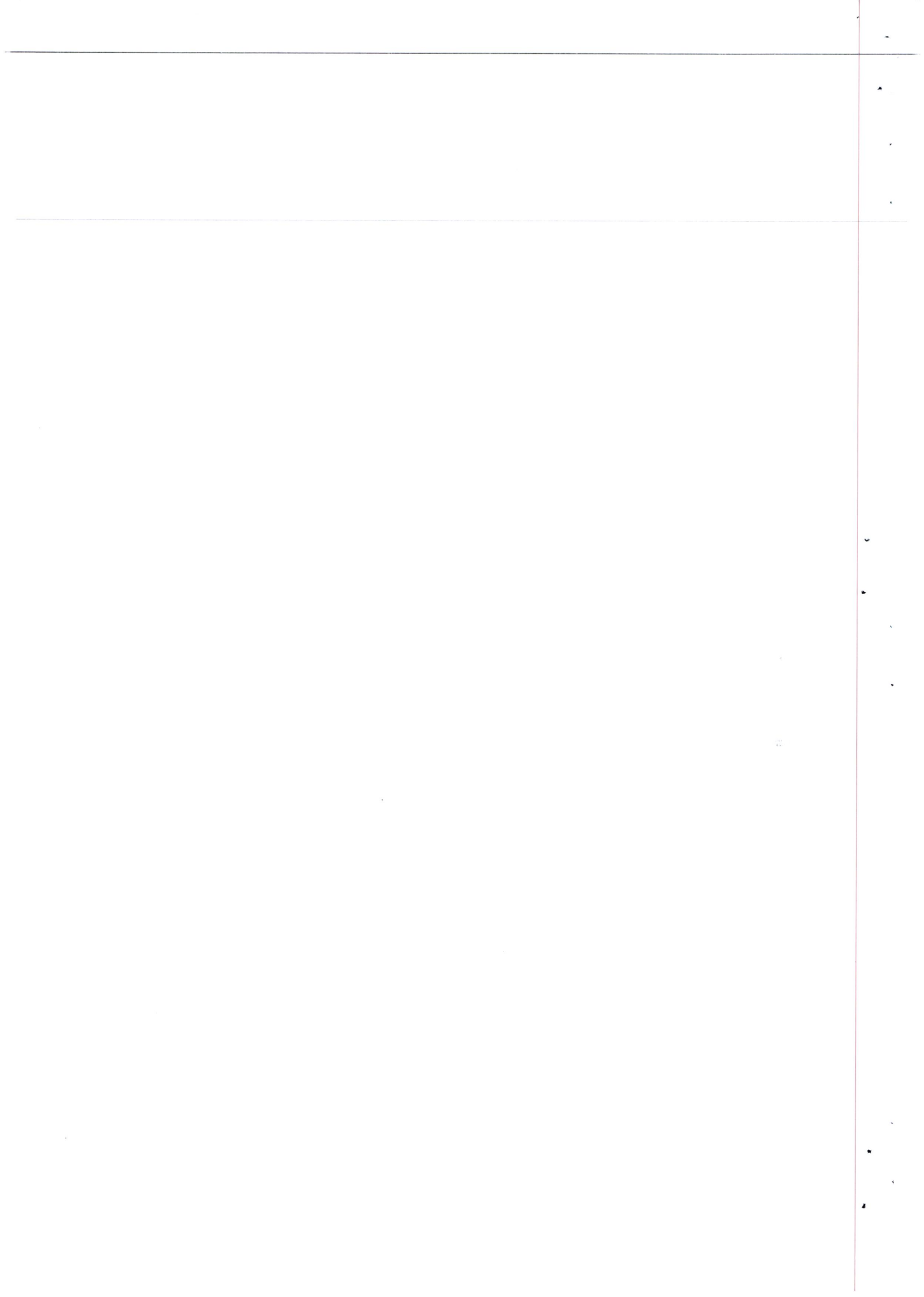
## 10.2 Council of Governors

While appearing before the Committee Mr. David Wanjohi represented the Council of Governors submitted that:

- a) In the establishment of the Warehouse Receipt System Council, a representative from the Council of Governors should be included, because the function touches on Agriculture which is a devolved function.
- b) The council proposed that the Warehouses be inspected and subsequently licensed by the County governments given that the constitution defines division of roles between the two levels of governments.



- c) On the revocation the license to operate a Warehouse ,the Chief Executive Officer of the Council who sits on the Council should not sit on the Appeals Committee as it is a conflict of interest. An independent body should be suited to hear and determine the appeals.
- d) Examination of books and records of licensed Warehouse be a mandatory obligation to the Chief Executive Officer to minimize the costs.



## 11.0 OBSERVATIONS

The Committee while considering the Bill observed the following:-

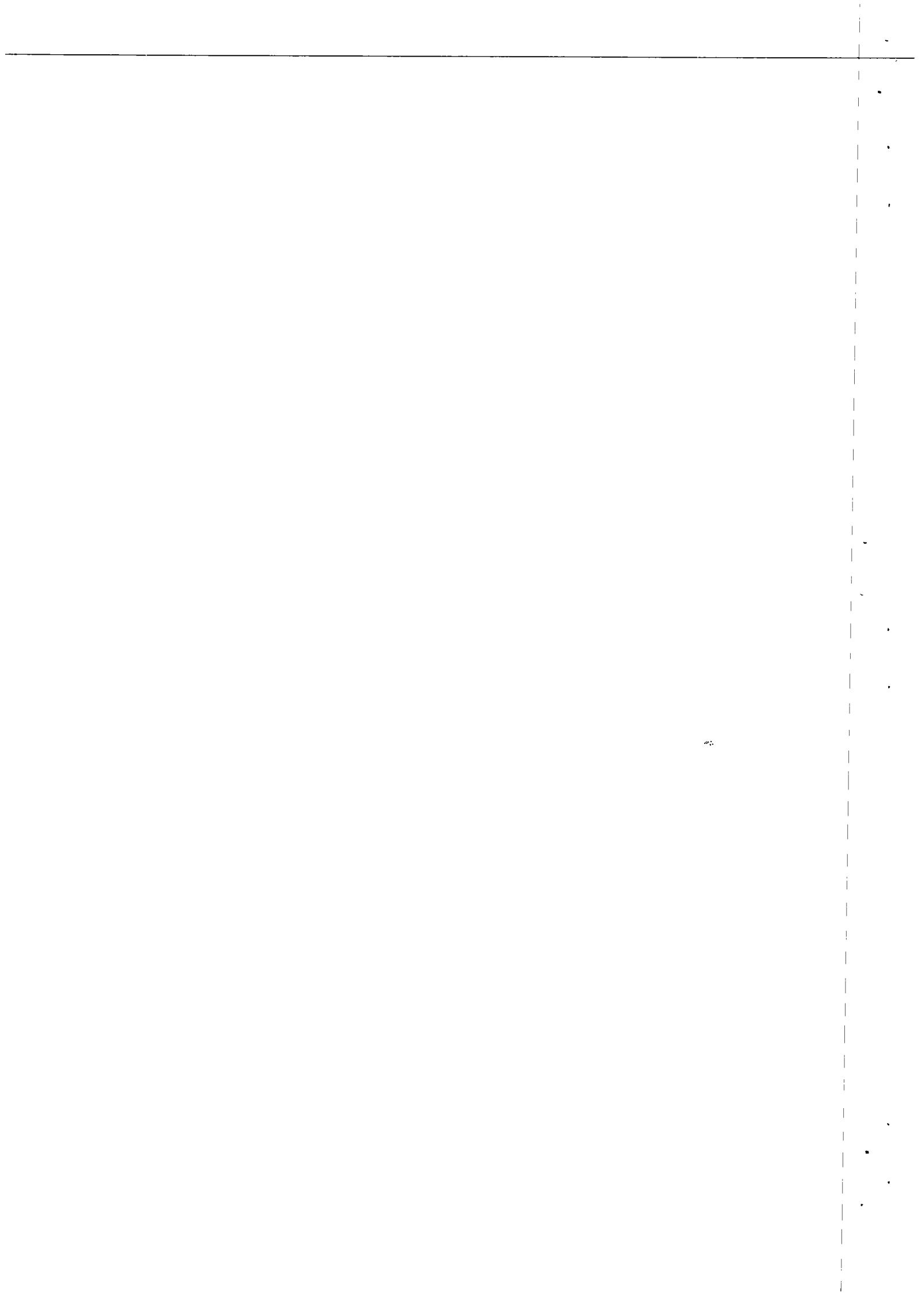
- a) To ensure the successful implementation of the Warehouse Receipt System confidence of the key players among them farmers and financial institution must be guaranteed by the system.
- b) The involvement of the Government in the setting up of the governance structures and implementation of the system is crucial but must be limited to policy matters only.
- c) The private sector must be encouraged and supported through necessary subsidiary legislation to ensure their full participation in this new trading system.
- d) It was noted that including investors along warehouse Receipt system is an important issue as it will broaden the growth of warehouse system and allow widespread marketing of the grain commodity by farmers.
- e) The committee observed that the issues of the warehouse receipt system touches on the farmers and most agricultural issues have been devolved.
- f) The Committee further observed that the Bill is made of the following parts :-

NO.	PART	CLAUSE
1	<b>Part I</b> -Preliminary	1-2
2	<b>Part II</b> -Establishment of the Warehouse Receipt System Council	3-16
3	<b>Part III</b> - Licensing and Inspection of Warehouse	17-25
4	<b>Part IV</b> - Warehouse Receipts	26-29
5	<b>Part V</b> - Obligation and Rights of Warehouse Operator upon Their Receipt	30-34
6	<b>Part VI</b> - Negotiation and Transfer of Receipt	35-39
7	<b>Part VII</b> - Penal Provisions	40-43





8	<b>Part VII - Miscellaneous Provision</b>	44
9	<b>Schedule - Provision for the Meeting and Procedure of the Council</b>	



## 12.0 LIST OF RECOMMENDATIONS

The Committee recommends that the following amendments be moved during the Committee Stage of the Bill.

**THAT** the Bill be amended in

**Clause.2 -Interpretations** by providing for new definitions of term

**“Warehouse Receipt System”** **“Warehouse Receipt System”** means part or the whole of the process of depositing commodities in a licensed warehouse, the issuance of a warehouse receipt reflecting the quantity and quality of the deposited commodity, the management of the transfer of the receipts as a document of title and includes but not limited to, the regulation of warehouses and actors in the associated processes.

### **Justifications**

*No provision on the definition of “Warehouse Receipt System had been provided and there was need to provide for clarity on the meaning of “Warehouse Receipt System”*

**Clause 3 -Establishment of the WRS Council**

**Amend Sub -clause 3**

(3) The Council shall consist of—

- (j) the Principal Secretary for the time being responsible for matters relating to agriculture or his representative;
- (k) the Principal Secretary for the time being responsible for matters relating to finance or his representative;
- (l) **one person representing Council of Governors**
- (m) **the Director General of the Agriculture, Food and Fisheries Authority or his representative;**
- (n) one person representing the financial sector;
- (o) one person representing traders and processors;
- (p) one person representing agricultural producers;
- (q) one person representing warehouse operators; and
- (r) **one person representing consumers organization;**



The Cabinet Secretary shall make Regulations to prescribe how the persons referred to in (3) (e) to (i) above shall be nominated.

The Cabinet Secretary shall appoint the members nominated in subsection (4) above.

The Council shall at its first sitting elect a Chairperson and Vice-Chairperson from amongst its members.

The Chairperson and Vice-Chairperson shall be of the opposite gender.

A decision of the Council shall not be invalid by reason only of a vacancy among the members thereof.

### ***Justifications***

- e) There should be stakeholder participation in constituting the WRS Council.*
- f) Since the Bill concerns and shall be largely be implemented in the Counties then representation of Council of Governors is crucial.*
- g) Agriculture Food and Fisheries Authority should be a member of the Council since it's a regulatory institution in-charge of Food and Cereal items.*
- h) Appointment of the Chairperson and Vice-Chairperson of the Council should be from amongst the nominated members.*

### **Amend Sub -clause 5 (c)**

By deleting the clause and therefore replacing it with “gross misconduct and abuse of office in contravention of the Public Officer Ethics Act and any other relevant law.”

### ***Justifications***

*To provide for clarity in the procedure for vacation of office by members of the Council.*

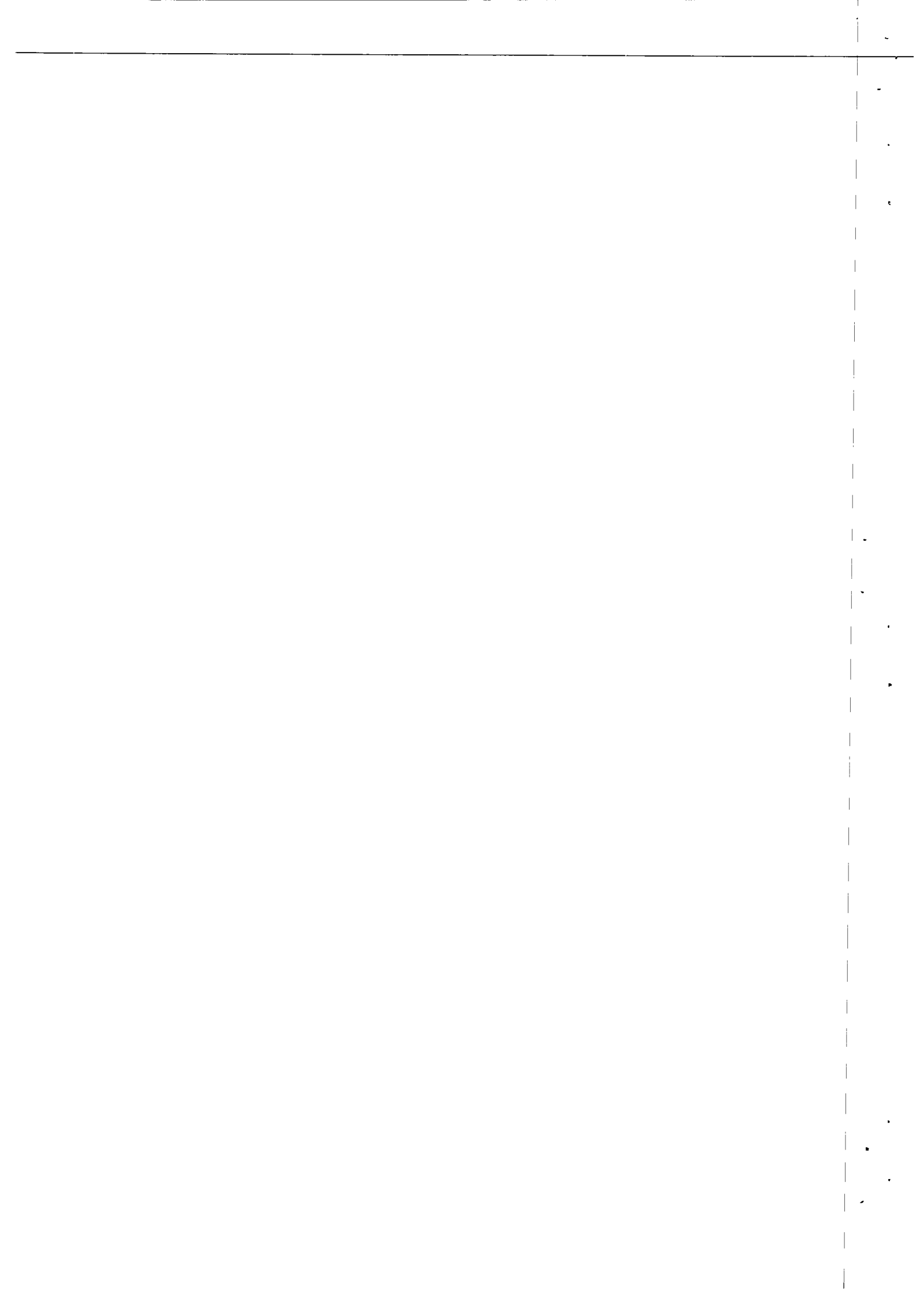
### **Amend Sub -clause 5 (e)**

By deleting the sub-clause and therefore replacing it with the following sub-clause

"The member becomes, by reason of unsound mind or physical infirmity, incapable of performing his duties as a member of the Council."

### ***Justifications***

*To provide for clarity in the procedure for vacation of office by members of the Council.*



## **Clause 4 - Functions of the Council**

### **Amend Clause 4**

Amend Clause by rectifying the numbering of the clauses (Delete (1) since there is only one Clause

#### *Justifications*

*Clean for consistency in numbering*

### **Amend Clause 4 (b)**

By deleting the sub-clause and therefore replacing it with the following sub-clause

“Establish and maintain a Warehouse Receipts System that contributes towards structured trading in agricultural commodities.”

#### *Justifications*

*Clarify the function of the Council as relates to the scope of the WRS and its linkage/contribution to the intended Commodity exchange.*

### **Amend Clause 4 (c)**

By deleting the sub-clause and therefore replacing it with the following sub-clause

“Establish and maintain a central registry for management of warehouse receipts transactions under the Act.”

#### *Justifications*

*Broaden the role of the central registry to cater for all transactions on which warehouse receipts are likely to be undertaken.*

### **Amend Clause 4 (e)**

By deleting the word "Licensed" appearing immediately after the word "managers" and therefore replacing it with the words

"and other service providers operating"

#### *Justifications*





*To clarify the role of various actors operating under the Act on their responsibility on stored agricultural commodities and related duties.*

**Amend Clause 4 (h)**

By deleting the word "may" appearing immediately before the word "issue"

*Justifications*

*To correct the grammar in the clause*

**Amend Clause 4 (i)**

By deleting the word "may" appearing immediately before the word "issue"

*Justifications*

*To correct the grammar in the clause*

**Amend Clause 4**

By introducing and new sub clause 'o' as follows

"Register or de-register warehouse entities under this Act"

*Justifications*

*To provide a function on registration and de-registration of actors under the Act.*

**Clause 7 – Remuneration of members of the Council**

Amend Clause 7 by inserting the following words after word 'Cabinet Secretary'

'In consultation with the Salaries and Remuneration Commission'

*Justifications*

*Provide clarity as to how remuneration of members to the council will be undertaken.*

**Clause 8 - Chief Executive Officer**

**Amend Clause 8 (4)**

By reducing the tenure of the CEO of the Council from 5 to 3 years renewable once:



**Amend Clause 8 (5)(c)(v)**

Amend clause 8 (5)(c)(v) by deleting the words “by the Cabinet Secretary” immediately after the word 'deemed'

***Justifications***

*Review the powers of the Cabinet Secretary to remove the CEO of the Council.*

**Clause 12 – Funds for the Council****Amend Clause 12 (b)**

By replacing the word “Service” appearing immediately after the words 'by the' with the word “Council”.

***Justifications***

*For consistency*

**Part III – Licensing and Inspection of Warehouses**

Amend title of Part III to read,

“Registration, Licensing and Inspection of Warehouses”

***Justifications***

*To provide for registration of warehouses in line with proposed amendment in clause 4 (o)*

**Clause 18 – Revocation of license and suspension of license or operations****Amend Clause 18 (1)(c)**

By deleting the Sub clause 1(C)

***Justifications***

*It is difficult to determine rationally whether an operator is incompetent and incapable.*

**Amend Clause 18**

By introducing a sub clause (7) to read as follows



"Where a license has been suspended or revoked, the Council shall appoint an independent warehouse manager to operate the warehouse in the interim until the matter is resolved."

***Justifications***

*This is to safeguard the commodities stored in warehouses and the interest of parties to the commodity.*

**Amend Clause 18**

By introducing a sub clause (8) to read as follows

"The Cabinet Secretary in consultation with the Council shall make regulations to bring into effect the provisions of this section with regard to the management of a warehouse whose license has been suspended or revoked and commodities stored therein."

***Justifications***

*This is to safeguard the commodities stored in warehouses and the interest of parties to the commodity.*

**Clause 20 – Warehouse Receipts Appeals Committee**

**Amend Clause 20 (1)**

By replacing the word "one" appearing immediately before the words 'other members ' with the word "two".

***Justifications***

*To broaden the membership to the Warehouse Receipts Appeals Committee for greater fairness.*

**Clause 21 – Grading and weighing of agricultural Products**

**Amend Clause 21 (1)**

By replacing the word "calibrated" appearing immediately after the words 'using equipment ' with the word "certified".

***Justifications***

*Provide for terminology that reflects actual practice*



**Amend Clause 21 (2)**

By replacing the word “recognized competent” appearing immediately after the words 'certified by a ' with the word “mandated”.

*Justifications*

*Provide for terminology that reflects actual practice*

**Clause 23 – Publication of general inspections**

**Amend Clause 23** Remove the word “bonded”. Replace the word “persons” with “operators.”

By deleting the word 'bonded' appearing immediately after the words 'locations of the licensed'

By replacing the word “persons” appearing immediately after the words 'names of the ' with the word “operators”.

*Justifications*

*Remove anomaly in this Act does not consider warehouses as customs bonded warehouses.*

**Clause 26 – warehouse receipts****Amend Clause 26(3)(h)**

By inserting the following words 'crop year, season' immediately after the word 'grade'

*Justifications*

*Provide additional details on the information on a warehouse receipt to assist determine the age of the agricultural commodity stored in a warehouse*

**Clause 27 – Establishment of Central Registry****Amend Clause 27(4)**

By inserting the following word 'search' immediately before the 'certificate"

*Justifications*

*Provide for terminology that reflects actual practice*

**Clause 41 – Issuing of receipts with false information**

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**Amend Clause 41(4)**

By inserting the following word 'search' immediately before the 'certificate'

***Justifications***

*Provide for terminology that reflects actual practice*

**Clause .42 – Unlawful issuing of duplicate receipts****Amend Clause**

By inserting the word “of” immediately after the words 'facilitates the issuing'

***Justifications******Grammatical corrections*****Clause 44- Regulations****Amend Clause 44 (1)**

By inserting the word “relevant” appearing immediately before the word ‘council’

***Justifications******Grammatical corrections*****Schedule - Provisions for Meetings and Procedure of the Council****Amend Clause 1 (1)**

By inserting the words “or any other designated venue” immediately after the words "registered offices”

***Justifications***

*Provide for flexibility on meeting venue where situations may warrant*

**Amend Clause 1 (5)**

By replacing the words appearing as “one-third” with the words “two-thirds”

***Justifications***



Signed..........Date. 19. 7. 2016.....

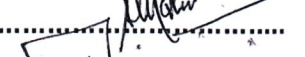
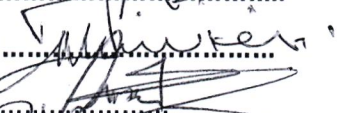
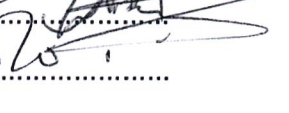
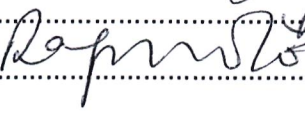
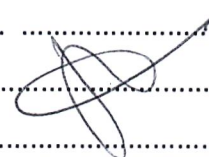
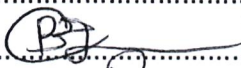


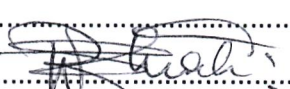
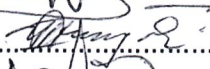

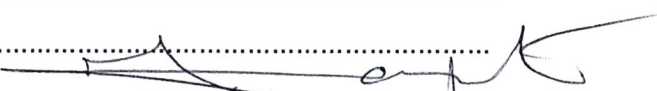
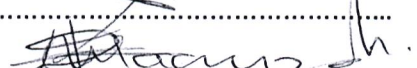

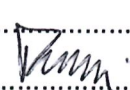
**The Hon. Adan.M. Nooru, MBS, CBS, M.P**

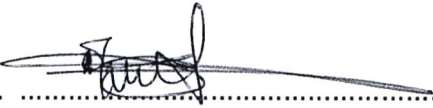
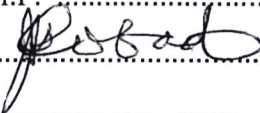
**CHAIRPERSON DEPARTMENTAL COMMITTEE ON AGRICULTURE,  
LIVESTOCK AND COOPERATIVES**



## 1.7 Adoption of the Report

We the members of the Departmental Committee on Agriculture, Livestock and Cooperatives have pursuant to Standing Order 199 adopted this Report on the Warehouse Receipt System Bill ,2015 and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today Tuesday 22<sup>nd</sup> March ,2016 :-

1. The Hon. Adan Mohamed Nooru, CBS, M.P. -**Chairman**.....
2. The Hon. Japhet M. Kareke Mbiuki, M.P. **Vice-Chairman**.....
3. The Hon. Kabando Wa Kabando, M.P. ....
4. The Hon. Raphael Letimalo, M.P. ....
5. The Hon. Mary Wambui Munene, M.P. ....
6. The Hon. Francis Munyua Waititu, M.P. ....
7. The Hon. Peter Njuguna Gitau, M.P. ....
8. The Hon. Maison Leshoomo, M.P. ....
9. The Hon. Anthony Kimani Ichung'wah, M.P. ....
10. The Hon. Alfred Kiptoo Keter, M.P. ....
11. The Hon. Ayub Savula Angatia, M.P. ....
12. The Hon. Justice Kemei, M.P. ....
13. The Hon. Philip L. R. Rotino, M.P. ....
14. The Hon. Korei Ole Lemein, M.P. ....
15. The Hon. Silas Tiren, M.P. ....
16. The Hon. Benjamin Jomo Washiali, M.P. ....
17. The Hon. (Dr.) Victor Kioko Munyaka, M.P. ....
18. The Hon. John Bomett Serut, M.P. ....
19. The Hon. Millie Odhiambo, M.P. ....
20. The Hon. Fredrick Outa, M.P. ....
21. The Hon. Maanzo, Daniel Kitonga, M.P. ....
22. The Hon. James Opiyo Wandayi, M.P. ....
23. The Hon. Patrick Wangamiti, M.P. ....
24. The Hon. Ferdinand Kevin Wanyonyi, M.P. ....

25. The Hon. Paul Simba Arati, M.P. .... 
26. The Hon. Florence Mwikali Mutua, M.P. ....
27. The Hon. John Kobado, M.P. .... 
28. The Hon. Hezron Bollo Awitti, M.P. ....
29. The Hon. Zuleikha Hassan Juma, M.P. ....

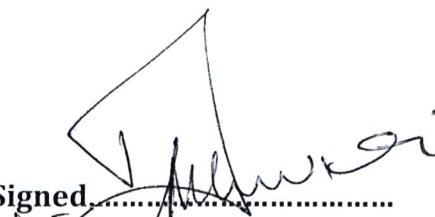
### 1.5 ACKNOWLEDGMENT

**Mr. Speaker, Sir,**

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 all the stakeholders for their participation in scrutinizing the Bill.

Finally, I wish to express my appreciation to the Honourable Members of the Committee who sacrificed their time to participate in the activities of the Committee and preparation of this report.

It is my pleasant duty and privilege, on behalf of the Departmental Committee on Agriculture, Livestock and Cooperatives, to table its Report on the consideration of the Warehouse Receipt System Bill ,2015 in the House pursuant to Standing Order 127.

Signed.....  ..... Date..... 22/03/2016.....

**HON. ADAN MOHAMED NOORU, CBS, M.P.,**

**CHAIRPERSON, COMMITTEE ON AGRICULTURE, LIVESTOCK AND CO-OPERATIVES**

MINUTES OF THE 17<sup>th</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (Brief on Supplementary Budget by Parliamentary Budget Office) HELD ON TUESDAY 22<sup>nd</sup> MARCH 2016, AT 9<sup>th</sup> FLOOR, HARAMBEE SACCO PLAZA, PARLIAMENT BUILDINGS AT 10.30 A.M.

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Present

1. Hon. Kareke Mbiuki, M.P - Vice Chairperson/Session Chair
2. Hon. Daniel Maanzo, M.P
3. Hon. John B. Serut, M.P
4. Hon. Benjamin Washiali, M.P
5. Hon. Kabando Wa Kabando, M.P
6. Hon. Silas Tiren, M.P
7. Hon. Peter N. Gitau, M.P
8. Hon. Phillip Rotino, M.P
9. Hon. Ferdinand Wanyonyi, M.P
10. Hon. (Dr.) Victor Munyaka, M.P
11. Hon. James Opiyo Wandayi, M.P
12. Hon. Fredrick Outa, M.P
13. Hon. Justice Kemei, M.P
14. Hon. Raphael Letimalo, M.P
15. Hon. Paul Simba Arati, M.P
16. Hon. John Kobado, M.P

Apologies

1. Hon. Adan Mohamed Nooru, MBS, CBS, M.P
2. Hon. Mary Wambui, M.P
3. Hon. Florence Mutua, M.P
4. Hon. Maison Leshoomo, M.P
5. Hon. Hezron Awiti Bollo, M.P
6. Hon. Waititu Munyua, M.P
7. Hon. Korei Ole Lemein, M.P
8. Hon. Patrick Wangamati, M.P
9. Hon. Alfred K. Keter, M.P
10. Hon. Millie Odhiambo - Mabona, M.P
11. Hon. Zuleikha Hassan Juma, M.P
12. Hon. Ayub Savula Angatia, M.P.
13. Hon. Kimani Ichung'wah, M.P

## Kenya National Assembly Secretariat

- |                           |                               |
|---------------------------|-------------------------------|
| 1. Mr. Benjamin Magut     | - First Clerk Assistant       |
| 2. Mr. Ahmad Adan Guliye  | - Third Clerk Assistant       |
| 3. Ms. Angeline Naserian  | - Third Clerk Assistant       |
| 4. Ms. Brigita Mati       | - Legal Counsel]              |
| 5. Mr. Abdinasir Moge     | - Parliamentary Budget Office |
| 6. Ms. Zeinabu Wario Sora | - Serjeant at Arms            |

### Min. 078/2016: preliminaries

The meeting was called to order at 10.42 a.m. and prayers were said by Hon. Kareke Mbiuki, M.P.

### Min. 079/2016: Confirmation of Minutes

- I. The minutes of the 15<sup>th</sup> sitting held on 15<sup>th</sup> March was confirmed as true record of the Committee's deliberation after it was proposed and seconded by Hon. Victor Munyaka, M.P and Hon. Opiyo Wandayi, M.P respectively.
- II. The minutes of the 16<sup>th</sup> sitting held on 17<sup>th</sup> March was confirmed as true record of the Committee's deliberation after it was proposed and seconded by Hon. Daniel Maanzo, M.P and Hon. Opiyo Wandayi, M.P respectively.

### Min. 080/2016 Matters Arising

#### Under min. 075/2016

The Members resolved to deliberate on KMC matters exhaustively at the retreat that is planned to be held between 7<sup>th</sup> to 10<sup>th</sup> April 2016 alongside the Ministry of Agriculture, Livestock and Fisheries.

### Min. 081/2016: Adoption of the Report on Warehouse Receipt Systems Bill, 2015

The Committee adopted the report on Warehouse Receipt Systems Bill, 2015 with the recommendations and justifications contained in the report.

### Min. 082/2016: Briefing by the Parliamentary Budget Office on the Supplementary Estimates

The Parliamentary Budget Office informed the Committee of the following with regard to the 2015/2016 Supplementary Estimates;

- I. The Supplementary Estimates for the State Department of Agriculture indicates total reduction from a gross of KES. 34.466 billion in the printed estimates to KES. 17.001



billion Translating to 51% reduction. The capital expenditure has been reviewed downwards from KES. 26.15 billion to KES. 10.92 billion and the recurrent expenditure reduced from KES. 8.314 billion to KES. 6.081 billion. The reduction is mainly on account of transfer of one of the programmes, namely, Irrigation and Drainage Infrastructure Programme, to the Ministry of Water and Irrigation.

II. The overall budget for the State Department of Livestock has been reduced from KES. 7.11 billion to KES. 6.59 billion. Recurrent expenditure increased by KES. 116 million while the development budget reduces by KES. 647 million. Capital grants to Governments Agencies have been allocated additional KES. 700 million under Development Vote of which KES. 500 million is donor funded. This is mainly for upgrading of Kenya Dairy Board which will probably address the problems facing livestock farmers in terms production and marketing of Dairy products but the overall reduction of development budget will affect on-going development projects like construction of pastoral training institutes in various regions of the Country. There is increased provision of recurrent expenditure for Veterinary Services and disease control mainly for specialized materials and supplies.

III. The approved estimates for State Department of Fisheries have been adjusted to a gross allocation of KES. 4.2 billion down from KES. 4.5 billion. The recurrent expenditure reduced from Kshs 1.37 billion to Kshs.1.33 billion while the Capital Expenditure reduced from KES. 3.1 billion to KES. 2.8 billion. The reductions are mainly on account of austerity measures which may have a negative impact on service delivery by the State Department. However, there is additional provision in the recurrent expenditure to cater for maintenance of Fisheries facilities like boats, fish ponds and ports which were destroyed by the ELNINO rains.

IV. The budget to the Programme of Cooperative Development and Management in the Ministry of Industrialization and Enterprise Development increased from a gross of KES. 267 million to KES. 745 million translating to 179% increase. The adjustment is towards recurrent expenditure mainly on account Coffee debt waivers as subsidies to small businesses, cooperatives and self-employed item under the office of the

Commissioner. The waiver will enable farmers access credit from financial institutions for investment in the Coffee Sector.


Min. 083/2016: Any Other Business (A.O.B)

- I. The Members were informed that Hon. Francis Waititu, M.P was tasked with the collection of contributions from the members in aid of Hon. Justice Kemei, M.P but was not in the meeting to brief the members on the progress made so far.
- II. The Members requested for a meeting to be convened on Wednesday, 23<sup>rd</sup> March 2016 to consider and adopt the report on Galana/Kulalu Food Security Project. This is subject to Speaker's approval.

Min. 084/2016: Adjournment

Since no other business to discuss, the meeting was adjourned at 11.28 a.m.

Signature .....



HON ADAN MOHAMED NOORU, MBS, M.P.

(Chairperson)

Date.....

31<sup>st</sup> March 2016